

**TOWN OF LITTLE ELM**

**ORDINANCE NO. 1745**

**AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING CHAPTER 106, ZONING ORDINANCE, BY AMENDING SEC. 106.01.14 – LAND USE DEFINITIONS, SEC. 106.02.02 – BOARD OF ADJUSTMENT, AND SEC. 106.02.11 – MAP AMENDMENTS TO THE ZONING ORDINANCE, SEC. 106.03.02 – ZONING DISTRICT – RESIDENTIAL, SEC. 106.06.17 – MULTIFAMILY LANDSCAPE REQUIREMENTS, SEC. 106.04.01 – US 380 OVERLAY DISTRICT, AND SEC. 106.06.46 – STACKING STANDARDS, SEC. 106.05.01 – SCHEDULE OF USES, SEC. 106.05.05 – NONFORMING USES AND STRUCTURES, SEC. 106.06.15 – PLANT LIST, SEC. 106.06.18 – COMMERCIAL LANDSCAPE REQUIREMENTS, SEC. 106.06.32 – RESIDENTIAL FENCES, AND SEC. 106.06.45 – PARKING REQUIREMENTS PER LAND USE; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHERE AS**, the Town of Little Elm (“Town”) is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Charter adopted on May 1, 2001; and

**WHEREAS**, Town staff has recommended proposed textual changes to the Zoning Ordinance; and

**WHEREAS**, the Town's Planning and Zoning Commission and the Town Council of the Town of Little Elm, Texas, in accordance with the state law and the ordinances of the Town, have given the required notices and have held the required public hearings regarding the adoption of the proposed amendments; and

**WHEREAS**, after due deliberations and consideration of the recommendation of the Town's Planning and Zoning Commission, and any other information and materials received at the public hearing, the Town Council of the Town of Little Elm, Texas, has determine the various amendments to the Zoning Ordinance are in the best interest of public health, safety, and welfare of the residents of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:**

**SECTION 1. INCORPORATION OF PREMISES.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2. AMENDMENT AND ADOPTION.** From and after the effective date of this ordinance, the following sections of Chapter 106, Zoning Ordinance, Sec. 106.01.14 – Land Use Definitions , Sec. 106.02.02 – Board of Adjustments, Sec. 106.02.11 – Map Amendments to The Zoning Ordinance, Sec. 106.03.02 – Zoning District– Residential, Sec. 106.06.17 – Multifamily Landscape Requirements, Sec. 106.04.01 – US 380 Overlay District, and Sec. 106.06.46 – Stacking Standards, Sec. 106.05.01– Schedule of Uses, Sec. 106.05.05 – Nonconforming Uses and Structures, Sec. 106.06.15 – Plant List, Sec. 106.06.18 – Commercial Landscape Requirements, Sec. 106.06.32 – Residential Fences, and Sec. 106.06.45 – Parking Requirements Per Land Use, of the Code of Ordinances of the Town of Little Elm, Texas, are hereby amended through the adoption of the sections attached hereto.

**SECTION 3. SAVINGS.** This Ordinance shall be cumulative of all other ordinances of the Town, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance; provided, however, that any complaint, notice, action, cause of action, or claim which prior to the effective date of this Ordinance has been initiated or has arisen under or pursuant to such other ordinance(s) shall continue to be governed by the provisions of that ordinance or those ordinances, and for that purpose that ordinance or those ordinances shall be deemed to remain and shall continue in full force and effect.

**SECTION 5. SEVERABILITY.** The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the Town Council of the Town of Little Elm, Texas hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its adoption in accordance with and as provided by law and the Town Charter.

**PASSED AND APPROVED** by the Town Council of the Town of Little Elm, Texas on the 16<sup>th</sup> day of January, 2024.

**The Town of Little Elm, Texas**

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Curtis J. Cornelious, Mayor

ATTEST:

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Caitlan Biggs, Town Secretary

ATTACHMENT –  
AMENDED SECTIONS OF CHAPTER 106 – ZONING ORDINANCE

## Amended Sections

- Section 106.01.14 - Land use definitions
- Section 106.02.02 - Board of Adjustment
- Section 106.02.11 - Map amendments to the zoning ordinance
- Section 106.03.02 - Zoning districts – Residential
- Section 106.04.01 - US 380 Overlay District
- Section 106.05.01 - Schedule of Uses
- Section 106.05.05 - Nonconforming uses and structures
- Section 106.06.05 - Architectural Standards for Commercial Structures
- Section 106.06.15 - Plant List
- Section 106.06.17 - Multifamily landscape requirements
- Section 106.06.18 - Commercial Landscape Requirements
- Section 106.06.32 - Residential Fences
- Section 106.06.45 - Parking Requirements Per Land Use
- Section 106.06.46 - Stacking Standards

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## Sec. 106.01.14 Land use definitions.

*Accessory structure.* Any structure, either attached or detached from the main building, located on the same lot, the use of which is incidental to that of the main structure. Accessory structures include, but are not limited to, patio covers, arbors, gazebos, cabanas, outdoor kitchens, recreational fire enclosures, trellis, and structures/sheds or the like. A permit is required for many accessory structures (see sections 106.05.02.1(a) and (b), "accessory uses - residential" and "accessory uses - nonresidential," respectively, for regulations).

*Adult Day Service.* A daytime care establishment that supports the health, nutritional, social, and daily living needs of adults in a professionally staffed, group setting.

*Airport or landing field.* A landing facility for fixed or rotary wing aircraft containing a minimum of 60 acres (see section 106.05.02.2(a), "airport/helipad/heliport" for regulations).

*Airport/heliport.* A place where aircraft and/or helicopters can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for pilots and passengers (see section 106.05.02.2(a), "airport/helipad/heliport" for regulations).

*Alternative energy systems.*

- (1) *Solar devices.* A solar panel or device is a structure that is intended to capture the light from the sun and transfer that energy to electricity for general use (see section 106.05.02.2(b), "alternative energy sources - solar" for regulations.)
- (2) *Wind energy conversion system (WECS).* Any mechanical device, such as a wind charger, windmill, or wind turbine, which is designed to extract kinetic energy from the wind and converts or stores it for practical use or a form of usable energy. (see section 106.05.02.2(c), "alternative energy sources - wind energy" for regulations)

*Alternative financial services.* A check cashing business, payday advance or loan business, money transfer business, car title loan business or pawn shop (see section 106.05.02.2(d), "alternative financial services" for regulations).

- (1) *Bank, savings and loan or credit union.* An establishment, open to the public, for the deposit, custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds and that is typically licensed by the appropriate state or federal agency as a bank, savings and loan association, or credit union. This includes businesses' activities listed under SIC Codes 60 and 61, but excludes pawnshops, check cashing businesses, payday advance/loan businesses and car title loan businesses.
- (2) *Car title and loan services.* An establishment that makes small consumer loans that leverage the equity value of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application. The loan terms are often for 30 days and failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle. This excludes state or federally chartered banks, savings and loan associations or credit unions engaged primarily in the business of making longer term loans and which make loans that leverage the total equity value of a car or vehicle as collateral.
- (3) *Check cashing business.* An establishment that provides to the customer an amount of money that is equal to the face of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction, and where there is an agreement not to cash the check or execute an electronic transfer of money for a specified period of time, the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose for compensation by any person or entity other than a retail seller engaged primarily in the business of selling consumer goods, including consumables to retail buyers, that cashes checks or money orders or issues money orders or money transfers for a minimum flat fee as a service that is

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incidental to its main purpose or business. This definition excludes a state or federally chartered bank, savings and loan association or credit union, pawnshop, grocery store or gas station, so long as the gas station does not handle more than 100 such transactions within any calendar month.

- (4) *Pawn shop.* A shop that lends money in exchange for valuable personal property as security deposited with it or pledged to it. This definition includes the sale of such securities after repossession and the sale of merchandise generally found in retail stores.
- (5) *Payday advance or loan business.* An establishment that makes small consumer loans, usually backed by postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until an applicant's next payday, and then cashed unless the customer repays the loan to reclaim such applicant's check. ?

*Amenity center.* A recreational facility, including, but not limited to, clubhouse, swimming pool, or play area, operated for the exclusive use of private residents or neighborhood groups and their guests, and not open to the general public.

*Antenna.* An instrument or device consisting of wires, poles, rods, or reflecting discs, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum (see section 106.05.02.2(h), "communications antennas" for regulations)

*Antenna support structure.* Any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of transmission, retransmission, and/or reception of electromagnetic, radio, television, or microwave signals and used for commercial broadcasting or telecommunication purposes. This definition shall also include a satellite dish exceeding 12 feet in diameter and a microwave-transmitting tower. All radiating equipment must comply with Federal Communications Commission (FCC), Environmental Protection Agency (EPA), Occupational Health and Safety Administration (OSHA), and all other applicable state and federal regulatory agency requirements and guidelines for human safety, as they exist or may be amended. Definition includes ancillary ground equipment. (See section 106.05.02.2(i), "communications support structures/towers" for regulations)

*Antenna, stealth.* A stealth antenna is a commercial antenna that is designed to be non-obtrusive, or virtually transparent or invisible to the surrounding neighborhood. Stealth antennas include, but are not limited to:

- (1) Antennas within a building's attic space,
- (2) Antennas on the roof of a minimum three-story building and not visible from the property line of the lot on which the antenna is located,
- (3) Antennas on a public utility structure, such as a water tower or high transmission line support tower, and painted to match the structure,
- (4) Antennas located within a structure such as a flagpole, church steeple, lamppost, subdivision monument, clock tower, or similar architectural feature, and antennas located on an athletic field light pole.

*Antique shop and used furniture.* A retail establishment engaged in the selling of works of art, furniture, or other artifacts of an earlier period, with all sales and storage occurring inside a building.

*Arcade.* An establishment in which there are located six or more skill or pleasure machines used for compensation found in the schedule of uses as "Commercial Amusement, Indoor."

*Assembly uses.* A building or structure for the gathering together of persons for purposes of civic, social or religious functions.

*Athletic stadium or field, private.* A private field and/or structure used for sporting events with associated spectator seating, either permanent or temporary.

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*Athletic stadium or field, public.* A field and/or structure owned and operated by the town and/or a local independent school district used for sporting events with associated spectator seating, either permanent or temporary. The stadium may include other accessory buildings such as a food service or catering facility and/or dressing rooms/showers.

*Automated dispenser machine.* An unmanned, freestanding structure that dispenses goods that may include, but are not limited to, water, ice, entertainment videos or CDs, newspapers, and soft drinks, that may be located outside of or separate from the primary structure.

*Automated intake machine.* An unmanned, freestanding structure that is designed to receive certain goods that include, but are not limited to, recycling items, library books and donations, that may be located outside of or separate from the primary structure.

*Automated teller machine (ATM).* An unmanned, freestanding structure that performs banking financial functions at a location that may be separate from the controlling financial institution.

*Automobile.* A self-propelled mechanical or electrical vehicle designed for use on streets and highways for the conveyance of goods and people, including, but not limited to, passenger cars, trucks, buses, motor scooters, and motorcycles.

*Automobile and boat repair, major.* A building or portion thereof whose principal use is for the repair, servicing, equipping, or maintenance of motor vehicles or motor vehicle components, including engines, radiators, starters, transmissions, brakes, tires and wheels, seats and similar components that may require overnight outdoor storage of vehicles awaiting or under repair, if screened in compliance with all applicable regulations. General repair or reconditioning of engines, air-conditioning systems, and transmissions for automobiles; wrecker or towing service with on-site storage of vehicles; collision services including body, frame, or fender straightening or repair; customizing; painting; vehicle steam cleaning; tire retreading; insurance estimations with on-site storage; undercoating and rust proofing, and other similar uses.

*Automobile and boat repair, minor.* A daytime retail operation wherein the sale, installation, and/or inspection of tires, batteries, brakes and other related minor parts or accessories is carried on; specifically intended to exclude major automotive repair and overnight outdoor storage of vehicles awaiting or under repair.

*Automobile and boat sales, accessories.* A retail shop that sells parts or accessories for vehicles that does not include any installation of same.

*Automobile and boat sales, new.* Retail sales or leasing of new automobiles, light load vehicles or boats. Sales, rental, and/or leasing of new automobiles or light load vehicles, including, as accessory uses: sales, repair, and automobile storage.

*Automobile and boat sales, outside display.* The use of any land area for the display and sale of new or used vehicles and accessory parts, including tires, for automobiles, trucks, vans, trailers, or recreation vehicles.

*Automobile and boat sales, used.* Retail sales or offering for sale of used automobiles, light load vehicles or boats.

*Automobile and boat/rv storage.* The storage on a lot or tract of operable motor vehicles for the purpose of holding such vehicles for sale, distribution or storage.

*Automobile parking garage.* A structure for the parking of automobiles.

*Automobile parking lot.* An area where a fee is charged for parking automobiles.

*Automobile wash, automated secondary use.* A facility for the washing of motor vehicles, including a self-service operation, operated in conjunction with another primary use, such as fueling stations or convenience stores.



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*Automobile wash, full service.* A facility where a customer may have an automobile, motorcycle, or other vehicles washed in exchange for financial remuneration. This definition generally includes detailing of the vehicle and may include other services, such as leather or upholstery cleaning.

*Automobile wash, self service.* A facility, typically coin or token operated, used by the customer to wash their own automobiles, motorcycles, and other vehicles.

*Bakery, candy or ice-cream shop.* A relatively small retail establishment that primarily sells baked goods, candy and other confections, and/or ice-cream/yogurt for on-premises consumption or take-out.

*Banquet Hall.* An establishment which is rented by individuals or groups to accommodate private functions including, but not limited to, banquets, weddings, anniversaries, and other similar celebrations. Such use, may or may not include: 1) kitchen facilities for the preparation or catering of food; 2) the sale of alcoholic beverages for on-premise consumption, only during the scheduled events, and not open to the general public; 3) outdoor gardens or reception facilities.

*Bar.* An establishment principally for the sale and consumption of alcoholic beverages on the premises that derives 75 percent or more of its gross revenue on a quarterly (three-month) basis from the sale or service of alcoholic beverages, as defined in the Texas Alcoholic Beverage Code, for on-premises consumption. If an establishment is located in a hotel or motel, the gross revenues of the particular establishment, rather than the gross revenues of the entire hotel or motel, will be used in calculating the percentage of revenues derived from the sale or service of alcoholic beverages. (See section 106.05.02.2(e), "bar or brewpub" for regulations)

*Bed and breakfast inn.* An owner-occupied private home which offers lodging for paying guests not to exceed one week in duration, and which serves breakfast to these guests and which contains one or more guest bedrooms. (See section 106.05.02.2(f), "bed and breakfast" for regulations)

*Body art studio.* An establishment whose services include tattooing and/or body piercing. Tattooing shall mean the placing of designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin. Body piercing shall mean the creation of an opening in an individual's body, other than ear piercing, to insert jewelry or other decoration.

*Brewpub.* An establishment where the on-site brewing of beer occurs as well as tasting and/or retail sales. (See section 106.05.02.2(e), "bar or brewpub" for regulations)

*Building material and hardware sales, major.* An establishment for the sale of materials customarily used in the construction of buildings and other structures, including outside storage or display of materials or merchandise and may include the rental of construction tools and/or vehicles.

*Building material and hardware sales, minor.* An establishment for the sale of materials customarily used in the construction of buildings and other structures, without any outside storage or display of materials or merchandise.

*Business Service.* This group includes establishments primarily engaged in providing off-site services not elsewhere classified to business enterprises on a fee contract basis. Examples include, but are not limited to, plumbing services, cleaning services, computer/equipment repair services with certain on-site storage needs such as fleet vehicles used to provide off-site services to customers.

*Campground or RV park.* Any area that is designed for occupancy by transients using tents, mobile trailers, or recreational vehicles for temporary sleeping purposes. Also, a tract of land on which two or more campsites are located, established, or maintained as temporary living quarters for recreation, education or vacation purposes.

*Caretaker's/guard's residence.* A residence located on a premises with a main nonresidential use and occupied only by a caretaker or guard, and his/her family, employed on the premises. (see section 106.05.02.2(g), "caretaker or guard residence" for regulations)

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*Catering service.* A business which offers prepared food and drink for consumption elsewhere.

*Child care center, incidental.* A place designed solely for the care of children belonging to employees and/or patrons of the primary use. The center shall be completely contained within the primary use and shall not constitute more than 15 percent of the main use. The operating hours of the center shall be the same as the primary use and shall not include overnight lodging, medical treatment, counseling, or rehabilitation services. This use may be subject to regulation by the Texas Department of Family and Protective Services.

*Child care center.* A facility that is licensed to care for any number of children for less than 24 hours per day, at a location other than the permit holder's primary residence. Included in this definition are daycare services, Montessori schools.

*Child care, group home.* An adult and/or child caring facility licensed by the state, designed to provide resident services to individuals who are physically handicapped, mentally ill, mentally retarded, or developmentally disabled, in which no more than eight such individuals reside with one or more resident counselors or other staff persons. For the purposes of this section, mental illness and developmental disability shall not include illegal use of or addiction to a controlled substance or any criminal behavior.

*Child care, foster family home (independent).* Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, a single independent home that is the primary residence of the foster parents and licensed to provide care for up to six children up to the age of 18 years.

*Child care, foster group home (independent).* Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, a single independent home that is the primary residence of the foster parents licensed to provide care for seven to 12 children up to the age of 18 years.

*Child care, licensed child care center.* Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, an operation providing care for seven or more children younger than 14 years old for less than 24 hours per day at a location other than the permit holder's home.

*Child care, licensed child care home.* Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, the primary caregiver provides care in the caregiver's own residence for children from birth through 13 years. The total number of children in care varies with the ages of the children, but the total number of children in care at any given time, including the children related to the caregiver, must not exceed 12.

*Child care, listed family home.* Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, a caregiver at least 18 years old who provides care in her own home for compensation, for three or fewer children unrelated to the caregiver, ages birth through 13 years. Regular care is provided, which is care provided for at least four hours a day, three or more days a week, and more than nine consecutive weeks. The total number of children in care, including children related to the caregiver, may not exceed 12.

*Child care, registered child care home.* Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, a caregiver who provides regular care in her own home for not more than six children from birth through 13 years. Child day care can be provided for six additional school-aged children before and after the customary school day. The total number of children in care at any given time, including the children related to the caregiver, must not exceed 12.

*Clinic, animal (no outside runs).* An animal medical facility designed for immediate and short term care (i.e. not requiring the animal to be boarded or kept within the facility overnight), for diagnosis, treatment of household pets including but not limited to dogs, cats, and birds.

*Clinic, animal (with outside runs).* A facility for diagnosis, treatment or hospitalization of household pets including but not limited to dogs, cats, birds, and horses.

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*Clinic/medical lab.* Offices for one or more physicians, surgeons or dentists engaged in treating sick or injured persons, but not including rooms for the lodging of patients. The facility may also conduct the testing of blood and other tissue samples for the purpose of diagnosis of diseases.

*College, university, or trade school.* An institution established for educational purposes offering courses for study beyond the secondary education level, including trade schools and commercial schools offering training or instruction in a trade, art, or occupation.

*Commercial amusement, indoor.* An enterprise providing for indoor recreational activities, services, amusements, and instruction, usually for an admission fee. Uses may include, but are not limited to, bowling alleys, ice or roller skating rinks, bingo parlors, amusement arcades, and/or sports practice areas. Such business shall be constructed to limit noise by installing adequate acoustic barriers.

*Commercial amusement, outdoor.* An enterprise providing for outdoor recreational activities, services, amusements, and instruction, usually for an admission fee, including, but not limited to, batting cages, miniature golf, go-kart tracks, and carnivals.

*Commissary.* A facility that is the home base for a restaurant-equipped vehicle that serves as a mobile food vendor. The commissary also is used for the storage and partial production of food items that are delivered to customers by the mobile food vendor located away from the commissary location.

*Communication tower/antenna.* Any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of transmission, retransmission, and/or reception of electromagnetic, radio, television, or microwave signals. See also "antenna support structure." (See section 106.05.02.2(h), "communication antennas" for regulations)

*Concrete batch plant, permanent.* A permanent manufacturing facility for the production of concrete or asphalt.

*Concrete batch plant, temporary.* A temporary manufacturing facility for the on-site production of concrete or asphalt during construction of a project, and to be removed when the project is completed. Following removal, the tract shall be returned to its previous condition. (See section 106.05.03(a), "batch plants, temporary" for regulations)

*Construction yard, field office, temporary.* A building, structure, or storage/assembly yard used in conjunction with a development project for housing temporary supervisory or administrative functions related to development, construction, or the sale of real estate properties within the development and subject to removal at completion of construction. A facility used for the temporary office and material storage in connection with a project under construction or remodel. (See section 106.05.03(d), "construction yard, temporary" for regulations)

*Contractor's shop.* A facility for the contractor's office and the storage and maintenance of contractor's supplies and operational equipment.

*Dwelling, assisted living facility.* A private facility that provides care for chronically ill, aged, or disabled persons who need some health supervision and related care but not including hospital care. Such facilities do not contain facilities for surgical care or the treatment of alcoholism, drug addiction, communicable disease or injury. A facility designed for adults or children with special needs and/or who need assistance with daily living, including but not limited to the production of meals, assistance with shopping, management of medications and personal grooming. Typically, the resident occupies a room or suite of rooms and eats the majority of meals communally.

*Dwelling, assisted living home.* A facility located in a private residential home designed for adults who need or desire assistance with daily living, including but not limited to the production of meals, assistance with shopping, management of medications and personal grooming. (See section 106.05.02.2(j), "home child care" for regulations)

*Dwelling, boardinghouse or rooming house.* A building other than a hotel where lodging and/or meals for three or more persons are provided for compensation.

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*Dwelling, duplex.* A building containing two single-family dwelling units totally separated from each other by an unpierced fire wall from basement to roof, intended or designed for occupancy by two families.

*Dwelling, factory-built home.* Any manufactured single-family mobile home constructed prior to June 15, 1976. (See also dwelling, HUD-Code manufactured home)

*Dwelling, group home.* An adult and/or child care facility, licensed by the state, designed to provide resident services to individuals who are physically handicapped, mentally impaired, or developmentally disabled, but does not provide services to individuals with psychiatric, addiction, substance abuse or who exhibit criminal behavior. (See section 106.05.02.2(j), "home child care" for regulations)

*Dwelling, HUD-Code manufactured home.* A HUD-Code compliant single-family structure constructed after June 15, 1976, designed for long-term residential use that is constructed elsewhere and is moved from the factory or sales location to its permanent site (see also dwelling, factory-built home)

*Dwelling, listed family home.* A home that provides child care for compensation for three or fewer children, excluding children who are related to the caretaker, for at least four hours a day, three or more days a week, for more than nine consecutive weeks in the caretaker's own residence and that is required to [be] listed with the state. (See section 106.05.02.2(j), "home child care" for regulations)

*Dwelling, live-work.* A dwelling unit that contains, to a limited extent, a separate commercial component on the ground floor and is typically in the form similar to a townhouse or store with residential quarters above or behind the commercial use.

*Dwelling, mobile home.* Any manufactured single-family mobile home constructed prior to June 15, 1976.

*Dwelling, multifamily.* Any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or place of residence by three or more families living in independent dwelling units. Though residential in use, it is considered a commercial development in regard to and application of development standards and regulations. A building containing three or more dwelling units on a single lot or tract designed to be occupied by three or more families living independent of one another.

*Dwelling, patio home.* A dwelling on a separate lot with open space setbacks on at least three sides.

*Dwelling, single-family, detached.* A platted lot containing one dwelling unit, not attached to any other dwelling by any means and is surrounded by open space or yards, designed and constructed for occupancy by one family and has no physical connection to a building located on any other separate lot or tract.

*Dwelling, townhome.* A structure containing three or more dwelling units with each unit designed for occupancy by one household and each unit attached by a common fire wall.

*Electrical power generating plant.* All equipment, fixtures, and property operated or maintained in connection with the production of electricity and transmission of electricity produced.

*Electrical substation.* A location for transforming electricity prior to the distribution of electricity to individual customers.

*Fairgrounds/exhibition area.* An area that may include structures or outside areas for the exhibition of rodeos, conventions and similar special events.

*Family.* (1) one or more persons related by blood, marriage, adoption or guardianship occupying a dwelling unit and living as a single housekeeping unit; or (2) a group of persons not all related by blood, marriage, adoption or guardianship occupying a dwelling unit and living as a single housekeeping unit, but not to exceed two persons per bedroom with a maximum total of five such persons occupying a dwelling unit.

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*Farm accessory building.* A structure located on an active farm, ranch, or orchard in which livestock, feed, equipment, vehicles, or accessories necessary for the running of the business are kept, including but not limited to, barns, silos, sheds and exercise pavilions.

*Farm, ranch, stable, garden or orchard.* An area of five acres or more which is used for growing of usual farm products, vegetables, fruits, trees and grain and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

*Farmers market.* An area containing individual vendors who offer fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers, and honey for sale. This definition does include the sale of meat, fish, poultry, eggs, refrigerated dairy products, or home canned or packaged items when the proper health rules and regulations are followed and/or health permit obtained. (See section 106.05.03(c), "farmers market, temporary" for regulations)

*Florist.* A facility for the retail sale of flowers, ornamental plants, and accessory items. This definition does not include a nursery with outside display. (See also Greenhouse and Nursery)

*Fraternal organization, lodge, civic club, fraternity or sorority.* A group of people whose membership is restricted by a set of bylaws or regulations.

*Funeral home/crematorium.* A place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial or cremation, where cremation occurs within the building, with or without place where ceremonies or gatherings connected to the deceased may occur.

*Funeral home/mortuary.* A place for the storage of human bodies prior to their burial, or a building used for the preparation of the deceased for burial and the display of the deceased, a place where ceremonies or gatherings connected to the deceased may occur, but does not allow the cremation of human remains.

*Gas pumps/fuel sales.* A retail fuel sales facility selling fuel for motor vehicles including, but not limited to, automobiles, motorcycles, buses, or recreational vehicles with no ancillary services such as vehicle service, vehicle repair, or sale of items other than fuel. The fueling or gasoline station may be attended or automated.

*Golf course, tennis club, polo club, or country club (private).* An area of 20 acres or more containing a golf course, polo facilities, tennis facilities and/or a clubhouse and available only to private specific membership; such a club may contain adjunct facilities such as private club, dining room, swimming pool, retail sales, and similar recreational or service facilities. A tract of land with at least nine holes for playing the game of golf that may include a clubhouse, dining and snack bar, pro shop, practice facility and other accessory uses.

*Greenhouse or nursery for retail plant sales.* A facility that may include the outside display of plants offered for sale when such display is located behind the front yard line established in the district in which the nursery or greenhouse is located.

*Gun or archery range, indoor.* Any indoor facility open to the public and occupying all or a portion of a building where firearms are discharged or arrows are shot for either testing or recreation purposes. Such business shall be constructed to limit noise by installing adequate acoustic barriers.

*Gunsmith.* A retail establishment for the sale and service of guns and related items.

*Gymnastics/dance studio/martial arts.* A building or portion of a building used by a gymnast, dancer, or martial artist for practice or for instructional classes in gymnastics, dance, or martial arts and similar activities.

*Health/fitness center.* A facility which promotes physical fitness, weight control, exercise, and personal improvement that may also include massage or bathing.

*Heavy machinery sales, service, and storage.* A retail or wholesale facility that sells, services and stores heavy machinery such as farm equipment, dredging equipment, paving equipment, etc.

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*Helipad.* A place, typically on the roof of a building or a small ground area where helicopters may land and take off, but without any service or fueling capabilities. (See section 106.05.02.2(a), "airport/helipad/heliport" for regulations)

*Home occupation.* An occupation, which is secondary to the primary use of a dwelling as a residence, conducted on residential premises by the occupant of the residence. Home occupations shall be subject to the conditions set forth in section 106.05.02.2(k), "home occupations." Any activity carried out for personal gain in a dwelling unit by a resident of the premises, which occupation is secondary to the residential purpose of the premises.

*Hospital.* An institution or place where sick or injured patients are given medical or surgical care either at public (charity) or private expense.

*Hotel.* A building or group of buildings designed for and occupied as a temporary abiding place of individuals with access to the rooms from an indoor corridor and providing six or more room units where customary services such as linen, maid service, telephone, and upkeep of furniture are provided for a daily fee.

*Hotel, extended stay (also called "residence hotel").* A building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, housekeeping service, and telephone are provided. Residence hotel room units are designed to be suitable for long term occupancy with financial consideration typically being calculated on a weekly and/or monthly basis. Typical residence hotel attributes include, but are not limited to, kitchen facilities, and external doorways into room units. (See section 106.05.02.2(l), hotel, extended stay" for regulations)

*Hotel, full-service.* A full service hotel is considered a top tier hotel in terms of amenities and service provided to the clientele. (See section 106.05.02.2(m), "hotel, full-service" for regulations)

*Hotel, limited service.* A limited service hotel provides travelers an economical choice with fewer amenities than a full service hotel. (See section 106.05.02.2(n), "hotel, limited-service" for regulations)

*Household appliance service and repair.* A retail establishment where household appliances are serviced and repaired on site. May also include sales of new or used household appliances.

*Incidental retail and service uses.* Defined as operating within another establishment, such as a bank branch, nail salon, eyewear service, tax service, etc. within a "big box" store. May also be located within an office complex or hotel, or institution, such as a deli, convenience store, or restaurant for the use of the employees, guests, and students.

*Kennel, indoor.* An establishment where domesticated animals (four or more dogs, cats or other domestic animals at least four months of age) are housed, groomed, bred, boarded, trained, or sold for commercial purposes that does not include outside pens or runs.

*Kennel, outdoor.* An establishment where domesticated animals (four or more dogs, cats or other domestic animals at least four months of age) are housed, groomed, bred, boarded, trained, or sold for commercial purposes that includes outdoor pens or runs.

*Laundry and/or dry cleaning, commercial.* A plant for cleaning garments, fabrics, rugs, uniforms, draperies, or other similar items on a commercial or bulk basis.

*Laundry and/or dry cleaning, pickup and receiving station.* A facility that only receives and dispenses laundry and dry cleaning that is processed in bulk by a commercial laundry or dry cleaning facility located elsewhere.

*Laundry and/or dry cleaning, self-service.* A facility for washing and/or dry cleaning garments and similar items where typically the customer supervises and handles the cleaning of his/her garments and items, such as a laundromat. Machines for use are typically of a similar size as found in the home and not a commercial laundry or cleaning plant.

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*Laundry and/or dry cleaning, small custom shop.* A retail establishment for the cleaning of individual garments, fabrics, rugs, draperies or other similar items on the premises, which may include minor garment repair. A custom cleaning shop not exceeding 5,000 square feet of floor area or a pickup station.

*Liquor store.* A facility for the sale of beer, wine, and/or liquor not for on-premises consumption that derives 75 percent or more of its gross revenue from the on-premises sale of beer, wine, and/or liquor. (See section 106.05.02.2(o), "liquor stores" for regulations).

*Machine/welding shop.* A facility in which materials are processed by machining, cutting, grinding, welding, etc.

*Manufactured home.* Any manufactured single-family mobile home constructed prior to June 15, 1976. (See also Dwelling, factory-built home. (See section 106.05.02.2(p), "manufactured home replacement" for replacement regulations)

*Manufactured/mobile home display and sales.* The offering for sale, storage, or display of trailers, HUD-Code manufactured homes or mobile homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis. Such use may be permitted with the approval of the town council in the MH Mobile Home District to permit sale of mobile homes or HUD-Code manufactured homes owned by the mobile home park owner or operator for placement in the mobile home park.

*Manufacturing and industrial, heavy.* A facility that involves assembly and fabrication activities and the use of machines, tools and labor to make items for use or sale and typically requires access to major thoroughfares, major highways, and/or other means of transportation such as the railroad for transfer of parts and final products. May also include warehousing, research and development, wholesaling operations with infrequent customer or client visits, and may include related office and shipping areas. Heavy industry involves one or more of the following characteristics such as large and heavy products; large and heavy equipment and facilities (such as heavy equipment, large machine tools, and spacious buildings); or complex and numerous processes. Examples of heavy industry include, but are not limited to, steel manufacturing, automotive assembly, machine tool design and construction, boat or aircraft manufacturing, and power plants.

*Manufacturing and industrial, light.* A facility that involves assembly and fabrication activities and the use of machines, tools and labor to make items for use or sale. May also include warehousing, research and development, wholesaling operations with infrequent customer or client visits, and may include related office and shipping areas. Light industry is often assembly-based and is typically consumer-oriented (i.e., most light industrial products are sold to retail stores or end users rather than as intermediate parts for use by other industries). Light industry generally has less environmental impact than those associated with heavy industry. Light industries require a relatively small amount of raw materials, area and power. Examples of light industry include, but are not limited to, plastic items, clothing, shoes, foods, beverages, personal care and home care products, cosmetics, drugs, furniture, consumer electronics, and home appliances.

*Media studio.* A facility where the production, editing, storage, and/or transmittal of audio/visual media occurs. Includes, but is not limited to, a TV studio, a radio studio, a production or editing facility. (See section 106.05.02.2(q), media studio" for regulations)

*Mini-warehouse/self storage.* A building containing separate, individual self-storage units for rent or lease. The conduct of sales, business, or any activity other than storage is prohibited within any individual storage unit.

*Mixed-use building.* A vertical mixed use building that includes a variety of retail, office, and/or residential uses such as lofts, live-work units, apartments and condominiums, but contains nonresidential use in a majority of the ground floor.

*Mobile food vendor, food truck.* Any person who operates and sells food from a motorized vehicle capable of moving from place to place during the course of the day and may include some preparation of food or drink for sale.

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*Mobile food vendor, stationary.* Any person or persons who operates and sells food from a stationary cart or trailer mounted on a chassis, for a period of 15 calendar days or more per year. Stationary mobile food vendors include, but are not limited to, snow-cone stands, hot-dog carts, and ice-cream carts. Any similar facility that operates for 14 calendar days or less shall be considered a "temporary food establishment" as defined by the town health ordinance, as it exists or may be amended.

*Model home.* A single-family dwelling in a developing subdivision located on a legally platted lot of record that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built in the same subdivision. (See section 106.05.03(e), "model home, temporary" for regulations)

*Motel.* A facility offering short-term overnight lodging accommodations on a daily rate to the general public and having direct access to individual guest rooms from the parking area or outside balconies.

*Motorcycle sales/service.* A facility that sells, leases, and services motorcycles, usually defined as two-wheeled, self-propelled vehicle having one or two saddles or seats, and may have a sidecar attached. For purposes of this chapter, motorbikes, motor-scooters, mopeds and similar vehicles are classified as motorcycles.

*Municipal uses operated by the Town of Little Elm.* Any structure, park, open space, or roadway owned and/or operated by the Town of Little Elm, including but not limited to town hall, libraries, recreation centers, parks, and roadways.

*Museum/art gallery.* A building serving as a repository for a collection of natural, scientific, artistic, or literary objects of interest, and designed to be used for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods related to the collection.

*Office, administrative, medical, or professional.* A building used for the provision of executive, management, or administrative services. Typical uses include, but are not limited to, administrative offices and services including real estate, property management, investment, medical, architect, engineer, travel, secretarial services, accounting organizations and associations, and vehicle rental office without on-site storage of fleet vehicles.

*Office, showroom.* A building that primarily consists of sales offices and sample display areas for products and/or services delivered or performed off-premises. Catalog and telephone sales facilities are examples. Incidental retail sales of products associated with the primary products and/or services are also permitted. Warehousing facilities shall not exceed 50 percent of the total floor area. This designation does not include contractor's shop and storage yard.

*Office, warehouse, distribution center.* A building primarily devoted to storage, warehousing, and distribution of goods, merchandise, supplies, and equipment. Accessory uses may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas. Also referred to as "flex space."

*Open storage and display, permanent.* A secondary land use providing outdoor storage or display of commodities, materials, goods, equipment, vehicles, or merchandise in its normal day-to-day business activities. This definition excludes new and used sale or lease of automobiles, motorcycles recreational vehicles, boats, or watercrafts. This definition does not include temporary outside merchandise display, such as a sidewalk sale. (See section 106.05.02.2(s), "open storage, permanent or ongoing" for regulations)

*Open storage and display, temporary.* The temporary display of merchandise for sale outside of a building. (See section 106.05.03(f), "open storage, temporary" for regulations)

*Open storage and display, under eave display, temporary.* The temporary display of merchandise for sale located immediately outside the main entrance to the building and generally in the area that is adjacent to the building and between the building and the walkway/entrance. Items include, but are not limited to, firewood, plants, pumpkins, shopping carts, and other similar items. (See section 106.05.03(g), "open storage, temporary, under eave display" for regulations)



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*Park or playground.* An open recreation facility or park owned and operated by a public agency such as the municipal park department or school board and available to the general public.

*Personal service (other than listed).* Establishments primarily engaged in providing on-site services to consumers based on intellectual or manual efforts. Examples include, but are not limited to, a licensed massage business, tutoring service, tailor, shoe repair service, barbershop, beauty shop, health studio, spa/salon, or travel consultant.

*Portable building sales.* A retail establishment that sells portable buildings meant to be used as accessory uses only and not for habitation.

*Print shop, major industrial plant.* An establishment specializing in long-run printing operations including, but not limited to, book, magazine, and newspaper publishing using engraving, die cutting, lithography, and thermography processes.

*Print shop, minor retail shop.* An establishment specializing in short-run operations to produce newsletters, flyers, resumes, maps, construction documents and plans, and similar materials using photocopying, duplicating, and blue printing processes. This definition shall include mailing and shipping services, but excludes the on-site storage of heavy load fleet vehicles, such as a Kinko's.

*Printing plant, reprographic shop.* A facility for the reproduction of materials or drawings on a job order or bulk basis utilizing lithography, off-set printing, or other printing techniques.

*Private club.* A facility that caters to a limited clientele that requires membership standing in order to participate. May include, but is not limited to, cigar clubs, gaming clubs, pool rooms, or other similar type uses. May require additional licenses from TABC or the state for operation. Does not include not-for-profit gaming operations, such as Bingo, offered by charitable organizations.

*Religious facility.* A building used primarily for religious assembly and worship and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns, rabbis, or other religious personnel on the premises (tax exempt as defined by state law). For the purposes of this chapter, Bible study and other similar activities that occur in a person's primary residence do not constitute a "religious facility."

*Research and development center.* Facilities for research including laboratories, experimental equipment and operations involving compounding or testing of materials or equipment. Any facility that is determined by health, fire, or building official to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation is not to be included in this category.

*Restaurant.* A building or portion of a building where food and drink is served for consumption in the building, and where provisions may be made for serving food on the premises outside the building.

*Restaurant, dine-in only.* An establishment where food and drink are prepared, served and consumed by the general public within an indoor dining area and may include an outdoor seating area.

*Restaurant, dine-in only with alcoholic beverages.* An establishment where food and drink, including alcoholic beverages, are prepared, served and consumed by the general public within an indoor dining area and may include an outdoor seating area.

*Restaurant, drive-in.* An eating establishment where food or drink is served to customers in motor vehicles or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises. An establishment where food and drink are prepared and ordered via service screens and served to customers either in an outdoor seating area or in their motor vehicles that are temporarily parked and which the food will generally be consumed in their vehicles or off-premises.

*Restaurant, drive-through service.* An establishment where food and drink are prepared, served and consumed by customers who are given the option of dining within the indoor dining area, the outdoor seating area

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or via a service window and drive-through lane to customers in motor vehicles who will be consuming the food off-premises.

*Restaurant, pick-up or delivery only.* An establishment preparing food to the general public in which the food, once prepared, is either picked up for consumption off-premises, or is delivered to the end user by the restaurant staff.

*Restaurant, temporary.* A retail food establishment that operates at a fixed location for a limited period of time.

*Restaurant, with micro-brewery.* An establishment that serves food and alcoholic beverages that prepares handcrafted natural beer or ale intended for consumption on the premises as an accessory use.

*Salvage yard, wrecking yard.* Any lot upon which four or more motor vehicles of any kind which are incapable of being operated due to condition or a lack of license or have been placed for the purpose of obtaining parts for recycling or resale.

*School, charter.* An alternative institution to the public school system licensed and funded by the state which provides a basic academic education comparable to that provided in the public schools and receives funding from the state and charges no admission fees to its attendees.

*School, private or parochial.* A school under the sponsorship of a private or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including private or trade or commercial schools, and receives no funding from any governmental agency. Establishments that provide cooperative education (co-op) are included in this definition.

*School, public.* An educational institution regulated by the state which is operated by the public or an independent school district, having a curriculum that includes kindergarten, elementary or secondary education, but not including private, business, commercial, trade, or craft schools.

*Seasonal sales.* Temporary display and sale of items customarily associated with a particular season, such as Christmas trees, holiday decorations, firewood; pumpkins, or any other similar product for sale during a recognized holiday.

*Senior living facility.* A multiple family dwelling means any building or portion thereof which is designed, built, rented, leased or let to contain three or more age-restricted (55 or older) dwelling units or apartments on a single lot, or which is occupied as a home or place of residence by three or more age-restricted (55 or older) families living in independent dwelling units.

*Sewage pump station.* A facility for transporting sewer including pumps, piping, valves and controls.

*Sewage treatment plant.* A facility that treats sewage so that it may be returned to the natural water supply without negative effects. Water from a sewage treatment plant is considered "gray water" and is suitable for irrigation but no consumption.

*Sexually oriented businesses.* Sexually oriented establishments and businesses as defined in town Ordinance No. 628 as it exists or may be amended. Sexually oriented uses include, but are not limited to, adult bookstore, adult video store, adult theater, adult cabaret, sexual encounter center, and nude modeling center. (See section 106.05.02.2(v), "sexually oriented businesses" and the aforementioned town ordinances for regulations)

*Smoking establishment.* An establishment that sells products and devices primarily for the purpose of smoking or vaping in various forms. These establishments sometime provide a contained area with a separate ventilation system for the purpose of smoking within the associated structure.

*Store, big box.* A retail establishment with a single-tenant that comprises more than 50,000 square feet, such as Target or Walmart.

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*Store, convenience.* A retail establishment providing for the sale of food items, nonprescription drugs, small household items and gifts. Gasoline and diesel fuel may also be offered for sale. Maximum size of the establishment shall be no more than 6,000 square feet, not including storage areas and administrative offices.

*Store, discount, variety or department.* A retail establishment offering a wide variety of merchandise in departments and exceeding 6,000 square feet in floor area.

*Store, drugstore or pharmacy.* A retail establishment for preparing, preserving, compounding and dispensing of drugs and medicines; and may include the display and sale of other merchandise such as cosmetics, notions, fountain service and similar items.

*Store, feed.* A retail establishment for the sale of grain, prepared feed, and forage for pets, livestock and fowl, but not involving the grinding, mixing, or commercial compounding of such items. An establishment for the selling of corn, grain, and other foodstuffs for animals and livestock and including other implements and goods related to agricultural processes, but not including farm machinery.

*Store, furniture, home furnishings and appliance store.* A retail facility that sells primarily goods for the home, such as furniture, carpet, appliances, and accessories.

*Store, grocery.* A retail establishment that displays and sells consumable goods and sundries and may include secondary uses such as a pharmacy, photo shop, banking service, delicatessen, bakery and/or prepared foods.

*Store, hardware and home improvement.* A retail establishment that sells building materials, paint, cutlery, tools, utensils, screws, nails, etc. This definition does not include "big box" hardware/lumber/home improvement type stores with outdoor display.

*Store, incidental retail or service uses.* Located within an office or other employment center, such uses include barbershop or beauty shop, smoke shop, candy counter, restaurant, pharmacy, or other incidental activity secondary to the primary office or employment occupancy.

*Store, pet shop.* A retail establishment offering small animals, fish, or birds for sale as pets and where all such creatures are housed within the building.

*Store, shopping center.* A group of retail, service, commercial, and restaurant establishments planned, constructed and managed as a single entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

*Street, private.* A thoroughfare which affords access to property abutting thereon for residents of that property and service vehicles only via controlled gate access. The land on which the street is constructed is owned by a homeowners association and the street is maintained by that entity. (See sections 106.05.02.2(t), "private street development/gated communities - existing subdivisions" and (u), "private street development/gated communities - new subdivisions", for regulations)

*Street, public.* A thoroughfare which affords principal means of access to property abutting thereon. The land on which the street is constructed is owned by a governmental entity and the pavement is maintained by that entity.

*Telephone exchange.* A telecommunications facility to which subscribers' telephones connect that switches calls among subscribers or to other exchanges for further routing.

*Theater, drive-in.* An outdoor facility arranged so that patrons can view the screen and receive the sound in the privacy of their cars, or while seated outside.

*Theater, indoor.* A facility for showing motion pictures to an audience inside an enclosed structure.

*Transit center/bus terminal.* Passenger terminal or loading facilities for franchised private or publicly-owned transit system.

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*Truck terminal.* An area where trucks used to transport goods are stored or parked between trips.

*Truck/trailer/heavy equipment/RV/bus repair.* An establishment providing major and minor automobile repair services to heavy load vehicles defined as self-propelled vehicles having a manufacturer's recommended gross vehicle weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor trailers, buses and other similar vehicles. Such vehicle repair may occur within a structure or outside the structure due to the size of the vehicles.

*Truck/trailer/heavy equipment/RV/bus sales.* A facility which sells or leases vehicles having a manufacturer's recommended gross vehicle weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor trailers, buses and other similar vehicles. The term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise. The sales and leasing facility includes outdoor storage and display of the vehicles listed.

*Utility distribution/transmission line.* Facilities, including subsidiary stations, that serve to distribute, transmit, transform, or reduce the pressure of gas, water, or electric current, including, but not limited to, electrical transmission lines, gas transmission lines, and metering stations.

*Vending kiosk, commercial.* An unmanned structure that provides a product for remuneration. Examples are ice machines, video vending machines (see section 106.05.02.2(w), "vending kiosk, commercial" for regulations).

*Vending kiosk, not-for-profit.* An unmanned structure that provides a product. The fee for such product may be reduced or waived. (See section 106.05.02.2(x), "vending kiosk, not-for-profit" for regulations)

*Warehouse.* A large facility used primarily for the storage of goods and may include an office incidental to the primary use.

*Water pumping station.* A facility for transporting water including pumps, piping, valves and controls.

*Water reservoir or well.* An artesian well or manmade underground reservoir where water is collected and kept in quantity for use by a water system.

*Water treatment plant.* A facility for the purifying, storage, and distribution of town water including a system of reservoirs, channels, and mains.

*Wholesale and distribution center.* An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials to retailers, wholesalers, agents, brokers, and/or to industrial, commercial, institutional, or professional business users and may include an office incidental to the primary use.

*Winery/brewery retail sales.* An establishment operated by the holder of a winery or brewery permit which has been lawfully issued to the permittee for the premises by the Texas Alcoholic Beverage Commission (or any successor entity thereto) in accordance with V.T.C.A., Alcoholic Beverage Code ch. 16 for the on-premises consumption of wine and or beer.

*Winery/brewery/distillery.* A manufacturing plant designed to distill alcoholic spirits such as wine, beer, ale or liquor. No on-premises individual sales of alcoholic drinks are allowed.

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1527, § 2, 10-15-2019; Ord. No. 1582, § 2, 12-1-2020; Ord. No. 1614, § 2, 3-2-2021; Ord. No. 1646, § 2, 11-16-2021; Ord. No. 1692, § 2, 12-20-2022)

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## **Sec. 106.02.02 Board of adjustment.**

### **(a) *Authority, duties and responsibilities.***

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the development services director in the enforcement of this chapter, including any appeal from a vested rights determination by the town manager pursuant to the town's vested rights policy, originally adopted by Resolution No. 11210602, and as amended by Resolution No. 03050801, and detailed in section 106.02.07, "vested rights," and any other applicable amendments.
- (2) To hear and decide only such special exceptions as the board of adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter.
- (3) To hear and decide upon only such variances or modifications of the height, yard, area, coverage and parking regulations as the board is specifically authorized to pass on pursuant to the terms of this chapter.
- (4) To hear and decide upon the existence of any nonconforming use and to enforce the amortization provisions as set forth in this chapter and authorized by Texas Local Government Code Section 211.019.
- (5) To provide a reasonable interpretation of the provisions of chapter 22, article III, of the Code of Ordinances relating to substandard structures, to mitigate specific provisions of the substandard structure ordinances which create practical difficulties in their enforcement and to hear cases and make determinations relating to substandard structures.

### **(b) *Composition of the board and terms of service.***

- (1) The board shall consist of five regular members who shall be appointed by the town council. Two of the regular members shall be appointed in one year and the remaining three members shall be appointed in the following year, with terms expiring on February 28 of the year the term ends.
- (2) In addition to the five regular members of the board of adjustment, two alternate members of the board, who shall serve in the absence of one or more regular members, shall be appointed by a majority vote of the town council so that all cases heard by the board will always be heard by a minimum of four members. The initial term of office of two of the alternate members shall be one year while the initial term of the other two alternates shall be two years. Thereafter, all of the alternates shall be appointed for two-year terms. In determining which of the two alternate members shall serve in the absence of a member, the alternate members shall be contacted to serve on a rotating basis starting first with the alternate member having the longest tenure. If for any reason more than one member must be absent, more than one (alternate may serve consistent with the provisions of this section.
- (3) Each member or alternate member of the board shall be a resident citizen and qualified voter of the town, at the time of his appointment. A member or alternate member who ceases to reside in the town during his term of office must immediately forfeit his office.
- (4) The term of office for all members shall be two years. All vacancies on the board shall be filled by the town council.
- (5) A regular member may not serve more than two consecutive full terms. This term limitation shall not apply to alternates.

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- (6) Members of the board may be removed by the town council in accordance with V.T.C.A., Local Government Code ch. 211.
  - (7) Members and alternates shall serve without compensation.
- (c) *Meetings and procedures.* The board shall adopt procedures and rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter and in accordance with state law.
- (1) *Meetings.* Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be conducted in accordance with the Texas Open Meetings Act.
  - (2) *Quorum.* Each case before the board must be heard by at least four members. The concurring vote of at least four members of the board shall be necessary to reverse any order, requirement, decision or determination of the director, or to decide in favor of the applicant on any matter upon which the board is required to act under this Code or to grant any variance authorized by this chapter.
  - (3) *Election of officers.* At the first scheduled board meeting in March of each year, or as soon thereafter as practicable, the first item of business shall be the selection of the board of adjustment's chairman and vice-chairman by the regular members of the board. The alternate members of the board are not eligible to serve as the board chairman or vice-chairman or to participate in the selection of such chairman or vice-chairman.
  - (4) *Chairman's duties.* The chairman shall preside over meetings. If a question regarding procedures arises, Robert's Rules of Order, Newly Revised, shall apply.
  - (5) *Vice-chairman's duties.* The vice-chairman shall assist the chairman in directing the affairs of the board of adjustment. In the absence of the chairman, the vice-chairman shall assume the duties of the chairman.
  - (6) *Minutes.* The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which are public records and shall be immediately filed in the office of the board.
  - (7) *Voluntary disqualification for cause.* A member shall disqualify himself from voting whenever he finds that he has a personal or monetary interest in the property or case under review, or that he will be directly affected by the decision of the board.
- (d) *Appeal of director's decision.* In exercising its powers, the board may, in conformity with the provisions of the state statutes, as existing or hereafter amended, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and make such order, requirement, decision or determination, in the board's opinion, as ought to be made and shall have all the powers of the officer from whom the appeal is taken.
- (1) Appeals to the board concerning interpretation or administration of this chapter that is not related to a specific application, address, or project may be taken by any person aggrieved or by any officer, department, or board of the town affected by any decision of the director. Appeals to the board concerning interpretation or administration of this chapter that is related to a specific application, address, or project may be taken by a person who (i) filed the application that is the subject of the director's decision, (ii) is the owner or representative of the owner of the property that is the subject of the director's decision, or (iii) is aggrieved by the director's decision and is the owner of real property within 200 feet of the property that is the subject of the director's decision. Additionally, any officer, department, board, or bureau of the town may appeal any director's decision concerning interpretation or administration of this chapter. Such appeals shall be taken within a reasonable time,

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not to exceed 20 days, after the decision has been rendered by the director by filing with the official and the board a notice of appeal specifying the grounds thereof. The director shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

- (2) The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney. The board shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed.
- (3) An appeal stays all proceedings in furtherance of the action appealed from, unless the director from whom the appeal is taken certifies to the board after the notice of appeal is filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the director from whom the appeal is taken and on due cause shown.

(e) *Appeals resulting from board action.*

- (1) Any persons, jointly or severally, aggrieved by a decision of the board under this section, or any taxpayer or any officer, department, or board of the municipality may present to a court of competent jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board and not thereafter.
- (2) Any owner, lienholder, or mortgagee of record of property, jointly or severally, aggrieved by the final decision of the board issued under this section, may file in district court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the date a copy of the final decision is personally delivered or mailed via first class mail, certified mail return receipt requested, to the owner, lienholder, or mortgagee and not thereafter.
- (3) Any person aggrieved by a decision of the board issued under this section, may file in district court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 20 days after the date the decision is rendered by the board and not thereafter.

(f) *Special exceptions.*

- (1) A special exception shall not be granted by the board unless and until:
  - a. Written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested;
  - b. Notice must be given at least 15 days in advance of the public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of such hearings must be posted on the property for which the special exception is sought, at the town hall, and notice must be provided in one other public place, such as a newspaper, at least 15 days prior to the public hearing;
  - c. A public hearing must be held. Any party may appear in person or by agent or attorney;
  - d. The board shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

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- (2) In granting any special exception, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter and the penalties set forth in section 106.01.11, "penalties and enforcement," shall apply. The board shall prescribe a time limit within which the action for which the special exception is required shall begin or be completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception, without necessity of further action by the board.

(g) *Variances.*

- (1) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship and so that the spirit of this chapter is observed and substantial justice is achieved. A variance from the terms of this chapter shall not be granted by the board unless and until a written application for a variance is submitted demonstrating the following:
- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district or area;
  - b. That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district or area under the terms of this chapter;
  - c. That the special conditions and circumstances do not result from the actions of the applicant; and
  - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district or area.
- (2) Nonconforming use of neighboring lands, structures, or buildings in the same district, and permitted use of lands, structures, or buildings in other districts shall not be considered grounds for the issuance of a variance.
- (3) Notice of public hearing must be given as set forth in this section;
- (4) A public hearing must be held. Any party may appear in person, or by agent or attorney;
- (5) The board shall make findings that the requirements of this section have been met by the applicant for a variance;
- (6) The board shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- (7) The board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (8) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and the penalties set forth in section 106.01.11, "penalties and enforcement," shall apply.
- (9) Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.



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(h) *Nonconforming uses.*

- (1) The board, on its own motion or at the direction of the town council or an interested property owner, may inquire into the existence of any nonconforming use in the Town of Little Elm, and after public hearing and investigation into the conditions created by the use, fire or health hazards created by the use, and any other danger or nuisance to the public due to or created by any condition or use existing on the property, require the discontinuance or termination of such use. The owner of the use under investigation by the board shall have not less than ten days written notice prior to the day of the public hearing. The board, after having heard from any affected parties and the public, shall prescribe a reasonable time period for compliance, discontinuance and termination of the nonconforming use. The board shall, in accordance with Section 211.019 of the Texas Local Government Code, utilize the procedures and owner or lessee compensation criteria contained in said Section in the event the Town determines that a nonconforming use of property shall:
  - a. In prescribing said time period, the board shall consider the following factors:
    1. The capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property at the time the use became nonconforming;
    2. Any costs that are directly attributable to the establishment of compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages;
    3. Any return on investment since inception of the use, including net income and depreciation; 4. The anticipated annual recovery of investment, including net income and depreciation; and
    5. In accordance with Section 211.019 of the Texas Local Government Code, utilize the procedures and owner or lessee compensation criteria contained in said Section in the event the Town determines that a nonconforming use of property shall cease.
  - b. If the board establishes an amortization (or compliance) date for a nonconforming use, the use must cease operation on that date and it may not operate thereafter unless it becomes a conforming use. The board shall, pursuant to the requirements of Section 211.019 of the Texas Local Government Code, determine the payment that is due to the owner or the lessee of the property for damages associated with terminating the nonconforming use.
  - c. For purposes of this section, "owner" means the owner of the nonconforming use at the time of the board's determination of an amortization (or compliance) date for the nonconforming use, and "lessee" means an individual or entity that has a valid lease for the nonconforming use at the time of the board's determination of an amortization (or compliance) date for the nonconforming use.
  - d. The board shall have the power to subpoena witnesses, documents and things; administer oaths; punish for contempt; and may require the production of documents and other things, under such regulations as it may establish or deem appropriate.

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1527 , § 2, 10-15-2019; Ord. No. 1665 , § 2, 5-17-2022)

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## Sec. 106.02.11. Map amendments to the zoning ordinance.

- (a) *Purpose.* The zoning ordinance official zoning map may be changed from time-to-time due to changes in market forces, development opportunities, or individual requests for development other than what is designated on the official zoning map. This section describes the process by which the official zoning map may be changed.
- (b) *Authority.* Any person or corporation having a legal or equitable ownership interest in any real property may petition the town council for a change or amendment to the official zoning map or the regulations relating to a specific tract of land located within the town. In addition, the planning and zoning commission may on its own motion or on request from the town council institute a study and proposal for such changes and amendments in the public interest.
- (c) *City initiation.* The town council may, from time to time, amend or change by ordinance the boundaries of the various zoning districts or the use and development regulations relating to a specific property in accordance with the manner provided by state law.
- (d) *Procedure and approval.*
  - (1) *Compliance with comprehensive future land use map (FLUP).* Before taking action on any proposed amendment or change, staff shall determine that the proposed amendment is consistent with the goals and vision of the comprehensive plan. If it is not, the staff recommendation shall be for denial unless or until a comprehensive plan change has been effected that would bring the request into compliance with the comprehensive plan.

ARTICLE II, TABLE A	
Future Land Use Plan/Zoning District Conversion Table	
Future Land Use Plan Designation	Supported Zoning Districts*
Estate Residential	AG, SF-RE, CF
Low Density Residential	A-1, A-2, SF-1, SF-2, SF-3, SF-4, SF-X
Medium Density Residential	TH, D, PH, SF-X
High Density Residential	MF, TH, PH
Manufactured Home Area	MH-1, D
Public/Semi-Public	CF
Parks and Open Space	AG, CF
Private Recreation	CF
Town Center	LF, CF
Retail/Office	O, NS, LC, CF
Business Commercial	LC, HC, LI, HI, CF
Lakefront District	N/A
Eldorado Corridor District	N/A

\*PD zoning may be supported in any of the FLUP designations

- (2) *Comprehensive plan and zoning amendment considered concurrently.* A future land use plan amendment and a zoning change may be requested together, noticed together, and be considered at the same planning and zoning commission and town council meetings. If processed together there will not be an additional application fee. However, if a future land use plan amendment is requested

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separate from a zoning request, an application fee is required to be paid. The amount shall be equal to the zoning application fee.

- (3) *Notification prior to the planning and zoning commission public hearing.* The commission must hold a public hearing on any application for a zoning map amendment or change prior to making its recommendations and report to the town council. The following state mandated regulations must be met before the public hearing may be convened:
- a. Written notice of all public hearings before the commission on a proposed amendment or change to the official zoning map, including an amendment or change to the use and development regulations governing a specific tract of land, must be sent to all owners of real property located within 200 feet of the property on which the change is requested. Notice must be given a minimum of ten days prior to the date set for the public hearing by mailing such notice properly addressed and postage-paid to each taxpayer as the ownership appears on the last approved town tax roll. A certificate of mailing shall be obtained from the postal service and copy of same shall be retained in the case records.
  - b. In addition to the foregoing notice, the Town shall provide written notice of each public hearing regarding any proposed adoption of or change to a zoning regulation or boundary under which a current conforming use of a property is a nonconforming use if the regulation or boundary is adopted or changed. The notice shall:
    - (i) be mailed by United States mail to each owner of real or business personal property where the proposed nonconforming use is located as indicated by the most recently approved municipal tax roll and each occupant of the property not later than the 10th day before the hearing date;
    - (ii) contain the time and place of the hearing; and
    - (iii) include the following text in bold 14-point type or larger: "THE TOWN OF LITTLE ELM IS HOLDING A HEARING THAT WILL DETERMINE WHETHER YOU MAY LOSE THE RIGHT TO CONTINUE USING YOUR PROPERTY FOR ITS CURRENT USE. PLEASE READ THIS NOTICE CAREFULLY."
  - c. Notice of such hearing by the planning and zoning commission must be given by publication in the official newspaper of the Town of Little Elm stating the time and place of such public hearing a minimum of ten days prior to the hearing.
  - d. Public notification signs must be posted, per subsection (e), below, a minimum of ten days prior to the hearing and remain in place until the public hearing by the commission and must remain in place until the hearing before the town council.
  - e. Notice of the public hearing must be posted at town hall a minimum of 72 hours prior to the commission hearing.
- (4) *Commission recommendation.* The town council shall not take action on a proposed zoning amendment without a recommendation from the planning and zoning commission.
- (5) *Town council notification and approval.* A public hearing must be held by the town council before adopting any proposed zoning map amendment or development regulation change relating to a specific tract of land. The following state mandated regulations must be met before the public hearing may be convened:
- a. Notice of the town council public hearing must be given by publication in the official newspaper of the Town of Little Elm stating the time and place of such public hearing a minimum of 15 days prior to the hearing.

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- b. Public notification signs posted, per subsection (e), below, must remain in place until the public hearing by town council.
  - c. Notice of the town council public hearing must be posted at town hall a minimum of 72 hours prior to the hearing.
- (6) If a written protest against such change is submitted in accordance with section 106.02.13, "zoning amendment protest procedure," by the owners of 20 percent or more of either (i) the area of the lots or land covered by the proposed change or (ii) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area, such map amendment shall not become effective except by the favorable vote of three-fourths of all the members of the town council.
- (7) In computing the percentage of land area under subsection (6), above, the area of streets and alleys shall be included.
- (e) *Public notification signage.*
- (1) Any person, firm or corporation requesting a change in zoning from one zoning classification to another zoning classification on a specific site or other amendments to the use and development regulations governing such property shall erect and maintain a notification sign, provided by the town upon said property. Such sign shall be:
    - a. Sized a standard four-foot by four-foot;
    - b. Located within 15 feet of the closest, adjacent, most heavily traveled thoroughfare;
    - c. Located perpendicular to the street so as to be clearly visible and both sides of the sign are clearly readable from the thoroughfare and not obstructed in any manner;
    - d. Located so as not to create a hazard to traffic on, entering or leaving public rights-of-way abutting the property; and
    - e. Erected on the subject property at least ten days prior to the public hearing of such request by the planning and zoning commission, and to remain continuously on said property until final action by the town council or withdrawal of the request by the applicant. Removal of the required public notification sign by the applicant prior to final action of the town council shall constitute a withdrawal of the request. Photographic proof (with time stamp) must be provided to staff to ensure that the notification signs have been placed on the property within the required timeframe.
  - (2) It shall be unlawful for anyone to remove, destroy, deface or obstruct the view of a required sign which gives notice that a zoning hearing has been requested, however, it shall be an affirmative defense to prosecution of the underlying zoning request has been finally approved or denied by the town council or if such request has been withdrawn by the applicant.
  - (3) In the event the applicant should fail to erect or maintain any required signs in accordance with any appropriate standard in this section, then the public hearing before the planning and zoning commission and/or town council must be postponed to a date in the future that allows adequate time for compliance.
  - (4) The sign shall be two-sided and state that a zoning change is requested and shall list a phone number of an appropriate town department that may be contacted for information regarding this request.
  - (5) There shall be a cost attributed to the receiving of each sign by the applicant and such cost shall be listed in the schedule of fees.

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- (6) Failure to comply with the posting of the signs required by this section 106.02.11(e), "map amendments to the zoning ordinance, public notification signage" or to otherwise strictly comply with the manner in which such signs are posted, shall not invalidate any public hearing or action taken by either the commission or the town council relating to a request to amend the zoning regulations relating to the property.

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1587, § 2, 1-5-2021)

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## Sec. 106.03.02 Zoning districts—Residential.

(a) *A-1 Single-Family District.*

- (1) *Purpose.* The purpose of the A-1 Single-Family District is to allow single family detached dwellings on lots of not less than 10,000 square feet, together with allowed incidental uses.
- (2) *Use regulations.* No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
- (3) *Height and area regulations.* The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

ARTICLE III, TABLE D	
A-1 SINGLE-FAMILY RESIDENTIAL DEVELOPMENT STANDARDS	
Maximum height	35'
Minimum front yard setback	25'
Minimum side yard setback	10'
Minimum side yard setback on corner <sup>1</sup>	28'
Minimum rear yard setback	20'
Minimum lot width (at building line) <sup>2</sup>	80'
Minimum lot area	10,000 sq. ft.
Minimum floor area <sup>3</sup>	1,500 sq. ft.

Note 1. Where interior lots have been planned or sold fronting on the side street, may project not more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on the side street, provided this regulation shall not be interpreted to reduce the buildable width of a corner lot in separate ownership at the time of the passage of this chapter, to less than 28 feet, and provided that the side yard regulations above shall be observed.

Note 2. The minimum width of a lot shall be measured at the front building line provided that where a lot has less width than herein required, in separate ownership at the time of the passage of this chapter, this regulation will not prohibit the erection of a one-family dwelling. Lots bordering streets on curves or contours shall be 80 feet in width at the building line.

Note 3. Each dwelling unit hereafter erected, constructed, reconstructed or altered in said A-1 Single-Family District shall have a floor area, excluding basements, open and screened porches and garages, of not less than 1,500 square feet.

(b) *A-2 Single-Family District.*

- (1) *Purpose.* The purpose of the A-2 Single-Family District is to allow single family detached dwellings on lots of not less than 10,000 square feet, together with allowed incidental uses.
- (2) *Use regulations.* No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
- (3) *Height and area regulations.* The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

ARTICLE III, TABLE E	
A-2 SINGLE-FAMILY RESIDENTIAL DEVELOPMENT STANDARDS	
Maximum height	35'
Minimum front yard setback	25'
Minimum side yard setback	10'
Minimum side yard setback on corner <sup>1</sup>	28'
Minimum rear yard setback	20'
Minimum lot width (at building line) <sup>2</sup>	60'
Minimum lot area	6,000 sq. ft.
Minimum lot area (no public sewer)	1 acre
Minimum floor area <sup>3</sup>	1,000 sq. ft.

Note 1. Where interior lots have been planned or sold fronting on the side street, may project not more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on the side street, provided this regulation shall not be interpreted to reduce the buildable width of a corner lot in separate ownership at the time of the passage of this chapter, to less than 28 feet, and provided that the side yard regulations above shall be observed.

Note 2. The minimum width of a lot shall be measured at the front building line provided that where a lot has less width than herein required, in separate ownership at the time of the passage of this chapter, this regulation will not prohibit the erection of a one-family dwelling. Lots bordering streets on curves or contours shall be 60 feet in width at the building line.

Note 3. Each dwelling unit hereafter erected, constructed, reconstructed or altered in said A-2 Single-Family District shall have a floor area, excluding basements, open and screened porches and garages, of not less than 1,000 square feet.

(c) *SF-RE Single-Family Ranchette Estate District.*

- (1) *Purpose.* The purpose of the SF-RE Single-Family Ranchette Estates District is to allow single-family detached dwellings on lots of not less than one acre per family, together with allowed incidental and accessory uses.
- (2) *Application.* Lots in a subdivision or plat legally approved and properly recorded in Denton County prior to the effective date of Ordinance No. 427 which do not meet the minimum lot sizes and area requirements set forth in this section shall not be considered to be in violation of said requirements and, for purposes of this section, shall be deemed to conform to the requirements set forth in this section.
- (3) *Use regulations.* No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, installed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
- (4) *Accessory buildings.* The following accessory buildings or shall be permitted as accessory to the principal structure or use within the SF-RE Single-Family Ranchette Estates District in accordance with the following:
  - a. If the SF-RE parcel is three acres or greater, accessory uses may also include all agricultural/farm buildings including, but not limited to, a stable, barn, pen, corral, kennel, greenhouse, or coop.

- b. When allowed, agriculture-related accessory structures shall be made of masonry materials, wood, or cementitious fiber board and are not required to meet the maximum square footage requirements as referenced in section 106.05.01(a), "schedule of uses - residential."
  - c. The minimum setback from any property line for any accessory agricultural/farm structure shall be 25 feet.
- (5) *Height and area regulations.* Height and area regulations. The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

ARTICLE III, TABLE F	
SF-RE SINGLE-FAMILY RANCHETTE ESTATE DEVELOPMENT STANDARDS	
Maximum height	35'
Minimum front yard setback	40'
Minimum side yard setback	20'
Minimum side yard setback on corner <sup>1</sup>	28'
Minimum rear yard setback	30'
Minimum lot width (at building line) <sup>2</sup>	120'
Minimum lot area	1 acre
Minimum floor area <sup>3</sup>	2,400 sq. ft.
Minimum number of garage spaces <sup>4</sup>	2
Minimum number of drive spaces	2

Note 1. Where interior lots have been planned or sold fronting on the side street, may project not more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on the side street, provided this regulation shall not be interpreted to reduce the buildable width of a corner lot in separate ownership at the time of the passage of this chapter, to less than 28 feet, and provided that the side yard regulations above shall be observed.

Note 2. The minimum width of a lot shall be measured at the front building line provided that where a lot has less width than herein required, in separate ownership at the time of the passage of this chapter, this regulation will not prohibit the erection of a single-family dwelling. Lots bordering streets on curves or contours shall be 120 feet in width at the building line.

Note 3. Each dwelling unit hereafter erected, constructed, reconstructed or altered in said SF-RE Single-Family Ranchette Estate District shall have a floor area, excluding basements, open and screened porches and garages, of not less than 2,400 square feet.

Note 4. Garages may not be used for living quarters unless 2 other enclosed parking spaces are provided on the lot.

(d) *SF-1 Single-Family District.*

- (1) *Purpose.* The purpose of the SF-1 Single-Family District is to allow single family detached dwellings on lots of not less than 10,000 square feet, together with allowed incidental uses.
- (2) *Uses regulations.* No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, installed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."



- (3) *Height and area regulations.* The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

ARTICLE III, TABLE G	
SF-1 SINGLE-FAMILY DISTRICT DEVELOPMENT STANDARDS	
Maximum height	35'
Minimum front yard setback	25'
Minimum side yard setback	10'
Minimum side yard setback on corner <sup>1</sup>	25'
Minimum rear yard setback	20'
Minimum lot width (at building line) <sup>2</sup>	60'
Minimum lot area	10,000 sq. ft.
Minimum floor area <sup>3</sup>	2,000 sq. ft.
Minimum number of garage spaces <sup>4</sup>	2
Minimum number of drive spaces	2

Note 1. Where interior lots have been planned or sold fronting on the side street, may project not more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on the side street, provided this regulation shall not be interpreted to reduce the buildable width of a corner lot in separate ownership at the time of the passage of this chapter, to less than 25 feet, and provided that the side yard regulations above shall be observed.

Note 2. The minimum width of a lot shall be measured at the front building line provided that where a lot has less width than herein required, in separate ownership at the time of the passage of this chapter, this regulation will not prohibit the erection of a single-family dwelling. Lots bordering streets on curves or contours shall be 60 feet in width at the building line.

Note 3. Each dwelling unit hereafter erected, constructed, reconstructed or altered in said SF-1 Single-Family District shall have a floor area, excluding basements, open and screened porches and garages, of not less than 2,000 square feet.

Note 4. Garages may not be used for living quarters unless two other enclosed parking spaces are provided on the lot.

(e) *SF-2 Single-Family District.*

- (1) *Purpose.* The purpose of the SF-2 Single-Family District is to allow single-family detached dwellings on lots of not less than 8,000 square feet, together with allowed incidental and accessory uses.
- (2) *Use regulations.* No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, installed, or altered, except for one or more of the uses specified in section 106.05.01(a), "Schedule of uses - residential."
- (3) *Height and area regulations.* The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

ARTICLE III, TABLE H	
SF-2 SINGLE-FAMILY DISTRICT DEVELOPMENT STANDARDS	
Maximum height	35'
Minimum front yard setback	25'
Minimum side yard setback	10'

Minimum side yard setback on corner <sup>1</sup>	25'
Minimum rear yard setback	20'
Minimum lot width (at building line) <sup>2</sup>	60'
Minimum lot area	8,000 sq. ft.
Minimum floor area <sup>3</sup>	1,600 sq. ft.
Minimum number of garage spaces <sup>4</sup>	2
Minimum number of drive spaces	2

Note 1. Where interior lots have been planned or sold fronting on the side street, may project not more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on the side street, provided this regulation shall not be interpreted to reduce the buildable width of a corner lot in separate ownership at the time of the passage of this chapter, to less than 25 feet, and provided that the side yard regulations above shall be observed.

Note 2. The minimum width of a lot shall be measured at the front building line provided that where a lot has less width than herein required, in separate ownership at the time of the passage of this chapter, this regulation will not prohibit the erection of a single-family dwelling. Lots bordering streets on curves or contours shall be 60 feet in width at the building line.

Note 3. Each dwelling unit hereafter erected, constructed, reconstructed or altered in said SF-2 Single-Family District shall have a floor area, excluding basements, open and screened porches, and garages, of not less than 1,600 square feet.

Note 4. Garages may not be used for living quarters unless 2 other enclosed parking spaces are provided on the lot.

(f) *SF-3 Single-Family District.*

- (1) *Purpose.* The purpose of the SF-3 Single-Family District is to allow single-family detached dwellings on lots of not less than 7,000 square feet, together with allowed incidental and accessory uses.
- (2) *Use regulations.* No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, installed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
- (3) *Height and area regulations.* The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

ARTICLE III, TABLE I	
SF-3 SINGLE-FAMILY DISTRICT DEVELOPMENT STANDARDS	
Maximum height	35'
Minimum front yard setback	25'
Minimum side yard setback	6'
Minimum side yard setback on corner <sup>1</sup>	28'
Minimum rear yard setback	20'
Minimum lot width (at building line) <sup>2</sup>	60'
Minimum lot area	7,000 sq. ft.
Minimum floor area <sup>3</sup>	1,400 sq. ft.
Minimum number of garage spaces <sup>4</sup>	2
Minimum number of drive spaces	2

Note 1. Where interior lots have been planned or sold fronting on the side street, may project not more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on the side street, provided this regulation shall not be interpreted to reduce the buildable width of a corner lot in separate ownership at the time of the passage of this chapter, to less than 28 feet, and provided that the side yard regulations above shall be observed.

Note 2. The minimum width of a lot shall be measured at the front building line provided that where a lot has less width than herein required, in separate ownership at the time of the passage of this chapter, this regulation will not prohibit the erection of a single-family dwelling.

Note 3. Each dwelling unit hereafter erected, constructed, reconstructed or altered in said SF-3 Single-Family District shall have a floor area, excluding basements, open and screened porches and garages, of not less than 1,400 square feet.

Note 4. Garages may not be used for living quarters unless two other enclosed parking spaces are provided on the lot.

(g) *SF-4 Single-Family District.*

- (1) *Purpose.* The purpose of the SF-4 Single-Family District is to allow single-family detached dwellings on lots of not less than 6,000 square feet, together with allowed incidental and accessory uses.
- (2) *Use regulations.* No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, installed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
- (3) *Height and area regulations.* The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

ARTICLE III, TABLE J	
SF-4 SINGLE-FAMILY DISTRICT DEVELOPMENT STANDARDS	
Maximum height	35'
Minimum front yard setback	25'
Minimum side yard setback	6'
Minimum side yard setback on corner <sup>1</sup>	28'
Minimum rear yard setback	20'
Minimum lot width (at building line) <sup>2</sup>	60'
Minimum lot area	6,000 sq. ft.
Minimum floor area <sup>3</sup>	1,200 sq. ft.
Minimum number of garage spaces <sup>4</sup>	2
Minimum number of drive spaces	2

Note 1. Where interior lots have been planned or sold fronting on the side street, may project not more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on the side street, provided this regulation shall not be interpreted to reduce the buildable width of a corner lot in separate ownership at the time of the passage of this chapter, to less than 28 feet, and provided that the side yard regulations above shall be observed.

Note 2. The minimum width of a lot shall be measured at the front building line provided that where a lot has less width than herein required, in separate ownership at the time of the passage of this chapter, this regulation will not prohibit the erection of a single-family dwelling.

Note 3. Each dwelling unit hereafter erected, constructed, reconstructed or altered in said SF-4 Single-Family District shall have a floor area, excluding basements, open and screened porches and garages, of not less than 1,200 square feet.

Note 4. Garages may not be used for living quarters unless two other enclosed parking spaces are provided on the lot.

(h) *SF-X Single-Family Mixed Size District.*

- (1) *Purpose.* The purpose of the SF-X Single-Family District is to allow a mix of relatively large single-family detached dwellings on lots that range from a minimum of 10,000 square feet to one acre or more, together with allowed incidental and accessory uses.
- (2) *Mix of lot sizes.* A minimum of three lots sizes, defined by lot width and overall lot area, shall be provided within the subdivision.
- (3) *Minimum and maximum percentages.* A minimum of 20 of the largest lot sizes shall be provided and a maximum of 50 of the smallest lot size may be provided.
- (4) *Use regulations.* No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, installed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
- (5) *Height and area regulations.* The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

ARTICLE III, TABLE K	
SF-X SINGLE-FAMILY DISTRICT DEVELOPMENT STANDARDS	
Maximum height	35'
Minimum front yard setback	20'
Minimum side yard setback	6'
Minimum side yard setback on corner <sup>1</sup>	28'
Minimum rear yard setback	20'
Minimum lot width (measured at building line) <sup>2</sup>	
Smallest lot width (maximum of 50% of total number of lots)	60'
Medium lot width	75'
Largest lot width (minimum of 20% of the total number of lots)	90'
Minimum lot area	
Smallest lot area (maximum of 50% of total number of lots)	10,000 sq. ft.
Medium lot area	14,520 sq. ft. or ⅓ acre
Largest lot area (minimum of 20% of the total number of lots)	21,780 sq. ft. or ½ acre
Minimum floor area <sup>2</sup>	
Smallest lot area (maximum of 50% of total number of lots)	1,800 sq. ft.
Medium lot area	2,000 sq. ft.
Largest lot area (minimum of 20% of the total number of lots)	2,400 sq. ft.
Minimum number of garage spaces <sup>3</sup>	2

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Minimum number of drive spaces	2
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Note 1. Where interior lots have been planned or sold fronting on the side street, may project not more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on the side street, provided this regulation shall not be interpreted to reduce the buildable width of a corner lot in separate ownership at the time of the passage of this chapter, to less than 28 feet, and provided that the side yard regulations above shall be observed.

Note 2. The minimum width of a lot shall be measured at the front building line provided that where a lot has less width than herein required, in separate ownership at the time of the passage of this chapter, this regulation will not prohibit the erection of a single-family dwelling.

Note 3. Garages may not be used for living quarters unless two other enclosed parking spaces are provided on the lot.

(i) *D Duplex Two-Family District.*

- (1) *Use regulations.* No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
- (2) *Separate utilities.* All utilities shall be provided separately to each duplex such that each unit is individually metered.
- (3) *Height and area regulations.* The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

ARTICLE III, TABLE L	
D DUPLEX TWO-FAMILY DISTRICT DEVELOPMENT STANDARDS	
Maximum height	35'
Minimum front yard setback	25'
Minimum side yard setback	6'
Minimum side yard setback on corner <sup>1</sup>	28'
Minimum rear yard setback	20'
Minimum lot width (at building line) <sup>2</sup>	60'/30' <sup>15</sup>
Minimum lot area per family	2,500 sq. ft.
Minimum lot area per family with no sewer	10,000 sq. ft.
Minimum floor area per family <sup>3</sup>	700 sq. ft.
Minimum number of garage spaces <sup>4</sup>	2
Minimum number of drive spaces	2

Note 1. Lot area per family. Every two-family dwelling unit hereafter erected, reconstructed, altered or enlarged shall provide a lot area of not less than 2,500 square feet per family; provided, however, that where a lot has less area than herein required and was of record and in separate ownership at the time of the passage of this chapter, said lot may be occupied by not more than one family. In areas not served by sanitary sewer the minimum lot area per family shall be 10,000 square feet.

Note 2. The minimum width of a lot shall be measured at the front building line provided that where a lot has less width than herein required, in separate ownership at the time of the passage of this chapter, this regulation will not prohibit the erection of a single-family dwelling.

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Note 3. Floor area. Every two-family unit hereafter erected, constructed, reconstructed or altered shall have a floor area, excluding basements, open and screened porches and garages of not less than 700 square feet per each single-family dwelling unit.

Note 4. Garages may not be used for living quarters unless two other enclosed parking spaces are provided on the lot.

Note 5. Lots may be subdivided into two 30-foot (minimum) wide lots provided that the associated duplex structure be constructed with a fire wall along the shared, common boundary.

(j) *TH Townhome District.*

- (1) *Site plan review required.* All townhome developments are subject to site plan review and approval by director. The site plan shall show the typical layout of the townhome lot and an overall layout of the development.
- (2) *Site plan approval.* Deviations from the townhome standards in this chapter can be accomplished through the site plan process, subject to review and approval by the planning and zoning commission and town council during public hearings.
- (3) *Use regulations.* No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
- (4) *Minimum parking and garage access.* All townhome developments shall provide rear entry off-street parking with a minimum two car garage. Alleys servicing these developments shall be a minimum 12 feet in width.
- (5) *On-street parking.* Parallel parking shall be provided along the curb in the right-of-way, but shall not count toward the minimum number of parking spaces required per unit.
- (6) *Open space.* Ten percent of the total townhome development shall be dedicated as usable open space. This area shall be platted as common area (i.e. owned and maintained by the homeowners' association - HOA); open space must be usable but may include up to 50 percent floodplain. Open space should be located to preserve existing trees. If not practical due to the natural restrictions of the tract of land, then one large canopy tree and one small ornamental tree for every 5,000 square feet of required open space shall be provided.
- (7) *Minimum street widths and orientation .* Streets adjacent to townhomes shall have a minimum 62-foot right-of-way. All townhomes shall be platted on individual lots and require public street or public easement frontage, but shall not have both front and rear street frontage.
- (8) *Front access from sidewalks.* All buildings which have residential unit floor plates within six feet of grade shall include a primary front door entrance into the unit which may be accessed from the sidewalk.
- (9) *Front door entry.* The front door entry shall be located a minimum of two feet above the sidewalk elevation and include a minimum 24 square foot stoop. If pre-empted by topographic conditions, the entry may be lowered in elevation, subject to approval of the director. However, up to 50 percent of units may be ADA accessible from the sidewalk provided there is a metal fence separating the private area from the public sidewalk area.
- (10) *Landscape buffer and screening.* A ten-foot-wide rear landscape buffer shall be provided and shall contain one tree for every 30 linear feet. When located in commercial zoning districts, masonry screen wall requirements and the ten landscape buffer do not apply, unless backing against single-family residential, which requires eight-foot-high masonry screen wall.

- (11) *Window views.* Units must also include windows which provide residents a view of the street or public access easement and sidewalk area.
- (12) *Commercial design standards included.* Any and all graphics from the 2009 Commercial Design Standards report not supported by textual technological limitations are hereby codified as supporting material by reference.
- (13) *Front yard landscape zones.* Three zones are required between back of curb and the building line, as described below:
- Streetscape zone (1). A minimum five-foot-wide area adjacent to the back-of-curb for trees and street furniture, including a one-foot dismount strip. An urban tree in a tree well shall be provided for every 25 linear feet in the streetscape zone. For every three urban trees, a bike rack, trash receptacle, bench, lighted bollard, or other approved street furniture is required.
  - Sidewalk zone (2). A minimum six-foot-wide clear sidewalk.
  - Landscape zone (3). A minimum six-foot landscape/patio area adjacent to the building). In order to differentiate the different zones (public v. private) of the sidewalk, townhome may construct a three-foot-high wrought iron, masonry, or cast stone fence. Balcony and patio railings and fences shall be largely transparent and constructed of tempered glass, wrought iron or metal. Masonry columns may be used on patios provided that they are used as accents. Wood fences and railings and chain-link fencing are prohibited.
- (14) *Rear yard setback landscaping.* Within the rear building setback, one urban tree is required.
- (15) *Height and area regulations.* The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

ARTICLE III, TABLE M	
TH TOWNHOME DISTRICT DEVELOPMENT STANDARDS	
Maximum height	45'
Minimum front yard setback	6'
Maximum front yard setback	12'
Minimum side yard setback <sup>1</sup>	5'
Minimum side yard setback on corner	15'
Minimum rear yard setback	20'
Minimum rear fence setback	5'
Minimum lot width (at building line)	25'
Minimum lot depth	100'
Maximum block length	600'
Minimum number of garage spaces per unit <sup>2</sup>	2
Number of other parking spaces per unit <sup>3</sup>	0.3

Note 1. The minimum side yard is five feet between groups of three to six townhomes; side yard at corner is 15 feet, and requires all three zones referenced in subsection (13) above.

Note 2. Garages may not be used for living quarters.

Note 3. Other parking spaces (for guests or employees) may be located tandem to the garage parking spaces, in a separate parking lot, or on-street.

- (k) *PH Patio Home District.*

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- (1) *Site plan review required.* All patio home developments are subject to site plan review and approval by director. The site plan shall show the layout of the typical patio home lot and an overall layout of the development.
  - (2) *Site plan approval.* Deviations from the patio home standards in this chapter can be accomplished through the site plan process, subject to review and approval by the planning and zoning commission and town council during public hearings.
  - (3) *Definition.* Patio homes are single-family dwellings that are smaller in scale than typical residential homes, are located on a unique platted lot, and may have a zero lot line on one side of the building. If the zero lot line is chosen, or any side yard setback smaller than five feet, no windows shall be placed on that side of the patio home. Windows, doors, patios and other features should be placed along the wider side yard setback to create a greater sense of open space.
  - (4) *Use regulations.* No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
  - (5) *Minimum parking and garage access.* All patio home developments shall provide rear entry off-street parking with a minimum two car garage. Alleys servicing these developments shall be a minimum 12 feet in width.
  - (6) *On-street parking.* Parallel parking shall be provided along the curb in the right-of-way, but shall not count toward the minimum number of parking spaces required per unit.
  - (7) *Open space.* Ten percent of the total patio home development shall be dedicated as usable open space. This area shall be platted as common area (i.e. owned and maintained by the homeowners' association); open space must be usable but may include up to 50 percent floodplain. Open space should be located to preserve existing trees. If not practical due to the natural restrictions of the tract of land, then one large canopy tree and one small ornamental tree for every 5,000 square feet of required open space shall be provided.
  - (8) *Minimum street widths and orientation.* Streets adjacent to townhomes shall have a minimum 62-foot right-of-way. All patio home shall be individually platted and require public street or public easement frontage, but shall not have both front and rear street frontage.
  - (9) *Front access from sidewalks.* All buildings which have residential unit floor plates within six feet of grade shall include a primary front door entrance into the unit which may be accessed from the sidewalk.
  - (10) *Front door entry.* The front door entry shall be located a minimum of two feet above the sidewalk elevation and include a minimum 24 square foot stoop. If pre-empted by topographic conditions, the entry may be lowered in elevation, subject to approval of the director. However, up to 50 percent of units may be ADA accessible from the sidewalk provided there is a metal fence separating the private area from the public sidewalk area.
  - (11) *Landscape buffer and screening.* A ten-foot-wide rear landscape buffer shall be provided and shall contain one tree for every 30 linear feet. When located in commercial zoning districts, masonry screen wall requirements and the ten landscape buffer do not apply, unless backing against single-family residential, which requires eight-foot-high masonry screen wall.
  - (12) *Window views.* Units must also include windows which provide residents a view of the street or public access easement and sidewalk area.
  - (13) *Residential architectural standards apply.* Minimum masonry requirements, roof pitch, and design elements listed in section 106.06.03 "architectural standards for residential structures."



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- (14) *Front yard landscape zones.* Three zones are required between back of curb and the building line, as described below:
- a. Streetscape zone (1). A minimum five-foot-wide area adjacent to the back-of-curb for trees and street furniture, including a one-foot dismount strip. An urban tree in a tree well shall be provided for every 25 linear feet in the streetscape zone. For every three urban trees, a bike rack, trash receptacle, bench, lighted bollard, or other approved street furniture is required.
  - b. Sidewalk zone (2). A minimum six-foot-wide clear sidewalk.
  - c. Landscape zone (3). A minimum six-foot landscape/patio area adjacent to the building). In order to differentiate the different zones (public v. private) of the sidewalk, townhome may construct a three-foot-high wrought iron, masonry, or cast stone fence. Balcony and patio railings and fences shall be largely transparent and constructed of tempered glass, wrought iron or metal. Masonry columns may be used on patios provided that they are used as accents. Wood fences and railings and chain-link fencing are prohibited.
- (15) *Rear yard landscaping.* Within the rear building setback, one urban tree is required.
- (16) *Height and area regulations.* The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

ARTICLE III, TABLE N	
PH PATIO HOME DISTRICT DEVELOPMENT STANDARDS	
Maximum height	45'
Minimum front yard setback	6'
Maximum front yard setback	12'
Minimum total side yard setback <sup>1</sup>	10'
Minimum side yard setback on corner	15'
Minimum rear yard setback	20'
Minimum rear fence setback	5'
Minimum lot width (at building line)	35'
Minimum lot depth	100'
Maximum block length	600'
Minimum number of garage spaces per unit <sup>2</sup>	2
Minimum number of other spaces per unit <sup>3</sup>	0.5

Note 1. The minimum total side yard is ten feet between each patio home. This may be split evenly (5/5), with a zero lot line (0/10) or any combination that adds to ten feet; side yard at corner is 15 feet, and requires all three zones referenced in subsection (14) above.

Note 2. Garages may not be used for living quarters.

Note 3. Other parking spaces (for guests or employees) may be located tandem to the garage parking spaces, in a separate parking lot, or on-street.

(I) *MF Multifamily District.*

- (1) *Use regulations.* No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
- (2) *Accessory buildings and use.* Accessory buildings and uses customarily incident to any of the above uses are permitted when not involving the conduct of business other than incidental to the residential use of such lot, including private and storage garages; provided, however, that such accessory buildings comply with section 106.05.021, "accessory uses" and said accessory building shall not be used for commercial purposes. (The term "commercial purposes" shall include part-time businesses.)
- (3) *Height and area regulations.* The density, lot coverage, height of buildings, the minimum and maximum dimensions of lots and yards, and other development standards permitted shall be as follows:

ARTICLE III, TABLE O	
MF MULTIFAMILY DISTRICT DEVELOPMENT STANDARDS	
Maximum density per acre	16 dwelling units
Maximum lot coverage	40%
Maximum height <sup>1</sup>	45'
Minimum front yard setback	25'
Minimum side yard between buildings	15'
Minimum side yard adjacent to street	20'
Minimum rear yard setback	30'
Minimum lot width (at property line)	70'

Minimum lot width (on curve at building line)	70'
Minimum number of bedrooms per unit	1
Minimum floor area per bedroom: <sup>2</sup>	
One bedroom unit	650 sq. ft.
Two bedroom unit	800 sq. ft.
Three bedroom unit	1,000 sq. ft.
Each additional bedroom over three	200 sq. ft.

Note 1. The height of any apartment building erected on a lot adjacent to single-family residential uses or zoning shall be limited to one story for a distance of 150 feet from the single-family district boundary, inclusive of streets and/or highways.

Note 2. Floor area. Every multifamily unit hereafter erected, constructed, reconstructed or altered shall have a floor area, excluding basements, open and screened porches, patios, and balconies of not less than specified above.

- (4) *Courts.* Where an apartment building is erected so as to create inner courts, the faces of all opposite walls in such courts shall be a minimum distance of 30 feet apart and no balcony or canopy shall extend into such court area for a distance greater than five feet.
- (5) *Lighting.* Lighting shall be designed and used to discourage crime and undesirable activity and to provide adequate vision, comfort and safety. It should use the lowest possible illumination to effectively allow surveillance. Open-air parking lot lighting shall be designed to provide for uniform lighting throughout the facility with no dark patches or pockets. The use of sensor technologies, timers or other means to activate lighting during the night may be used to conserve energy, provide safety, and promote compatibility between different land uses. In order to direct light downward and minimize the amount of light spill into the dark night sky, lighting fixtures shall be full cut-off fixtures. Open-air parking lot lighting shall not cause direct illumination on adjacent and nearby properties or streets. Fixtures should be of a type or adequately shielded so as to prevent glare from normal viewing angles. All lighting shall conform to this chapter.
- (6) *Screening, fences, gates and stacking.* The entire site shall be screened from view on three sides from persons standing at ground level on the site or immediately adjoining property, by a masonry wall (minimum eight feet in height). A wall not more than eight feet in height shall be erected in the front yard that is of at least 50 percent black tubular steel or decorative metal. It is also mandatory for all apartments to be gated communities. Each gate shall be in proper working order at all times. In addition, there shall be a minimum stacking area for four vehicles at each gate.
- (7) *Balconies/patios.* When an apartment building is erected so as to create balconies or patios facing a public street such balconies shall not extend beyond the building line.
- (8) *Refuse facilities.* Complexes shall provide sufficient refuse facilities, subject to discretionary review and approval by the director and screened in compliance with the zoning ordinance.
- (9) *Mechanical equipment.* Mechanical equipment shall be constructed, located and screened so as not to interfere with the peace and comfort of the occupant(s) of any building or residence.
- (10) *Mail kiosks.* Mail kiosk shall have a minimum of three required parking spaces for the development within 50 feet, unless a drive-through facility is provided. The mail kiosk must be constructed of 100 percent masonry and constructed of the same materials as the main structure with a metal roof.
- (11) *Building design.* Each building must follow the following conditions in addition to the town's architectural and design standards. (See Section 106.06.04 for more detail on architectural design and materials)

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- a. Except for windows, doors and garage doors, the exterior of all building elevations shall be 100 percent masonry. Cementitious fiberboard may be used for areas not considered conducive for masonry, as determined by the building official, and architectural features, including but not limited to bay windows, dormers, chimneys not part of an exterior wall, and gables.
  - b. Flat primary roofs are prohibited.
  - c. The residential building angle to public streets and single-family zoning districts will be between a minimum of 20 to a maximum of 70 degrees, unless parking is provided between the building and the street.
  - d. As an alternative to angling the buildings along the public street, adjacent buildings may be offset a distance equal to one-half the width of the building closest to the street, not to be less than 30 feet.
- (12) *Parking regulations.* The minimum off-street parking and loading regulations shall be poured concrete surfaces, and comply with the following:
- a. For buildings other than residential dwellings, one off-street parking space for each 200 square feet of floor area shall be provided.
  - b. All buildings hereafter erected, reconstructed, altered, enlarged or converted for one or more uses permitted in the Multifamily District shall provide adequate permanent off-street facilities for the loading and unloading of merchandise and good within or adjacent to the building in such a manner as not to obstruct the freedom of traffic movement on the public streets or alleys.
  - c. Two off-street parking spaces for each apartment dwelling unit plus one space for each additional bedroom unit (more than one) shall be provided. Covered parking spaces for at least 25 percent of the total required parking spaces (not including required guest parking) shall be provided.
  - d. No dead-end parking will be allowed.
  - e. Garages, when provided, shall be 100 percent masonry and be constructed of the same materials as the main structure. The garage may be part of the dwelling structure. The garage shall not be used for storage, thereby prohibiting the parking of an operable vehicle. Enclosed garage parking spaces shall be a minimum of ten by 20 feet. Stacking spaces shall not be counted towards required parking spaces.
- (13) *Open space.* Each lot or parcel of land must comply with the following conditions in addition to the town's landscaping ordinance.
- a. Each lot or parcel of land, which is used for multiple-family residences, shall provide on the same lot or parcel of land, usable open space, in accordance with [table H in section 106.06.18]. The open space shall have a minimum dimension of not less than 30 feet.
  - b. Of the required open space, 15 percent shall be arranged or located in a contiguous mass. This contiguous mass must be located within the required open space.
  - c. In meeting this requirements, a credit of three square feet may be applied for each square foot utilized for swimming pools and adjacent decks, patios, or lounge areas within ten feet of a pool; developed and equipped children's play areas; usable portions of recreational buildings; and private balconies and enclosed patios with a minimum dimension of five feet. Tennis courts are specifically excluded from this increased credit allowance. At the time of site plan approval, the planning and zoning commission and town council may allow a credit not to exceed ten percent of the total required usable open space for adjacent and immediately accessible public parks. The

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combined credit for areas calculated at a three-to-one basis and for public parks shall not exceed 50 percent of the total usable open space for an individual lot or parcel of land.

- d. One large canopy tree shall be provided per 3,500 square feet of required open space.
  - e. At the time of site plan approval, the Director of Development Services may give full or partial credit for open areas that exceed the maximum slope of 2 percent, if it is determined that such areas are environmentally significant and that their preservation would enhance the development.
- (14) *Required amenities.* A minimum of four of the following must be incorporated into each multifamily development. A minimum of two major and two minor amenities must be provided in significant proportion to the development. The scale of the amenities as well as other comparable amenities can be approved through the site plan approval process.
- a. Major amenities:
    - 1. Dog park.
    - 2. Indoor exercise facility.
    - 3. Jogging trail.
    - 4. Sport courts and fields (volleyball, baseball, tennis etc.).
    - 5. Swimming pool.
  - b. Minor amenities:
    - 1. Gazebo.
    - 2. Improved picnic areas (with tables, grills, shading).
    - 3. Playground or tot lot.
    - 4. Putting green.
- (15) *Miscellaneous requirements.* The following additional regulations are required for all Multifamily District apartment houses:
- a. Separate sewer drain plumbing for all kitchen sinks that route through a grease trap;
  - b. Washer and dryer connections in each unit;
  - c. Lint traps on all laundry room washers; and
  - d. Storm drain debris collectors.

(m) *MH-1 Manufactured Home Single-Family District.*

- (1) *Purpose.* Providing for certain manufactured and modular dwellings with specific reference to the seal of approval granted by appropriate state agencies and meeting federal standards and providing for single-family and two-family dwelling units.
- (2) *Use regulations.* No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified in section 106.05.01(a), "schedule of uses - residential."
- (3) *Building materials.* Duplex and single-family residences located within this district may use cementitious fiberboard to fulfill the masonry building requirements.

- (4) *Base district note.* The MH-1 District standards remain only for the purpose of establishing a base zoning district to support existing planned developments in Town with a base MH-1 district that were approved before January 5, 2021.
- (5) *Height and area regulations.* In said MH-1 Manufactured Home Single-Family District the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

ARTICLE III, TABLE P	
MANUFACTURED HOME SINGLE-FAMILY DISTRICT DEVELOPMENT STANDARDS	
Maximum height	35'
Minimum front yard setback	25'
Minimum side yard setback	6'
Minimum side yard setback on corner <sup>1</sup>	28'
Minimum rear yard setback	20'
Minimum lot width (at building line) <sup>2</sup>	60'
Minimum lot area	6,000 sq. ft.
Minimum floor area <sup>3</sup>	1,000 sq. ft.

Note 1. Where interior lots have been planned or sold fronting on the side street, may project not more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on the side street, provided this regulation shall not be interpreted to reduce the buildable width of a corner lot in separate ownership at the time of the passage of this chapter, to less than 28 feet, and provided that the side yard regulations above shall be observed.

Note 2. The minimum width of a lot shall be measured at the front building line provided that where a lot has less width than herein required, in separate ownership at the time of the passage of this chapter, this regulation will not prohibit the erection of a single-family dwelling. Lots bordering streets on curves or contours shall be 80 feet in width at the building line.

Note 3. Each dwelling unit hereafter erected, constructed, reconstructed or altered in said Manufactured Home Single-Family District shall have a floor area, excluding basements, open and screened porches and garages, of not less than 1,000 square feet.

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1501, § 2, 6-18-2019; Ord. No. 1527, § 2, 10-15-2019; Ord. No. 1587, § 2, 1-5-2021)

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## **Sec. 106.04.01 US 380 Overlay District.**

- (a) *Purpose.* The U.S. 380 Overlay District (380-OD) is identified in the 2017 Comprehensive Plan as the town's major commercial hub for employment. To this end, enhanced regulations are adopted to stimulate high-quality employment opportunities in this area. The 380 Overlay District is intended to substantially advance a legitimate governmental interest that includes promoting the economic development of the overlay district area, promoting a job base for the residents of Little Elm, and to regulate the character of growth along the 380 Corridor.
- (b) *Description.* The Town of Little Elm hereby adopts the U.S. Highway 380 Overlay District establishing development standards for properties within the 380 Corridor in the Town of Little Elm jurisdictional limits, regarding use regulations, height regulations, signage, landscaping, and lighting requirements.
- (c) *Boundary.* The physical boundaries of the US 380 Overlay District are identified in exhibit A of Ordinance No. 835, as it exists or is amended by town council.
- (d) *Use regulations.*
  - (1) *Permitted uses.* The base zoning district of the subject property determines the permitted land uses in the US 380 Overlay District. Furthermore, the only permitted zoning districts in the overlay district are as follows: LC Light Commercial, HC Heavy Commercial, LI Light Industrial, HI Heavy Industrial, and related PD Planned Development Districts. Permitted land uses are outlined in section 106.05.01(b), "schedule of uses - nonresidential." All applicable regulations for use, yard, area, lot dimensions, utility placement, and landscaping shall be those specified for each district, including planned development stipulations except as otherwise stated in this chapter.
  - (2) *Prohibited uses.* The following uses are prohibited in the US 380 Overlay District, unless approved through the specific use permit process:
    - a. Automobile or truck leasing or renting.
    - b. Automobile sales, new or used.
    - c. Batching plant (concrete or asphalt, permanent).
    - d. Boat repair.
    - e. Boat sales, new or used.
    - f. Brick company with outside storage.
    - g. Building materials and hardware (outside display).
    - h. Church or rectory.
    - i. Commercial amusement (outdoor).
    - j. Dance hall.
    - k. Firing range, indoor/outdoor.
    - l. Flea market.
    - m. Heavy vehicle sales or storage.
    - n. Landfill (commercial).
    - o. Motorcycle sales with outside display.
    - p. Open or outside storage of products or materials that are not screened.

- q. Pawn shop.
  - r. Portable building sales.
  - s. Recreational vehicle sales, new or used.
  - t. Residence home for the aged.
  - u. Rock quarries, sand, gravel, or earth excavation.
  - v. Salvage or reclamation of products that are not screened.
  - w. School, public primary or secondary.
  - x. Self-storage or mini warehouse.
  - y. Sexually oriented businesses.
  - z. Storage or repair of furniture and appliances, outside building.
  - aa. Tire retreading and recapping.
  - bb. Tire sales with outside storage.
  - cc. Trailer or manufactured home display or sales or rental.
  - dd. Truck and bus rental or repair.
  - ee. Truck sales, new or used.
  - ff. Vehicle or automobile wash, self-serve.
  - gg. Veterinarian clinic or kennel with outside pens.
  - hh. Wrecking yard, auto salvage, junkyard, or outside reclamation.
- (e) *Buffer zones required between industrial uses or zoning districts and single-family uses or zoning districts.* A buffer zone shall be required between industrial and single-family residential zoning districts or uses to provide separation between the two areas. These special buffering requirements are necessary in order to mitigate the impact associated with adjacent non-compatible uses. A 40-foot transitional buffer is required for industrial uses or zoning districts adjacent to single-family residential uses or zoning districts within the 380 Overlay District. Any transitional buffer area that is provided shall be landscaped and irrigated. Trees shall be provided at a rate of one tree per 30 linear feet. Fifty percent of the trees shall be evergreen and shall be evenly dispersed.
- (f) *Height and setback regulations.* In the US 380 Overlay District the height of buildings and the setback regulations shall be as follows:

ARTICLE IV, TABLE A			
US 380 OVERLAY DISTRICT HEIGHT AND SLOPE DEVELOPMENT STANDARDS			
Distance from property line of the closest residential zoning or use	Less than 500'	500' to 750'	Over 750'
Nonresidential uses with residential proximity	3:1 slope	2:1 slope	1:1 slope
Nonresidential uses without residential proximity	1:1 slope		

Note 1. Height. There will be no building height limitation as long as the setback regulations set forth below are met. Setbacks (shown above) shall be applied to all buildings over two and one-half stories or 35 feet in height. Buildings that are less than 35 feet in height shall use the setbacks identified in each zoning district. See the figure below for additional information regarding the required setbacks.

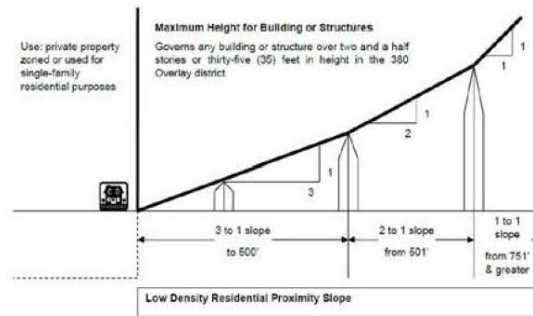


Note 2. This includes land zoned or used for single-family residential purposes regardless of jurisdiction.

Note 3. A height setback envelope is a plane projected upward and outward from a site of origination, which is defined as any private property that is zoned or used for single-family residential purposes.

Note 4. When referring to height setback envelopes, all slopes in this chapter are stated as to horizontal run to vertical rise.

Note 5. Surface parking facilities may be located within the height setback envelope, as required for nonresidential uses, so long as the parking does not encroach into the required landscape setbacks.



- (g) **Signage.** In the US 380 Overlay District, signs shall be subject to the following regulations:
- (1) **Internal illumination.** Outdoor, internally illuminated advertising signs may have a background, letters, and/or symbols of any color combination.
  - (2) **Monument sign.**
    - a. **Area:** The maximum area for a monument sign shall be 100 square feet.
    - b. **Height:** The maximum height for a monument sign shall be ten feet.
  - (3) **Multi-tenant monument sign:**
    - a. **Area:** The maximum area shall be based upon the size of the development.
    - b. Five acres or less is 150 square feet.
    - c. For every acre over five acres, the sign size may be increased by ten square feet with the maximum allowed area 240 square feet is permitted.
    - d. **Height:** The maximum height shall be 24 feet.
  - (4) **Wall sign area:**
    - a. For each one linear foot of primary building face, three square feet of wall sign is allowed. A maximum of 200 square feet of wall signage is allowed per building or tenant.
    - b. Big box primary tenants may use a total of 400 square feet.
  - (5) **Electronic message signs:**
    - a. The portion of the sign that may be electronic message is limited to 60 percent of the total sign.
    - b. Any change of pictures or information on said sign may not include animation but may include transitions which change at a rate no faster than every six seconds.
- (h) **Landscaping.** Landscaping shall conform to the requirements found in the landscaping ordinance. In addition to these requirements, the following are required:

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- (1) *Perimeter landscaping:*
  - (2) A thirty-foot front landscape setback adjacent to US 380 shall be maintained. The landscape setback shall generally consist of trees, shrubs, groundcover, berms, and/or related elements.
  - (3) For the perimeter landscaped area adjacent to US 380, one large canopy tree and one small ornamental tree shall be required every 25 linear feet of street frontage. Trees may be grouped or clustered to facilitate site design.
- (i) *Lighting.* The installation of lighting shall limit off-site spill (off the parcel containing the development) to a maximum of 0.5 footcandles at any location on any residential property, and no limit at any location on any nonresidential property, as measurable from any orientation of the measuring device.
- (Ord. No. 1407, § 2, 8-15-2017)

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**Sec. 106.05.01 Schedule of uses.**

Land and buildings in each of the following classified districts may be used for any of the following listed uses but no land shall hereafter be used, and no building or structure shall hereafter be erected, altered or converted which is arranged or designed or used for other than uses specified for the district in which it is located as set forth by the use schedule located in section 106.05.01(a) and (b), "Schedule of uses - residential" and "schedule of uses - nonresidential," respectively.

- (a) *Residential zoning districts uses.* P=permitted by right; C=conditional use; S=specific use permit required. A blank space indicates the use is prohibited in that district.

ARTICLE V, TABLE A Residential Zoning Districts	SF-RE	SF-1	SF-2	SF-3	SF-4	A-1	A-2	SF-X	TH	MH-1	D	MF
	Ra nc he tte Es tat	Si ng le	Si ng le	Si ng le	Si ng le	Si ng le	Si ng le	Si ng le	Si ng le	To wnh	M an uf	Du pl ex M
<b>Primary Residential Uses</b>												
Amenity center	P	P	P	P	P	P	P	> P	P	P	P	P
Dwelling, accessory	P											
Dwelling, assisted living facility												S
Dwelling, assisted living home												S
Dwelling, boarding house or rooming house												P
Dwelling, duplex										P	P	P
Dwelling, group home	P	P	P	P	P	P	P	P	P	P	P	P
Dwelling, HUD Code man. home										P		
Dwelling, listed family home	P	P	P	P	P	P	P	P	P	P	P	P
Dwelling, live-work unit	See nonresidential uses											
Dwelling, mobile home											P C	C
Dwelling, model home	C	C	C	C	C	C	C	C	C		C	
Dwelling, multifamily												P
Dwelling, single-family detached	P	P	P	P	P	P	P	P	P	P	P	P
Dwelling, townhome									P	P	P	P
Senior living facility												S
Mixed use building									C	C	C	C
<b>Accessory and Incidental Uses</b>												
Accessory structure	C	C	C	C	C	C	C	C	C	C	C	C
Automated dispenser machine												

Automated intake machine												
Automated teller machine (ATM), off-site												
Caretaker/guard's Residence												
Construction yard, field office temporary	C	C	C	C	C	C	C	C	C	C	C	C
Farm accessory building	C											
Home occupation	C	C	C	C	C	C	C	C	C	C	C	C
Open storage, permanent												
Open storage, temporary												
Seasonal sales												
Solar panels or devices	C	C	C	C	C	C	C	C	C	C	C	C
Vending kiosk, commercial												
Vending kiosk, not-for-profit	C	C	C	C	C	C	C	C	C	C	C	C
Wind energy conversion system (WECS)	C	C	C	C	C	C	C	C	C	C	C	C
<b>Institutional and Special Uses</b>												
Assembly uses	S	S	S	S	S	S	S	S	S	S	S	S
Athletic stadium or field	S	S	S	S	S	S	S	S	S		S	S
Cemetery or mausoleum	S	S	S	S	S	S	S	S	S		S	S
College, university, or trade school	S	S	S	S	S	S	S	S	S		S	S
Farm, ranch, stable, garden, or orchard												
Fraternal organization, lodge, civic club, fraternity, or sorority												
Golf course, tennis club, polo club, or country club (private)	S	S	S	S	S	S	S	S	S		S	S
Gun or archery range, indoor												
Hospital												S
Municipal uses	P	P	P	P	P	P	P	P	P		P	P
Museum/art gallery												
Park or playground	P	P	P	P	P	P	P	P	P	P	P	P

Recreation center	S	S	S	S	S	S	S	S	S		S	S
Religious facility	P	P	P	P	P	P	P	P	P	P	P	P
School, private, charter or parochial	S	S	S	S	S	S	S	S	S		S	S
School, public	P	P	P	P	P	P	P	P	P		P	P
<b>Infrastructure Type Uses</b>												
Airport/landing field/heliport												
Communication tower	S	S	S	S	S	S	S	S	S	S	S	S
Electric power generating plant												
Electric substation	S	S	S	S	S	S	S	S	S	S	S	S
Private utility, other than listed	P	P	P	P	P	P	P	P	P	P	P	P
Sewage pumping station	P	P	P	P	P	P	P	P	P	P	P	P
Sewage treatment plant	S	S	S	S	S	S	S	S	S	S	S	S
Telephone exchange	S	S	S	S	S	S	S	S	S	S	S	S
Transit center/bus terminal												
Utility line	S	S	S	S	S	S	S	S	S	S	S	S
Water reservoir, water pumping station, water well	P	P	P	P	P	P	P	P	P	P	P	P
Water treatment plant	S	S	S	S	S	S	S	S	S	S	S	S
<b>Retail Uses</b>												
Antique shop and used furniture (inside)												
Arcade												
Bakery, candy or ice cream shop												
Bar/brewpub												
Building material and hardware sales, major												
Building material and hardware sales, minor												
Commercial amusement, indoor												
Commercial amusement, outdoor												

Farmers market												
Greenhouse or nursery for retail plant sales												
Heavy machinery sales and storage												
Portable building sales												
Private club												
Restaurant, dine-in												
Restaurant, drive-in												
Restaurant, drive-thru												
Restaurant, with brewpub												
Restaurant, pick-up only												
Smoking Establishment												
Store, big box												
Store, convenience												
Store, discount, variety, or department store												
Store, drugstore or pharmacy												
Store, feed												
Store, florist												
Store, grocery												
Store, hardware & home imp.												
Store, incidental												
Store, liquor												
Store, pet shop												
Store, shopping center												
Store, other than listed above												
Theatre, indoor												
Theatre, drive-in												
Winery/brewery retail sales												
<b>Service Uses</b>												
Alternative financial services												

Bank, savings and loan, or credit union												
Bed and breakfast inn	S	S	S	S	S	S	S	S	S	S	S	S
Body art studio												
Business Service												
Campground or RV park												S
Catering service/commissary												
Child care center								S				S
Child care center, in-home	C	C	C	C	C	C	C	C	C	C	C	C
Clinic/medical lab												
Clinic, animal, with no outside runs												
Clinic, animal, with outside runs												
Contractor's shop with outside storage												
Contractor's shop inside only												
Custom personal service												
Day Service, Adult												
Fairgrounds/exhibition area												
Funeral home/crematorium												
Funeral home/mortuary												
Gunsmith												
Gymnastics/dance studio/ martial arts												
Health/fitness center												
Hotel, extended stay												
Hotel, full service												
Hotel, limited service												
Household appliance service												
Incidental retail and service uses												
Kennel, no outside runs												
Kennel, with outside runs												
Laundry/dry cleaning, commercial												
Laundry/dry cleaning, pickup station												



Laundry/dry cleaning, self-service												
Laundry/dry cleaning, small shop												
Motel												
Office, professional and general administrative												
Personal service (other than listed)												
Print shop, minor retail shop												
Sexually oriented businesses												
Studio, photography, music, artistic, etc.												
Studio, media												
<b>Automobile and Related Uses</b>												
Auto/boat repair, major												
Auto/boat repair, minor												
Auto/boat sales, accessories only												
Auto/boat sales/leasing, new, outside display												
Auto/boat sales, used, outside display												
Auto/boat/RV storage												
Auto parking, lot or garage											P	
Auto wash, automated												
Auto wash, full-service												
Auto wash, self-serve												
Gas pumps/fuel sales												
Manufactured/mobile home display and sales									S			
Motorcycle sales/service												
Truck, trailer, heavy equipment, RV and bus, repair												
Truck, trailer, heavy equipment, RV and bus, sales and leasing												
Truck terminal												

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Industrial and Manufacturing Uses												
Concrete batch plant, permanent												
Concrete batch plant, temporary	C	C	C	C	C	C	C	C				C
Machine/welding shop												
Manufacturing or industrial uses, heavy												
Manufacturing or industrial uses, light												
Mini-warehouse/self-storage												
Office/showroom												
Print shop, industrial plant												
Research and development center												
Salvage yard, wrecking yard												
Warehouse/distribution center												
Winery/brewery/distillery manufacturing												

(b) *Nonresidential zoning districts uses.* P=permitted by right; C=Conditional Use; S=Specific Use Permit required.

ARTICLE V, TABLE B Nonresidential Zoning Districts	AG	O	NS	CF	LC	HC	LF	LI	HI
	Agriculture	Office	Neighborhood	Community	Light Commercial	Heavy Commercial	Lakefront	Light Industrial	Heavy Industrial
Primary Residential Uses									
Amenity center							P		
Dwelling, accessory	P								
Dwelling, assisted living facility		S			S	S			
Dwelling, assisted living home									
Dwelling, boarding house or rooming house									
Dwelling, duplex									
Dwelling, group home									

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Dwelling, HUD Code man. home									
Dwelling, listed family home									
Dwelling, live-work unit							P		
Dwelling, mobile home									
Dwelling, model home									
Dwelling, multifamily									
Dwelling, single-family detached	P								
Dwelling, townhome							P	S	S
Senior living facility		S			S		S		
Mixed use building					S	C	P	C	C
<b>Accessory and Incidental Uses</b>									
Accessory structure	C	C	C	C	C	C	C	C	C
Automated dispenser machine			P		P	P		P	P
Automated intake machine			S		S	S		S	S
Automated teller machine, off-site			S		S	S		S	S
Caretaker's/guard's residence						C		C	C
Construction yard, field office, temporary	C	C	C		C	C	C	C	C
Farm accessory building	C								
Home occupation	C				C	C	C		
Open storage, permanent/ongoing	S				S	S		S	S
Open storage, temporary					C	C		C	C
Seasonal sales	C				C	C		C	C
Solar panels, devices, commercial		C			S	C	C	C	C
Vending kiosk, commercial		C			C	C	C	C	C
Vending kiosk, not-for-profit	C	C	C	C	C	C	C	C	C
Wind energy conversion system (WECS)	C	C	C	C	S	C	C	C	C
Assembly uses	S	P	P	P	P	P	P	P	P
Athletic stadium or field	S	S	S	P	S	S		S	S
Cemetery or mausoleum	S	S	S		S	S		S	S
<b>Institutional and Special Uses</b>									
College, university, or trade school	S	P	S	P	P	P	S	P	P

Farm, ranch, stable, garden, or orchard	P								
Fraternal organization, lodge, civic club, fraternity, or sorority		P	P		P	P	P	P	P
Golf course, tennis club, polo club, or country club (private)	S	S	S	P	P	P		P	P
Gun or archery range, indoor				S	S	S		S	S
Hospital		S	S	P	P	P		P	P
Municipal uses operated by the Town of Little Elm	P	P	P	P	P	P	P	P	P
Museum/art gallery		S	S	P	P	P	P	P	P
Park or playground	P	P	P	P	P	P	P	P	P
Recreation center	S	P	P	P	P	P	P	P	P
Religious facility	P	P	P	P	P	P	P	P	P
School, private, charter or parochial	S	S	S	S	S	S	S	S	S
School, public	P	P	P	P	P	P	P	P	P
<b>Infrastructure Type Uses</b>									
Airport/landing field/heliport		C		C	C	C	C	C	C
Alternate energy system	C	C	C	C	S	C	C	C	C
Communication tower	S	S	S	S	S	S	S	S	S
Electric power generating plant	S			S	S	S		S	P
Electric substation	S	S	S	S	S	S	S	S	S
Helipad									
Private utility, other than listed	P	P	P	P	P	P	P	P	P
Sewage pumping station	P	P	P	P	P	P	P	P	P
Sewage treatment plant	S	S	S	S	S	S		S	S
Telephone exchange	S	S	P		P	P	P	P	P
Transit center/bus terminal		P	P		P	P	P	P	P
Utility distribution/transmission line	S	S	S		S	S	S	S	S
Water Reservoir, water pumping station, water well	P	P	P		P	P	P	P	P
Water treatment plant	S	S	S		S	S		S	S
<b>Retail Uses</b>									
Antique shop and used furniture, inside only					P	P	P	P	P

Arcade					S	S	S	S	S
Bakery, candy or ice-cream shop			P		P	P	P	P	P
Bar/brewpub					S	S	P	S	S
Building material and hardware sales, major					P	P	P	P	P
Building material and hardware sales, minor					P	P	P	P	P
Commercial amusement, indoor					P	P	P	P	P
Commercial amusement, outdoor					S	S	S	P	P
Farmers market					S	S	S	S	
Florist			P		P	P	P	P	P
Greenhouse/nursery for plant sales		S			P	P	P	P	P
Heavy machinery sales and storage						P		P	P
Portable building sales					S	P		P	P
Private club					S	S			
Restaurant, dine-in		S	P		P	P	P	P	P
Restaurant, drive-in			S		S	P	P	P	P
Restaurant, drive-thru			S		S	P	P	P	P
Restaurant, with brewpub					P	P	P	P	P
Restaurant, pick-up only					P	P	P	P	P
Smoking Establishment		S	S		S	S	S	S	S
Store, big box					P	P	P	P	P
Store, convenience			P		P	P	P	P	P
Store, discount, variety, or department store					P	P	P	P	P
Store, drugstore or pharmacy					P	P	P	P	P
Store, feed					P	P		P	P
Store, florist			P		P	P	P	P	P
Store, grocery					P	P	P	P	P
Store, hardware and home imp.					P	P	P	P	P
Store, incidental (within another use)					P	P	P	P	P
Store, liquor					S	S	S	S	S
Store, pet shop					S	S	S	S	S
Store, shopping center					P	P	P	P	P
Store, other than listed above					P	P	P	P	P
Theatre, indoor		S			P	P	P	P	P

Theatre, drive-in					S	P		P	P
Winery/brewery retail sales					P	P	P	P	P
Service Uses									
Alternative financial services					S	C		C	C
Bank, savings and loan, or credit union		P			S	P	P	P	P
Banquet Hall					S	S	S	S	S
Bed and breakfast inn	S	P	P		P		P		
Body art studio						S	S	S	S
Business Service	S	S	S		S	S	S	S	S
Campground or RV park	S								
Catering service					P	P	P	P	P
Child care center		S	S		S	S	S	S	S
Child care center, in-home	C								
Cleaning and pressing (small shop/pickup)			P		P	P	P	P	P
Clinic/medical lab		P	P		P	P	P	P	P
Clinic, animal (no outside runs)	S		P		P	P	P	P	P
Clinic, animal (with outside runs)	S				S	P		P	P
Commissary					S	S		S	S
Contractor's shop with outside storage						P		P	P
Contractor's shop inside only					P	P		P	P
Custom personal service		P	P		P	P	P	P	P
Day Service, Adult		S	S		S	S	S	S	S
Fairgrounds/exhibition area		S			S	P		P	P
Fortune teller/psychic						S		S	S
Funeral home/crematorium		S			S	S		S	S
Funeral home/mortuary		S			P	P	P	P	P
Gunsmith					P	P	P	P	P
Gymnastics/dance studio/martial arts		P	P		P	P	P	P	P
Health/fitness center		P			P	P	P	P	P
Hotel, extended stay					S	S	S	S	S
Hotel, full service					P	P	P	P	P
Hotel, limited service					S	S	S	S	S

Household appliance service and repair		S	P		P	P	P	P	P
Incidental retail and service uses			P	P	P	P	P	P	P
Kennel, no outside runs					P	P	P	P	P
Kennel, with outside runs					S	S	S	S	S
Laundry/dry cleaning, commercial						P		P	P
Laundry/dry cleaning, pickup station			P		P	P	P	P	P
Laundry/dry cleaning, self-service					P	P		P	P
Motel									
Office, professional and general administrative		P	P		P	P	P	P	P
Personal service (other than listed)					P	P	P	P	P
Print shop, minor retail shop					P	P	P	P	P
Sexually oriented businesses								C	C
Studio, photography, music, artistry		P	P		P	P	P	P	P
Studio, media		P			P	P	P	P	P
<b>Automobile and Vehicular Uses</b>									
Auto/boat repair, major					S	S		S	S
Auto/boat repair, minor					S	S		S	S
Auto/boat sales, accessories only					P	P	P	P	P
Auto/boat sales/leasing, new, outdoor display					S	S		P	P
Auto/boat sales, used, outdoor display						S		P	P
Auto/boat/RV storage						S		P	P
Auto parking, lot or garage		P			S	P	P	P	P
Auto wash, automated					S	S		S	S
Auto wash, full-service					S	S		S	S
Auto wash, self-serve						S		S	S
Gas pumps/fuel sales					S	S		S	S
Manufactured/mobile home display and sales								S	P
Motorcycle sales/service					S	P		P	P
Truck, trailer, heavy equipment, RV, bus repair								P	P
Truck, trailer, heavy equipment, RV and bus sales and leasing						P		P	P
Truck terminal						P		P	P

Industrial and Manufacturing Uses									
Concrete batch plant, permanent									S
Concrete batch plant, temporary	C	C	C		C	C		C	C
Machine/welding shop								P	P
Manufacturing or industrial uses, heavy									C
Manufacturing or industrial uses, light								C	C
Mini-warehouse/self-storage						S		S	S
Office/showroom						P		P	P
Print shop, industrial						P		P	P
Research and dev't center						P		P	P
Salvage yard, wrecking yard									S
Warehouse/distribution center								P	P
Winery/brewery/distillery manufacturing					S	S	P	P	P

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1582, § 2, 12-1-2020; Ord. No. 1587, § 2, 1-5-2021; Ord. No. 1646, § 2, 11-16-2021; Ord. No. 1682, § 2, 8-16-2022)



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## **Sec. 106.05.05 Nonconforming uses and structures.**

- (a) *Intent.* Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments.
- (1) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
  - (2) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from the street or off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
  - (3) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun in preparation for rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.
- (b) *Nonconforming lots of record.*
- (1) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width standards, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot must conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements may be obtained only through action of the board of adjustment (see section 106.02.02(a)(3) for more information).
  - (2) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any width or area below the requirements stated in this chapter.
- (c) *Nonconforming uses of land.* Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;

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- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter;
  - (3) If any such nonconforming use of land is intentionally abandoned for at least six months , all nonconforming rights are terminated and any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- (d) *Nonconforming uses of structures.* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it located.
  - (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment for this chapter, but no such use shall be extended to occupy any land outside such building.
  - (3) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
  - (4) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.
  - (5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
  - (6) Where nonconforming use status applies to a conforming structure, such use shall be immediately terminated upon transfer to another ownership or lease.
- (e) *Changing uses and nonconforming rights.*
- (1) Nonconforming use to conforming use. Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not be changed back to any nonconforming use.
  - (2) Nonconforming use to another nonconforming use. A nonconforming use may not be changed to another nonconforming use.
  - (3) Conforming use in a nonconforming structure. Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by the process outlined in section 106.05.05(f), expansion of nonconforming uses and structures.
- (f) *Expansion of nonconforming uses and structures.* An expansion of a nonconforming use or structure is allowed in accordance with the following.
- (1) *Nonconforming use expansion in existing building.* A nonconforming use located within a building may be extended throughout the existing building, provided.
    - a. No structural alteration, except as provided in section 106.05.05(f)(5) below, may be made on or in the building except those required by law to preserve such building in a structurally sound condition.

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- b. The number of dwelling units or rooms in a nonconforming residential use must not be increased so as to exceed the number of dwelling units or rooms existing at the time said use became a nonconforming use.
  - (2) *Nonconforming use prohibited from expansion beyond existing building.* Nonconforming use within a building shall not be extended to occupy any land outside the building.
  - (3) *Off-street loading and parking.* Nonconforming use of land or building shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the land became a nonconforming use, except to provide off-street loading or off-street parking space.
  - (4) *Residential lot exemption.* The minimum residential lot areas for the various zoning districts shall be in accordance with their respective districts except that a lot having less area than herein required which was an official "lot of record" prior to [date of adoption of ordinance], may be used for a single-family dwelling.
  - (5) *Expansion of nonconforming buildings with conforming uses.* Buildings or structures which do not conform to the area regulations or development standards in this chapter but where the uses are deemed conforming shall not increase the gross floor area greater than ten percent from the date when the building became nonconforming.
  - (6) Reuse of abandoned or vacant buildings by conforming uses allowed. Buildings or structures which have been vacant or abandoned for less than six months and do not meet the current area regulations or development standards shall be allowed to be reoccupied by a conforming use.
  - (g) *Restoration of nonconforming structures.*
    - (1) *Total destruction.* If a nonconforming structure is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this chapter.
    - (2) *Partial destruction.* In the case of partial destruction of a nonconforming structure not exceeding 51 percent of its total appraised value as determined by the Appraisal District, reconstruction will be permitted, but the existing square footage or function of the nonconforming structure cannot be expanded.
  - (h) *Movement of nonconforming structures.*
    - (1) *Relocation of a nonconforming structure within a platted lot.* Nonconforming structures may be relocated within the same platted lot.
    - (2) *Compliance.* Nonconforming structures shall comply with all setback and screening requirements.
  - (i) *Repairs and maintenance.* On any building devoted in whole or in part to an nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixture, wiring or plumbing, to an extent not exceeding ten percent of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall be not increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
  - (j) *Uses under exception provisions not nonconforming uses.* Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district only for the single property granted such exception.
  - (k) *Termination of Nonconforming Uses and Compensation for such Termination.*

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- (1) A person using a property in a manner considered to be a nonconforming use as a result of the adoption of or change to a zoning regulation or boundary may continue to use the property in the same manner unless required by the Town to stop the nonconforming use of the property.
  - (2) If the Town requires a property owner or lessee to stop the nonconforming use of a property as described by Subsection (k)(1), the owner or lessee of the property is entitled to compensation as set forth In Texas Local Government Code Section 211.019(d).
  - (3) Not later than the 10th day after the date the Town imposes a requirement to stop a nonconforming use of a property under this section, the Town shall give written notice to each owner or lessee of the property, as indicated by the most recently approved municipal tax roll, who is required to stop a nonconforming use of the property of the requirement and of the remedies which an owner or lessee of the property is entitled to under Texas Local Government Code Section 211.019(d).
  - (4) A person entitled to a remedy under Texas Local Government Code Section 211.019 may appeal a compensation determination to the board of adjustment not later than the 20th day after the date the determination is made.

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1635 , § 2, 9-7-2021)

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**Sec. 106.06.05 Architectural standards for commercial structures (includes office, retail, commercial, mixed use, etc.).**

- (a) *Intent.* The following apply to nonresidential developments, including institutional buildings:
- (1) The intent of this subsection is to create buildings which reflect the lakefront character of Little Elm. The size, disposition and design of buildings play an important role in achieving that goal.
  - (2) Buildings should be constructed in a manner that allows flexibility to accommodate a range of uses over time in order to avoid the need to demolish and rebuild for successive uses.
  - (3) Buildings should directly contribute to the attractiveness, safety and function of the street and public areas.
  - (4) Buildings should be constructed in a manner, and with materials, that are highly durable and will continue to endure and be attractive over a long time, especially adjacent to public and pedestrian areas.
  - (5) It is not the intent of this section to discourage innovation. The use of exceptional design features, such as tower elements, exposed beams, or other unique and outstanding architectural ornamentation worthy of merit that make a positive contribution to the surrounding visual environment is encouraged.
- (b) *Design standards.*
- (1) All buildings within a common development, as shown on a development plan, concept plan, or preliminary site plan, shall have similar architectural styles, materials, colors and detailing.
  - (2) All structures shall be architecturally finished on all sides that can be seen from a public right-of-way with similar styles, materials, colors and detailing.
  - (3) Facades shall generally be built parallel to the street frontage, except at street intersections, where a facade containing a primary building entrance should be curved or angled toward an intersection.
  - (4) All buildings shall be designed and constructed in tri-partite architecture so that they have a distinct base, middle and top, separated by horizontal elements (see examples next page).
  - (5) All buildings shall be constructed of 100 percent masonry finishing material, as outlined in table B and in the proportions illustrated in table C.
  - (6) All streetscape elements and site amenities, such as bike racks, trash receptacles, lampposts, and tree grates shall be metal, rust and flake/chip resistant, and generally be black "storm cloud" in color. Bollards can be concrete or cast metal and shall be of decorative design.



### Examples of Tri-partite Construction

(c) *Exterior materials for all commercial development.*

- (1) *Categories of exterior materials.* The Town of Little Elm has categorized exterior building materials for commercial buildings into three categories, as follows:
- (2) *Category A* materials are defined as the superior masonry products from which the town prefers buildings to be predominantly constructed. Unless otherwise provided for in this chapter, acceptable Category A masonry finishing materials are brick, natural stone, and manufactured stone.
- (3) *Category B* materials are the secondary products that the town recognizes as masonry materials acceptable for use, but also as products that are less desirable and therefore should not be the predominant material. Unless otherwise provided for in this chapter, acceptable Category B masonry finishing materials include three-step stucco, architectural concrete block with integrated color (i.e. split-face CMU), concrete tilt wall (colored or stamped), engineered wood, and cementitious fiberboard with integrated color (in the form of lap siding or board and batten).
- (4) *Category C* materials are accent products acceptable in limited application for architectural accents and features and for walls on upper stories of multiple story buildings. Unless otherwise provided for in this chapter, acceptable Category C materials include metal, tile, glass block, exterior insulation and finish systems (EIFS), and wood.

ARTICLE VI, TABLE B	
EXTERIOR CATEGORIES & MATERIALS FOR COMMERCIAL	
Categories	Materials
A	Brick, stone, or manufactured stone
B	Split-face CMU, stucco, cementitious fiber board, engineered wood, tilt-wall construction
C	Metal, wood, tile, glass, EIFS
Prohibited	Plain concrete block, aggregate, vinyl, plastic

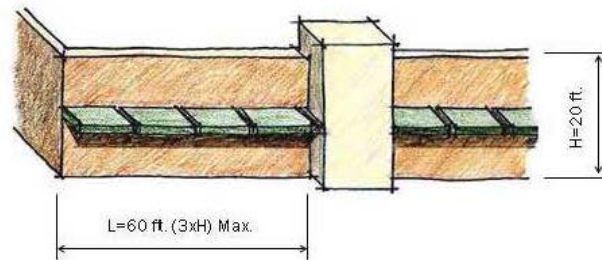
- (5) *Windows.* Windows and glazing shall be limited to a minimum of 30 percent and maximum of 70 percent of each building elevation facing a street, major access lane, or side yard greater than ten feet. This does not apply to big box buildings (greater than 50,000 square feet in size). Faux (i.e. false) windows are allowed for side yards.

- (6) *Roof designs and materials.* For buildings with a visible hip, gable or mansard roof, allowed materials include metal (standing seam), slate or tile (clay or cement, barrel or Roman-shaped).
- (7) *Prohibited materials.* Prohibited exterior surface materials include cinder block, vinyl, plastic, and aggregate pea-gravel finished surfaces.
- (d) *Facade design standards for buildings 15,000 square feet or smaller.* The following shall apply to all exterior walls of buildings that are 15,000 square feet or smaller and which are clearly visible from a public right-of-way or along an active storefront (see table C):
- (1) Walls, excluding windows, doors and other openings, shall be constructed of a minimum 80 percent Group A materials and a maximum of 20 percent Group B materials. However, accent materials from Group C may be allowed in limited application for architectural accents or features.
  - (2) A big box may use split-face CMU (architectural block) for up to 20 percent of the primary facade, in addition to the 20 percent of other Group B materials.
  - (3) All exterior walls of buildings less than 15,000 square feet are considered primary facades, regardless of orientation.
- (e) *Facade design standards for buildings larger than 15,000 square feet.* The following shall apply to all exterior walls of buildings 15,000 square feet or larger and which are not clearly visible from a public street or along an active storefront, or are constructed on a property line as one of a series of in-line buildings where the wall will become part of a common wall (see table C):
- (1) *Primary facades.* Allowed materials. Walls, excluding windows, doors, and other openings, shall be constructed of a minimum 20 percent Group A materials and a maximum of 80 percent Group B materials. In any case, the color of the walls shall match the primary facades.
  - (2) *Secondary facades.* Secondary facades which are adjacent to the primary facade shall continue the primary facade treatment by wrapping the corner. This may be achieved with elements such as cornices, bases and vertical elements. In all cases, however, wall surface materials shall wrap the corner.

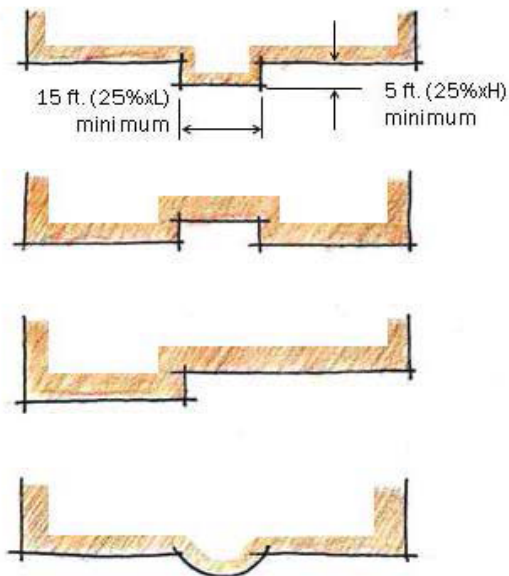
ARTICLE VI, TABLE C			
Required Percentages of Exterior Materials For Commercial			
	Facades	Percentage Breakdown	Definition
Buildings of any size	Primary	Min. 80% Group A Max. 20% Group B	Exterior walls on public street or along an active storefront
	Secondary	Min. 20% Group A Max. 80% Group B	Exterior walls NOT clearly visible from a public street or along an active storefront
Buildings greater than 15,000 square feet	Primary	Min. 20% Group A Max. 80% Group B	Exterior walls on public street or along an active storefront
	Secondary	Min. 20% Group A Max. 80% Group B	Exterior walls NOT clearly visible from a public street or along an active storefront

- (f) *Building articulation design standards.* Primary facades clearly visible from a public street or along an active storefront shall meet the following minimum standards for articulation:

- (1) *Horizontal articulation.* No building wall shall extend for a distance equal to three times the wall's height without having an offset equal to 25 percent of the wall's height, and that new plane shall extend for a distance equal to at least 25 percent of the maximum length of the first plane.
- (2) *Vertical articulation.* No wall length shall extend for a distance greater than three times the height of the wall without changing height by a minimum of 25 percent of the wall's height, and that new plane shall extend for a distance equal to at least 25 percent of the maximum length of the first plane. Pitched roofs shall count toward achieving vertical articulation, provided they are 65 degrees or less from horizontal.

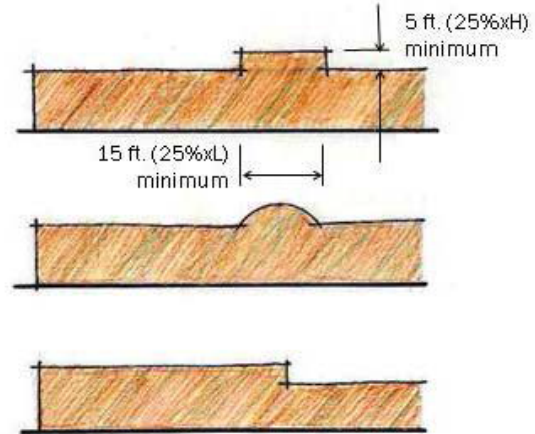


#### HORIZONTAL Articulation



Possible PLANS

#### VERTICAL Articulation



Possible ELEVATIONS

- (g) *Design standards.*
  - (1) *Two masonry materials required.* At least two masonry materials shall be used on all exterior facades.
  - (2) *Roof design.* Roofs shall be peaked with either hip, gable or mansard design with a minimum one-to-four (1:4) pitch, or a parapet wall or false mansard design with a minimum one-to-two (1:2) pitch is



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acceptable only if constructed around the entire perimeter of a building so that no flat roof shall be visible from a public street or along an active storefront.

(3) *Landmark buildings.*

- a. Buildings which are located on an axis with a terminating street or major access lane or at the intersection of streets and/or major access lane shall be considered a landmark building.
- b. Such buildings shall be designed with landmark features which take advantage of that location, such as an accentuated entry and a unique building articulation which is offset from the front wall planes and goes above the main building eave or parapet line.
- c. Landmark features shall be in proportion to the building and are subject to review and approval by the director.

(4) *Building color.*

- a. The dominant color of all buildings shall be muted, natural or earth-tone shades of color. Black and stark white shall not be used except as an accent color.
- b. There are no restrictions on accent colors which comprise less than one percent of the building face including wall signs, except that no high intensity colors, neon colors or fluorescent colors shall be used on exterior surfaces of the building.
- c. Bright, reflective, pure tone primary or secondary colors are permissible only in limited application as accent colors on door and window frames, moldings, cornices, canopies, awnings, signs, etc. This provision shall not be construed as a license to employ corporate imaging on the primary building facade.
- d. No more than one color shall be used for visible roof surfaces; however, if more than one type of roofing material is used, the materials shall be varying hues of the same color.

(5) *Auxiliary design standards.* All structures shall be designed to incorporate no less than four of the architectural elements from the list below. Buildings over 50,000 square feet must include a minimum of five of the referenced architectural elements:

- a. Canopies, awnings, porticos with colonnade or arcades;
- b. Raised pilaster cornices (end columns at corner), or quoined corners;
- c. Vertical elements (tower, cupola, lighthouse, turret, arches, etc.);
- d. Accented windows and doors framed with smooth cobble, cast stone, limestone or other decorative masonry headers and sills; or dormer windows;
- e. Outdoor patios and/or courtyards (landscaped and furnished);
- f. Decorative ornamentation integrated into the building facade, such as corbels, medallions (non-signage), functioning clocks, niches, wrought iron, balconettes, gargoyles, or horizontal and rhythm patterned brickwork;
- g. Other architectural features approved by the director.

(Ord. No. 1407, § 2, 8-15-2017)

## Sec. 106.06.15 Plant list.

- (a) *Approved list of plant materials.* All required plant material, including required residential trees, shall be from the following list unless alternate plant materials are approved through the landscape plan:

ARTICLE VI, TABLE D - PLANT LIST, APPROVED		
LARGE CANOPY TREES		
Bald Cypress <u><i>Taxodium distichum</i></u>	Bigtooth Maple <u><i>Acer grandidentatum</i></u>	Burr Oak <u><i>Quercus macrocarpa</i></u>
Caddo Maple <u><i>Acer floridanum</i></u>	Cedar Elm <u><i>Ulmus crassifolia</i></u>	Chinquapin Oak <u><i>Quercus muehlenbergii</i></u>
Chinese Pistache <u><i>Pistacia chinensis</i></u>	Dawn Redwood <u><i>Metasequoia glyptostroboides</i></u>	Ginkgo <u><i>Ginkgo biloba</i></u>
Homestead Elm <u><i>Ulmus 'Homestead'</i></u>	Italian Stone Pine <u><i>Pinus pinea</i></u>	Lacebark Elm <u><i>Ulmus parvifolia</i></u>
Southern Live Oak <u><i>Quercus virginiana</i></u>	Montezuma Cypress <u><i>Taxodium mucronatum</i></u>	Pecan <u><i>Carya illinoensis</i></u>
Pond Cypress <u><i>Taxodium ascendens</i></u>	Red Oak <u><i>Quercus coccinea</i></u>	Shantung Maple <u><i>Acer truncatum</i></u>
Southern Magnolia <u><i>Magnolia grandiflora</i></u>	Texas Ash <u><i>Fraxinus albicans</i></u>	Trident Red Maple <u><i>Acer rubrum</i></u>
Urbanite Ash <u><i>Fraxinus pennsylvanica</i></u>	Shagbark Hickory <u><i>Carya ovata</i></u>	Deodar Cedar <u><i>Cedrus deodara</i></u>
Shumard Red Oak <u><i>Quercus shumardii</i></u>	Western Soapberry <u><i>Sapindus saponaria var. drummondii</i></u>	Winged Elm <u><i>Ulmus alata</i></u>
American Elm <u><i>Ulmus americana</i></u>	Chinese Elm <u><i>Ulmus parvifolia</i></u>	Texas Persimmon <u><i>Diospyros texana Scheele</i></u>
Autumn Blaze Maple <u><i>Acer x freemanii</i></u>	Russian Olive <u><i>Elaeagnus angustifolia</i></u>	Honey Locust <u><i>Gleditsia triacanthos</i></u>
Black Walnut <u><i>Juglans nigra</i></u>	<del>Eastern Black Walnut</del> <u><i>Texas Pistache</i></u> <u><i>Pistacia mexicana</i></u>	Eastern Red Cedar <u><i>Juniperus virginiana var. virginiana</i></u>
Red Cedar <u><i>Juniperus virginiana</i></u>	Sweetgum <u><i>Liquidambar styraciflua L.</i></u>	<del>Texas Pistache</del>
SMALL ORNAMENTAL TREES		
American Smoketree <u><i>Cotinus obovatus</i></u>	Carolina Buckthorn <u><i>Frangula caroliniana</i></u>	Crepe Myrtle (tree form) <u><i>Lagerstroemia indica</i></u>
Desert Willow <u><i>Chilopsis linearis</i></u>	Dogwood <u><i>Cornus florida</i></u>	Eve's Necklace <u><i>Styphnolobium affine</i></u>
Flameleaf Sumac <u><i>Rhus copallinum</i></u>	Golden Raintree <u><i>Koelreuteria paniculata</i></u>	Italian Cypress <u><i>Cupressus sempervirens</i></u>
Japanese Maple <u><i>Acer palmatum</i></u>	Lacey Oak <u><i>Quercus laceyi</i></u> <u><i>Quercus glaucooides</i></u>	Mexican Buckeye <u><i>Ungnadia speciosa</i></u>
Possumhaw Holly	Redbud	Savannah Holly

<u><i>Ilex decidua</i></u> <u><i>Ilex curtissii</i></u>	<u><i>Cercis canadensis</i></u>	<u><i>Ilex x attenuata</i> 'Savannah'</u>
Teddy Bear Magnolia <u><i>Magnolia grandiflora</i> 'Southern Charm'</u>	<del><i>Viburnum</i></del> Mexican Plum <u><i>Prunus mexicana</i></u>	Vitex <u><i>Vitex agnus-castus</i></u>
Wax Myrtle <u><i>Morella cerifera</i></u> <u><i>Cerothamnus ceriferus</i></u> <u><i>Cerothamnus pumilus</i></u>	Yaupon Holly <u><i>Ilex vomitoria</i> Aiton</u>	River Birch <u><i>Betula nigra</i></u>
Eastern Redbud <u><i>Cercis canadensis</i></u>	Eastern Palatka Holly <u><i>Ilex x attenuata</i></u>	Foster Holly <u><i>Ilex x attenuata</i> 'Fosteri'</u>
Flowering Crabapple <u><i>Malus</i> 'Prairifire'</u>	African (Eldarica) Pine <u><i>Pinus eldarica</i></u>	Ornamental Plum <u><i>Prunus cerasifera</i></u>
Cherry Laurel	Purple Plum <u><i>Prunus cerasifera</i> 'Atropurpurea'</u>	<del>Mexican Plum</del>
<del>Callery Pear</del>	<del>Flowering Pear</del>	<del>Texas Sophora</del>
<del>Chaste Tree</del>		
<b>URBAN TREES</b>		
Allee (Lacebark) Elm <u><i>Ulmus parvifolia</i> ALLÉE®</u>	Chinese Pistache <u><i>Pistacia chinensis</i></u>	Ginkgo <u><i>Ginkgo biloba</i></u>
Homestead Elm <u><i>Ulmus</i> 'Homestead'</u>	Lacey Oak <u><i>Quercus laceyi</i></u> <u><i>Quercus glaucoide</i></u>	Pond Cypress <u><i>Taxodium distichum</i> var. <i>imbricarium</i></u>
Shantung Maple <u><i>Acer truncatum</i></u>	Teddy Bear Magnolia <u><i>Magnolia grandiflora</i> 'Southern Charm'</u>	Urbanite Ash <u><i>Fraxinus pennsylvanica</i></u>
<b><del>PALM</del>DESERT TREES</b>		
Chinese Windmill <u><i>Trachycarpus fortunei</i></u>	Dwarf Palmetto <u><i>Sabal minor</i></u>	Mexican Blue Palm <u><i>Brahea armata</i></u>
Mexican Sabal Palm <u><i>Sabal mexicana</i></u>	Pindo Palm <u><i>Butia capitata</i></u>	Washington Fan Palm <u><i>Washingtonia robusta</i></u>
<b>EVERGREEN SCREENING SHRUBS (low - less than 5 ft.)</b>		
Agarito <u><i>Mahonia trifoliolata</i></u>	Boxwood <u><i>Buxus</i></u>	Dwarf Abelia <u><i>Caprifoliaceae Abelia Grandiflora</i></u>
Dwarf Burford Holly <u><i>Ilex cornuta</i> 'Dwarf Burford'</u>	Elaeagnus (Silverberry) <u><i>Elaeagnus x ebbingei</i></u>	Euonymus <u><i>Euonymus</i></u>
Grayleaf Cotoneaster <u><i>Cotoneaster glaucophyllus</i></u>	Indian Hawthorn <u><i>Raphiolepis indica</i></u>	Juniper (several varieties)
<del>Nandina</del>	Texas Sage <u><i>Leucophyllum frutescens</i></u>	
<b>EVERGREEN SCREENING SHRUBS (high - 5' or greater)</b>		
Austrian Black Pine <u><i>Pinus Nigra</i></u>	Cleyera <u><i>Cleyera</i></u>	<del>Eastern Red Cedar</del> <u><i>Juniperus Virginiana</i></u>

Foster Holly <u><i>Ilex x attenuata 'Fosteri'</i></u>	Leyland Cypress <u><i>Cupressus x leylandii</i></u>	Little Gem Magnolia <u><i>Magnolia grandiflora</i></u>
Nellie R. Steven's Holly <u><i>Ilex 'Nellie R. Stevens'</i></u>	Sweet Viburnum <u><i>Viburnum odoratissimum</i></u>	Waxleaf Ligustrum <u><i>Ligustrum japonicum</i></u>
<b>OTHER APPROVED SHRUBS</b>		
American Beautyberry <u><i>Callicarpa americana L.</i></u>	Apache Plume <u><i>Fallugia paradoxa (D. Don) Endl. ex Torr.</i></u>	Aralia <u><i>Aralia</i></u>
Aucuba <u><i>Aucuba japonica</i></u>	Autumn Sage <u><i>Salvia greggii A. Gray</i></u>	Azalea <u><i>Rhododendron subgenus Azaleastrum</i></u>
<del>Barberry</del>	Black Dalea <u><i>Dalea frutescens A. Gray</i></u>	<del>Burning Bush</del>
Chinese Fringe Flower <u><i>Loropetalum chinense</i></u>	Desert Spoon <u><i>Dasylirion wheeleri</i></u>	Dwarf Crepe Myrtle
Flowering Quince <u><i>Chaenomeles speciosa</i></u>	Holly (multiple varieties) <u><i>Ilex</i></u>	Horizontal Cotoneaster <u><i>Cotoneaster horizontalis</i></u>
<del>Leatherleaf Mahonia</del>	Pampas Grass <u><i>Cortaderia selloana</i></u>	Red Yucca <u><i>Hesperaloe parviflora</i></u>
Rose (shrub form) <u><i>Rosaceae</i></u>	Spirea <u><i>Spiraea</i></u>	Turk's Cap <u><i>Malvaviscus arboreus var. drummondii</i></u>
<b>VINES</b>		
Boston Ivy <u><i>Parthenocissus tricuspidata</i></u>	Carolina Jasmine <u><i>Gelsemium sempervirens</i></u>	Confederate Star Jasmine <u><i>Trachelospermum jasminoides</i></u>
Coral Honeysuckle <u><i>Lonicera sempervirens L.</i></u>	Crossvine <u><i>Bignonia capreolata</i></u>	English Ivy <u><i>Hedera helix</i></u>
Japanese Honeysuckle <u><i>Lonicera japonica</i></u>	Rose (climbing variety)	Trumpet Vine <u><i>Campsis radicans</i></u>
Virginia Creeper <u><i>Parthenocissus quinquefolia</i></u>		
<b>GROUND COVER</b>		
Ajuga <u><i>Ajuga</i></u>	Asian Jasmine <u><i>Trachelospermum asiaticum</i></u>	Bermuda Grass <u><i>Cynodon dactylon</i></u>
Buffalo Grass <u><i>Bouteloua dactyloides</i></u>	Creeping Juniper <u><i>Juniperus horizontalis</i></u>	Fountain Grass <u><i>Cenchrus setaceus</i></u>
<del>Liriope</del> (Monkey Grass) <u><i>Liriope</i></u>	Mondo Grass <u><i>Ophiopogon japonicus</i></u>	Purple Wintercreeper <u><i>Euonymus fortunei</i></u>
St. Augustine <u><i>Stenotaphrum secundatum</i></u>	Tall Fescue <u><i>Festuca arundinacea</i></u>	Zoysia <u><i>Zoysia</i></u>
<b>Article VI, Table D - Plant List, Prohibited</b>		
Bois D'Arc <u><i>Maclura pomifera</i></u>	Bradford Pear <u><i>Pyrus calleryana</i></u>	Catalpa <u><i>Catalpa speciosa</i></u>
Cottonwood	Hackberry	Lombardy Poplar

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<u><i>Populus fremontii</i></u>	<u><i>C. occidentalis</i></u>	<u><i>Populus nigra</i></u>
Mesquite <u><i>Prosopis</i></u>	Mimosa <u><i>Albizia julibrissin</i></u>	Mulberry <u><i>Morus nigra</i></u>
Red Tip Photinia <u><i>Photinia × fraseri</i></u>	Siberian Elm <u><i>Ulmus pumila</i></u>	Silver Maple <u><i>Acer saccharinum</i></u>

(Ord. No. 1407, § 2, 10-20-2009; Ord. No. 1527, § 2, 10-15-19)

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**Sec. 106.06.17 Multifamily landscape requirements.**

(a) *Minimum open space.* New multi-family developments shall use the following regulations:

- (1) *Open space per bedroom.* Each lot or parcel of land used for multiple-family residences shall provide on the same lot or parcel of land usable open space, in accordance with the table below:

ARTICLE VI, TABLE F	
MULTIFAMILY OPEN SPACE REQUIRED PER BEDROOM	
Number of Bedrooms	Open Space Required
1	400 square feet
Each additional bedroom over 1	Additional 300 square feet

- (2) *Minimum dimensions.* Each open space area shall have a minimum dimension of not less than 30 feet.
- (3) *Minimum overall percentage of open space.* No less than 15 percent of the required open space shall be arranged or located as a contiguous mass. This contiguous mass must be located within the required open space.
- (4) *Credits for amenities.* In meeting these requirements, a credit of three (3) square feet may be applied for each square foot utilized for:
- Swimming pools and adjacent decks, patios or lounge areas within ten feet of a pool;
  - Developed and equipped children's play areas;
  - Usable portions of recreational buildings; and
  - Private balconies and enclosed patios with a minimum dimension of five square feet.
- Tennis courts are specifically excluded from this credit allowance.
- (5) *Credit for sloped areas.* At the time of site plan approval, the Director of Development Services may give full or partial credit for open areas that exceed the maximum slope of 2 percent, if it is determined that such areas are environmentally significant and that their preservation would enhance the development.
- (6) *Access to public parks.* At the time of site plan approval, the planning and zoning commission and town council may allow a credit not to exceed ten percent of the total required usable open space for adjacent and immediately accessible public parks. The combined credit for areas calculated at a three to one (3:1) basis and for public parks shall not exceed 50 percent of the total usable open space for an individual lot or parcel of land.
- (7) *Minimum number of trees in open space.* One large canopy tree shall be provided per 1,000 square feet of required open space.
- (8) *Hardscape.* All multi-family developments submitted after the adoption of this ordinance shall be required to include stained and stamped crosswalks from parking lots or structures to the main entrances of the buildings and other areas, as determined to be appropriate by the director.
- (9) *Stone, gravel and rock.* If stone, gravel, decorative rock, crushed granite or other non-plant derived materials are used in a residential front yard, no more than 20 percent of the yard area may be made up of these materials. Non-plant derived materials should be used as an accent to the areas of the lawn made up of sod, living ground cover, low bushes or plants, or mulch and shall include vegetative

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plantings within the stone/rock beds. In no case shall stone, gravel, rock or other non-plant derived materials be installed so that an impermeable surface area is created.

- (10) *Mailboxes.* When mailboxes are grouped or clustered, they may be located in the right-of-way. The exterior of the mailbox structure shall be masonry to match the main buildings and the roof made of metal materials or materials that match the main buildings.
- (11) *Artificial or synthetic turf.* Artificial or synthetic turf is prohibited.
- (12) *Entrances to multi-family developments.* The landscape island at the main or secondary entrances to the multi-family development shall be within a platted lot to be owned and maintained by the management company. Landscaped entries shall be a minimum size of six feet by 30 feet and may include a monument entrance sign. Entry designs shall be subject to the approval of the director.
- (13) *Landscaping for corner lots and residential/multifamily driveways.*
  - a. A minimum landscaped area of 900 square feet shall be located at the intersection corner of the lot, and commercial main entrance as shown on the landscape/site plan.
  - b. The landscaped area shall be provided within an area measured a minimum distance of 40 feet from the projected corner of the intersection on both sides of the lot or main entrance area.

(Ord. No. 1407, § 2, 10-20-2009; Ord. No. 1527 , § 2, 10-15-2019; Ord. No. 1587 , § 2, 1-5-2021)

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## Sec. 106.06.18 Commercial landscape requirements.

### (a) *Interior landscape requirements.*

- (1) *Minimum landscaped area.* A minimum of ten percent of the gross vehicular use area shall be devoted to living landscape which includes grass, groundcover, plants, shrubs and trees. This is to be measured from the edge of the parking and/or driveway paving and sidewalks. Where practical, the majority of this landscaped area should be visible from the roadway.
- (2) *Minimum trees provided overall.* There shall be a minimum of one large canopy tree planted for each 400 square feet or fraction thereof of required interior landscape area. Three small ornamental trees, a minimum of six feet in height and three inches in diameter, may be substituted for one required large canopy tree not to exceed 25 percent of the required large canopy trees if approved by the town.
- (3) *Parking lot islands and terminus row islands.* Interior areas of parking lots shall contain planting islands located so as to best relieve the expanse of paving. Such islands shall contain at least one large canopy tree, and shall be located at the terminus of all parking rows. The remainder of the island space shall be landscaped with shrubs, lawn and living groundcover not to exceed three feet in height. Any trees located within a planting island may be counted towards the required number of interior trees. The minimum total area of such islands shall be ten feet by 18 feet, but may design the radii to facilitate traffic maneuverability.
- (4) *Parking lot island spacing.* Planting islands shall not be spaced greater than every ten spaces unless approved on the landscape plan in order to preserve existing trees and natural features or due to unique site features. Islands shall provide one large canopy tree. In all cases, the total area requirements for landscaped islands for the respective parking areas shall be satisfied.
- (5) *Parking lot swales.* In some cases, the use of landscaped swales in lieu of curbs and/or curb stops may be allowed. Appropriate drainage plans and plants must be submitted if this option is proposed.
- (6) *Parking Lot medians:* There shall be a landscaped median between two rows of head-in parking, at every 20 spaces.
- (7) *Big Box parking lot walkway.* "Big Box" stores shall provide a minimum ten (10) foot wide continuous landscape island every eight single rows of parking, with a large canopy tree every 30 linear feet, subject to review and approval by the town. This does not waive the requirement for terminus islands and trees on parking rows.
- (8) *Entrances to Big Box stores.* In "big box" developments of 50,000 square feet or more, an urban tree shall be placed in a tree grate or tree well every 30 feet on center within a minimum 12 foot wide sidewalk along active storefronts and mixed-use building fronts. Trees may be clustered so not to block the main entrance. Facade trees are not required in areas with an architectural arcade.
- (9) *Vehicular access drives.* A small ornamental tree is required along major access lanes every 25 linear feet within a development where reasonable, subject to review and approval by the director.
- (10) *Pedestrian connections.* One urban tree is required along internal pedestrian connections every 30 linear feet.
- (11) *Curbs and wheel stops.* All landscaped areas will be protected by a raised four inch concrete curb and/or wheel stop. Wheel stops are required for all perimeter parking spaces. Pavement will not be placed closer than four feet from the trunk of a tree unless approved by the director.
- (12) *Hardscape.* All nonresidential developments submitted after the adoption of this ordinance shall be required to include stained and stamped crosswalks from parking lots or structures to the main entrances of the buildings and other areas, as determined to be appropriate by the director.



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- (13) *Variety.* The applicant is also encouraged to plant a variety of ornamental trees, shrubs and flowers in addition to the required plantings. Any permeable surface not occupied by trees, shrubs, planting beds, signs or other permitted fixtures shall be planted with turf or other living groundcover.
  - (14) *Stone, gravel and rock.* If stone, gravel, decorative rock, crushed granite or other non-plant derived materials are used in an interior landscape area, no more than 20 percent of the area may be made up of these materials. Non-plant derived materials should be used as an accent to the landscaped areas made up of sod, living ground cover, low bushes, plants, or mulch and may include vegetative plantings within the stone/rock beds. In no case shall stone, gravel, rock or other non-plant derived materials be installed so that an impermeable surface area is created.
  - (15) *Artificial or synthetic turf prohibited* (e.g. AstroTurf™). Artificial turf is prohibited in interior landscape areas.
  - (16) *Exception to interior landscape requirements.* Industrial uses shall be exempt from the interior landscape requirements, subject to review and approval by the director.
- (b) *Foundation planting and other landscaping.*
- a. Foundation plantings or sidewalk tree gates are required for buildings or groups of contiguous buildings that are 5,000 square feet or larger. One large canopy tree four inch minimum caliper, shall be required for every one thousand square feet of gross building area. These trees shall be located within 20 feet of the face of the building. These plantings are intended to provide pedestrian areas while breaking up the large areas of impervious surface. Trees required by other sections of this ordinance will not meet this requirement. Trees can be grouped or planted in singular form. These tree plantings should be placed so as not to impede sign visibility or pedestrian safety.
  - b. Trees planted less than four feet from the back of curb shall be located in a tree gate with a minimum dimension of four feet.
  - c. Ornamental trees may be substituted for half of the required large canopy trees at a building's foundation at the rate of five ornamentals for each required large tree with Town approval.
  - d. The above requirements may be reduced if approved by the Town and additional pedestrian features; such as plazas, seating areas, fountains, and outdoor recreation facilities are provided. These facilities must occupy an area equal to or greater than ten percent of the total building area.
- (c) *Landscaping for corner lots and commercial driveways.*
- a. A minimum landscaped area of 900 square feet shall be located at the intersection corner of the lot, and commercial main entrance as shown on the landscape/site plan.
  - b. The landscaped area shall be provided within an area measured a minimum distance of 40 feet from the projected corner of the intersection on both sides of the lot or main entrance area.
- (d) *Perimeter landscape requirements.*
- (1) *Vehicular screening from right-of-way.* All vehicular use areas shall be screened from all abutting properties and the public right-of-way with a wall, fence, evergreen hedge, berm or other durable landscape barrier. Plants and shrubs used in living barriers shall be at least 36 inches high at time of planting and shall be a type and species from the recommended plant list that will form a continuous hedge. Sporadic breaks in the hedge row may be approved to achieve unique designs. Any landscape barrier not containing live plants or trees shall be a minimum of three feet high at time of installation. One large tree four inch caliper minimum shall be planted per 20 linear feet of landscape edge.
  - (2) *Additional Screening.* Where any portion of parking lots, drives, access easements or other rights-of-way abut the landscape edge, shrubs 36 inches minimum shall be planted to form a contiguous buffer along the common boundary line.

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- i. The number of required shrubs shall be calculated solely on the area of the required landscaped edge.
  - ii. All landscaped areas including shrubs shall be planted in a defined planting bed or Town approved area.
  - iii. A berm will be required in addition to shrubs if the pad site elevation at the property line is within two feet above or below the ROW elevation.
  - iv. The berm must be 24 to 40 inches above the average grade of the street and parking lot curbs.
  - v. The slope of the berm shall not exceed a 33 percent grade.
- (3) *Minimum landscape buffer along rights-of-ways.* Except in the Lakefront District, for all residential, nonresidential and multiple-family parcels, a minimum 25 foot landscape buffer adjacent to the right-of-way is required.
- (4) *Landscape ROW buffer corner clip.* For all nonresidential and multifamily parcels located at the intersection of two dedicated public rights-of-way (ROW), a minimum 25 foot landscape buffer shall be provided parallel to the corner clip right-of-way dedication.
- (5) *Minimum number of trees within ROW landscape buffers.* Landscape buffers adjacent to the public right-of-way shall contain at least one large canopy tree each 20 linear feet or fraction thereof of street frontage, inclusive of driveways. Trees may be grouped or clustered to facilitate site design if approved by the Town.
- (6) *Landscape buffers between properties.* A perimeter landscape buffer of at least ten feet in width shall be maintained between adjacent properties. This landscaping can be reduced to five feet when abutting property of the same zoning. This buffer does not apply to various lots within a unified development. Access ways between lots may be permitted through all perimeter landscape areas.
- (7) *Minimum number of large trees within perimeter landscape buffers.* Perimeter landscape buffers not adjacent to the public right-of-way shall contain at least one large canopy tree every 25 linear feet or fraction thereof when adjacent to another commercial use, and at least one large canopy tree every 20 linear feet when adjacent to residential uses or zoning. Trees may be grouped or clustered to facilitate site design and shall be appropriately staggered when adjacent to property of the same zoning.
- (8) *Minimum number of small trees within perimeter landscape buffers.* For every five large canopy trees or fraction thereof required along the street frontage and perimeter, three ornamental trees shall also be provided.
- (9) *Stone, gravel and rock.* If stone, gravel, decorative rock, crushed granite or other non-plant derived materials are used in a perimeter landscape area, no more than ten percent of the area may be made up of these materials. Non-plant derived materials should be used as an accent to the landscaped areas made up of sod, living ground cover, low bushes, plants, or mulch. In no case shall stone, gravel, rock or other non-plant derived materials be installed so that an impermeable surface area is created.
- (10) *Artificial or synthetic turf.* Artificial or synthetic turf is prohibited in perimeter landscape areas.
- (e) *Residential adjacency landscaping standards.* In order to preserve and protect the integrity, protect the quiet enjoyment and maintain property values of single family and other residential neighborhoods, the Town has determined that it is necessary and appropriate to adopt specialized regulations for non-single family residential uses and buildings that are constructed within 100 feet of properties used for single family residences.
- a. A minimum of 20 feet wide landscaped buffer shall be provided adjacent to existing residential or vacant land zoned for residential uses.

- b. A double row of trees four inch caliper minimum on offset 15 foot centers is planted within the required rear landscape edge, where 50 percent of the trees are large trees.
- (f) *Landscape point system.*
- (1) *Purpose.* The purpose of the landscape point system is to afford developers the freedom to design interesting and unique landscaping to augment the architecture of the development. Developers are encouraged to be creative in selecting the amenity type to create unique and memorable features.
  - (2) *Points shown on plan.* Landscape plans must show a minimum number of points in order to obtain approval. Landscape points are determined by the size of the lot being developed. These requirements are in addition to the interior and perimeter landscaping requirements.

ARTICLE VI, TABLE G	
NUMBER OF LANDSCAPE POINTS PER ACRE	
Site Size	Minimum Number of Points Required
<3 acres	25 points
Between 3 and 15 acres	30 points
>15 acres	35 points

- (3) *List of amenities and points earned.* The following is a list of landscape elements and their associated point value, subject to review and approval by the director:

ARTICLE VI, TABLE H	
LANDSCAPE POINTS EARNED PER AMENITY	
Amenity Type/Size	Number of Points
Hardscaping, signage, or architectural features that include reference to Little Elm's lakefront character, such as use of sailboats or lighthouses in amenities	10
Enhanced hardscape (Stamped entryway (per design guide), decorative cobble walkways, meandering sidewalks, etc.)	5
Enhanced landscaping (within development and at the entranceways of the development) Enhanced hardscape (Stamped entryway (per design guide), decorative cobble walkways, meandering sidewalks, etc.)	5
Enhanced site canopy (planting perimeter trees one per 30 feet AND locating a parking island every ten spaces)	5
Enhanced streetscape elements (e.g. decorative lampposts, receptacles, decorative bollards, etc.)	5
Use of street furniture (benches, tables and chairs)	5
Enhanced buffers: (providing a landscape buffer five feet more than what is required adjacent to street frontage and perimeter)	5
Open space provision greater than what is required (20 to 30 percent over minimum)	5
Buffer berms (providing 3-foot-high berms along the street frontage)	5
Use of shaded and decorative outdoor seating areas (benches, outdoor dining, etc.)	5
Use of masonry planters with irrigation (minimum 4)	5
Foundation plantings along 75 percent of the building's primary facade	5

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Decorative entrance including a landscaped median entry which is a minimum eight feet in width and 60 feet long	5
Public art, small (obelisks, sculptures, statues, clock towers, water fountains, etc.)	5
Public art, large (obelisks, sculptures, statues, clock towers, water fountains, etc.)	10
Enhanced Amenity detention/retention pond (wet with fountain feature)	5
All outdoor lighting is "Darksky Approved" and meets Town's Lighting requirements	5
Other (a developer may propose a unlisted landscape element if it meets the spirit and intent of the ordinance, subject to review and approval by the director)	5

(4) *Developer discretion.* The developer may use any combination of the aforementioned landscape elements to obtain the necessary number of points required for the development. Different lots and landscapes will lend themselves to different types of designs. These regulations attempt to encourage creativity, diversity and water conservation in landscaping.

(5) *Scale, size, type.* Elements, both in terms of quantity and quality, should be in scale with the development, as determined by the Director. Multiple repetitions of an element can be awarded extra points, as determined by the director.

(g) *Approval of landscape site plan alternative waivers.*

a. The town council through a landscape site plan waiver may approve waiver alternatives to the landscape provisions.

b. All waivers must be processed through a developers agreement that is approved by the town council.

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1527 , § 2, 10-15-2019)

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## Sec. 106.06.32 Residential fences.

(a) *General requirements.*

(1) *Permit required.*

- a. Fence construction or repair of greater than 50 percent of the length of the fence requires a permit. Repairs with a total length of less than one full length of the fence (side or back yard) may be completed without a permit with materials matching the existing fence.
- b. A plan showing exact materials, location, height, dimensions from property lines, sidewalks, curbs, and location of gates must accompany the completed application form and fee. The design of the fence must accommodate vision sight lines at the intersections of two roadways and the intersection of a drive with an alley or a roadway with a five-foot by five-foot triangle in these locations, measured from the edge of pavement.

(2) *Regulations.*

- a. *Maximum height of residential fences.* Fences shall not be greater than eight feet in height, excluding a maximum six inches allowance for ground clearance and a decorative cap.
- b. *Materials allowed.* No fence material shall be used to construct a fence except for those listed and regulated in this chapter. Generally, residential fences should only be wooden or black tubular steel (powder coated ornamental iron).
- c. *Materials prohibited.* Barbed wire, electric, and other injurious fence material is prohibited in the town, unless the property is an agricultural district over five acres in size with a current AG Agricultural exemption tax status, legitimately needed for industrial purposes, or otherwise approved by the director.
- d. *Fences that back or side to other residences.* Fences that back or side to another residence may have either side of the fence face the interior of the lot.
- e. *Fences located on corner lots.* On all corner lots, fences shall not be closer than 15 feet from the face of any curb, unless otherwise approved by the director.
- f. *Fences facing rights-of-way (on back, side or corners).* All fences erected on side yards of corner lots and reverse corner lots or backing to a right-of-way of shall be cedar, board-on-board, with a decorative cap so that a finished fence side faces the street.
- g. *Fences located between houses that face the street.* The portion of fence that is parallel to the street and perpendicular to the fence along the side yard must be constructed of cedar, board-on-board, with a decorative cap so that a finished fence side faces the street.
- h. *Fences in front yards.* Fences and walls are only allowed in front yards up to 30 inches in height and must be either: split-rail, wrought iron, picket fence, or decorative masonry wall. Lots over one acre in size are exempt from this regulation, subject to review and approval by the director. All front yard fences should generally be 50 percent open, except for walls when allowed.
- i. *Public rights-of-way, easements.* No fence shall be erected on public right-of-way or within any drainage easement, unless otherwise authorized by the director.
- j. *Within property lines.* Fences shall not encroach upon any property line (front, side, or rear).
- k. *Fences adjacent to scenic views.* All fences installed adjacent to a floodplain, creek, or dedicated open space shall be black tubular steel.

- I. *Neighborhood integrity grant program.* Properties that have exterior fences improved by the town through the Neighborhood Integrity Grant program shall maintain, repair, and replace the fence to the same standard as it was installed by the town.
  - m. *Vacant Lots.* Fences cannot be located on vacant or undeveloped lots.
- (3) *Required inspections.*
  - a. A footing inspection is required. The footing inspection must be completed prior to pouring concrete.
  - b. A final inspection is required and must be scheduled within one week (five business days) of completion.
  - c. All fence installers are required to be registered with the Town of Little Elm.
  - d. Fences that fail inspection through the rental registration program shall be repaired or replaced accordingly.
- (b) *Wooden fence standards.*
  - (1) *Vertical posts.* All vertical posts shall be galvanized steel with a minimum two and three-eighths-inch diameter, a minimum CS 20 (.095) thickness, and set in a concrete footing.
  - (2) *Concrete footings.* Concrete footings shall be a minimum of eight inches in diameter and must be at least six inches deeper than the post depth.
  - (3) *Spacing of footings.* For fences less than seven feet in height, posts shall be spaced at a maximum of eight feet on center, set in a concrete footing of no less than 24 inches deep. For fences that are seven feet or greater in height, posts shall be spaced at a maximum of six feet on center, set in a concrete footing of no less than 36 inches deep.
  - (4) *Allowed materials.* Residential wood material shall be stained Western Red Cedar. White wood, if pre-stained or stained a natural brown or earth tone color, is also allowed.
  - (5) *Construction.* All materials shall be securely fastened, vertical boards to horizontal stringers, stringers to vertical posts, top rail, to ensure an ongoing attractive appearance and safe condition, free from rot, rust, vandalism, and other sources of decay.
  - (6) *Kick board.* The bottom of the fence shall be designed to prevent ground-to-wood contact and allow drainage beneath it. This can be achieved through the use of a concrete mow strip poured between the fence supports or by installing a two- by six-inch pressure treated kick board to cover the gap between the bottom of pickets and the ground. The kick board may have ground contact so long as it does not inhibit drainage.
  - (7) *Private residential fence adjacent to a subdivision perimeter wall.* A fence that is parallel to or perpendicular to such wall shall not exceed the height of the adjacent subdivision wall. A fence that is separated from the subdivision screening wall by a public alley or right-of-way is deemed to not be adjacent to the subdivision screening wall. If abutting, the height of the residential fence is allowed to transition or increase in height from the height of the subdivision screening wall to the maximum allowable height of the residential fence, provided that the transition is an even or smooth rate of increase and does not exceed a span of 16 feet in length.
  - (8) *Fences facing streets.* When a residential fence is visible to the right-of-way, the construction must be board-on-board with a decorative cap and with support posts placed on the inside of the fence (i.e. facing the enclosed area). This applies to both new fences and existing fences being replaced.
- (c) *Exceptions.*

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- (1) *Materials.* The use of chain link, vinyl, split-rail, and composite materials may be allowed, if constructed to manufacturer's specifications, subject to discretionary review and approval by the director. Otherwise, these materials are generally prohibited. Existing non-conforming chain link fences may be replaced with similar material.
  - (2) *Interior fences.* Defined as fences within the property fence for specific uses, such as dog runs, swimming pool fences, and other similar situations within the interior of a back yard. These interior fences may be constructed of alternate materials, as long as all exterior and shared fence lines are built to compliance with section 106.06.32(a) and (b) and the alternate interior materials are shorter than the exterior fence and not visible to the public, subject to discretionary review and approval by the director.
  - (3) *Gate embellishments.* Decorative gate embellishments are allowed; however, they shall not exceed the height of the fence by more than two feet.
  - (4) *Submittal for review and approval.* Alternate materials and methods that deviate from the fence standards listed above may be submitted, subject to discretionary review and approval by the director.

(Ord. No. 1407, § 2, 8-15-2017)

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**Sec. 106.06.45 Parking requirements per land use.**

- (a) *Computation of parking spaces.* In computing the number of parking spaces required for any building or development, the following rules shall govern:
- (1) The term "floor area" means the gross floor area of the specific use.
  - (2) Where fractional spaces result, the parking spaces required shall be constructed to be the next higher whole number.
  - (3) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature, subject to review and approval by the director.
- (b) *Compliance upon changes of use.* Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise, which creates a need for an increase in the number of existing parking spaces, such spaces shall then and thereafter comply with the parking requirements set forth herein.
- (c) *Off-street parking.* When a building or structure is constructed or expanded, off-street parking shall be provided, per the following table:

ARTICLE VI, TABLE L	
REQUIRED PARKING RATIOS	
Land Use	Parking Ratio
Amusement, indoor commercial	1 space per 200 square feet of floor area.
Amusement, outdoor commercial	1 space per 1,000 square feet within the outer boundaries of the proposed use, including any buildings, exhibit booths and areas devoted to the use.
Assembly uses (non-profit)	1 space per 4 seats in the main auditorium.
Athletic stadium or field	50 spaces per field for fields without fixed seating.
Bank or similar financial establishment	1 space per 300 square feet of floor area.
Big box	1 space per 250 square feet of floor area.
Bowling alley	6 spaces per lane.
Automobile wash (automated)	1 space per 200 square feet of floor area; plus adequate stacking spaces per bay; minimum of 2 spaces.
Automobile wash (self-serve)	2 spaces; plus stacking spaces for each bay.
Child care center	1 space for every 10 students; plus adequate stacking spaces for drop-off lane.
Civic/convention/community center	10 spaces, plus one additional space per 300 square feet of floor area in excess of 2,000 square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of 1 space per 4 seats that it contains. The parking ratio can also be determined by a parking demand analysis study for proposed use, subject to review and approval by the director.
College, university or trade school	1 space per classroom, laboratory, or instruction area plus 1 space per 3 students accommodated in the institution.
Convenience store	1 space per 200 square feet of floor area.



Duplex	A concrete drive with a minimum 2 car garage and 2 spaces in driveway per unit.
Golf course	Minimum 30 spaces per 9 holes, plus 1 space per 200 square feet of floor area for country club, retail, office, etc.
Green house or nursery	1 space per 5,000 square feet of outdoor storage area; plus 1 space for each 200 square feet of indoor floor area.
Health/fitness center/ gymnasium	1 space per 200 square feet of floor area.
Hospital	1 space per 2 beds and 1 space per employee on the largest shift.
Hotel	1 space per room, unit or guest accommodation plus 1 space for every 300 square feet of restaurant, office, or conference area
Kennel or stable	1 space per 500 square feet of floor area.
Library or museum	10 spaces, plus 1 space per 300 square feet of floor area.
Lodge, club, or fraternal organization	1 space per 200 square feet of floor area.
Manufacturing, processing, warehousing, and industrial uses	1 space per employee on the maximum working shift plus 1 space for every 1,000 square feet of floor area.
Mini-warehouse (self-storage)	1 space per 5,000 square feet of total floor area.
Mixed use building	See Lakefront Zoning District for parking regulations section 106.04.02.
Mobile home - Manufactured home	A concrete drive with a minimum of 2 spaces, which may include a carport.
Mortuary or funeral home	1 space per 4 seats in funeral service rooms.
Movie theatre or cinema	1 space per 4 seats.
Nursing home	1 space per 6 beds and 1 space for each day staff member.
Office, business or professional	1 space per 300 square feet of floor area.
Office, medical, dental, or health	1 space per 200 square feet of floor area.
Recreational, private or commercial area or building (other than listed)	1 space per 4 persons to be normally accommodated in the establishment.
Restaurant or cafeteria	1 space per 100 square feet of floor area. Outdoor seating areas (covered or not) under 500 square feet are exempt.
Restaurant, pick-up or delivery only	1 space per 200 square feet of floor area.
Retail or personal service	1 space per 200 square feet of floor area.
Retirement housing	1 space per 5 beds.
School, elementary and junior high	1 space per classroom plus 1 space for each 4 seats in any auditorium, gymnasium, or other place of assembly.
School, high school	1 space per classroom, laboratory, or instruction area plus 1 space for every 3 students accommodated in the institution.
Single-Family residential	Minimum 2 car garage with parking for 2 cars in driveway is required. Carports prohibited, unless fully encased with masonry, pitched roof, and attached to the primary residence in the rear yard.
Townhouse	Minimum 2 car garage with parking for 2 cars in driveway is required. Carports prohibited, unless fully encased with masonry, pitched roof, and attached to the primary residence in the rear yard.

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Veterinary or animal hospital	1 space per 300 square feet of floor area.
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- (d) *Parking penalty.* Where parking exceeds the minimum number of required spaces by more than ten percent, landscaping of parking areas shall be increased so that planting islands shall not be spaced greater than every ten spaces rather than the required 12 spaces.

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1527 , § 2, 10-15-2019)

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**Sec. 106.06.46 Stacking standards.**

- (a) *Minimum size.* A stacking space shall be an area on a site measuring ten feet by 20 feet with direct forward access to a service window or station of a drive-through facility which does not constitute space for any other circulation driveway, parking space, escape lane or maneuvering area.
- (b) *Distinctive markings.* All stacking spaces shall be marked with stamped or stained concrete to differentiate the spaces from drive aisles or parking spaces.
- (c) *Escape lane.* If the director deems that an escape lane is necessary by to allow vehicles to get out of stacking lane in the event of a stalled vehicle, emergency or accidental entry, it shall be of at least eight feet in width and shall have a negotiable geometric design.
- (d) *Minimum number of stacking spaces per land use.* Off-street stacking requirements for drive-through facilities shall be as follows:

ARTICLE VI, TABLE M	
REQUIRED STACKING SPACES	
Type of Land Use	Minimum Number of Stacking Spaces
Banks, financial institutions	3 spaces per line
Automobile wash, automated self-service	3 spaces per wash bay, including one at the bay exit for drying
Automobile wash, full-service	3 spaces per car wash line
Automobile wash, wand-operated self-service	2 spaces per wash bay, including one at the bay exit for drying
Kiosks with drive-thru	2 spaces per line (or per director)
Restaurants with one order window	4 spaces per line
Restaurants with two or more order windows	2 spaces per second line and any subsequent line
Retail, pharmacy, dry cleaners	3 spaces per line

(Ord. No. 1407, § 2, 8-15-2017)