



Installment 3: Development Standards

PUBLIC Draft September 2021



CLARION

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Article 1: General Provisions

Included in Installment 1.

Article 2: Zoning Ordinance

2.1. Zoning Procedures

Included in Installment 1.

2.2. Zoning Districts

Included in Installment 2.

2.3. Use Regulations

Included in Installment 2.

2.4. Development Standards

2.4.1. Landscaping

COMMENTARY

This section is based generally on the current 146-135. Changes to the content of this section include:

Organization – This section is reordered, depending on the type of project. A “General Landscape Requirements” section applies to all projects, followed by sections on Multi-Family and Non-Residential, Single-Family and Two- to Four-Family developments, and Parking Lot Landscaping Requirements. Much of the content comes from the current regulations, pulled from undifferentiated lists and re-categorized into these classifications. New or updated provisions are noted, and tables have been added per staff request. We provide Table 2-3: Tree Requirements by Zoning District as a starting point for discussion regarding the differing number of trees that would be required on lots of varying size, according to lot specifications by residential zoning district.

Parking Lot Landscaping – This draft includes a new section on commercial parking lot landscaping. We have incorporated standards derived from current regulations, and added requirements based on standards in other communities where we have worked. This new table also offers the opportunity for applicants to propose alternative landscaping – bioswales or green infrastructure – to minimize hardscape runoff.

Comparison to Adjacent Communities – In comparing McKinney’s landscaping standards to sister communities, we find that standards are generally aligned. There are minor variations on some individual standards, but in no case do requirements vary significantly among the communities. We have, therefore, not made any major changes to the standards of this section on the basis of our comparison.

Alternative Landscape Design – To respond to requests for additional flexibility, this draft includes an alternative compliance section.

A. Purpose

Landscaping is accepted as adding value to property and is in the interest of the general welfare of the city. Accordingly, this section requires the installation of landscaping to:

1. Protect and enhance the visual appeal of the City of McKinney;
2. Contribute to high-quality development;
3. Improve air quality;
4. Buffer potentially incompatible neighboring land uses;
5. Protect and enhance residential and commercial property values; and
6. Mitigate the environmental and visual impacts of surface parking areas.

B. Applicability¹

The provisions of this section shall apply only to properties within the city limits.

1. Plan and Permit Required

- a. Information required to demonstrate compliance with this section shall be shown on a landscape plan² which shall be submitted with a site plan application as required in §2.1.6, *Site Plan*.
- b. The landscape plan shall be approved prior to issuance of a building permit.

2. New Development

Landscaping is required as provided in this section for all new development.

3. Redevelopment and Changes in Use

Landscaping is required as provided in this section for:

¹ The regulations in the current code under Scope and Enforcement have been redistributed in Applicability, Authority, and Violations and Enforcement.

² Content related to Landscape Plan was removed from this section, so this reference was added to landscape plan being part of the site plan process.

- a. Any expansion or alteration of any existing parking lot, with the exception of re-striping; and
- b. Any change of use that requires the expansion of the parking area or improvements that require upgrades to nonconforming site features, as described in §1.10.6.A, *Legal Nonconforming Site Conditions*, shall result in a requirement to upgrade landscaping on the site to meet the requirements of this section.

4. Exceptions

a. MTC -- McKinney Town Center

Uses within the MTC -- McKinney Town Center zoning district shall be exempt from the landscape requirements set forth in this section, unless it is determined by the Director of Planning that compliance with any of these standards is achievable and would contribute to the purpose and intent of the MTC -- McKinney Town Center zoning district. See Article 8 of this Code for any additional landscaping requirements that may be specifically applicable to the MTC -- McKinney Town Center zoning district.

b. Airfields

Airfields (commonly known as the "air side" of an airport's perimeter boundary fence or wall) that accommodate fixed-wing aircrafts on a concrete runway with a length of at least 5,000 feet and allow for the operation of rotary-wing aircrafts shall be exempt from the requirements of §2.4.1.D.3, *Non-Residential Landscaping Requirements*.

C. Landscape Site Standards (All Uses)

1. General

The following standards shall apply to all properties regardless of the land use or zoning district.

- a. Required landscaped areas shall be completely covered with living plant material, unless otherwise noted herein.
- b. A minimum of 50 percent of the total trees required for the property shall be canopy trees, as specified on the approved plant list provided in the Administrative Manual.
- c. All new trees shall be provided with a permeable surface that does not impede the absorption of water, extending a minimum 2½-foot radius from the trunk of the tree.
- d. All required landscape areas shall be a minimum of 25 square feet in area and 5 feet in width, unless otherwise noted herein.
- e. Whenever a non-residential use, manufactured home use, or mobile home use is adjacent to a property used or zoned for single-family or two-to-four family residential uses, the more intensive land use shall provide a landscaped area of at least 10 feet in width along the common property line planted with one canopy tree for each 40 linear feet or portion thereof of adjacent exposure. These trees may not be clustered.
- f. Earthen berms shall not have side slopes that exceed 4:1 (4 feet of horizontal distance for each 1 foot of height). All berms shall contain necessary drainage provisions as may be required by the Director of Engineering.
- g. Detention and retention easements shall not be located in a required landscape buffer, unless otherwise approved by the Director of Engineering. In no case shall the detention and retention easement encroach on more than 50 percent of the required landscape buffer. If a portion of the required landscape buffer is used for a detention and retention easement, the slope within the landscape buffer shall not exceed 6:1 (6 feet of horizontal distance for each 1 foot of height).
- h. Landscaping, except required grass and low ground cover, shall not be located any closer than 3 feet to a parking space, drive aisle, or fire lane.
- i. Artificial turf:
 - i. Residential properties: Prohibited in the front and side yard.
 - ii. Non-residential and multi-family residential properties: prohibited except for the installation of putting greens.
- j. All required landscape areas shall be provided with an automatic underground irrigation system. Required underground irrigation systems shall:

- i. Be equipped with rain and freeze sensors, or a weather-aware internet device;
 - ii. Be designed by a qualified professional, and installed by a licensed irrigator after receiving a permit, as may be required under the construction code; and
 - iii. Comply with the city's water conservation ordinance as it exists or may be amended.
- k. Required plant materials shall conform to the standards of the approved plant lists for the City, as specified in the Administrative Manual in the document Plants Approved for Landscape Requirements.

2. Planting Requirements

a. Minimum Plant Material Dimensions

Required plant materials shall conform to the minimum dimensions in Table 2-1: *Minimum Landscape Measurements and Standards*.

Table 2-1: Minimum Landscape Measurements and Standards

	At Time of Planting (All Apply)	At Maturity
Canopy trees	Caliper: 4 inches [1] Height: 12 feet	Capable of attaining a crown spread of at least 25 feet.
Ornamental trees	Caliper: 2 inches [1] Height: 8 feet	Capable of attaining a crown spread of 15 feet. Ornamental trees with a crown spread of less than 15 feet at maturity may be grouped to create the equivalent of a 15-foot crown width.
Tall Evergreen Shrubs	Height: 3 feet Spacing: No further apart than 3 feet on center	Screening shall form a continuous, unbroken, solid visual screen 6 feet in height within 2 years after time of planting, unless otherwise approved by the Director of Planning.
Low Evergreen Shrubs	Height: 2 feet Spacing: No further apart than 3 feet on center	Shrubs shall be maintained at 3 feet in height within two years after time of planting.
Evergreen Vines	May be used in conjunction with fences, screens, or walls to meet landscape screening and/or buffering requirements, as approved by the Director of Planning.	
Grass Areas	Grass areas shall be sodded, plugged, sprigged, hydro-mulched, or seeded, except that solid sod shall be used in swales, or when necessary to prevent erosion. Grass areas shall be established with 100 percent coverage and 70 percent density with an approved perennial grass prior to the issuance of a certificate of occupancy or final acceptance. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects. Ground covers used in-lieu-of grass shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year of planting.	

Note [1]: Caliper measurement of the trunk shall be taken 6 inches above the ground for new plantings.

b. Tree Placement and Clearances

- i. If a required canopy tree is proposed within 12 feet of a building foundation, an alternate planting location on-site may be approved by the Director of Planning.
- ii. No tree shall be planted closer than 4 feet to a right-of-way line, nor closer than 8 feet to any public water, wastewater, fire protection connection, or drainage line, unless approved by the Director of Engineering. A landscape area in which trees are to be provided shall not overlap or otherwise infringe upon a utility easement unless no alternative is available.
- iii. No tree that has a mature height of 25 feet or greater shall be planted beneath an existing or proposed overhead utility line. Where canopy trees are required adjacent to or underneath overhead utility lines, ornamental trees shall be provided in place of the required canopy trees at a ratio of two ornamental trees per every one required canopy tree.

c. Tree Preservation Credit

Any trees preserved on a site that meet the specifications below may be used to satisfy tree requirements of §2.4.1.C.2, *Planting Requirements*.

- i. Quality trees shall receive credit.
- ii. Existing non-quality trees may receive credit, subject to the approval of the Director of Planning.
- iii. Tree preservation credits shall only apply to the area where the tree is preserved.
- iv. Any tree(s) proposed for tree preservation credit shall be designated on the landscape plan, with description of the species, size, and exact location.
- v. Trees that are diseased, compromised, or nearing the end of their viable lifespan shall not be eligible for credit, as determined by the Director of Planning.
- vi. All existing trees eligible for tree preservation credit shall be subject to the provisions of §2.4.2, *Tree Preservation*.

Table 2-2: Tree Preservation Credits

DBH [1] of existing tree	Credit against tree requirement
Trees 6" or greater located in required landscape buffers adjacent to residential zones or uses	1 tree
6" to 8"	2 trees
9" to 15"	3 trees
16" to 30"	4 trees
31" to 46"	5 trees
47" or more	8 trees

[1] DBH means Diameter at Breast Height.

d. Sight Distance and Visibility

- i. Strict compliance with these landscaping requirements shall not be such as to cause visibility obstructions and/or blind corners at intersections. Whenever an intersection of two or more streets or streets and driveways (other than residential) occur, a triangular visibility area shall be maintained.
- ii. Landscaping within the visibility triangle shall be designed to provide unobstructed cross-visibility between 2 feet and 7 feet in height, or as otherwise specified in the Engineering Design Manual. Trees may be permitted in this area provided they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area, at the discretion of the Director of Engineering.
- iii. Sight visibility triangles shall remain unobstructed from all other impediments.

D. Site Specific Landscape Standards

1. One- to Four-Unit Residential Development

a. Canopy Trees

The following requirements for tree planting in one- to four-unit residential zoning districts must be met before obtaining a certificate of completion.

Table 2-3: Tree Requirements by Zoning District

Zoning District	Minimum Number of Trees per Lot [1]
RE2, RE1, R21	6
R12, R10	4
R8, R6.5, R5	2
R1.8	1
FR	See §2.4.1.D.2, Multi-Family Residential Landscaping Requirements

Table 2-3: Tree Requirements by Zoning District

Zoning District	Minimum Number of Trees per Lot [1]
[1] A minimum of one tree or half the required trees for any lot, whichever is greater, must be planted in the front yard.	

b. Street Trees in Lieu of Trees per Lot³

In lieu of providing the required canopy trees per lot as required by Table 2-3 above, single family developments in the R6.5, R5, and R1.8 zoning districts may provide residential street trees in compliance with [reference] as described in the Engineering Design Manual.

2. Multi-Family Residential Landscaping Requirements

a. Site Standards

- i. A minimum of 10 percent of the site area shall be living landscaping (including grass, ground cover, plants, shrubs, or trees)
- ii. To achieve species diversity on a site, no single species may account for more than 25 percent of the total required trees to be planted on a site.

b. Specific Requirements

The landscaping requirements in Table 2-4 shall apply to all multi-family developments.

Table 2-4: Multi-Family Residential Landscaping Requirements

Buffer Requirements		
A	Landscape Buffer [1] [2] [3]	20 feet in width parallel to front property line
B	Perimeter Buffer	Min. 20 feet in width parallel to side and rear property lines
C	Street Yard Landscaping	15 percent of the area between the front property line and the minimum front setback line shall be dedicated to living landscaping
Tree Requirements		
D	Perimeter trees [4]	1 canopy tree per 30 linear feet or portion thereof; trees may not be clustered
E	Street frontage canopy trees [5]	1 per 30 linear feet; trees along the street frontage may be clustered to facilitate site design
Parking Lot Requirements		
F	Parking Lot Screening	See §2.4.1.D.4 for parking lot requirements
G	Terminus Island	
H	Landscape Island	
Footnotes		

[1] Necessary driveways from the public right-of-way and shared drives shall be allowed to intersect perpendicularly with required landscaping areas in accordance with city regulations, as long as it does not overly degrade the function of the required landscape areas.

[2] Required trees must be planted within the associated landscape buffer along thoroughfares, unless otherwise approved by the Director of Planning.

[3] If the adjacent right-of-way exceeds 200 feet in width, a 30-foot landscape buffer shall be provided.

[4] When the side or rear property line is located in or directly adjacent to a floodplain, existing trees may be used to meet this landscape requirement, regardless of tree species or type.

[5] Trees in a floodplain may be used to meet the requirement for street trees along a public right-of-way.

³ This is a new section to address possible landscaping constraints in developments with smaller lot sizes. Further discussion necessary along with consideration of smaller lots and multi-family housing. There is language in the existing code on useable open space required per townhome unit. That is withheld for now pending further discussion on multi-family and common open space requirements.

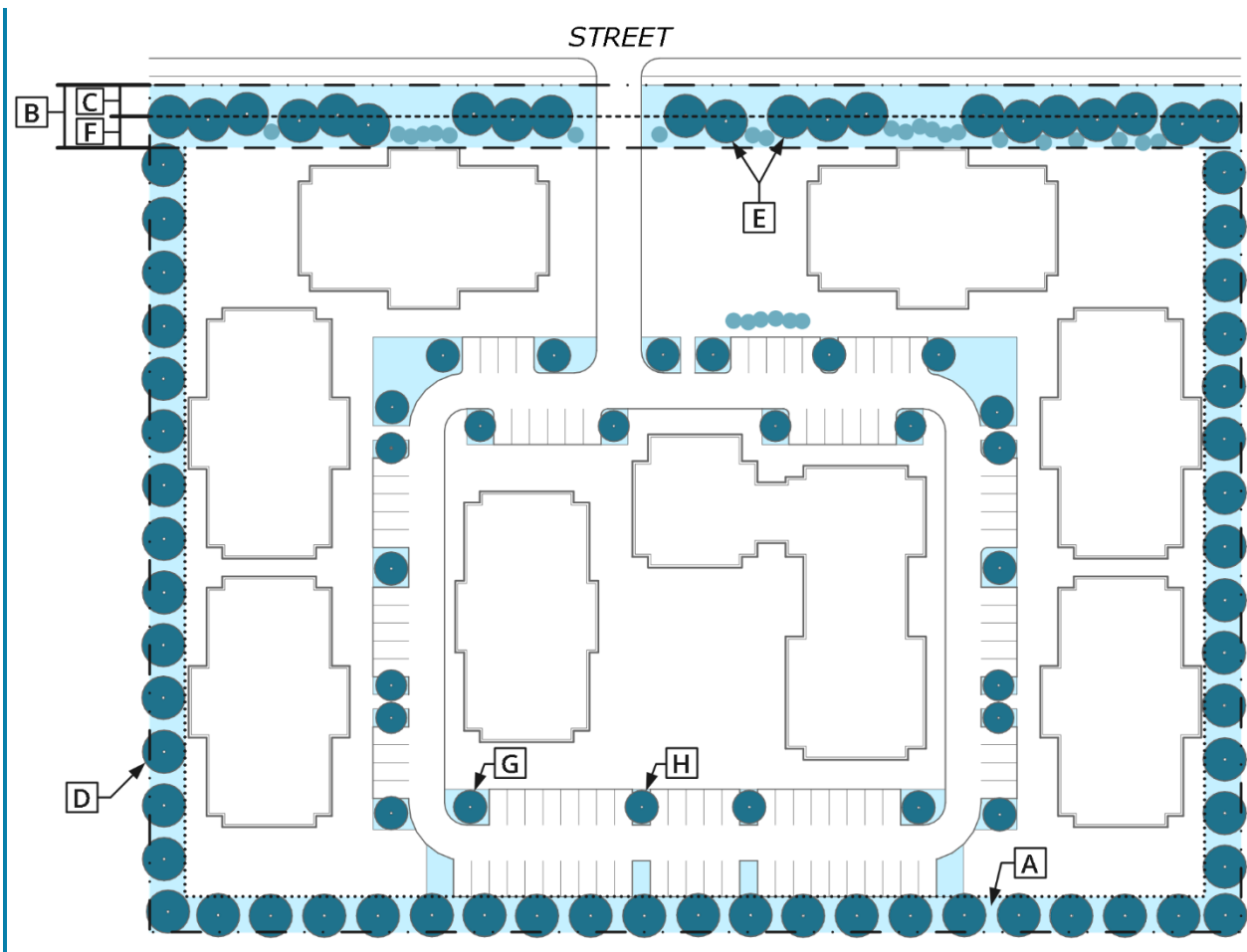


Figure 2-1: Multi-Family Landscaping Requirements

3. Non-Residential Landscaping Requirements

a. Site Standards

- i. A minimum of 10 percent of the site area shall be living landscaping (including grass, ground cover, plants, shrubs, or trees).
- ii. To achieve species diversity on a site, no single species may account for more than 25 percent of the total required trees to be planted on a non-residential site.

b. Specific Requirements

The landscaping requirements in Table 2-5 shall apply to all non-residential developments.

Table 2-5: Non-Residential Landscaping Requirements

Buffer Requirements

A	Landscape Buffer [1] [2]	<i>Based on Adjacent Right-of-Way Width</i>		
	ROW width	0-59 ft	60-199 ft	200+ ft
	Required Buffer Width	10 ft	20 ft	30 ft
B	Perimeter Buffer	Min. 10 feet in width parallel to side and rear property lines		

Table 2-5: Non-Residential Landscaping Requirements**Buffer Requirements**

C	Street Yard Landscaping	15 percent of the area between the front property line and the minimum front setback line shall be dedicated to living landscaping
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Tree Requirements

D	Perimeter trees [3] [4]	Adjacent to residential use or zone: 1 canopy tree per 40 linear feet or portion thereof
E	Street frontage canopy trees [5]	1 per 40 linear feet; trees may be clustered to facilitate site design

Parking Lot Requirements

F	Parking Lot Screening	See §2.4.1.D.4 for parking lot requirements
G	Terminus Island	
H	Landscape Island	

Footnotes

[1] For lots with multiple frontages, all frontages shall observe the greatest minimum landscape buffer width.

[2] Shared drives and driveways as permitted by City regulations to access public rights-of-way shall be allowed through all required landscape buffer areas.

[3]

If loading docks, loading bays, or bays for auto or equipment servicing are oriented toward a public right-of-way, street frontage canopy trees shall be provided at a ratio of 1 tree per 30 feet of frontage within the landscape buffer adjacent to the public right-of-way in lieu of the typical requirement.

[4] When the side or rear property line is located in or directly adjacent to a floodplain, existing trees may be used to meet this landscape requirement, regardless of tree species or type.

[5] Trees in a floodplain may be used to meet the requirement for street trees along a public right-of-way, subject to the approval of the Director of Planning.

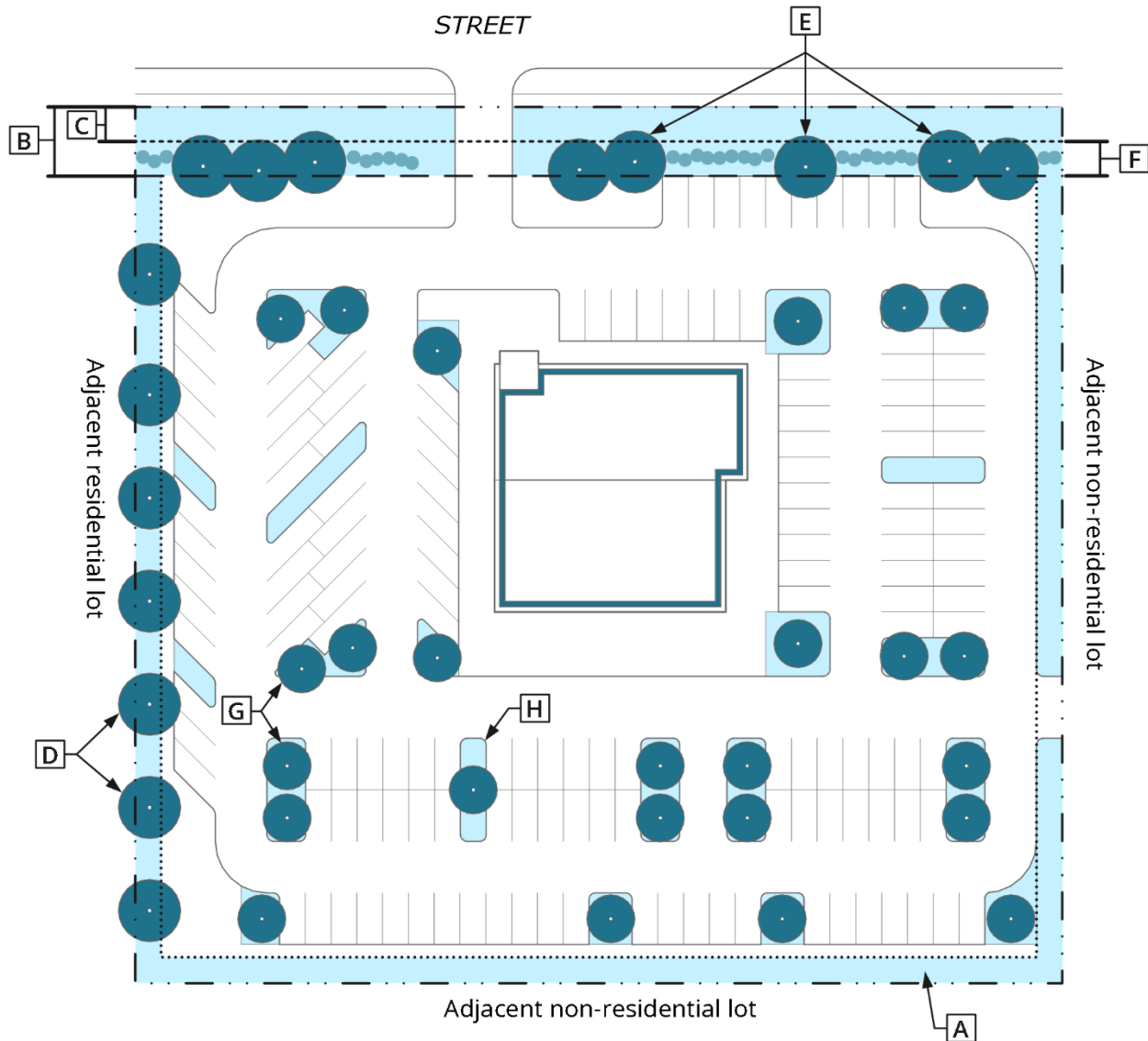


Figure 2-2: Non-Residential Landscaping Requirements

4. Parking Lot Landscape Requirements

a. Site Standards

- i. In parking lots with more than 20 parking spaces, one tree shall be required for every 10 parking spaces.
- ii. Vehicle and equipment display areas shall not be required to provide landscape island and terminus islands.
- iii. Parking lot landscape areas include parking lot perimeter landscaping, landscape islands, and terminus islands and shall:
 - a. Be a minimum of 162 square feet and generally in the shape of a parking space;
 - b. Include a minimum of 50 percent of its area dedicated to living plant material;
 - c. Have no more than 50 percent of its area covered with bark mulch or decomposed granite material; and
 - d. Feature vertical curbs and gutters.

- iv. Vertical curbs and gutters are required to define parking areas and assist in clarifying appropriate circulation patterns.
- b. **Specific Requirements**
The landscaping requirements in Table 2-6 shall apply to all parking lots subject to this section.

Table 2-6: Parking Lot Landscaping Requirements

F	Parking Lot Perimeter Landscaping	An earthen berm or low evergreen shrubs at a minimum of 3-feet in height shall be provided for 75 percent of the frontage of parking areas adjacent to the right-of-way.
G	Terminus Islands	One canopy tree shall be provided in a terminus island at the end of each parking row.
H	Landscape Islands	A minimum of one tree shall be provided within 65 feet of every parking space.
I	Vehicular Use Buffer	Where parking or drive aisles abut a property line, landscaping 5 feet in width is required between the edge of parking and property line and shall include vertical curbs and gutters to define parking areas and assist in clarifying appropriate circulation patterns.

c. Residential Adjacency for Off-Street Parking

Non-residential parking areas shall not be located closer than 20 feet to an adjacent one- to four-unit residential use or district.

5. Alternate Compliance

- a. Alternate Compliance may be requested and granted pursuant to §2.1.X, *Alternate Compliance Review Criteria*, and only for the provisions within subsection D of this section, *Site Specific Landscape Requirements*.
- b. Requests for Alternate Compliance shall only be considered when the total number of trees otherwise required per this section are still provided on the site.

2.4.2. Tree Preservation

COMMENTARY

This section carries forward the content of Chapter 146-136, Tree Preservation, while maintaining the section separate from Landscaping. Additional policy discussions are underway about potential changes to this material, so we have made no revisions yet to the content of this section.

A. Purpose

The purpose of this section is to preserve, protect and enhance existing trees and natural landscapes to contribute to a safe and livable community; to enhance a positive community image that attracts new residents and business enterprises; and to support the long-term viability of existing trees through protection measures that promote the natural ecological, environmental, and aesthetic qualities of the city.

B. Applicability

The provisions of this section shall apply only to properties within the city limits.

1. Plan and Permit Required

- a. A tree removal permit shall be issued by the Director of Planning before critically altering any quality tree or specimen tree pursuant to the procedures outlined in §2.1, *Zoning Procedures*.
- b. Unless otherwise stated herein, a Tree Survey and Tree Preservation Plan shall be prepared and submitted in conjunction with a tree removal permit.

2. New Development

Tree preservation is required as provided in this section for all new developments within the city.

3. Existing Developments

Tree preservation for all existing developments within the City shall be required as follows:

a. One- to Four-Unit Residential

Quality trees 27 inches DBH or greater that are located on an existing one- to four-unit residential lot, regardless of location of the tree on the lot, shall be subject to the tree preservation requirements described in this section.

b. Non-Residential and Multi-Family Residential

Tree preservation is required as provided in this section for all existing non-residential and multi-family residential developments within the city.

4. Exemptions⁴

The following shall be exempt from the tree mitigation requirements described in §2.4.2.D, *Tree Replacement and Mitigation*.

- a. Hike/bike trails, if the alignment has been approved by the Director of Parks;
- b. City owned, parks and sports fields open for public use, if approved by the Director of Parks;
- c. Critical alteration of any quality tree or specimen tree by a utility company in order to maintain appropriate existing utility service, if approved by the Director of Engineering;
- d. Construction of master planned public utilities, if the alignment has been approved by the Director of Engineering;
- e. Stabilization measures to creeks and streams as required by the Director of Engineering; or
- f. Construction of thoroughfares as shown on the Master Thoroughfare Plan, if the alignment has been approved by the Director of Engineering.

C. Tree Preservation Standards

1. Clear-Cutting

Clear-cutting is prohibited unless specifically authorized by a tree permit.

2. Perimeter Tree Zone

If a quality tree 6 inches or greater exists within 15 feet of the boundary line between a proposed development and an existing platted residential development with 4 or fewer units per lot, a perimeter tree zone shall be provided. The perimeter tree zone shall extend 15 feet out from each quality tree 6 inches or greater onto the proposed development for a maximum 30-foot wide perimeter tree zone. No tree within the perimeter tree zone may be critically altered.

⁴ Repetition of "if the alignment has been approved by..." could be eliminated by incorporating this at the end of the intro sentence: "...*Replacement and Mitigation*, if approved by the Director of Parks or the Director of Engineering, as applicable."

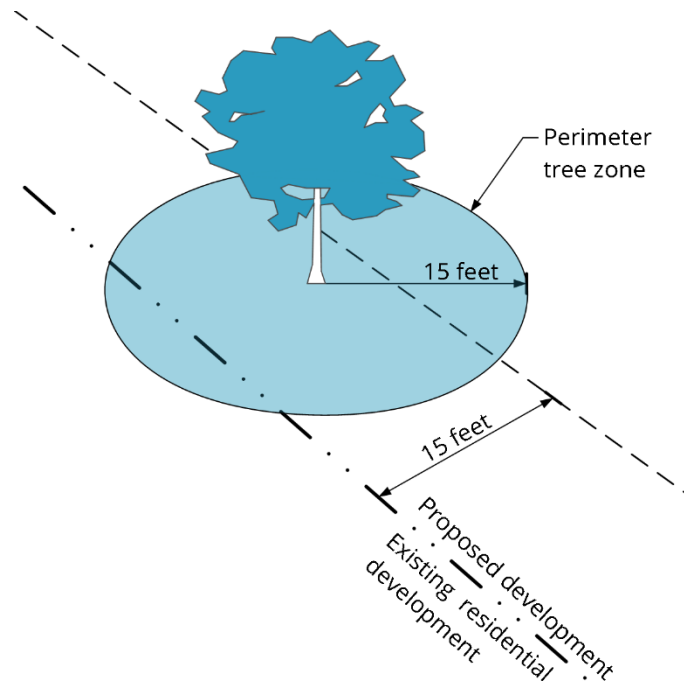


Figure 2-3: Perimeter Tree Zone

3. Floodplain

Within the 100-year fully developed floodplain, no more than 30 percent of quality trees that are 6 inches DBH or greater may be critically altered. However, if the floodplain lies within the interior of property that is zoned for commercial uses, and construction of buildings or parking is to occur on both sides of the floodplain, there is no limitation on the number of trees that may be removed. Additionally, construction of roads that are required by the City to provide cross access to adjacent properties or to provide for a second point of access shall not count against the percentage that can be removed.

4. Specimen Trees

Trees 42 inches DBH and greater shall be considered a specimen tree and may not be removed, nor may the critical root zone be altered. The Director of Planning may approve the removal of specimen trees based on the type of tree, health of the tree, location of the tree on site, elevation of the tree, or impact of the tree on the proposed site or development plan.

5. Quality Trees

Notwithstanding the above provisions, all other quality trees greater than 6 inches DBH are subject to tree replacement except where the tree must be critically altered or removed to:

- a. Install and maintain any utility lines;
- b. Dedicate public rights-of-way;
- c. Construct any public or private streets or alleys at the minimum required width only;
- d. Provide any required easement up to the minimum width needed to accommodate the required service;
- e. Construct any fire lanes at the minimum required width only;
- f. Construct any sidewalks;
- g. Construct any driveways;
- h. Construct fences and screening walls;
- i. Construct patios;
- j. Construct swimming pools and associated deck areas;
- k. Construct required parking;

- l. Install a building pad site;
- m. Construct any hike/bike trails; or
- n. Achieve cut and fill drainage as designed in master drainage construction plan, including required detention or retention ponds. Transitional slopes to the original grade, which are less steep than the maximum allowed slope shall not be exempt.

6. Ground-Level Cuts

Tree trunks must be cut at ground level where removal of a tree may damage root systems of an adjacent tree. Stump grinding in such situations is allowed with the approval of the Director of Planning.

D. Tree Replacement and Mitigation

1. Generally

Unless specifically exempted, the following tree mitigation requirements shall apply to any person who critically alters or removes a quality tree for which a tree removal permit is required. Replacement trees shall be provided pursuant to an approved Tree Preservation Plan and shall be in addition to the trees otherwise required by §2.4.1, *Landscaping*, of this Code.

2. Responsibility

The property owner shall be responsible for replacing a quality tree subject to the provisions of this section if the tree is critically altered, removed, or dies.

3. Size and Number

A sufficient number of canopy trees shall be planted to equal or exceed the quality trees that are critically altered pursuant to Table 2-7, *Tree Replacement Requirements*.

Table 2-7: Tree Replacement Requirements

One- to Four-Unit Residential Developments

DBH of critically altered tree	Replacement ratio (number of trees)	Minimum caliper of replacement tree (at time of planting)
27 inches and greater	1:1	4 inches in caliper and 12 feet in height

Non-Residential and Multi-Family Developments

DBH of critically altered tree	Replacement ratio (DBH removed: caliper inch replaced)	Minimum size of replacement tree (at time of planting)
6-16 inches	1:1	4 inches in caliper and 12 feet in height
17 inches and greater	1:2	6 inches in caliper and 12 feet in height

NOTE: When determining the diameter of each tree(s) being critically altered, individual fractional numbers shall be rounded to the nearest whole number.

4. Location

Each replacement tree shall be planted on the same property as the tree that was critically altered. However, if the Director of Planning deems that the replacement tree cannot be planted on the same property in accordance with acceptable arboriculture standards, the following may be allowed:

- a. Replacement on public property;
- b. Replacement on private property if also approved by the Chief Building Official; or
- c. Require payment to the reforestation fund in accordance with §2.4.2.D.7 of this section.

5. Timing

Replacement trees shall be planted within 90 days of critical alteration. If replacement trees cannot be planted within 90 days of critical alteration, the Director of Planning may approve a delay in replacement of up to 6 months after the date of critical alteration, provided the following conditions are met:

- a. The applicant provides an affidavit that all replacement trees will be planted within 6 months.
- b. The Director of Planning may require a cash deposit or surety bond in the approximate amount of the cost to replace the trees.

6. Tree Preservation Credit

When trees are preserved that would otherwise have been exempt from the tree replacement and mitigation requirements, credit may be approved in accordance with §2.4.1.C.2.c, *Tree Preservation Credit*.

7. Reforestation Fund

If an applicant cannot replace trees on the same property or gain approval to plant on an alternate site, a payment into the reforestation fund shall be required as follows:

- a. The amount of payment required for each replacement tree shall be calculated based on a schedule published and reviewed annually by the Director of Planning which sets forth the average cost of a quality tree added to the average cost of planting a tree.
- b. It shall be the responsibility of the Director of Planning to develop and administer a written plan for the planting, growing, replanting, and appropriate irrigation of trees on all municipal and public domain property. The Planning and Zoning Commission shall present the plan to the City Council and, when adopted by the City Council, the plan shall represent the reforestation plan for the City.
- c. Reforestation funds shall be expended only for purchasing, planting, growing and/or irrigating trees as per the City's reforestation plan. Reforestation funds shall not be used for routine maintenance.
- d. Funds paid into the reforestation fund shall be spent within 5 years of payment or shall be returned to the payer.
- e. The Director of Planning shall submit periodic reports to the City Council of the deposits and disbursements from the reforestation fund.

E. Tree Protection

The following procedures shall apply to all trees being preserved on- or off-site, unless specifically exempted.

1. Construction Plan Requirements

All construction plans shall indicate tree protection measures.

2. Activities Prohibited in Primary Root Zone

The following activities are prohibited within the limits of the primary root zone of any protected tree subject to the requirements of this section.

a. Material Storage

No materials intended for use in construction or waste materials shall be placed within the limits of the primary root zone of any protected tree.

b. Equipment Cleaning/Liquid Disposal

No cleaning or other liquids shall be deposited or allowed to flow over land within the limits of the primary root zone of a protected tree. This includes, but is not limited to, paint, oil, solvents, asphalt, concrete, mortar, or similar materials.

c. Tree Attachments

No signs, wires, or other attachments, other than those of a protective nature, shall be attached to any protected tree.

d. Construction Equipment/Vehicular Traffic

Unless otherwise approved by the Director of Planning, no vehicular and/or construction equipment traffic or parking shall take place within the limits of the primary root zone of any protected tree other than on existing street pavement. This restriction does not apply to single incident access within the primary root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance, emergency restoration of utility service, or routine mowing operations. No heavy equipment, including, but not limited to, trucks, tractors, trailers, bulldozers, and bobcat tractors, shall be allowed inside the drip-line of any protected tree on any construction site without the specific approval of the Director of Planning.

e. Grade Changes

Unless specifically allowed by this section, no grade changes shall be allowed within the limits of the primary root zone of any protected tree unless the Director of Planning and/or the Director of Engineering approves adequate construction methods.

f. Impervious Paving near Nonexempt Trees

Unless a health, safety, and welfare issue arises due to access and circulation requirements, no paving with asphalt, concrete or other impervious materials may be placed within 75 percent of the limits of the primary root zone of a protected tree except as otherwise allowed in this section.

g. Impervious Paving near Exempt, Preserved Trees

Unless otherwise approved by the Director of Planning, for any exempt tree that is being preserved the following shall apply:

- i. No paving with asphalt, concrete, or other impervious materials may be placed within a 5-foot radius of the trunk; and
- ii. A total of 400 square feet of area on the primary root zone shall be kept free of impervious materials. This pervious area may be in the shape of a circle, rectangle, or other shape, and shall include and be contiguous with the area within a 5-foot radius of the trunk.

3. Protective Measures Required Prior to Construction

Prior to the commencement of any site work or construction, the contractor shall construct and maintain a protective fence and bark protection around each tree being protected under the provisions of this section, where necessary, until all work on site has been completed. See Illustrations for Tree Protection Standards in the Administrative Manual.

4. Construction Methods**a. Boring**

Where it is not possible to trench around the primary root zone of the protected tree, boring of utilities under protected trees shall be required. When required, the length of the bore shall be the width of the primary root zone at a minimum and shall be a minimum depth of 48 inches.

b. Grade Change

The Director of Planning and/or the Director of Engineering may approve a grade change within the primary root zone of a protected tree as per this section.

c. Trenching

Trenching shall be designed to avoid the primary root zone of any protected tree, unless otherwise approved by the Director of Planning. Mechanical trenching within the primary root zone shall be prohibited. Trenching by hand shall not critically alter the root system. The placement of irrigation systems and underground utility lines such as electric, phone, gas, etc., shall be located outside of the primary root zone of protected trees. The minimum required single head supply line for irrigation systems is allowed to extend into the primary root zone perpendicular to the tree trunk and in the manner that has the least possible encroachment into the primary root zone.

d. Root Pruning

All roots two inches or larger in caliper, which are exposed as a result of trenching or other excavation, shall be cut off square.

2.4.3. Screening

A. Purpose

The purpose of this section is to mitigate or minimize potential conflicts between adjacent land uses, protect the privacy and value of adjacent land uses, and provide minimum standards for the provision of screening devices.

B. Applicability

This section shall apply in all zoning districts within the city. However, it shall not apply to public parks, as defined in Chapter 74, Parks and Recreation, in any zoning district.

1. Plan and Permit Required

- The provisions of this section shall be shown on a site plan pursuant to the procedures outlined in §2.1.6, *Site Plan*.
- The site plan shall be approved prior to issuance of a building permit.

C. Screening Requirements

A screening device shall be installed and maintained in all locations and in accordance with all provisions specified below. Prior to the issuance of an occupancy permit, all required screening devices shall be in place. All screening devices shall be permanently and continually maintained in a neat and orderly manner as a condition of use.

1. Screening of Uses Required

Uses must be screened in compliance with the requirements set forth below in Table 2-8.

Table 2-8: Screening of Uses Requirements				
Site Feature	Requirements	Minimum	Maximum	
		All districts	Non-industrial districts	Industrial districts
Residential developments with 4 or fewer units per lot [1]	Screening required in accordance with §3.4.4, <i>Screening and Buffering of Residential Lots Adjacent to Streets</i> Not subject to alternate compliance			
Multi-family residential developments [1]	Screen along all side and rear property lines with a solid masonry screening device.	6 feet	8 feet, 4 inches	10 feet
Non-residential developments [1]	Screen along all side and rear property lines where adjacent to existing residential uses	6 feet	8 feet, 4 inches	10 feet
Contractor's Yard, Impound Lot or Yard, and Salvage Yard	Shall be enclosed with a screening device except associated offices and customer parking	7 feet	8 feet, 4 inches	10 feet
MTC – McKinney Town Center Zoning District	See §2.4.3.C.2 below, <i>Screening between uses within the MTC – McKinney Town Center District</i>			

[1] Exception: not required if an approved screening device already exists along the property line.

2. Screening Between Uses Within the MTC – McKinney Town Center District

- a. A street screening device (minimum 2 feet and maximum 4 feet high) shall be placed along any pedestrian priority "A" or "B" street frontage that is not defined by a building or driveway within the build-to zone. This required street screening device shall be placed at the front edge of the build-to zone along the pedestrian priority "A" or "B" street.
- b. A residential transition area screening device (minimum 6 feet and maximum 8 feet high) shall be placed along any property line between any new building construction or upper story addition to an existing building and any existing single-family detached residential use. This standard shall not apply when a single-family detached dwelling, single-family attached dwelling, or two-family dwelling is to be located adjacent to an existing single-family detached residential use. This standard shall not apply when an improved public street or railroad right-of-way separates the new building construction from the existing single-family detached residential use.
- c. See also the building form and site development standards of the MTC McKinney Town Center zoning district.
- d. The Director of Planning shall administratively approve a street screening or residential transition area screening device of either:
 - i. The same finishing material as the principal structure on the lot;
 - ii. Masonry (brick, stone, or architectural masonry finish);
 - iii. A living plant screen composed of evergreen shrubs planted to be opaque at maturity; or
 - iv. A combination of the above.
- e. The provisions of this subsection shall not be eligible for alternate compliance.

3. Screening of Site Features Required

Site features must be screened in compliance with the requirements set forth below in Table 2-9.

Table 2-9: Site Feature Screening Requirements

Site Feature	Requirements	Minimum	Maximum	
		All districts	Non-industrial districts	Industrial districts
Outdoor Storage	Screen from public view and from adjacent residential. No materials shall be stacked higher than the top of the required screening device. Wall openings shall not exceed 26 feet in width and shall have an opaque gate or door.	7 feet	8 feet, 4 inches	10 feet
Overnight Vehicle Storage	Vehicles awaiting repair or service for more than 24 hours or after the close of business, including their parking spaces, shall be screened from public view and from adjacent residential property.	6 feet	8 feet, 4 inches	10 feet
Loading Docks and Loading Bays	Loading docks and loading bays shall be screened with a door that is primarily opaque when closed.			
Bays for Auto or Equipment Servicing	Bays shall be oriented away from single-family residential. Bays shall be screened with a door that is finished with glass and shall be constructed to appear as a window when closed.			

Table 2-9: Site Feature Screening Requirements

Site Feature	Requirements	Minimum	Maximum	
Mechanical, Heating, and Air Conditioning Equipment (Non-residential and multi-family residential uses only)	Roof-Mounted Equipment shall be: Screened from public view and from adjacent residential property. Screened with material that is consistent with the building materials of the structure on which the equipment is placed.	One foot taller than the equipment	One foot taller than the equipment	One foot taller than the equipment
	Ground-Level Equipment shall: Be screened from public view and from adjacent residential property. Provide screening materials that are opaque and of an architecturally finished material; or creates a screening effect using evergreen shrubs for screening purposes, which shall be considered acceptable if provided in accordance with §2.4.2, <i>Landscaping</i> .	Equal to height of the equipment	8 feet, 4 inches	10 feet
	Equipment Flush with Building shall be: Completely contained within the exterior of a building or structure. Integrated into the overall exterior of the building. Not readily visible or identifiable as mechanical, heating, and air conditioning equipment.			
Refuse and Sanitation Containers	See §2.4.4, <i>Refuse and Sanitation Containers</i> . Not subject to alternate compliance.	7 feet	8 feet, 4 inches	10 feet
Service Vehicles	Service vehicles shall be screened from adjacent public rights-of-way and adjacent residential uses or zones.	7 feet	8 feet, 4 inches	10 feet

4. Screening Device Standards

a. Minimum Requirements for All Screening Devices

- All required screening devices must be equally finished on both sides.
- All openings in the surface for passage shall be equipped with gates equal in height and screening characteristics specified above, but need not be of the same material as the main fence or wall.

b. Materials

Screening device materials shall consist of:

Table 2-10: Screening Device Materials

Material	Standards
Masonry	Brick, stone, or other architectural masonry finish

Table 2-10: Screening Device Materials

Metal with Masonry Columns and Landscaping	Primed and painted tubular steel, or wrought iron with masonry columns spaced a maximum of 20 feet on center with structural supports spaced every 10 feet. Plus, evergreen landscaping at least 3 feet in height at planting and spaced 3 feet apart on center, to create a solid screening effect
Alternate Screening Device	As approved per §2.4.3.C.5, <i>Alternate Compliance</i> .

5. Alternate Compliance

Alternate Compliance may be requested and granted pursuant to and only for the provisions within §2.4.3.C, *Screening Requirements*. Requests for Alternate Compliance shall be subject to the following evaluation criteria:

- a. The alternate design meets the purpose of this section;
- b. The minimum height of the required screening device is not reduced;
- c. The alternate design is compatible with existing and anticipated future adjacent land uses;
- d. The alternate design will not have an adverse impact on adjacent existing or future developments;
- e. The alternate design will not have an adverse impact on public health, safety and general welfare; and
- f. The alternate design is not solely proposed to reduce financial costs or serve as a convenience to the applicant.

2.4.4. Refuse and Sanitation Containers**A. Purpose**

The purpose of this section is to mitigate or minimize potential conflicts between adjacent land uses, protect the privacy and value of adjacent land uses, and provide minimum standards for the provision of refuse and sanitation containers

B. Applicability

The requirements listed below apply to all non-residential and multi-family residential uses. All refuse and sanitation containers shall be subject to the review and approval of the Environmental Services Division. Any deviation from these standards shall require review and approval of the Environmental Services Division.

C. Plan and Permit Required

- The provisions of this section shall be shown on a site plan pursuant to the procedures outlined in §2.1.6, *Site Plan*.
- The site plan shall be approved prior to issuance of a building permit.

D. Containers Required

The following number of refuse and sanitation containers shall be required for commercial and multi-family uses:

Table 2-11: Non-Residential and Multi-Family Residential Use Refuse Container Requirements

Development Size	Enclosures Required
Under 2,000 sq. ft.	One single enclosure for use with residential style cart(s), or one commercial garbage, trash, or refuse container.
2,000 to 10,000 sq. ft.	One double enclosure if multiple restaurants are included. Environmental Services Division may require multiple double enclosures for use with commercial garbage, trash, or refuse container(s).

Table 2-11: Non-Residential and Multi-Family Residential Use Refuse Container Requirements

Development Size	Enclosures Required
10,001 to 20,000 sq. ft.	One double enclosure or one compactor enclosure for use with commercial garbage, trash, or refuse container(s).
20,001 to 40,000 sq. ft.	Multiple double enclosures or one single compactor enclosure centrally located within the development.
Over 40,000 sq. ft.	Multiple compactors and enclosures for use with commercial garbage, trash, or refuse containers, with the approval of the Environmental Services Division.

E. Location, Access, and Maneuverability Requirements

Enclosures shall:

1. Be located behind the front of the main building unless no other option is available.
2. Provide a minimum of 40 feet of straight back-up distance, as measured from the front gates of the enclosure, to accommodate a sanitation truck's maneuverability. If special circumstances prevent the provision of straight back-up distance, the Environmental Services Division shall have the authority to approve angled or alternative backing movements.
3. Provide a 24-foot vertical clear zone.
4. Be located so as to facilitate pickup by refuse collection agencies. Sanitation containers shall not be located in a designated parking space or loading area. Reinforced concrete pavement shall be provided for refuse facilities and their approaches for loading and unloading.

F. Screening Requirements

1. Garbage, trash, or refuse containers shall be fully screened on all sides.
2. If carts are approved by the Environmental Services Division, the height of the screening device shall be one foot above the height of the carts.
3. Screening materials shall be masonry and the same color as the exterior walls of the main structure.
4. A solid metal gate shall be provided. Gates shall be kept closed except when in use for access. Gate doors shall not be allowed to swing into the fire lane, drive aisle, or obstruct vehicular visibility.
5. Sanitation containers shall meet the screening and landscaping requirements as defined in §2.4.1, *Landscaping*.

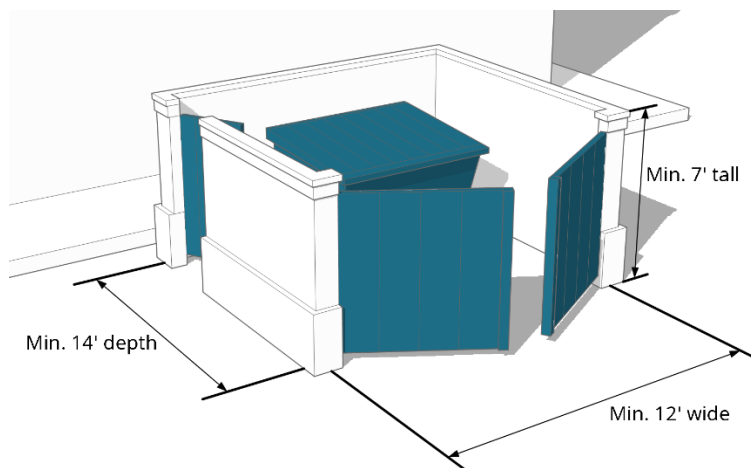


Figure 2-4: Refuse Container Screening

G. Enclosure Size Requirements

Table 2-12: Non-Residential and Multi-family Trash Enclosure Size Requirements		
Enclosure Type	Width (inside wall measurement)	Depth (inside wall measurement)
Single Container	12 feet	14 feet
Double Container	5.5 feet	14 feet
Single Compactor, Self-contained	14 feet	34 feet
Single Compactor, Stationary	14 feet	40 feet
Double Trash Compactor	28 feet	40 feet

H. Residential Adjacency for Refuse Container Enclosures

Refuse container enclosures shall not be located within 20 feet of an adjacent one- to four-family residential use or district, unless no alternative location is available.

2.4.5. Vehicle Parking and Loading

COMMENTARY

Updates to this section generally focus on allowing additional flexibility in determining required minimum parking and, where appropriate, suggesting further reductions in required minimums. The changes to this section include:

- 1) **Greater detail on ways to request adjustments.** Current regulations allow for both a determination by the Director of Planning, and the submission of a parking demand study. This draft expands the number of situations in which these possibilities are available, and in the case of the parking demand study, adds consistency and detail to the process for pursuing them. To allow an alternative to reliance on such studies, we also propose a development threshold beneath which a decision can be made without resorting to a study.
- 2) **Adjustments to the parking schedule.** See commentary preceding the table.
- 3) **Additional ways to reduce minimum required on-site parking.** All possible measures for requesting a reduction in required parking are in Section 2.4.6.E, *Adjustments to Minimum Parking Required*, including shared parking (updated) and loading. This section also proposes a change to the cumulative allowed reductions, increasing it from the current maximum of 10 percent up to a possible cumulative reduction of 25 percent of required parking.

A. Purpose

The purpose of this section is to establish the number of required off-street vehicular parking spaces to provide for the needs of occupants, customers, visitors or others involved in the use or occupancy of any building or structure, to eliminate the undue use of the surface street system for parking purposes, to require allocation of sufficient off-street/on-site loading facilities by business and industry which ensures that the loading and unloading of vehicles will not interfere with traffic flow or block roadways and/or fire lanes, to promote and protect the public health, safety, comfort, convenience and general welfare, and to grant and define the administrative powers and duties necessary to enforce these requirements.

B. Applicability

Except as otherwise provided in this §2.4.6, *Vehicle Parking*, and in situations as described in §1.10.6, *Legal Nonconforming Site Conditions or Features*, the standards in this section shall apply to all development in all zoning districts and for all uses listed in Table 2-13: *Minimum Vehicle Parking and Stacking Requirements*, at the ratios specified, when there is:

1. New Development

- a. A new principal structure is constructed; or
- b. An existing principal structure is relocated to the lot.

2. Expansion or Enlargement

For any expansion or enlargement that results in changed or enlarged floor area, number of dwelling units, seating capacity, or otherwise creates a need for an increase in the number of existing parking spaces required by Table 2-13, such parking spaces shall be provided on the basis of the expansion or enlargement.

3. Change of Use

Except as otherwise specified in §2.4.6.C.3 below regarding multiple tenants or occupants on a site, on-site parking shall be provided in compliance with the schedule described in Table 2-13 for any change of use that increases the minimum number of required vehicle parking spaces above those that currently exist on the site or on permitted off-site locations.

4. Change of Parking Area Requires Approval

At no time after initial approval of the parking area layout can changes be made to the location or number of provided spaces, unless approved through the site plan process, or through the processes described in §2.4.6.D, *Parking Modifications and Reductions*.

5. Exceptions

Refer to Article 8: MTC -- McKinney Town Center of this Code for parking requirements specifically applicable to the MTC -- McKinney Town Center zoning district.

6. Plan and Permit Required

- a. The provisions of this section shall be shown on a site plan pursuant to the procedures outlined in §2.1.6, *Site Plan*.
- b. The site plan shall be approved prior to issuance of a building permit.

C. Parking Calculations

1. Generally

- a. All parking and requirements that are based on square footage shall be calculated on the basis of gross floor area of the subject use, unless otherwise specified.
- b. Parking spaces intended for storage of business vehicles, such as fleet vehicles, delivery vehicles, or vehicles on display associated with sales or rental shall not be included in the calculation of vehicle parking requirements unless otherwise stated.

2. Fractions

- a. When measurements of the number of required vehicle parking spaces result in a fractional number, any fraction of 0.5 or larger shall be rounded up to the next higher whole number.
- b. When calculating parking requirements for a combination of uses, individual fractional numbers are not subject to rounding. Only the cumulative total of the combined uses is subject to rounding.

3. Parking for Multiple Uses

- a. With the exception of shopping centers and industrial flex center uses, lots containing more than one use shall provide parking spaces equal to the sum of the requirements of the various uses computed separately or based on the shared parking calculations in §2.4.5.D.3.
- b. For shopping centers and industrial flex centers, changes in the use of tenant spaces over time shall not generate a change in the minimum parking requirement as reflected on the approved site plan. However, once a site plan is approved that reflects the minimum required parking for shopping centers or industrial flex centers, modifications to the site plan to further reduce the required parking under the provisions outlined in §2.4.5.D, *Parking Modifications and Reductions*, shall not be permitted, unless approved by the Planning and Zoning Commission through the site plan modification process.

ADJUSTMENTS TO AMOUNT OF PARKING

This section and *Table 2-13: Minimum Vehicle Parking and Stacking Requirements* propose the following changes:

Adjustments to the parking schedule: To propose further adjustments and reductions in this section, we have reviewed McKinney's current parking schedule (146-130) and compared this against Institute of Traffic Engineer (ITE) recommendations, as well as against the parking requirements in comparable cities (Plano, Allen, Frisco, Denton, and Arlington). We then took into consideration staff's request to further reduce parking requirements by a modest measure, and make such suggestions where comparisons indicate an opportunity to more closely align McKinney's requirements with those of nearby communities.

4. Minimum Required On-Site Parking

Unless otherwise specified by this Ordinance, each development or land use as listed in §2.3.2.E, *Table of Allowed Uses*, in the City of McKinney shall provide the minimum required on-site parking and stacking lanes in compliance with the schedule specified in Table 2-13: *Minimum Vehicle Parking and Stacking Requirements*. Where different requirements apply to one or more zoning districts, those requirements are noted after the general requirement.

5. Unlisted Uses

For uses not expressly listed in Table 2-13, the Director of Planning shall have the authority to make the following determinations in conjunction with a site plan consideration:

- a. Apply the minimum on-site parking space requirement specified in Table 2-13 for the listed use that is deemed most similar to the proposed use; or
- b. Establish the minimum on-site parking space requirement by reference to standards in parking resources published by the National Parking Association, American Planning Association, Institute

of Transportation Engineers (ITE) (5th edition of Parking Generation Manual) or other acceptable sources of parking data.

6. Minimum Required Number of Vehicle Stacking Spaces⁵

All uses with drive-through facilities or vehicle stacking requirements shall provide the minimum number of on-site stacking spaces indicated in Table 2-13, and shall comply with all applicable standards in this section.

COMMENTARY

The central column, to the right of the uses, lists the current parking requirements from Section 146-130, while the right column is the proposed requirement, generally aligned with short-term amendment recommendations. Where applicable, we have also added the information if the proposed parking requirements reflects that of a comparable city.

Staff had asked about a separate table to look at suggested changes to stacking requirements. There are no differences in stacking requirements between short-term amendments and current recommendations. In the three instances (bank, car wash, high school) where there is a difference between the Section 146-130 stacking lane requirements and the current recommendations, we have used red and green highlighting in the table to point that out, hoping it would be a greater convenience to be able to review all information in one table.

NOTE: Where the "Current Requirement" column is blank, the use is new, or an existing use does not specify parking requirements.

Table 2-13: Minimum Vehicle Parking and Stacking Requirements

Abbreviations: DU = dwelling unit Sq. ft. = square feet

Note: All requirements refer to gross floor area, unless otherwise specified.

	Current Requirement (146-130)	Proposed Requirement
Residential Uses		
Dwelling, manufactured home		2 spaces per DU
Dwelling, mobile home	2 per DU	2 spaces per DU
Dwelling, multi-family	For dwelling units not located in the Commercial Historic district: 1 parking space for each dwelling unit plus 0.5 space for each bedroom in all dwelling units. No less than 50% of the units shall have an enclosed parking space. The percentage of required enclosed parking may be reduced as provided for in section 146-130(2)(f)(v). Enclosed parking spaces may include, but not be limited to an open-air, multi-level parking structure (excluding the top floor of said structure), tuck-under parking, and a detached garage(s). If a garage door is associated with the enclosed parking space, a 20-foot long driveway in front of the garage door shall be provided or an additional 0.5 parking space per enclosed space shall be provided elsewhere on-site. The 20-foot driveway in front of a garage door may be counted as a parking space.	2 spaces per DU Minimum 50% of all parking spaces shall be enclosed; amount enclosed may be reduced to no less than 30%, as part of site plan process. Minimum 50% of all parking spaces shall be provided in structured parking; amount of structured parking may be reduced to no less than 30%, as part of site plan process.

⁵ This section has been removed from the edited draft received from staff. However, as stacking space requirements still appear in the table, we maintained the provision for now. Please advise if it should be deleted.

Table 2-13: Minimum Vehicle Parking and Stacking Requirements**Abbreviations: DU = dwelling unit Sq. ft. = square feet***Note: All requirements refer to gross floor area, unless otherwise specified.*

Current Requirement (146-130)		Proposed Requirement
	For dwelling units located in the Commercial Historic district as defined in section 146-97: 1 parking space for each dwelling unit shall be provided.	
Dwelling, single-family attached (townhome)	2 parking spaces for each unit including 2 covered or enclosed spaces	4 spaces per DU, 2 of which must be enclosed and on-site. Up to 2 required spaces may be provided off-site within a common area owned and maintained by the HOA. If parking is provided off-site, the common area shall be located within 500 feet of the lots they are serving. FR zoning district: 2 spaces per DU, minimum 50% enclosed. H overlay: 2 spaces per DU NOTE: If a dwelling is constructed under a program for affordable housing sponsored by the city or sponsored by a non-profit corporation approved by the City, 2 parking spaces must be provided for each unit, including a minimum of 1 covered or enclosed space.
Dwelling, single-family detached	2 parking spaces for each unit including 2 covered or enclosed spaces, except that if a dwelling is constructed under a program for affordable housing sponsored by the City or sponsored by a non-profit corporation approved by the City 2 parking spaces must be provided for each unit, including a minimum of 1 covered or enclosed space.	
Dwelling, duplex (two units per building)	2 parking spaces for every unit, including 1 covered or enclosed space	
Dwelling, triplex (three units per building)	2 parking spaces for every unit, including 1 covered or enclosed space	
Dwelling, quadplex (four units per building)	2 parking spaces for every unit, including 1 covered or enclosed space	
Group care home, FHAA small		1 space per 5 beds
Group care home, FHAA large		1 space per 5 beds
Manufactured or mobile home park	2 parking spaces for each mobile home plus additional spaces as required herein for accessory uses	2 spaces per DU, plus space(s) as required for office or other on-site uses
Transitional living facility, small (NEW)		1 space per 5 beds
Transitional living facility, large (NEW)		1 space per 5 beds
Non-Residential Uses		
Agricultural and ranching, private or wholesale (NEW)		None required
Agricultural and ranching, retail (NEW)		3 spaces per acre of lot area
Airport, heliport, landing field, and aircraft hangar		None required
Airport terminal (NEW)		None required
Amenity center, neighborhood (NEW)		None required
Animal care and services, indoor only	1 parking space for each 300 square feet of floor space	1 space per 500 sq. ft.
Animal care and services, outdoor area	1 parking space for each 300 square feet of floor space	1 space per 500 sq. ft.
Animal care and services, outdoor boarding	1 parking space for each 300 square feet of floor space	1 space per 500 sq. ft.
Arts or cultural center	10 parking spaces plus one additional space for each 300 square feet of floor	1 space per 300 sq. ft. If an auditorium is included as a part of the building, its floor area

Table 2-13: Minimum Vehicle Parking and Stacking Requirements**Abbreviations: DU = dwelling unit Sq. ft. = square feet***Note: All requirements refer to gross floor area, unless otherwise specified.*

	Current Requirement (146-130)	Proposed Requirement
	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 one space for each 4 seats that it contains.	shall be deducted from the total and additional parking provided at a rate of 1 space for each 4 seats that it contains.
Assisted Living Facility	1 per 4 patient beds	1 space per 5 beds
Auto, motorcycle, truck, or boat, rental and sales	1 parking space for each 500 square feet of sales floor for indoor uses plus 1 parking space for each 1,000 square feet of outdoor display area in addition to spaces calculated for office and repair areas at their respective rates	1 space per 750 sq. ft.
Banks and financial services	1 per 400 sq. ft., plus 5 stacking spaces per drive-through teller or ATM station	1 space per 500 sq. ft., plus 3 stacking spaces per drive-through teller or ATM station. Speaker boxes shall be placed no closer than 20 feet from any residential zone or use. Free-standing ATM stations are not required to provide parking or stacking spaces.
Batch plant	1 parking space for every 1,000 square feet up to 20,000 square feet plus 1 parking space for every 2,000 square feet in excess of 20,000 square feet.	1 space per 1,000 sq. ft. up to 20,000 sq. ft. 1 space for each 2,000 sq. ft. over 20,000 sq. ft.
Bed & breakfast	1 parking space for every guest room plus the parking requirements for a detached single-family dwelling shall apply to the owner/occupant of the facility	1 space per guest room in addition to the requirements for the residential use
Beer and wine sales (NEW)		1 space per 250 sq. ft.
Body art studio (NEW)		1 space per 500 sq. ft.
Car wash	Full service: 1 parking space for every 250 square feet of floor area plus 7 stacking spaces for each wash, vacuum, or gas pump lane. Self-service: 1 parking space for each bay or stall (in addition to washing areas or stalls) plus 3 stacking spaces for each wash bay if automated drive-through or 2 stacking spaces for each wash bay if wand-type.	4 stacking spaces per automated wash tunnel, plus 1 space per 500 sq. ft. of indoor floor area (not including wash tunnel)
Cemetery		None required
City facilities (excluding airport uses) (NEW)		See similar land use categories unless otherwise approved by the City Council via the site plan process.
Civic club or fraternal organization	1 parking space for each 200 square feet of floor area	1 space per 200 sq. ft.
Clinic, medical or dental	1 parking space for each 300 square feet of floor area	1 space per 300 sq. ft.

Table 2-13: Minimum Vehicle Parking and Stacking Requirements

Abbreviations: DU = dwelling unit Sq. ft. = square feet

Note: All requirements refer to gross floor area, unless otherwise specified.

	Current Requirement (146-130)	Proposed Requirement
College or university	10 parking spaces per classroom	10 spaces per classroom, plus 1 space per 500 sq. ft. for buildings and facilities other than classrooms
Commercial entertainment, indoor	<p>1 parking space for each 100 square feet of gross floor area for uses not listed below</p> <p>Amusement center: 1 parking space for every 50 square feet</p> <p>Bingo parlor: 1 parking space for every 3 seats or one for every 100 square feet, whichever is greater</p> <p>Bowling alley: 6 parking spaces for each alley</p> <p>Racquetball or handball courts: 3 parking spaces for each court</p> <p>Indoor tennis court: 6 parking spaces for each court</p> <p>Indoor jogging or running track: 1 parking space for every 300 linear feet</p> <p>Swimming pool: 1 parking space for every 100 square feet of water surface plus deck area</p> <p>Theaters, auditoriums, stadiums, gymnasiums, or similar uses: 1 space per 4 seats</p> <p>Areas for subsidiary uses not listed, such as restaurants, offices, etc.: Calculate required parking for each subsidiary use in addition to the minimum standards for other uses.</p>	<p>1 space per 150 sq. ft.</p> <p>Bowling, miniature golf, axe-throwing or similar use: 2 spaces per lane or hole</p> <p>Theaters, auditoriums, stadiums, gymnasiums, or similar uses: 1 space per 4 seats in assembly areas or 1 per 8 linear feet of seating</p> <p>Sports courts: 4 spaces per court</p> <p>Other Uses: as specified in the current ITE Parking Generation Manual, or determination by Director of Planning</p>
Commercial entertainment, outdoor	<p>Areas with fixed seating or bleachers: 1 parking space for every 4 seats for fixed seating or for every 6 linear feet of benches for bleacher seating</p> <p>Golf course: 5 parking spaces per hole, plus requirements for retail parking, office parking, country club parking, and other uses as applicable</p> <p>Golf driving range: 1.5 parking spaces per driving tee</p>	<p>Stadiums, outdoor theaters, or similar uses: 1 space per 4 individual seats or 1 per 8 linear feet of seating in assembly areas</p> <p>Playing fields: 40 spaces per field. If fixed seating is provided the ratio shall be 1 space per 4 individual seats or 1 per 8 linear feet of seating</p> <p>Golf course: 5 spaces per hole</p> <p>Golf course (miniature golf and driving range): 3 spaces per hole; or 1.5 spaces per driving bay</p>

Table 2-13: Minimum Vehicle Parking and Stacking Requirements

Abbreviations: DU = dwelling unit Sq. ft. = square feet

Note: All requirements refer to gross floor area, unless otherwise specified.

	Current Requirement (146-130)	Proposed Requirement
	<p>Soccer, football, baseball, or other play fields with no fixed seating: 50 spaces per field</p> <p>Tennis courts, basketball courts, or similar recreation courts with no fixed seating: 6 parking spaces per court</p> <p>Neighborhood pool: 1 parking space per 200 square feet of pool surface area (not including wading pools or whirlpool baths) and 1 space per 400 square feet of building area</p> <p>Swimming pool: 1 parking space for every 100 square feet of water surface plus deck area</p>	<p>Sports courts: 4 spaces per court. If fixed seating is provided the ratio shall be 1 space per 4 individual seats or 1 per 8 linear feet of seating</p> <p>Other uses: as specified in the current ITE Parking Generation Manual, or determination by Director of Planning</p>
Commercial laundry		1 space per 1,000 sq. ft. up to 20,000 sq. ft. 1 space for each 2,000 sq. ft. over 20,000 sq. ft.
Community garden	1 parking space for every 21,780 square feet (1/2 acre) of gardening area for gardens that are 21,780 square feet or larger; however, no parking shall be required for gardens with a gardening area of less than 21,780 square feet	None required
Contractor's yard	1 parking space for every 5,000 square feet of lot area, with a minimum of 5 spaces	1 space per 5,000 sq. ft. of lot area, with a minimum of 5 spaces required
Cottage industrial (NEW)		1 space per 4,000 sq. ft.
Country club	1 parking space for each 200 square feet of floor area	1 space per 200 sq. ft.
Data center (NEW)		1 space per 500 sq. ft.
Day care center	1 parking space for every 8 pupils, based on design capacity plus 6 stacking spaces shall be required per drive-through/pick-up lane.	3 spaces per classroom, plus 3 stacking spaces per drive-through/pick-up lane without encroaching into the fire lane
Dirt or topsoil extraction, sand or gravel mining, or storage		1 space per 1,000 sq. ft. up to 20,000 sq. ft. 1 space for each 2,000 sq. ft. over 20,000 sq. ft.
Dispatch office (NEW)		1 space per 400 sq. ft.
Fairgrounds or rodeo grounds ⁶		1 space per 1,000 sq. ft. of lot area up to 20,000 sq. ft.; plus 1 space per additional 2,000 sq. ft. over 20,000 sq. ft.
Farmers' market, permanent	1 parking space for every 250 square feet of market area	1 space per 500 sq. ft. of market area
Food and beverage processing	1 parking space for every 1,000 square feet up to 20,000 square feet plus 1	1 space per 1,000 sq. ft. up to 20,000 sq. ft.

⁶ This use does not appear in staff version of document. Is the intention to remove it as a use?

Table 2-13: Minimum Vehicle Parking and Stacking Requirements**Abbreviations: DU = dwelling unit Sq. ft. = square feet***Note: All requirements refer to gross floor area, unless otherwise specified.*

	Current Requirement (146-130)	Proposed Requirement
	parking space for every 2,000 square feet in excess of 20,000 square feet.	1 space for each 2,000 sq. ft. over 20,000 sq. ft.
Food truck court		1 space per 150 sq. ft. of dining area
Forestry, mining, and oil and natural gas well drilling		1 space per 1,000 sq. ft. of lot area up to 20,000 sq. ft. 1 space for each 2,000 sq. ft. of lot area over 20,000 sq. ft.
Fuel sales, passenger vehicles	1 parking space for every 4 pumping stations. Spaces provided for fueling at the pump stations shall not be considered parking spaces	1 space per 250 sq. ft. of building area
Fuel sales, trucks & commercial vehicles		1 space per 250 sq. ft. of building area
Funeral home or mortuary	1 parking space for each 200 square feet of floor space in slumber rooms, parlors, or individual funeral service rooms	1 space per 250 sq. ft. of building area
Greenhouse or plant nursery		1 space per 250 sq. ft. of indoor area
Gun range, indoor	2 parking spaces for every firing lane and 10 parking spaces for each instructional classroom, if any, plus all other parking requirements for any associated office use and/or retail use within, on and about the premises of the indoor gun range	2 spaces per firing lane; plus 1 space per 200 sq. ft. of retail, classroom, or office area
Gun range, outdoor		2 spaces per firing lane; plus 1 space per 200 sq. ft. of retail, classroom, or office area
Gym or Fitness Studio	1 parking space for every 150 square feet	1 space per 200 sq. ft.
Heavy machinery, rental, sales, and storage	1 parking space for every 400 square feet of gross floor area	1 space per 2,000 sq. ft.
Helistop		None required
Hospital	1 parking space for each bed	1 space per patient bed
Hotel or motel	1 parking space for each sleeping room without a kitchen or 1.5 parking spaces for each sleeping room with a kitchen, plus 1 parking space for every 200 square feet of restaurant, retail, conference, or office area	1 space per guestroom; plus 1 space per 200 sq. ft. of restaurant, retail, conference, or office area
Impound lot or yard		1 space per 10,000 sq. ft. of lot area
Industrial Flex Center (NEW)		1 space per 1,000 sq. ft. up to 40,000 sq. ft. 1 space for each 2,000 sq. ft. over 40,000 sq. ft.
Junk or salvage yard	1 parking space for every 10,000 square feet of lot area.	1 space per 10,000 sq. ft. of lot area
Livestock auction		1 space per 1,000 sq. ft.
Manufacturing, heavy	1 parking space for every 1,000 square feet up to 20,000 square feet plus 1 parking space for every 2,000 square feet in excess of 20,000 square feet	1 space per 1,000 sq. ft. up to 20,000 sq. ft. 1 space for each 2,000 sq. ft. over 20,000 sq. ft.

Table 2-13: Minimum Vehicle Parking and Stacking Requirements

Abbreviations: DU = dwelling unit Sq. ft. = square feet

Note: All requirements refer to gross floor area, unless otherwise specified.

	Current Requirement (146-130)	Proposed Requirement
Manufacturing, light	1 parking space for every 1,000 square feet up to 20,000 square feet plus 1 parking space for every 2,000 square feet in excess of 20,000 square feet	1 space per 1,000 sq. ft. up to 20,000 sq. ft. 1 space for each 2,000 sq. ft. over 20,000 sq. ft.
Microbrewery, distillery, winery or cidery (NEW)	1 per 150 sq. ft. of floor area	1 space per 300 sq. ft. (DNTN)
Motor freight terminal		1 space per 2,000 sq. ft. of lot area (ALLEN)
Office showroom/warehouse		1 space per 750 sq. ft.
Office use	1 parking space for each 400 square feet	1 space per 400 sq. ft.
Parking garage or lot, paid or private		None required
Pawn shop	1 per 250 sq. ft.	1 space per 250 sq. ft.
Personal service	1 parking space for every 250 square feet of floor area	1 space per 250 sq. ft.
Power plant or electrical generating station		None required
Private club	1 parking space for each 150 square feet of floor area, plus 6 stacking spaces from the point where the order is placed	1 space per 150 sq. ft.
Public building or yard (non-city)		1 space per 20,000 sq. ft. of lot area
Radio or TV broadcast station		1 space per 400 sq. ft.
Railroad freight terminal		1 space per 2,000 sq. ft. (ALLEN)
Reception or event center, indoor (NEW)		1 space per 150 sq. ft.
Reception or event center, outdoor (NEW)		1 space per 150 sq. ft.; plus 1 space per 10,000 sq. ft. outdoor event area
Recreation area, private		None required
Recreational vehicles, rental and sales		1 space per 500 sq. ft. of indoor sales/leasing area
Recycling facility (NEW)	1 per 10,000 sq. ft.	1 space per 4,000 sq. ft.
Refining or storage of petroleum, natural gas, butane, propane	1 parking space for every 1,000 square feet up to 20,000 square feet plus 1 parking space for every 2,000 square feet in excess of 20,000 square feet.	1 space per 1,000 sq. ft. of lot area up to 20,000 sq. ft. 1 space for each 2,000 sq. ft. of lot area over 20,000 sq. ft.
Religious assembly	1 parking space for each 3 seats in the main auditorium or assembly hall. If no fixed seating is proposed, 1 parking space shall be provided for every 50 square feet of floor area in the main auditorium or assembly hall.	1 space per 100 sq. ft. of gross floor area of the main sanctuary or auditorium
Restaurant, brew pub (NEW)		1 space per 150 sq. ft.
Restaurant, carry out	1 parking space for each 150 square feet of floor area, plus 6 stacking spaces from the point where the order is placed	1 space per 250 sq. ft., plus 6 stacking spaces from the point where an order is placed if a drive-through is provided

Table 2-13: Minimum Vehicle Parking and Stacking Requirements**Abbreviations: DU = dwelling unit Sq. ft. = square feet***Note: All requirements refer to gross floor area, unless otherwise specified.*

Current Requirement (146-130)		Proposed Requirement
		Speaker boxes shall be placed no closer than 20 feet from any residential zone or use
Restaurant, cloud kitchen (NEW)		1 space per 250 sq. ft., plus 6 stacking spaces from the point where an order is placed if a drive-through is provided Speaker boxes shall be placed no closer than 20 feet from any residential zone or use
Restaurant, dine-in	1 parking space for each 150 square feet of floor area, plus 6 stacking spaces from the point where the order is placed	1 space per 150 sq. ft., plus 6 stacking spaces from the point where the order is placed Speaker boxes shall be placed no closer than 20 feet from any residential zone or use
Restaurant, drive-in or drive-through	1 parking space for each 150 square feet of floor area, plus 6 stacking spaces from the point where the order is placed	1 space per 150 sq. ft., plus 6 stacking spaces from the point where the order is placed Speaker boxes shall be placed no closer than 20 feet from any residential zone or use
Retail sales	1 parking space for every 250 square feet of floor area	1 space per 250 sq. ft.
Sanitary landfill		1 space per 400 sq. ft. of office area
School, business or trade		1 space per 500 sq. ft. of office, workshop, and library area, plus 1 space per 200 sq. ft. of assembly areas and classrooms
School, public, private, or parochial	<p>Elementary: 2.5 parking spaces for each classroom, plus 1 pick-up/drop-off lane consisting of at least 10 stacking spaces</p> <p>Junior high or middle school: 2.5 parking spaces for each classroom plus 1 parking space for each 4 seats in the auditorium plus 1 pick-up/drop-off lane consisting of at least 10 stacking spaces. Additional parking need not be provided for ancillary uses such as swimming pools or practice fields used solely by students and staff. The number of parking spaces required for stadiums or facilities used jointly by the public outside of regular school hours may be reduced by the number of spaces provided for use during regular school hours.</p> <p>High school: 8 parking spaces for each classroom plus 1 parking space for each 4 seats in the main auditorium. Additional parking need not be provided for ancillary uses such as swimming pools or practice fields used solely by students and staff. The</p>	<p>Elementary, junior high, and middle schools: 2.5 spaces per classroom, plus 1 pick-up/drop-off lane with a minimum of 10 stacking spaces</p> <p>High school: 8 spaces per classroom, plus 1 pick-up/drop-off lane with a minimum of 10 stacking spaces</p>

Table 2-13: Minimum Vehicle Parking and Stacking Requirements

Abbreviations: DU = dwelling unit Sq. ft. = square feet

Note: All requirements refer to gross floor area, unless otherwise specified.

	Current Requirement (146-130)	Proposed Requirement
	number of parking spaces required for stadiums or facilities used jointly by the public outside of regular school hours may be reduced by the number of spaces provided for use during regular school hours.	
Self-storage	4 parking spaces. A 12-foot wide loading zone shall be constructed in front of all access areas for each unit and shall not conflict with required fire lanes. A single loading zone may accommodate units on both sides of fire lane	4 spaces required, plus a 12-foot wide loading zone in front of all access areas for each unit. Loading zone shall not conflict with required fire lanes. A single loading zone may accommodate units on both sides of fire lane.
Sexually oriented business		1 space per 250 sq. ft.
Shopping center (NEW)	1 per 200 sq. ft.	1 space per 250 sq. ft. up to 50,000 sq. ft., plus 1 space per 350 sq. ft. over 50,000 sq. ft.
Solar farm		None required
Stable, commercial		1 space per 2 stalls (PLANO)
Stockyard or slaughterhouse		1 space per 1,000 sq. ft. of lot area up to 20,000 sq. ft. 1 space for each 2,000 sq. ft. of lot area over 20,000 sq. ft.
Storage, automobile ⁷ (NEW)		4 spaces for customers
Storage, boat, truck, or recreational vehicle (NEW)		4 spaces for customers
Traders' village (NEW)		1 space per 500 sq. ft. of market area (FRISCO)
Transportation station		None required
Truck stop	1 parking space for each 10,000 square feet of site area plus 1 vehicle space for each 250 square feet of building area	1 space per 300 sq. ft. of site area
Utility substation		None required
Vehicle repair, major (NEW)	2 parking spaces for each service bay with a minimum of 5 spaces plus parking requirements for office and overnight storage of vehicle. For quick lube or similar services, three stacking spaces for each service bay shall also be provided. Spaces provided for fueling at the pump stations shall not be considered parking spaces. All types of motor vehicle service or repair facilities must have a designated area on the site plan for the overnight storage of vehicles awaiting repair. If overnight storage is proposed a minimum of 1 overnight storage	1 space per 750 sq. ft., plus 3 stacking spaces per service lane Facilities shall have a designated on-site area for overnight storage of vehicles awaiting repair

⁷ Because the uses seem comparable, we are proposing 4 spaces for auto or boat/RV storage, aligned with the requirement for self-storage.

Table 2-13: Minimum Vehicle Parking and Stacking Requirements

Abbreviations: DU = dwelling unit Sq. ft. = square feet

Note: All requirements refer to gross floor area, unless otherwise specified.

	Current Requirement (146-130)	Proposed Requirement
	parking space must be provided for each proposed service bay.	
Vehicle repair, minor (NEW)	2 parking spaces for each service bay with a minimum of 5 spaces plus parking requirements for office and overnight storage of vehicle. For quick lube or similar services, three stacking spaces for each service bay shall also be provided. Spaces provided for fueling at the pump stations shall not be considered parking spaces. All types of motor vehicle service or repair facilities must have a designated area on the site plan for the overnight storage of vehicles awaiting repair. If overnight storage is proposed a minimum of 1 overnight storage parking space must be provided for each proposed service bay.	1 space per 750 sq. ft., plus 3 stacking spaces per service lane Facilities shall have a designated on-site area for overnight storage of vehicles awaiting repair
Warehouse	1 parking space for each 4,000 square feet	1 space per 4,000 sq. ft.
Water or wastewater treatment Plant		None required
Wind energy conversion system farm		None required
Wireless telecommunications facility (NEW)		None required
Accessory Uses		
Accessory building or structure		None required
Accessory dwelling unit		1 space if at least 4 spaces are not already provided on-site H Overlay: 1 space if at least 3 spaces are not already provided on-site
Caretaker's or watchman's quarters		1 space
Donation collection container		None required
Dormitory	1 parking space for each 2 beds	1 space per 2 beds
Home occupation		No additional spaces beyond those required for the dwelling
Swimming pool		None required
Temporary Uses		
Batch plant, temporary		1 space per 1,000 sq. ft. to 20,000 sq. ft. 1 space for each 2,000 sq. ft. over 20,000 sq. ft.
Construction field office		1 space per 500 sq. ft. of office area
Model home (NEW)		2 spaces per model home
Portable storage container (NEW)		None required

Table 2-13: Minimum Vehicle Parking and Stacking Requirements

Abbreviations: DU = dwelling unit Sq. ft. = square feet

Note: All requirements refer to gross floor area, unless otherwise specified.

	Current Requirement (146-130)	Proposed Requirement
Religious or philanthropic uses (NEW)		No additional spaces beyond those required for the primary use
Seasonal sales (NEW)		1 space per 500 sq. ft. of sales area
Warming station (NEW)		None required

Notes:

1. No parking or loading area required to satisfy the minimum parking or loading requirements shall be used for storage of inventory, materials, display, sanitation containers, supplies, or for any other use, except for uses as described by the use-specific standards in §2.3.4, or as approved through the site plan process or through the issuance of a temporary use permit. Under no circumstances shall a required parking space be used for any purpose other than parking except as otherwise permitted herein.
2. ADA accessible parking spaces shall be provided according to State of Texas Program for the Elimination of Architectural Barriers and shall conform to the Americans with Disability Act (ADA) of 1991, as amended, accessibility guidelines (ANSI Standards).

D. Parking Modifications and Reductions

1. Parking Reduction Limitations

Except for a parking reduction pursuant to a parking demand study, if one of the parking reductions in this section is utilized, the overall parking reduction shall not exceed 10 percent of the sum of the total required parking for the development. If 2 or more of the parking reductions in this section are utilized, the overall parking reduction shall not exceed 15 percent of the sum of the total required parking for the development.

2. Parking Demand Study

- a. An applicant may submit a parking demand study to demonstrate that anticipated on-site parking demand for the proposed use, development, or combination of uses will be less than that required in Table 2-13.
- b. If the Director of Planning determines that the information and assumptions used in the parking demand study are reasonable and that the study accurately reflects anticipated on-site parking demand, they may approve a reduction in required on-site parking spaces based on said study as part of the site plan process.
- c. The overall reduction in required parking for a proposed use, development, or combination of uses pursuant to a parking study shall not exceed 25 percent of the sum of the total required parking that would have otherwise been required for the development pursuant to Table 2-13, unless a reduction of greater than 25 percent is approved by the Planning and Zoning Commission. Developments that utilize a parking study to determine the on-site parking required shall not be eligible for any other parking reduction.
- d. If the Director of Planning disagrees with the conclusion of the proposed parking demand study, they maintain the authority to deny the requested reduction. The Director of Planning's denial may be appealed to the Planning and Zoning Commission if the appeal request is formally submitted to the Planning Department within 7 calendar days of the denial.
- e. The Planning and Zoning Commission's action on an appeal shall be final.

3. Shared Parking

Under specific circumstances listed below, some off-street parking spaces may be shared between different uses and properties. The Director of Planning may approve a proposed shared parking arrangement during the site planning process for up to 50 percent of the parking spaces required, as shown below in Table 2-14.

Table 2-14: Shared Parking

Option	Requirements
Off-Peak Shared Parking	The peak business hours for the uses within 500 feet of one another which propose to share parking spaces do not overlap as demonstrated by a shared parking demand study provided by the applicant; and If the Director of Planning disagrees with the conclusion of a proposed shared parking demand study, they shall have the authority to deny said study. The Director of Planning's denial may be appealed to the Planning and Zoning Commission if said appeal request is formally submitted to the Planning Department within 7 calendar days of the denial. The Planning and Zoning Commission's action on an appeal shall be final.
Surplus Shared Parking	Parking spaces in excess of the minimum parking requirements exist on a non-residential property within 500 feet; Off-site parking arrangements shall be considered during the site plan process.
Public Parking in the McKinney Town Center (MTC)	Public off-street parking spaces and striped public on-street parking spaces may be used to satisfy up to 100 percent of the use's parking requirements so long as these public parking spaces are located within 200 feet of the use's property. In these cases, no shared parking agreement shall be required.

PARKING AGREEMENTS REQUIRED: For any shared parking arrangement or off-site parking arrangement described above, written agreements ensuring retention of such parking spaces for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form by the city attorney and shall be filed with the county as part of the site plan approval process. The agreement shall meet the following:

- A permanent easement for shared or off-site parking facilities shall be dedicated and recorded as a condition of such use.
- The City shall be made a party to any shared parking agreement necessary for meeting parking requirements.

4. Multi-Family Residential Enclosed Parking Reduction

- As part of the site plan approval process, enclosed parking space requirement for multi-family residential uses may be reduced from no less than 50 percent of the units having an enclosed parking space to no less than 30 percent of the units having an enclosed parking space. The project is subject to the City Council's discretionary approval after consideration by the Planning and Zoning Commission and may be approved if the proposed project satisfies the following:
 - The project represents an innovative or exceptional quality design; and
 - The project represents a significant contribution to the existing and future built environment in the area.
- Reductions in the enclosed parking requirement may not be granted for pecuniary reasons or to serve as a convenience for the development.

5. Tree Preservation

The total required parking for a development may be reduced as indicated in Table 2-15 below if quality tree(s) (as defined in section A-2 of [appendix A](#)), that may otherwise be removed with no mitigation obligation, of the specified diameter is preserved.

Table 2-15: Diameter of Preserved Tree(s)

Tree Size	Parking Space Reduction
6 to 8 inches	2 parking spaces
9 to 15 inches	3 parking spaces
16 to 30 inches	4 parking spaces
31 to 41 inches	5 parking spaces

NOTE: For purposes of this section, caliper measurement shall be taken at a height of 4½ feet above the ground and shall be rounded to the nearest whole number.

E. On-Site Parking Design and Pavement

All on-site parking facilities required by this §2.4.6 shall comply with the minimum requirements for parking and maneuvering space specified in this section, as well as the requirements specified in Table 2-6: *Parking Lot Landscaping Requirements*.

1. On-Site Parking Dimensions and Markings

- a. The minimum dimensions for on-site parking shall be provided as follows:
 - i. Standard space: 9 feet by 18 feet
 - ii. Parallel space: 8 feet by 22 feet
 - iii. Stacking space: 10 feet by 20 feet
- b. Parking spaces shall be clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods.

2. Encroachments

No encroachments shall be permitted into any required parking space. However, if encroachments exist, the required parking space shall be resized to ensure that minimum dimensions for on-site parking are provided.

3. Drive Aisles

The minimum dimensions for drive aisles shall be as follows:

- a. Two-way drive aisles: 24 feet wide
- b. One-way drive aisles with angled parking spaces: 20 feet wide
- c. One-way drive aisles when not provided in conjunction with parking spaces: 12 feet wide
- d. In addition, fire apparatus access roads (fire lanes) shall be provided as required by the Fire Code.

4. Landscaping

All parking for non-residential uses shall meet the landscaping requirements described in §2.4.1.D.3, *Non-Residential Landscaping Requirements*, and Table 2-6: *Parking Lot Landscaping Requirements*.

5. Vehicle Maneuvering

- a. Vehicular access and circulation for the proposed development shall extend internal public roadways, alleyways, and rights-of-way to the boundaries of the development site to ensure that:
 - i. There are at least two vehicular access points to and from an external through street system;
 - ii. Police, fire, and emergency services have convenient and efficient access to the development;
 - iii. Vehicles providing other public services have convenient and efficient access to the development; and
 - iv. Upon future development of any abutting vacant parcels, there are connection points for extending the public roadways system.
- b. All maneuvering of vehicles shall take place on-site or within a mutual access easement. Except as specified in provision c. of this subsection, no public right-of-way shall be used for backing or maneuvering into or from a parking space, or for circulation within a parking lot.
- c. When on-site parking facilities are located adjacent to a public alley, the width of said alley may be assumed to be a portion of the maneuvering space requirement.
- d. In the MTC -- McKinney Town Center zoning district, the Director of Engineering and/or Fire Marshal shall be permitted to allow deviations to the maneuvering standards for on-site parking as needed on a case-by-case basis while ensuring adequate vehicle access, emergency access, sight visibility, and other related engineering design or life safety principles.
- e. For safety and firefighting purposes, cross-access between parking areas of adjacent non-residential parcels shall be provided as required by the Fire Marshal and/or the Director of Engineering.
- f. Vehicle maneuvering shall not occur within the minimum required throat length as specified in the Engineering Design Manual.

6. Driveway and Parking Surfacing Material

a. Residential Uses (Except Multi-Family)

- i. Parking shall only be permitted on a dust-free surface unless the non-dust-free parking surface was in place prior to December 15, 1981.
- ii. Any time a new residential driveway is constructed, the pavement surface shall be as follows:

Table 2-16: Residential Driveway and Surface Parking

Adjacent Street Surface	New Driveway and Parking Surface
Concrete	Concrete
Surface other than concrete	Asphalt or concrete
NOTE: This table shall not apply to the AG, RE1, and RE2 zoning districts.	

- iii. Any time a residential driveway is reconstructed or replaced, the pavement surface shall be as follows:

Table 2-17: Reconstruction or Replacement of Residential Driveway and Parking Surface

Existing Surface	New Surface
Dirt or gravel	Gravel, asphalt, or concrete
Asphalt	Asphalt or concrete
Concrete	Concrete

NOTE: If a dwelling unit is reconstructed or rehabilitated and construction of a new driveway would otherwise be required, lots platted prior to the effective date of Ordinance No. 1270 (December 15, 1981), shall not be required to construct a new driveway.

- iv. All existing paved parking surfaces shall be maintained in a serviceable condition. Deteriorated paving materials and surfaces shall be replaced or reconstructed using materials as described in Table 2-17 above.

b. Non-Residential and Multi-Family Residential Uses

All required on-site parking, maneuvering, and loading areas shall be paved with concrete, unless otherwise approved by the Fire Marshal and/or Director of Engineering. Other surface materials may also be approved through the site plan process for special loading/unloading operations such as storage or use of tracked equipment.

F. On-Site Loading

COMMENTARY

Edits made in this section in conformity with content approved in the short-term amendments.

1. Minimum Requirements

- a. Any non-residential building or site which provides on-site loading shall be subject to the minimum requirements of this section.
- b. For on-site loading requirements in the MTC -- McKinney Town Center zoning district, refer to Article 8 of this Code.
- c. Each loading space shall meet the following minimum size requirements:
 - i. Industrial or warehouse uses: 12 feet by 60 feet
 - ii. Commercial and institutional uses: 12 feet by 35 feet
 - iii. Minimum vertical clearance: 14 feet
- d. Access and maneuvering areas shall be provided on the same building lot as the principal use for which the loading space is intended, unless an access easement is provided on a recorded plat.

- e. Bays for auto or equipment servicing in non-industrial districts shall be oriented away from adjacent residential zones or uses, unless no other option is available.
Distance from property lines for loading docks and loading bays and associated spaces shall be:
 - i. Set back a minimum distance of 200 feet from any adjacent residential use or zoning district; and
 - ii. Set back a minimum distance of 75 feet from any public street or front property line; and
 - iii. Oriented away from the street frontage, unless no other option is available.
- f. Any loading spaces not associated with a loading dock or loading bay shall be set back a minimum distance of 50 feet from any adjacent residential use or zoning district. There shall be no minimum setback if the subject property abuts a non-residential use or lot line.
- g. In instances where a property has more than one street frontage, the bay doors shall be oriented away from the street frontage with the greatest width. If the streets are the same width, then the bay doors shall be oriented away from the property's front lot line.

2.4.6. Architectural Standards

COMMENTARY

This section is based on the current 146-139. The Assessment identified the need to update these standards to align with H.B. 2439, which restricts local governments from regulating building materials or methods of construction. Since the report was written, staff made edits to this section in the fall of 2019 to reflect those limitations, primarily by limiting standards that address such issues to Historically Significant Areas.

Another issue called out in the Assessment was the need for neighborhood transition standards. Originally included as a separate section in the staff draft, we have relocated these based on staff comment to be a subsection of 2.4.7.D, *Standards for Non-Residential Development*, since they all apply to non-residential development greater than three stories when it is within 200 feet of residential uses or zones.

In recognition of staff's request that these standards be re-distributed throughout the document, we propose further discussion as to whether some of these standards would be better incorporated among use-specific standards for non-residential development in the Consolidated Draft.

A. Purpose

This section establishes minimum standards for the appearance of multi-family residential, attached single-family residential (townhome), and non-residential buildings and corresponding site elements that are recognized as enhancing property values and that are in the interest of the general welfare of the City. These standards are not intended to prohibit architectural innovation, nor are they intended to mandate specific architectural styles and concepts.

B. Authority

The requirements of this section are enacted pursuant to the powers granted and limitations imposed by the laws of the state of Texas, including the statutory authority granted in Texas Government Code chapter 3000 and all other relevant laws of the state of Texas.

C. Applicability

The provisions of this section shall only apply to properties within the city limits.

1. Plan and Permit Required

- a. The provisions of this section shall be shown on a façade plan as required, pursuant to the procedures outlined in §2.1.6, *Site Plan*.
- b. The façade plan shall be approved prior to issuance of a building permit.

2. New Development

The standards in this section shall apply to all new development and Significantly Important Buildings⁸ in all zoning districts and for all uses within the Historically Significant Area (HSA) constructed after the effective date of this section.

3. Redevelopment

For the rehabilitation, maintenance, and expansion of existing buildings located within the HSA or for Significantly Important Buildings, the proposed exterior colors and finishing materials shall be of equal or greater quality than the existing building.

4. Illustrations

The illustrations in this section are intended to serve as visual representations of how the associated standards could be satisfied and not how they must be satisfied. The development community is encouraged to seek out new and innovative ways to implement the standards contained in this section that will result in a significant positive contribution to the visual character of the area and the city as a whole.

5. Additional Standards

Additional allowances, modifications, or limitations to the Architectural Standards contained in this section may exist for properties located in the following zoning districts or zoning overlays;

- a. MTC -- McKinney Town Center, see Article 8 of this Code;
- b. H – Historic Overlay District, see §2.2.29.
- c. CC – Corridor Commercial Overlay District, see §2.2.30; and
- d. REC – Regional Employment Center Overlay District, see Appendix X.

6. Exemptions

This section shall not apply to the following:

- a. Portable or temporary buildings for non-profit places of worship or private schools that are screened from the view of adjacent properties and public rights-of-way via a building and/or a minimum 6-foot-tall opaque screening device with canopy trees planted every 30 linear feet of visible exposure.
- b. Portable buildings or temporary buildings for public schools.
- c. Temporary uses defined under §2.3.5.
- d. Buildings for which a site plan for the project was approved prior to the effective date of this section, provided:
 - i. The site plan has not expired;
 - ii. A building permit has been issued; and
 - iii. Construction is underway prior to the expiration of two years from the effective date of the ordinance from which this section is derived.

D. Standards for Residential Development**1. Residential Development in Multi-Family Districts****a. Roof Treatment**

- i. A pitched roof of any style, including, but not limited to, hipped, gabled, or shed roofs shall be acceptable. The roof must cover 100 percent of the total roof area, excluding porches and porte-cocheres. No flat roof line shall be visible from public view.
- ii. A parapet wall shall be acceptable if constructed so that no flat roof shall be visible from public view.
- iii. Standing seam metal roofs, which meet all the criteria of this section shall be acceptable.
- iv. 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.

⁸ A definition for this term would be useful.

b. Exterior Finishing Materials

- i. Each elevation of each building shall be finished with at least 50 percent masonry. Acceptable masonry finishing materials are brick, stone and/or synthetic stone materials including, but not necessarily limited to slate, flagstone, granite, limestone, and marble. The area of exterior finish shall be calculated exclusive of doors and windows.
- ii. The balance of any exterior finishing materials shall be masonry, stucco, EIFS, architecturally finished concrete masonry units (CMU), lap siding (excluding vinyl siding), and/or glass curtain wall systems. Sheet siding fabricated to look like wood lap siding is prohibited. Architecturally finished metal materials, which does not include corrugated metal, shall be allowed on no more than 20 percent of each elevation. Architectural wood accents shall be allowed on no more than 10 percent of each elevation.

c. Exterior Color

- i. One hundred percent of total exterior building surfaces (exclusive of glass) shall be neutrals, creams, pastels, or deep, rich, non-reflective natural or earth-tone colors (including approved finishing materials).
- ii. No more than 6 colors shall be used; however, natural, unaltered materials such as brick or stone used on the building shall not be counted toward the maximum number of colors allowed.

d. Building Massing

- i. Horizontal wall planes longer than 30 feet in width shall be segmented into smaller sections by a structural or ornamental minor facade offset (recess or projection) of a minimum 5 feet deep and 10 feet wide.
- ii. The height of such offsets shall be equal to the building's height at the location of the offset.
- iii. Exterior stairways shall be covered with a roof, roof overhang, or porch and shall be incorporated into the architectural design of the building rather than appearing as an appendage to the building.

e. Windows⁹

Multi-family residential structures located within 150 feet of an adjacent single-family residential use or zone shall be situated so that no exterior-facing window is oriented towards said adjacent single-family residential use or zone. If a right-of-way with an ultimate width of 120 feet or greater is located between said multi-family residential structure and an adjacent single-family residential use or zone, this requirement shall not be applicable. Windows, for the purposes of this subsection, shall be defined as any transparent panel in an otherwise opaque wall surface. Multi-family residential developments subject to the requirements of the REC Regional Employment Center overlay district shall be exempt from this requirement.¹⁰

f. Building Enhancements

All buildings or developments shall be required to provide at least 4 of the following elements:

- i. Each exterior elevation of each building shall be finished with 100 percent masonry. Elevations within internal courtyards and/or elevations that are not visible from adjacent rights-of-way or properties zoned or used for residential purposes shall not be required to satisfy this requirement;
- ii. Each elevation of each building that is visible from the right-of-way or property zoned or used for residential purposes contains two types of complementary masonry finishing materials and each of the materials is used on at least 25 percent of the elevation;
- iii. A minimum of 15 percent of each elevation of each building which is visible from the right-of-way or property zoned or used for residential purposes features patterned brickwork (not including running bond or stacked pattern);

⁹ Relocated from the site design standards in the current ordinance.

¹⁰ Since this is becoming an Appendix, and property owners can develop according to its precepts but are no longer required to, would this last sentence still be applicable?

- iv. At least one dormer is provided for each roof plane over 1,000 square feet in area that faces a public street. The dormer must be appropriately scaled for the roof plane and shall not be wider than the windows on the building elevation below;
- v. All chimneys are finished on all sides with 100 percent masonry finishing materials;
- vi. All windows feature shutters. The shutters provided must be operational or appear operational and must be in scale with the corresponding window;
- vii. All windows are emphasized through the use of molding around the windows, plant ledges, sills, shaped frames, awnings, or another similarly related architectural element;
- viii. Downspouts associated with gutters are internally incorporated into the building's construction rather than attached to the building after construction of the façade is complete; and/or
- ix. Another building enhancement as approved by the Director of Planning as part of the facade plan approval process that is comparable to the significance of the other elements listed herein may count as two of the required elements.

2. Residential Development in Single-Family Zoning Districts

a. Exterior Finishing Materials:

- i. The exterior finish on each elevation of every townhome unit shall be a minimum of 85 percent brick, stone, or synthetic stone materials. The balance of any exterior finishing materials shall be masonry, stucco, EIFS, architecturally finished concrete masonry units (CMU), lap siding (excluding vinyl siding), and/or glass curtain wall systems.
- ii. Sheet siding fabricated to look like wood lap siding is prohibited.
- iii. Architecturally finished metal materials, which does not include corrugated metal, shall be allowed on no more than 20 percent of each elevation.
- iv. Architectural wood accents shall be allowed on no more than 10 percent of each elevation.
- v. The area of exterior finish shall be calculated exclusive of doors and windows.

b. Exemption

Detached single-family dwelling units are exempt from this requirement.

E. Standards for Non-Residential Development

1. Industrial Uses in Industrial Districts

a. Exterior Finishing Materials

- i. One hundred percent of each building elevation facing a public right-of-way shall be finished with brick, stone, synthetic stone, stucco, EIFS, architecturally finished CMU, or architecturally finished concrete tilt-wall.
- ii. Other exterior walls may be finished with metal or any other building material that is allowed by the International Building Code.
- iii. The exterior wall area shall be calculated exclusive of doors and windows.

2. Non-Industrial Uses in Industrial Districts

Buildings shall conform to the provisions of §2.4.6.E.4, *Other Non-Residential Uses in Non-Industrial Districts*, described below.

3. Buildings within the Airport (AP) Zoning District

a. Exterior Finishing Materials

- i. All exterior walls may be metal.
- ii. All building colors shall be neutrals, creams, pastels, or deep, rich, non-reflective natural or earth tone colors.
- iii. No more than one color shall be used for visible roof surfaces.

4. Other Non-Residential Uses in Non-Industrial Districts

a. Exterior Finishing Materials

- i. All elevations for buildings that are 3 stories or less in height shall be finished with at least 50 percent masonry finishing materials. All elevations for buildings that are taller than 3 stories in height shall feature a minimum of 25 percent masonry finishing materials.

- ii. Acceptable exterior finishing materials for the remainder of the building include:
 - a. Masonry (brick, stone, synthetic stone which includes, but is not limited to limestone, granite, and slate);
 - b. Stucco;
 - c. EIFS;
 - d. Architecturally finished CMU;
 - e. Glass curtain wall systems;
 - f. Architecturally finished metal panels (does not include corrugated metal);
 - g. Lap siding (lap siding may include but not be limited to wood or cementitious fiber lap siding but does not include vinyl lap siding or sheet siding fabricated to look like wood lap siding, which sheet siding is prohibited);
 - h. Architectural wood accents that are not to exceed more than 20 percent of any elevation; and
 - i. Another material that is visually and physically indistinguishable from one of the aforementioned exterior finishing materials, subject to review and approval by the Director of Planning.
 - iii. Percentages shall be calculated exclusive of doors, windows and trim.
- b. Exterior Colors**
- i. A minimum of 80 percent of all building elevations shall be finished with complementary neutral, cream, or deep, rich, non-reflective earth tone colors.
 - ii. No more than 20 percent of any building elevation may be finished with bright, pure tone primary or secondary colors. These colors shall be limited to use on accent features including, but not limited to, window and door frames, moldings, cornices, canopies, and awnings.
 - iii. These percentages may be modified by up to 10 percent by the Director of Planning in special cases if the building's elevations maintain sufficient visual continuity.
- c. Building Massing**
- i. All buildings shall utilize façade offsets and appropriate fenestration to add architectural variation and visual interest to an elevation and to break up long uninterrupted walls or elevations. See Figure 2-5.

- ii. At a minimum, elevations that are 50 feet or longer in horizontal length shall be interrupted by at least 2 offsets (projection or recess) from the primary facade plane of at least 18 inches in depth. This requirement may be suspended or reduced in limited cases by the Director of Planning if a proposed building features sufficient architectural interest and composition to make this requirement unnecessary.



Figure 2-5: Examples of Appropriate Building Massing

d. Windows

- i. Windows shall be utilized and scaled appropriately to remain proportionate to the wall plane within which they are located.
- ii. Mirrored glass shall be prohibited.

e. Roof Treatment

- i. Long uninterrupted roof lines and planes that are visible from the public right-of-way or are oriented to properties zoned or used for residential purposes shall be broken into smaller segments using appropriately scaled gables and/or dormers, changes in height, changes in

roof form, type or planes which typically correspond to offsets in the building's facade, or other appropriate architectural elements. This requirement may be suspended or reduced in limited cases by the Director of Planning if a proposed building features sufficient architectural interest and composition to make this requirement unnecessary. See Figure 2-6.



Figure 2-6: Examples of Appropriate Roof Treatments

- ii. Parapet roof lines shall feature a well-defined cornice treatment or another similar architectural element to visually cap each building elevation.
- f. **Additional Requirements**
 - i. Buildings constructed on a pad site within a larger shopping center or non-residential development shall be designed to be architecturally consistent with the other buildings within the development. Architecturally consistent shall generally mean utilizing the same or similar architectural design elements, colors, roof type, and/or building materials.

- ii. Additions to existing buildings shall be designed to match the architectural design features and finishing materials of the existing building to the extent possible.
- iii. The primary entrance for all buildings shall feature a protected entry through the use of a recessed entry, porte-cochere, awning, canopy or similar architectural feature that serves the same purpose. The covering shall be no smaller than three feet in depth when measured from the face of the adjoining facade. Awnings shall be properly maintained by the building owner over time and shall be replaced if they became faded, tattered or otherwise visibly worn. See Figure 2-7.



Figure 2-7: Examples of Appropriate Entry Treatment

- iv. All elevations of each building that are visible from the public right-of-way or are oriented to properties zoned or used for residential purposes shall share the same architectural features and design as the front building elevation.
- v. All buildings and/or their corresponding sites shall provide at least one of the following:
 - a. The building achieves a LEED certification or other green building certifications as approved by the Director of Planning.
 - b. All building elevations feature 100 percent masonry finishing materials.
 - c. All building elevations that are visible from the public right-of-way or are oriented to properties zoned or used for residential purposes feature at least three types of complementary masonry finishing materials.

- d.** All building elevations that are visible from a public right-of-way or are oriented toward properties zoned or used for residential purposes shall feature at least two facade offsets (recess or projection) of at least 5 feet in depth for every 50 feet of horizontal length.
- e.** All building elevations that are visible from the public right-of-way or are oriented toward properties zoned or used for residential purposes feature at least three distinct roof lines.
- f.** All primary and secondary building entrances, excluding emergency exits and service doors, feature a recessed entry, canopy, awning, or similar sheltering feature of at least 50 square feet.
- g.** At least 75 percent of the building's required off-street parking is provided within a structured parking facility.
- h.** The building is designed with a strong base, distinctive middle section and a well-defined cornice feature (tripartite building composition) in order to create a visual sense of organization. See Figure 2-8.



Figure 2-8: Examples of Tripartite Design

- i. The building features at least 2 distinctly different significant architectural design concepts that are not already mandated by these requirements which add to the visual interest of the building, subject to review and approval by the Director of Planning.

F. Parking Facilities

Structured and detached parking facilities shall have architecturally finished facades and shall be complementary on all sides with the surrounding buildings, as determined by the Director of Planning.

2.4.7. Site Design Standards

A. Purpose

This section establishes minimum standards for site elements that are recognized as enhancing property values and that are in the interest of the general welfare of the City.

B. Applicability

The standards in this section shall apply to all residential development in multi-family zoning districts within the city, unless the property is located within the MTC – McKinney Town Center in which case it shall be exempt from these requirements.

C. Plan and Permit Required

1. The provisions of this section shall be shown on a site plan pursuant to the procedures outlined in §2.1.6, *Site Plan*.
2. The site plan shall be approved prior to issuance of a building permit.

D. Amenities

Amenities conforming to the regulations in this section shall be provided in all new multi-family development.

1. Number of Required Amenities

The number of required amenities shall be based on the number of units within the development as set forth in Table 2-18 below:

Table 2-18: Required Amenities for Multi-Family Development

Number of Dwelling Units	Amenities Required
< 20	1
20-99	2
100-179	3
188-259	4
260-519	5
520-999	7
1000+	10

2. Acceptable Amenities

Table 2-19 lists acceptable amenities for purposes of meeting the minimum requirements of this section. Providing two or more of the same amenity shall not count as multiple required amenities unless specifically stated.

Table 2-19: Acceptable Amenities

Type of Amenity	Minimum Size/Capacity	Other Requirements/Notes
Barbecue grills with shaded seating area	4 grills; seating for 16 people	
Dog park	4,000 sq. ft.	<ul style="list-style-type: none"> • Shall be enclosed by a minimum 5-foot tall fence, per §6.2, <i>Fence Standards</i>. • No side of the enclosure shall be shorter than 50 feet in length. • One dog waste station which shall include a bag dispenser and waste receptacle must be installed along the perimeter of the enclosure for every 2,500 square feet of the associated dog park • One 25 square foot animal washing bay (with associated plumbing) is provided in conjunction with the dog park.
Electric vehicle charging stations	3 spaces	<ul style="list-style-type: none"> • Charging stations for at least 3 electric vehicles shall be provided in a centralized location on-site for residents.
Fitness center and/or weight room	500 sq. ft.	

Table 2-19: Acceptable Amenities

Type of Amenity	Minimum Size/Capacity	Other Requirements/Notes
Gazebo(s), arbor(s), and/or shade structure(s)	Covering at least 2,000 sq. ft. of programmed recreation space	
Jacuzzi, hot tub, or sauna area	Minimum 8-person capacity	
Library and/or business center	500 sq. ft.	
Movie theater room	Seating for minimum 50 people	
Open space, centralized internal	One acre with no side being less than 50 feet in length	<ul style="list-style-type: none"> Shall qualify as 5 required amenities. The shape of the centralized internal open space shall be rectangular insofar as practicable. A 5-foot-wide handicap accessible concrete sidewalk shall be provided adjacent to the entire perimeter of the open space. One seating area which is a minimum of 6 feet long shall be provided along each side of the open space. One canopy tree shall be planted every 30 linear feet adjacent to the perimeter of the open space. The centralized internal open space shall be completely covered with grass, unless otherwise specified herein, and shall be provided with an automatic underground irrigation system as specified in §2.4.1.C.1.j. Other amenities as required herein shall not be located within the centralized internal open space. The centralized open space shall be free of any drainage facilities and/or related easements, floodplain, erosion hazard setbacks, or other related facilities.
Outdoor amphitheater	Seating for minimum 50 people	<ul style="list-style-type: none"> If individual seats are not provided, then 150 linear feet of seating shall be provided.
Outdoor or indoor jogging trail	1/8 mile minimum for indoor; 1/4 mile minimum for outdoor	<ul style="list-style-type: none"> Shall be a minimum of 5 feet with demarcated lanes and constructed of a dust-free surface. An indoor jogging trail shall qualify as 2 amenities.
Playing court (volleyball, basketball, tennis, or similar)	Regulation-size	<ul style="list-style-type: none"> Each court shall count as an amenity up to a limit of 2.
Playground	4,000 sq. ft.	
Splash pad	1,000 sq. ft.	
Storage (for residents)	1 enclosed storage space for a minimum of 25 percent of the number of dwelling units in the community	<ul style="list-style-type: none"> At least one enclosed 5-foot by 5-foot storage space shall be provided for a minimum of one quarter of the dwelling units within the community. The provided storage units may be available for rent by any dwelling unit and need not be reserved for any specific unit within the community.
Swimming pool	1,000 sq. ft. surface area	<ul style="list-style-type: none"> Cooling deck required, minimum 10 ft wide in all areas. Counts as one amenity.
Swimming pool, centralized	3,000 sq. ft. surface area	<ul style="list-style-type: none"> Cooling deck required, minimum 20 ft wide in all areas. Counts as 2 amenities.
Swimming pool, centralized	5,000 sq. ft. surface area	<ul style="list-style-type: none"> Cooling deck required, minimum 20 ft wide in all areas. Counts as 4 amenities.
Other amenity		<ul style="list-style-type: none"> As approved by the Planning and Zoning Commission as part of the site plan approval process.

E. Site Enhancements

At least one of the following shall be provided for all residential developments in multi-family districts:

1. Entrance Landscaped Median

Residential developments shall provide a landscaped median which separates entering and exiting traffic at all entrances. The median shall meet the following standards:

- a. The landscaped median shall be enclosed by a minimum 6-inch tall vertical curb and shall be at least 8 feet wide and at least 50 feet long (measured from back of curb to back of curb). The median and its plantings shall not interfere with necessary sight visibility lines.
- b. At least 1 canopy tree shall be provided for every 50 linear feet of median.
- c. At least 2 ornamental trees shall be provided for every 50 linear feet of median.
- d. The required median shall be completely covered with living plant materials and shall be provided with an automatic underground irrigation system as specified in §2.4.1.C.1.j, *Landscape Site Standards*.
- e. The Director of Engineering and/or Fire Marshal may allow deviations to these standards on a case-by-case basis to facilitate proper vehicular access, emergency access, sight visibility, and other related engineering design or life safety principles.

2. Options for Developments Within Historically Significant Area

One of the following options may be used to satisfy the site enhancement requirement in residential developments in multi-family districts within the Historically Significant Area:

- a. Each unit is provided a private balcony or porch that is at least 50 square feet in area. Balconies shall be designed so that visual and auditory intrusions on private outdoor space of other units or adjacent developments are minimized;
- b. A structured parking garage (at least two levels) is provided and wrapped with or screened from the view of right-of-way by the multi-family residential building(s) it serves; or
- c. Each ground-floor residential unit shall have an exterior oriented entrance that fronts onto:
 - i. A public right-of-way;
 - ii. A major internal drive aisle designed to function as a public right-of-way or boulevard;
 - iii. A centralized internal open space as provided for herein; or
 - iv. Another similar community gathering space (excluding units that front onto parking fields, multi-level structured parking facilities, minor drive aisles, or other similar vehicular use areas).

3. Alternative Site Enhancement Approved by Planning and Zoning Commission

As part of the site plan approval process, the Planning and Zoning Commission may approve alternative major site enhancement(s) that are comparable to the significance of the other elements listed above in provisions 1. and 2. of this subsection.

F. Residential Adjacency

- 1. Multi-family residential structures located within 150 feet of an adjacent single-family residential use or zone shall be situated so that no exterior-facing window (defined as any transparent panel in an otherwise opaque wall surface) is oriented towards the adjacent single-family residential use or zone.
- 2. If a right-of-way with an ultimate width of 120 feet or greater is located between a multi-family residential structure and an adjacent single-family residential use or zone, this prohibition of exterior-facing windows shall not be applicable.
- 3. Multi-family residential developments subject to the requirements of the REC Regional Employment Center overlay district shall be exempt from this requirement.¹¹

¹¹ REC was not carried forward. It was to be included as an appendix. Perhaps this provision should be relocated to that appendix.

Article 3: Subdivision Regulations

3.1. Subdivision Procedures

Included in Installment 2 and 3.

3.2. Subdivision Standards

COMMENTARY

Current regulations with targeted edits suggested by staff. This section also updates terminology for plats to be consistent with the new Administration and Procedures installment.

3.2.1. Purpose

It is the purpose of this section to provide for the safe, efficient, and orderly development of the city, and the provision of adequate streets, utilities, services, and facilities, all in accordance with the comprehensive plan for the city.

3.2.2. Authority

These subdivision regulations are adopted under the authority of V.T.C.A., Local Government Code Chapter 42, 43, and 212, which section is hereby made a part of these regulations. Additionally, these provisions shall be applicable to any property within the corporate limits of the city and the extraterritorial jurisdiction (ETJ).

3.2.3. Approval Required

A. Plat or Replat Required

A plat or replat is required, as follows:

1. Prior to the construction of any streets, utilities, drainage, public improvements, or any related roadway or other public improvements within or adjacent to any tract of land, unless otherwise stated herein; and
2. Prior to the City issuing a permit for any improvements to any tract of land.
3. When building additions, alterations, or repairs exceed 50 percent of the value of an existing building or structure within any 12-month period.

B. Exemption

From and after September 5, 2017, a plat or replat otherwise required by subsection A above shall not be required prior to the constructing, repair, renovating or remodeling of one existing or new single-family residential dwelling unit, private utility service lines, or any accessory residential structures, such as a barn, residential storage shed, arbor, gazebo, or swimming pool on a single, undivided tract of land in the ETJ that is not being conveyed or created from a larger tract.

C. Building Permit Issuance

1. No building permits, except for minor repairs, will be issued for the construction of any building on unplatted land within the corporate limits of the city, except as otherwise stated herein.
2. A building permit may be issued for one single main building on an unplatted plot, tract, or lot if the following provisions are satisfied:
 - a. The plot, tract, or lot faces upon a dedicated street; and

- b. The said plot, tract, or lot was separately owned in such configuration prior to the effective date of the ordinance from which this chapter is derived or prior to the annexation of said plot, tract, or lot into the City, whichever is applicable.

3.2.4. Improvements Required

- A. Public improvements shall be constructed, at the sole cost of the developer, to the subject property being platted and through to the adjacent properties, as deemed necessary by the Director of Engineering to facilitate the orderly development of the area. These improvements shall satisfy the requirements of the following:
 - 1. The Comprehensive Plan;
 - 2. The Engineering Design Manual; and
 - 3. Other improvements as deemed necessary by the Director of Engineering.
- B. No property shall be subdivided through platting or phasing in a manner that defers, delays, or circumvents the improvements required in §3.2.4.A above, and/or dedicate required rights-of-way or easements.
- C. Unless otherwise approved by the Director of Engineering or through a facilities agreement, all public improvements, easements, and rights-of-way required to serve a parent tract shall be constructed, as a condition of filing a plat, if more than 50 percent of the parent tract's gross developable land area is being platted.
- D. The construction of improvements specified in this article may be deferred, delayed, or waived, or the City may choose to share in the costs for such improvements, with the approval of a facilities agreement as specified in §3.3.1, *Facilities Agreement*.

3.3. Special Provisions

3.3.1. Facilities Agreement

- A. A property owner may request to enter into an agreement with the City, which shall govern the property included within a plat, if the property owner is seeking:
 - 1. Pro rata reimbursements;
 - 2. City participation in cost;
 - 3. The escrowing of funds in lieu of constructing improvements; or
 - 4. Other nonstandard development regulations or terms.
- B. The Director of Engineering, at their sole discretion, may determine if all improvements required to be dedicated to the City are unable to be constructed and accepted prior to filing a plat.
- C. The City may participate with the developer on major items of construction such as, but not limited to, lift stations, bridges, or streets adjacent to the subdivision, which benefit existing or future development in addition to the current subdivision.
- D. This agreement shall be based upon the requirements of this Chapter and shall provide the City with specific authority to complete the improvements required in the agreement in the event of default by the property owner, and to recover the full completion cost of any deferred improvements plus all related administrative and legal costs of such measures. The City may subordinate its facilities agreement to the prime lender if provided for in said agreement.
- E. The facilities agreement shall be a legally binding agreement between the City and the property owner that runs with the land, specifying the individual and joint responsibilities of both the City and the property owner. Unusual circumstances relating to the development of land shall be considered in the facilities agreements such that the purpose of this Chapter is best served for each development. The property

owner shall include in such an agreement a hold harmless and indemnity clause agreeing to hold the City harmless against any claim arising out of the development of the property or any actions taken therein. The property owner shall also provide a performance bond, irrevocable letter of credit, or cash deposit in an amount equal to 120 percent of the cost to complete any improvements deferred by the facilities agreement. The facilities agreement shall be accompanied by either or both of the following documents, as approved by the City:

1. A signed and sealed opinion of probable cost prepared a Texas-licensed Professional Engineer; or
 2. A fully executed construction contract for the construction of the improvements being deferred together with a conditional assignment of the completed contract to the City.
- F. The City delegates to the City Manager the ability to approve standard facilities agreements. In the event of a non-standard agreement or a disagreement between the property owner and City staff concerning stipulations of the facilities agreement, the City Council shall review said stipulations and make recommendations regarding the non-standard agreement or resolving the disagreement.
- G. The City shall impose an application fee for a facilities agreement. The amount of the application fee shall be an amount as specified in **Appendix A** – Schedule of Fees which may be amended from time to time by ordinance.
- H. The property owner shall have a continuing responsibility under this facilities agreement until all required improvements, per the terms of the agreement, have been completed. When the construction of required improvements has proceeded to the point that certain parts of the development are adequately served, the property owner may request that the Director of Engineering release specified portions of the development for use prior to the completion of all improvements, unless the release of such improvements will jeopardize or hinder the continued construction of required improvements.
- I. A fee for filing facilities agreements for recordation with the County is also required. The amount of this fee is determined by the County.
- J. A copy of the executed facilities agreement shall be kept on file with the City Secretary, subsequent to filing the facilities agreement with the County.

3.3.2. Pro Rata Payments

- A. The developer shall be fully responsible for the construction of improvements necessary for the development and the surrounding area. Provisions for reimbursement of costs required by the City but exceeding those necessary to serve the development shall be made a part of a facilities agreement.
- B. All such reimbursements or prorations due to the developer shall be based on the actual cost of the improvements at the time of their construction, subject to comparison with other current unit and/or project costs. The original developer shall provide the City with acceptable documentation of actual construction costs. Collection of funds shall be for a maximum 10-year period after final acceptance of the improvements.
- C. In the case that the subdivision shall utilize utilities already constructed through the use of city funds or developer funds, the developer shall pay to the city/developer for the use of such facilities an amount equal to that which would be required to serve the subdivision under the requirements of this section.
- D. Any rebates or other payments to the developer by the City for the cost of oversized improvements or off-site improvements required as a part of the subdivision or development and necessary for the adequate and efficient development of surrounding areas of the city, shall be paid only from monies received by the City from the subdividing or development of surrounding areas.
- E. The adjacent owner shall pay 100 percent of the costs incurred by the developer to acquire an easement from the adjacent owner. All pro rata payments levied are a personal liability and charge against the real and true owners of the premises described, notwithstanding such owners may not be named, or may be incorrectly named.

3.3.3. Floodplains and Other Natural Areas

- A. Prior to any improvements within a designated floodplain, a permit is required to be submitted in accordance with §7.5, *Floodplain Regulations*, for consideration by the Director of Engineering.
- B. All lands remaining within the 100-year floodplain shall be dedicated as an easement.
- C. An erosion hazard setback area (hereafter collectively referred to in this Chapter as “no-build areas”) shall be designated as a common area in accordance with §3.4.5, *Common Areas and Homeowners’/Property Owners’ Associations*.
- D. A homeowners’ or property owners’ association shall be established and responsible for the supervision, maintenance, and restoration any no-build areas that are included in the plat of the entire parcel of property (the “parent tract”), including any no-build areas contained in a common area or on a buildable lot, and shall be conveyed as follows:
 - 1. The ownership of any common areas containing no-build areas shall be conveyed to the property owners’ or homeowners’ association in fee simple; and
 - 2. An irrevocable perpetual easement of any no-build area included in and proposed as a part of an otherwise buildable lot on a plat shall be conveyed to the homeowners’ or property owners’ association.
- E. No-build areas shall adhere to the same requirements for platting, phasing, deferral, delay, and other modifications of improvements as specified in §3.2., *Improvements Required*.

3.4. Design Standards

3.4.1. Lots and Blocks

A. Minimum Lot Dimensions

- 1. Lot dimensions shall be determined by the appropriate zoning classification.
- 2. Minimum usable lot depths for lots backing on natural drainage easements shall not be less than 80 feet measured between front lot line and easement.

B. Lot Shape

Lots should be rectangular insofar as is practical. Sharp angles between lot lines should be avoided. The ratio of depth to width should not ordinarily exceed 2.5 to 1.

C. Lot Frontage

- 1. All lots shall have frontage on an existing or proposed street, except non-residential lots may provide access from an existing or proposed street or as provided for by an approved plat reflecting a series of mutual access easements connecting lots with no street frontage to a public street.
- 2. Wherever feasible, each lot should face the front of a similar lot across the street. In general, an arrangement placing facing lots at right angles to each other should be avoided.
- 3. On all single-family and two-to-four-family residential lots, lots that front to a street shall only back to an alley. No lot shall front and back to a street.

D. Block Length

The maximum block length for residential use shall be determined by the zoning district. If the zoning district does not specify a block length, the maximum block length for residential use shall be in accordance with the Engineering Design Manual.

E. Lot Numbering and Block Lettering

- 1. All lots are to be numbered consecutively within each block on a plat.
- 2. Blocks are to be lettered consecutively within the overall plat and shall be a new block when separated by a street.

3.4.2. Easements and Rights-of-Way

A. Applicability

Where necessary to provide for the purposes of maintenance, construction, access, or other service requirements in the city and the ETJ, easements and rights-of-way shall be provided for public and franchise utilities and any other improvements as deemed required by the City.

B. Size

Easements and rights-of-way for public improvements required by this section shall be provided as specified by the Engineering Design Manual. Easements for franchise utilities shall be provided as specified by the individual utility company. In no case shall a non-specific utility easement intended for the shared use of franchised utilities be less than 10 feet in width unless located adjacent to a right-of-way.

C. Fire Lane Easements

1. Where adequate access for firefighting purposes may not otherwise be provided, easements for fire lanes shall be required in accordance with the City's currently adopted fire code.
2. Fire lane easements shall be maintained by the property owner, shall be marked as such on the ground, and shall be kept free and clear at all times.

3.4.3. Improvements

The improvements referenced herein must be constructed per the Engineering Design Manual standard construction details and specifications and accepted by the Director of Engineering prior to filing an associated plat for record with the county clerk, unless otherwise specified in an approved facilities agreement.

A. Franchise Utilities

Franchise utilities shall be provided for each lot. Franchise utilities include, but are not limited to, electrical, telephone, television, internet, and other wire carrier type utilities.

B. Hike and Bike Trails

Hike and bike trails shall be provided as referenced in the Parks Master Plan and the Engineering Design Manual.

C. Streets, Alleys, Sidewalks, and Lighting

Streets, alleys, sidewalks, and lighting shall be provided as referenced in the Engineering Design Manual. These improvements shall be provided to and through the property, in all cardinal directions, being subdivided, including the tracts located along the perimeter of the property line.

D. Storm Sewer and Storm Drainage Facilities

Storm sewer and storm drainage facilities shall be provided as referenced in the Engineering Design Manual and as specified in Article 7: *Stormwater Management*. Storm sewer and storm drainage facilities shall be provided to and through the property being subdivided, including in locations along the perimeter of the property line.

E. Sanitary Sewers

1. Sanitary sewer systems shall be provided as referenced in the Engineering Design Manual. Sanitary sewer systems shall be provided to and through the property being subdivided, including in locations along the perimeter of the property line.
2. On-site sewerage facilities (OSSF, more commonly known as septic systems) shall only be allowed on lots of 1.5 acres or larger, if there is no feasible way to provide a sanitary sewer system to the property, and if approved by the Director of Engineering. In no case shall the net developable area of the lot (the total area less any easements) be less than one acre. A review must be conducted by the OSSF permitting authority prior to the filing of a plat where an OSSF has been approved.

F. Water

1. Water systems shall be provided as referenced in the Engineering Design Manual. Water systems shall be provided to and through the property being subdivided, including in locations along the perimeter of the property line.
2. Water wells shall not be used for domestic water service. Water wells may be used for large irrigation systems if approved by the Director of Engineering and registered with the applicable groundwater conservation district.

G. Median Landscaping

Landscaping improvements shall be installed within the medians of all proposed or planned or divided roadways within the city limits as shown on the Master Thoroughfare Plan.

1. Only developments abutting or adjacent to a divided roadway which is owned and maintained by the City, as identified in the Master Thoroughfare Plan, shall be subject to this section.
2. The developer shall be fully responsible for the construction and installation of the required landscaping and maintenance of the improvements for a period of one year.
3. Landscape, irrigation, and construction plans shall be subject to review and approval by the Director of Engineering. The location of landscaping shall conform to the Engineering Design Manual and shall be placed to accommodate the ultimate number of traffic lanes. The minimum number of trees required in the median shall be calculated as follows:
 - a. One canopy tree, minimum of 12 feet tall with a 4-inch caliper trunk, shall be provided for 50 linear feet of median.
 - b. One ornamental tree, minimum of 8 feet tall with a minimum 2-inch caliper trunk, shall be provided for every 100 feet of median.
 - c. Trees may be clustered together to facilitate design and to accommodate future road widening.
 - d. Irrigation in accordance with City specifications is required for new landscape plantings.
4. The developer may pay a fee in lieu of construction:
 - a. In the event that the Director of Parks determines that construction of improvements is impractical, the developer shall pay a fee in lieu of construction, as specified in **Appendix A – Schedule of Fees**.
 - b. The fee in lieu of construction shall be collected once from each frontage.
 - c. The Director of Parks, may allow the developer to install landscaping across the full width of the median and be reimbursed by the city for the landscaping provided for the additional frontage at the per linear foot of frontage rate or the actual cost of the improvements, whichever amount is less, if funds are available.
 - d. The collected fee in lieu of construction shall be applied to construction, reconstruction, upgrading, and installation of medians of divided roadways within the adjacent roadway benefits area (see §9.6, *Other Defined Terms*) pertaining to roadway impact fees. Any fees not expended within 10 years of collection shall be returned to the developer or subdivider that deposited the fees with the City.
 - e. Notwithstanding the 10-year limitation specified above, the City shall not be required to return fees that have not been expended if roadway medians have not been constructed on divided roadways within the adjacent roadway benefit area thus preventing the purchasing, planting, growing and/or irrigation of the required standard median landscaping by the City. The time period for the expenditure of fees escrowed with the City for the construction of median landscaping shall not begin to run until such time as the roadway medians within the applicable roadway benefits area have been constructed on such divided roadways, the roadway medians have been accepted by the City, and the roadway medians are ready for standard median landscaping.

3.4.4. Screening and Buffering of Residential Lots Adjacent to Streets

A. Purpose

The purpose of this section is to establish standards for the screening and buffering of residential lots from adjacent public thoroughfares and to create an aesthetically pleasing corridors which encourage harmony while ensuring safety and security and reducing noise and glare in neighborhoods.

B. Applicability

1. Plans for screening and buffering shall be submitted concurrently with the application for minor plat, replat, or final plat approval. Plans will be evaluated by the Director of Planning concurrently with the plat consideration. Approval of the screening and buffering plans by the Director of Planning is required prior to the approval of said plat.
2. Residential developments with 4 or fewer units per lot located within the City limits shall provide screening and buffering as required in §2.4.3, *Screening*.
3. Residential developments with 4 or fewer units per lot located within the ETJ shall provide buffering as required in §2.4.3, *Screening*.

C. Standards

1. Buffering Standards

- a. Buffering shall be provided in the form of a common area wherever a residential lot would otherwise back or side to a street and shall be the minimum width indicated in Table 3-1.

Table 3-1: Width of Required Common Area Buffer

		Lots Backing a Street (in feet)	Lot Siding a Street (in feet)
Ultimate Width of Adjacent Street (in feet)	50 or less	10	0
	51-60	20	0
	61-199	20	20
	200+	30	30

- b. The placement of an alley, parallel road, easement, fence, wall, common area, hardscaping, landscaping, or any other type of improvement, whether individually or in combination, to restrict the visibility of such residential lot and which screening and buffering does not meet the minimum requirements of this section shall not circumvent, replace or otherwise satisfy the requirements of this section. Rather, the rear and/or side of any such residential lot shall be screened and buffered in accordance with the provisions of this section.
- c. Notwithstanding the foregoing, a residential lot that does not physically touch and is not immediately adjacent to a public thoroughfare or its right-of-way and which is screened by future development, or a residential lot that is developed in a phase of development of a larger subdivision that has received final plat approval and is being constructed in phases, may be excepted from this requirement by the Director of Planning, in consultation with the Director of Engineering, if it is determined that the back or side of such residential lot will be screened from view by the development of a future phase of the larger platted development that contains the subject residential lot.
- d. Buffer areas shall be sodded, plugged, sprigged, hydro-mulched, or seeded, except that solid sod shall be used in swales, or when necessary to prevent erosion. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects.

2. Screening Standards

- a. Screening shall be provided by a residential development that develops next to a property zoned or used for non-residential uses, unless a screening device that meets the requirements for screening between uses as described in §2.4.3, *Screening*, has been provided.
- b. All required screening improvements within residential developments, including walls and any other improvements, shall be located within a common area(s) and shall be owned and maintained by the homeowners' association or property owners' association.
- c. Where the design of a residential subdivision along a street employs a combination of lots backing and siding toward the street, the plan shall provide for consistency of landscaping and fencing design and materials along both the backing and siding lots to create an overall desirable effect. Walls or fences along the sides of lots which are continuous with walls or fences along adjacent backing lots shall be located within a common area and shall be maintained by the same entity.
- d. Within the common area, screening as indicated in Table 3-2 shall be provided. It is not necessary that the back or side of a residential lot physically touch or be immediately adjacent to the public thoroughfare in question or its right-of-way for compliance with this section to be required.

Table 3-2: Requirements for Screening of Common Area

● = Mandatory requirement

○ = Additional requirements (minimum one selection + mandatory requirement per alternative)

* = If Applicable

	Minimum One 3-inch Caliper Canopy Tree per 50 Linear Feet of Frontage	Minimum Two 1-inch Caliper Ornamental Tree per 50 Linear Feet of Frontage	Minimum 25% of Length of Screening to Have Bed of Shrubs & Groundcover	Minimum 50% of Length of Screening to Have Bed of Shrubs & Groundcover	Minimum 50% of Length to Have 3-foot Height Earth Berm	Fence Offsets [1]
Continuous 6-foot height masonry wall [2] [5]	●		●			*
Continuous 6-foot height wrought iron or tubular steel fence with masonry columns at 20 feet on center [2]	●	●	●	○	○	*
Continuous 6-foot height evergreen shrubs [3]	●					
Maximum 3-foot height earth berming with	●					

Table 3-2: Requirements for Screening of Common Area

● = Mandatory requirement

○ = Additional requirements (minimum one selection + mandatory requirement per alternative)

* = If Applicable

additional 3-foot height evergreen shrubs [4]						
Maximum 6-foot height earth berming [4]	●	○	●	○		

[1] If 1,000 feet or greater distance between openings, provide minimum 1-foot to 3-foot offset at a minimum of 100 feet maximum 300-foot length.

[2] The color and style of masonry shall be consistent with the surrounding vicinity.

[3] Shrubs must reach required height within two full growing seasons or 18 months, whichever is less.

[4] Maximum 4:1 slope on berms. Additional common area dedication as required.

[5] Screening devices shall not exceed 8 feet 4 inches in height (except for living screens).

D. Irrigation

All required landscaped common areas shall be provided with an automatic underground irrigation system which features rain and freeze sensors or a weather-aware internet device and are designed by a qualified professional. Irrigation systems shall be designed for maximum irrigation efficiency, including the maximization of bubblers and drip emitters and the minimization of rotors and spray sprinklers.

E. Conflicts Prohibited

No improvements shall conflict with vehicular or pedestrian traffic movement. No improvements, including trees or large shrubs which do not meet the guidelines established by the utility company or the City shall be planted over or under existing utilities. Sidewalk or hike and bike trail locations shall be coordinated with other improvements and shall be shown on the screening and buffering plan.

3.4.5. Common Areas and Homeowners'/Property Owners' Associations

- A. In the event that common areas are to be a part of a plat, the common areas shall be shown on the preliminary plat along with an adequate form for dedication thereof. This dedication form shall accomplish the following purposes:
 1. Save the title to common area property or properties for the benefit of the homeowners' association ("HOA") within residential developments and property owners' association ("POA") in non-residential developments;
 2. Express a definite undertaking by the developer to convey the common area property or properties to the HOA/POA; and
 3. Tie the covenants and HOA/POA use provisions to the plat so that collection of fees and denying use is legally supportable.
- B. The HOA/POAs restrictive covenants, bylaws, and articles of incorporation shall:
 1. Require the continuous ownership, maintenance, and control of the common area(s) by a responsible body, in perpetuity, for the benefit of the homeowners or property owners without using public funds;
 2. Require that membership in the HOA/POA shall run with the title to each lot and shall not be voluntary;
 3. Require that HOA/POA's primary source of operating funds is a periodic assessment levied against each parcel of land within the development under recorded covenants, which shall be incorporated

into each deed, and which shall run with the land to bind each and every owner of it and which are enforceable as a lien against the land;

4. Include a provision that if the HOA/POA defaults, the City shall have the rights of the association to either file a lien on the property within the development or assess homeowners or property owners within the development; and
 5. Be submitted to the Planning Department for approval along with the associated plat, and shall be recorded as a part thereof.
- C. Prior to recording a plat with the County Clerk that creates a common area and before the City accepts any public improvements associated with the plat, the developer shall:
1. Include sufficient language on the plat to require the perpetual ownership and maintenance of the common area property or properties by the HOA/POA, including any landscaping, walls, irrigation, or other improvements, or otherwise establish ownership and maintenance through an associated facilities agreement;
 2. Create an incorporated nonprofit HOA/POA with bylaws reflecting the requirements in §3.4.5.B above; and
 3. Record covenants that automatically make every lot owner a mandatory member of the association, give the property owner the right to use the common area property, and establish their voting rights and their obligations to pay assessments.
- D. In approving the documents referenced in subsection C above, the City shall determine that the proper legal position is ensured and that the proposed HOA/POA will function properly both during and after the time in which the developer is active in the development. The City may require the association to provide on-going reporting of budgetary actions, financial reports, and collection activity on homeowners' or property owners' assessments. Should the funding of the common area(s) maintenance not support the level of maintenance required by applicable ordinance, the City may require additional security for the provision of such maintenance.

3.5. Conveyance of Land for Recreational Areas & Facilities

3.5.1. Purpose

This article is adopted to ensure that adequate neighborhood and community parks are provided to meet the additional needs created by new residential development.

3.5.2. Scope

The provisions of this article shall apply to all new residential development within the city after the effective date of the ordinance from which this article derives for which a plat is required to be submitted to the city for approval in accordance with state law and the ordinances of the city.

3.5.3. Exemptions

The provisions of this article shall not apply to the following:

- A. Residential development for property to be located on a lot of record, approved prior to the effective date of the ordinance from which this article derives;
- B. A record plat, a minor plat, or a replat which was approved prior to the effective date of the ordinance from which this article derives; or
- C. Residential development constructed or to be constructed in accordance with a building permit issued prior to the effective date of the ordinance from which this article derives.

- D. Residential development within the MTC -- McKinney Town Center zoning district. Please refer to **Article 8** of this Code for open space standards specifically applicable to all new residential development within the MTC -- McKinney Town Center zoning district.

3.5.4. General Requirements

A. Conveyance or Payment of Money Required

The owner of any property to which this article applies, which is to be developed for residential purposes, shall convey land for park purposes or make a payment of money in lieu of land, or a combination of both, to the City at the time of subdivision for single-family and two- to four-family residential development or at time of issuance of a building permit for multi-family development, to provide for the recreational needs created by such development, in accordance with the provisions of this section.

B. Proposed Number of Dwelling Units to be Submitted

All plats, lots of record, replats, site plans or proposed improvements of land for new residential development required to be submitted to the City, shall indicate the number of proposed dwelling units to be constructed or placed within the development on such plat, lot of record, replat or site plan.

C. Determination of Requirements

In reviewing any lot of record, plat, site plan or proposed improvements of land for a new residential development, the Director of Parks and Recreation shall make a determination of whether a conveyance of land, payment of money in lieu of land or a combination of both shall be made to meet the requirements of this article.

D. Factors Considered

In making a determination of whether a proposed conveyance of land, money in lieu of land or a combination of both shall be made to meet the requirements of this article, the Director of Parks and Recreation shall determine what would be in the best interest of the city, based upon relevant factors which may include, but not be limited to, the following:

1. Whether the proposed land to be conveyed for park purposes would be suitable as a neighborhood or community park;
2. The parks and recreation master plan for the area in which the development is located;
3. Whether the proposed land to be conveyed for park purposes is adjacent to an existing or proposed school site;
4. Whether there is sufficient existing public or private park land in the area of the proposed development;
5. Whether the park needs of the area where the proposed development is located would be best served by expanding or upgrading existing parks;
6. Land located adjacent to a greenbelt park/open space, which is intended to be preserved in its natural state; and
7. The guidelines of the current city comprehensive plan.

E. Suitability of Proposed Conveyance of Land for Park Purposes

A proposed conveyance of land to meet the requirements of this article shall generally be considered unsuitable for neighborhood or community park purposes if it has one or more of the following characteristics:

1. Generally, if more than 20 percent of the proposed park site is located within the 100-year floodplain, as shown on the latest flood insurance rate map or floodplain ordinance adopted by the City on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. The City may accept land that is composed of more than 20 percent floodplain if it is determined in the best interest of the City;

2. The proposed park site dedication is less than 10 acres for a neighborhood park or 40 acres for a community park, unless the proposed dedication is located in such a manner in which it could be combined with other dedications to create a park of adequate size; or
3. It does not or would not front an improved public street or would not be readily accessible, in whole or in part, to the public.

F. Combination of Land and Payment of Money

The Director of Parks and Recreation may, when the best interest of the city would be served, require a combination of the dedication or conveyance of land and the payment of money in lieu of land to meet the requirements of this article, or total payment in lieu of land conveyance.

3.5.5. Conveyance of Land Requirements

A. Required

When the Director of Parks and Recreation determines that a conveyance of land shall be required, in whole or in part, to meet the requirements of this article, the following provisions shall apply:

B. Amount

Any required conveyance of land shall be in an amount proportionally equal to one acre per 50 residential units on all proposed residential developments as defined herein.

C. Manner and Method

Plats of subdivisions required to be submitted for approval by the City in accordance with V.T.C.A., Local Government Code §§212.001—212.017, shall show thereon a fee simple conveyance to the City of the land required by this article for park purposes as a condition to approval of such plat by the City, and the City may further require the conveyance of the park property by general warranty deed. As a condition to acceptance of the plat or deed by the City, the subdivider shall provide the City with an owner's title policy of insurance in an amount equal to the value of the land conveyed, which amount shall be determined by the City.

1. For single-family, two- to four-family residential and multi-family developments, the amount of land needed shall be based on one acre per 50 residential dwelling units or a portion thereof.
2. If any subdivision or site plan change results in an increase in the number of dwelling units allowed on a platted lot, the developer shall pay the difference as a fee in lieu of land dedicated to be paid prior to the filing of the replat or the issuance of a building permit.

D. Credit for Prior Dedications

1. Where a gift of land was made prior to the effective date of the ordinance from which this article is derived by the owner of land required to convey land under the provisions of this article, the former gift of land shall be credited on a per-acre basis toward the required conveyance provided by this article when the Council finds that:
 - a. The gift was made within 5 years of the effective date of the ordinance from which this article is derived;
 - b. The land given was within one-half mile of the new development for which land is required to be conveyed;
 - c. The land given is not being presently used for purposes incompatible with park purposes and is suitable for park purposes; and
 - d. A credit may be given for on-site improvements that are compatible with long range development plans for the proposed park.
2. The credit provided for herein shall not be transferable and shall only be given to the donor of the land who is the owner of the property being developed for which a conveyance of land is required by this article, unless said prior conveyances were included as a part of an executed facilities and/or development agreement with the City and the developer.

E. Credit for Private Recreation Facilities

Where private recreation facilities are built for the residents for the subdivision or development, a credit may be granted by the Director of Parks and Recreation. The value of these private recreation facilities shall be determined by the Director of Parks and Recreation but shall not exceed 50 percent credit and shall be consistent with credit guidelines to be promulgated as part of the city comprehensive plan and park master plan.

F. Credit for Conveyance of Floodplains

In cases where floodplain land or property is proposed to be conveyed to satisfy the parkland requirements, a credit will be given based upon the following formula or ratio: 3 acres of floodplain shall equal 1 acre of non-floodplain land.

G. Location

The land required to be conveyed may be located inside or outside the boundaries of the development, as long as the land is so located and in such proximity to the development so as to serve or benefit persons residing therein, as approved by the Director of Parks and Recreation.

H. Improvements to be Made

The person required to convey land shall be responsible for, and pay the costs of, providing convenient access by improved streets, sidewalks and, adequate drainage improvements so that the site is suitable for the purpose intended, and shall provide water, sewer and electrical utilities to the property in accordance with the procedures applicable to other public improvements as specified in the subdivision ordinance of the city. However, the City Council may waive, in whole or part, such required improvements where an amount of land in excess of the requirements of this article is conveyed, the value of which is equal to or greater than the cost of the improvements being waived. Such waivers shall be specified on a case-by-case basis in a facilities agreement between the developer and the City for the given subdivision.

3.5.6. Money in Lieu of Land

Where the Director of Parks and Recreation determines that a payment of money in lieu of land shall be made, the following provisions shall apply:

A. Amount Required to be Paid

Any payment of money required to be paid by this article shall be in an amount equal to the value of the property established by the most recent appraisal of all or part of the property made by the central appraisal district. Periodically the City may have an independent appraisal conducted for a sampling of properties to determine if the appraised value established by the central appraisal district is appropriate. The City Council may adjust the amount assessed based on any difference between the value of property established by the central appraisal district and the value of property per the independent appraisal. The adjustment shall be a percentage change to all properties of the values established by the central appraisal district.

B. Time of Payment

Any payment of money required herein shall be paid as a condition to the approval of any final plat or replat. Payment shall be made prior to the filing of the plat for single-family and two- to four-family residential developments and prior to the issuance of a building permit for multi-family developments, unless otherwise stated in a facilities agreement approved by the City.

C. Parkland Dedication Fund

All cash payments paid to the City in accordance with this article shall be deposited in a separate parkland dedication fund. The City shall account for all such payment with reference to each development for which the payment is made.

D. Use of Funds

Any payments made to the parkland dedication fund may be used solely for the acquisition, development, expansion or upgrading of neighborhood or community parks located within the same park district or general area where the proposed development for which payment was made is located.

E. Right to Refund

If all or part of the payments made for a development are not expended for the purposes authorized herein within 6 years of the date that 95 percent of all certificates of occupancy have been issued for the completed development of the property for which the payments were made, the person or entity who made such payments shall be entitled to a refund on all unexpended funds if a request for a refund in writing has been made within one year of entitlement. If no such timely request is made, the right to a refund of the unexpended funds shall be considered waived.

3.5.7. Penalties, Sanctions, and Redeterminations

A. Requirements to be Satisfied Prior to Development

It shall be unlawful for any person who is required to convey land, or pay money in lieu of land as required by this article, to begin, or allow any other person or contractor to begin, any construction or improvements on any land within any development to which this article applies until the required conveyance of land or payment of money in lieu of land is made to the City in accordance with this article.

B. Permits and Services to be Withheld

No building permits shall be issued for, and no permanent utility services shall be provided to, any land within any development to which this article applies until the required conveyance of land or payment of money in lieu of land is made to the City in accordance with this article.

C. Redetermination of Requirements for Proposed Additional Dwelling Units

After the council has made a determination of the requirements of this article, or after the requirements of this article have been met, based upon the proposed number of residential dwelling units for any land to which this article applies, any person who desires to construct a number of dwelling units in excess of the number of dwelling units for which the requirements of this article were determined or met must submit to the council a revised zoning proposal for additional dwelling units for the development. Once the council has approved a zoning ordinance increasing the number of dwelling units allowed on a platted lot, the developer shall either convey the additional park land through a plat or replat or shall pay a fee in lieu of parkland for the additional dwelling units at the issuance of the building permits. Where a payment of money was originally made to meet the requirements of this article, the person proposing to construct additional dwelling units may be required to convey land for all or part of the development. In such case, after the required conveyance is made, the payments, or portion thereof, previously made, which are satisfied by the dedication of land shall be returned by the City.

3.5.8. Penalties

Any person violating any of the provisions of this article shall, upon conviction, be fined a sum not exceeding \$500.00; and each day and every day that the provisions of this article are violated shall constitute a separate and distinct offense. This penalty is in addition to and cumulative of any other remedies as may be available at law and equity.

3.6. Private Street Regulations

3.6.1. Purpose

The purpose of these private street regulations is to provide for private street developments as one type of residential development mechanism, which allows the City to continue to be competitive in the development market and to provide a broader variety of residential areas to meet the needs of the residents of the City.

3.6.2. Applicability

A. General

These provisions shall apply to properties within the corporate limits where private streets are constructed that are not owned or maintained by the City.

B. Permits and Plans Required

Private street developments may be permitted subject to the City Council's approval of a specific use permit in accordance with §2.1.7, *Specific Use Permit*.

3.6.3. Development Requirements

The proposed development shall be evaluated with respect to the following standards as part of the review and approval process for all private street developments.

- A. The design and construction of a private street subdivision shall conform to the same rules, regulations, standards, and specifications established for public subdivisions and as regulated in the Engineering Design Manual.
- B. A plat for a private street development shall not:
 - 1. Impede the current or future street circulation needs of the area, especially any needed collector or arterial street route, or adequate access to any adjoining tract;
 - 2. Disrupt an existing or proposed city public pedestrian pathway, hike and bike trail or park; and
 - 3. Impede access for emergency vehicles, public and private utility maintenance and service personnel, the U.S. Postal Service, and government employees in pursuit of their official duties.
- C. The type of gate or controlled access mechanism and vehicle maneuvering is subject to the approval of the city's fire marshal.
- D. No non-residential uses shall be permitted within a private street development. Amenity centers shall not be considered a non-residential use.
- E. Structures
 - 1. Project perimeter fences at project entry access points, entry monuments, and security stations, may be erected within the public utility and storm sewer easement, provided they do not impede the installation, maintenance, repair, or replacement of public utilities and storm sewers within the easement.
 - 2. Where security stations are a part of a larger, multipurpose structure, only that portion of the structure, which functions as a security station, may encroach the building line adjacent to the private street.

3.6.4. Plat Requirements

A. Required Wording on Plat

Each private street development plat shall contain the following wording on the face of the plat:

"The streets have not been dedicated to the public for public access nor been accepted by the City as public improvements, and the streets shall be maintained by the property owners' association within the subdivision. The streets shall always be open to emergency vehicles, public and private utility service personnel, the U.S. Postal Service and governmental employees in pursuit of their official duties."

B. Easements

Private street developments shall provide the following easements:

1. Private streets shall be dedicated as common areas which are owned and maintained by the homeowners' association;
2. Private streets shall be equal in size and shape to the right-of-way required for public streets;
3. Private streets shall be overlaid with a public utility, fire lane, access, and drainage easement;
4. Additional franchise utility easements required by public agencies which is located outside the private street;
5. Pre-existing easements unaffected by the platting process; and
6. Additional easements, including, but not limited to, franchise utilities, street lighting, government vehicle access, mail collection and delivery access, and utility meter reading access, as may be necessary or convenient.

3.6.5. Conversion of Public Streets to Private Streets

For existing developments to become private:

- A. Permit application must contain signatures of all owners of existing lots that would be part of the proposed private street developments;
- B. An applicant must purchase installed infrastructure and right-of-way from the city, and establish a reserve fund in accordance with §3.6.6.B, *Reserve Fund*, within this section; and
- C. An applicant must conform to all other provisions of this section.

3.6.6. Homeowners' Association

A. Required

Subdivisions with private streets shall have a homeowners' association which shall own and be responsible for the maintenance of private streets and appurtenances. The association shall provide for the payment of dues and assessments required to maintain the private streets. The association documents must be acceptable to the city at the time of final plat approval. The approved document must be filed for record contemporaneously with the filing of the final plat.

B. Reserve Fund

The homeowners' association documents must establish a reserve fund for the maintenance of private streets and other improvements such as common greenbelts, security station structures and equipment, and other significant homeowners' association infrastructure. This reserve fund shall not be commingled with any other homeowners' association fund. The balance of the fund shall be equal to the total replacement cost of the private streets and other improvements divided by the average life expectancy of those improvements times the age of the improvements. The life expectancy for a subdivision with concrete streets shall be a minimum of 20 years.

1. The homeowners' association shall have an annual review performed by a certified public accounting firm verifying the amount in the reserve fund. A copy of this review shall be provided to the city.
2. If the specific use permit is revoked or the private streets converted to public streets, the reserve fund shall become the property of the city.

C. Membership Requirements

Every owner of a lot within the private street development shall be a member of the homeowners' association.

D. Required Disclosures

The homeowners' association documents shall address, but shall not be limited to, the following 4 subsections:

1. The homeowners' association documents must indicate that the streets within the development are private, owned and maintained by the association and that the city has no obligation to maintain or reconstruct the private streets.
2. The homeowners' association documents shall include a statement indicating that the city may, but is not obligated to, inspect private streets, and require repairs necessary to ensure that the same are maintained to city standards.
3. The homeowners' association may not be dissolved without the prior written consent of the city.
4. Section 3.6.7.B, *Mandatory Conversion*, of these regulations shall be included in the homeowners' association documents, to increase the opportunity for awareness of mandatory conversion of private streets to public streets.

E. Assignment of Homeowners' Association Lien Rights

The homeowners' association declaration shall provide that should the association fail to carry out its duties as specified in these regulations, the city or its lawful agents shall have the right and ability, after due notice to the association, to perform the responsibilities of the association if the association fails to do so in compliance with any of the provisions of these regulations or of any applicable city codes, regulations or agreements with the city and to assess the association or the lot owners for all costs incurred by the city in performing said responsibilities if the association fails to do so, and the city shall further have any and all liens and lien rights granted to the association to enforce the assessments required by the declaration, and/or to avail itself of any other enforcement actions available to the city pursuant to state or city codes and regulations. No portion of the homeowners' association documents pertaining to the maintenance of the private streets may be amended without the written consent of the city.

F. Services Not Provided

The homeowners' association documents shall note that certain city services shall not be provided on private streets. Among the services that will not be provided include: routine police patrols, enforcement of traffic and parking ordinances, and preparation of accident reports. Depending on the characteristics of the proposed development, other services may not be provided.

G. Access Required

The homeowners' association documents shall contain a provision that requires access to emergency vehicles, utility personnel, the U.S. Postal Service, and governmental employees in pursuit of their official duties.

3.6.7. Conversion of Private Streets to Public Streets

A. Voluntary Conversion

The City may, at its sole discretion, accept private streets for public access and maintenance. The procedure must conform to all the following provisions:

1. The homeowners' association must submit a petition signed by at least 51 percent of its members (or a greater number of signatures if required by the homeowners' association document).
2. All the infrastructure must be in a condition that is acceptable to the city.
3. All security stations, gates, and other structures not consistent with a public street development must be removed.
4. All monies in the reserve fund must be delivered to the city.

5. The subdivision plat shall be submitted to the city as a replat and upon review and approval, shall be filed with the county clerk to dedicate the streets, public utility easements, storm sewer easements and any other public easements to the city. An ordinance converting the private streets to public streets must be approved by the City Council prior to the filing of said subdivision plat.
6. The homeowners' association documents must be modified and refiled to remove requirements specific to private street developments.

B. Mandatory Conversion

1. The City will notify the homeowners' association of violations of the private street regulations. Failure to bring the development into compliance with the regulations may cause the city to revoke the special use permit for the private streets.
2. If the special use permit is revoked, the city may correct all remaining violations, remove the security stations and unilaterally re-file the subdivision plat thereby dedicating the streets to the public. All monies in the reserve fund will become the property of the city and will be used to offset any costs associated with converting the private streets to public streets. In the event the balance is not sufficient to cover all expenses, the homeowners' association and/or the property owners will be responsible for unpaid work.

Article 4: Signs

COMMENTARY

This Article carries forward the current Chapter 134: *Signs*, but includes updates for consistency, user-friendliness, and to maintain content-neutrality, while maintaining the current substance in terms of size, location, and design.

In 2015, the U.S. Supreme Court in its decision in *Reed v. Gilbert* restricted the ability of local governments to apply content-based regulations to signage in order to protect free speech. Based on that decision, cities have been comprehensively updating their sign regulations to remove content-based standards (i.e., regulations that can only be understood and enforced by reading the sign).

For discussion purposes, this draft carries forward some sign regulations based on land use (i.e., auto dealers, bed and breakfast) where the actual sign content is not regulated; however, an argument could be made that such land use distinctions themselves are content-based. While regulating content on a sign is prohibited, regulating the messenger (e.g., the land use) is presumably still allowed – though the law in this area continues to evolve. Practically, however, it can be difficult to distinguish content-based and messenger-based regulation. For example, limiting one secondary sign for pre-owned auto sales would require someone to read the message on the sign to know if it is advertising a pre-owned auto sales business to determine compliance with the standard. We would like to discuss this principle in more detail with staff to finalize proposed edits to the applicable standards.

The Article has also been reorganized for a more logical flow. New graphics are added to aid in understanding sign definitions and measurements.

4.1. Purpose and Intent

Regulation of the location, size, and placement of signs is necessary to enable the public to locate goods, services, and facilities located within the corporate limits of the City, to encourage the general attractiveness of the community, and to protect property values. Accordingly, it is the intention of this section to establish regulations governing the display of signs and in part to achieve the following:

4.1.1. Safety

To promote the safety of persons and property by providing that signs:

- A. Promote and protect the public health, safety, comfort, morals, and convenience;
- B. Do not obstruct firefighting or police surveillance; and
- C. Do not overload the public's capacity to receive information or increase the probability of injury or harm through distraction or obstruction of vision.

4.1.2. Communications Efficiency

To enhance the economy and the business and industry of the City by promoting the reasonable, orderly, and effective display of signs and thereby encourage increased communication with the public, so that:

- A. Businesses and services may identify themselves; and
- B. Customers and other persons may locate a business or service.

4.1.3. Environmental and Landscape Quality and Preservation

To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:

- A. Do not interfere with scenic views, and protect and preserve the unique and natural beauty and historic values of the City;
- B. Do not interfere with a person's ability to use the public rights-of-way;

- C. Do not create a nuisance to adjacent and contiguous property by their brightness, size, height, or movement; and
- D. Are not detrimental to land or property values.

4.2. Authority and Jurisdiction

- A. The terms and conditions of this Article shall apply to all signs located within the City of McKinney, pursuant to Chapter 216 of the Texas Local Government Code as amended. The Chief Building Official shall be responsible for interpreting and administering this Article. Allegations of errors in orders, decisions, and/or determinations by the Chief Building Official shall be handled in accordance with §2.1.8.A, *Administrative Appeals*.
- B. Signs located on property owned by the City of McKinney, an Independent School District, or any other governmental agency are not required to meet the requirements of this Article. However, signs located on property owned by the City of McKinney shall be permitted only upon approval of the Chief Building Official.

4.3. Removal of Certain Signs

4.3.1. Unlawful Signs

The following signs shall be considered unlawful:

- A. Any sign erected without a required permit, either prior to or after the adoption of this Article;
- B. Any sign erected in violation of the provisions of this Article; and
- C. Any sign that is dangerous due to being electrically or structurally defective.

4.3.2. Removal of Unlawful and Abandoned Signs

- A. Signs described in §4.3.1 above shall be removed from the property or premises where they are located, or defects as specified shall be remedied, upon written notification by the Chief Building Official to the owner of the property on which the sign is located and/or the permit holder for the sign. The notification required by this provision shall state that if the sign is not removed or the specified defect is not remedied within the prescribed time frame from the date of the notice, a citation may be issued.
- B. Abandoned signs shall be removed from the site within 30 days after the associated business or activity ceases.

4.3.3. Removal of Public Nuisance or Hazardous Signs

- A. The Chief Building Official or the Director of Code Services shall, without the requirement of notification or impoundment, order the immediate removal and disposal of the following signs:
 - 1. Any non-permanent sign erected or existing that constitutes a traffic hazard; or
 - 2. Any temporary sign erected in, on or over a public right-of-way or easement or designated fire lane, either prior to or after the adoption of this section, except those non-permanent signs permitted as described in §4.7.6, *Signs in the MTC* -- McKinney Town Center Zoning District.
- B. A person is responsible for the violation if the person is the permit holder, owner, agent, or person having the beneficial use of the sign and a citation may be issued.

4.3.4. Recovery of Impounded Signs

Impounded signs may be recovered by the owner within 15 days after written notification of impoundment by paying a fee as determined from time to time by City Council. If the owner cannot be given a written notification, the sign shall be disposed of after 15 days of impoundment.

4.3.5. Disposal of Impounded Signs

Signs not recovered within 15 days after written notification may be disposed of by the City in any manner it shall elect. An owner who receives written notification from the City regarding an impounded sign may, in their turn, provide written notification to the City if they wish to retrieve the impounded sign. If the owner cannot provide written notification, the sign shall be disposed of after 15 days of impoundment.

4.4. Exemptions, Exceptions, and Variances

4.4.1. Exemptions Generally

The following signs may be erected and maintained under the exceptions and conditions listed and shall not require a permit, provided all other provisions of this section are met:

A. Public Signs

Signs erected by or at the direction of a public officer in furtherance of the public interest in the performance of their public duty; however, public signs shall be removed as soon as the public purpose is complete or otherwise no longer applicable.

B. Integral Signs

Monumental citations and commemorative tablets that are carved into stone, concrete, or similar permanent materials and constructed as an integral part of a structure.

C. Public Entrance Signs

One sign per public entrance per business, not exceeding 4 square feet of sign area per face.

D. Private Signs

Signs not visible from any public right-of-way.

E. Residential Garage Sale Event Signs

Residential garage sale event signs may be installed only on private property with the consent of the property owner. Said signs shall not be installed earlier than 12:00 p.m. on the immediately preceding Thursday before the event and must be removed within 24 hours following the event. The maximum sign area shall be limited to 4 square feet on each sign face. Signs shall not be attached to any tree, fence, utility pole, or other prohibited location as outlined in §4.5, *Prohibited Signage*.

F. Menu Board Signs

Restaurants with drive-through service are permitted 2 menu board signs per premises, limited to 36 square feet in area and 6 feet in height.

G. Incidental Window Signs

Incidental window signs are exempt from the provisions of this Article, provided not more than 40 percent of the transparent window area is occupied at any one time. See Figure 4-1.

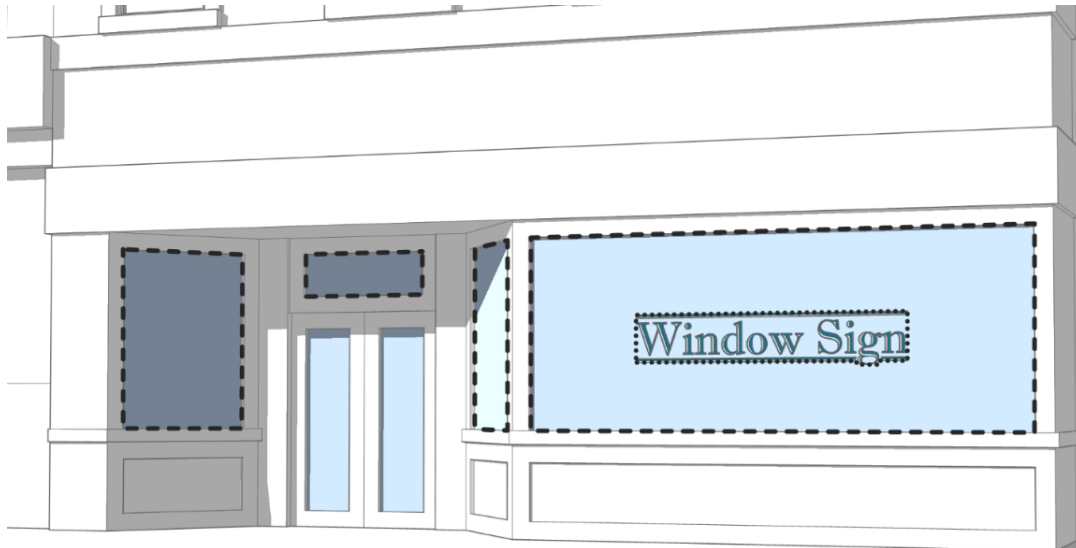


Figure 4-1 : Incidental Window Sign

H. Gasoline and Service Station Signage

Signs located beneath a canopy that do not advertise the premises are exempt. Governmentally mandated signage and signage contained within the individual pumps are also exempt. In addition, 10 square feet of signage is permitted per side under the canopy per set of gasoline dispensers. Letters less than 3 inches in height shall not be counted as part of the sign allowance.

I. Government Flags

Government flags are permitted in conjunction with any use for which a building permit or certificate of occupancy has been issued, provided that each flag does not exceed 40 square feet. A maximum of 3 flags are permitted per site.

J. Vehicular Signs

Vehicular signs or trailers with signs are permitted, provided that the vehicle or trailer on which the sign is located move from a site at least once every 24 hours, and are not being used to serve in the same manner as an additional freestanding sign or temporary sign. Vehicles, vans, trailers or trucks that are parked continuously at the same site for longer than 24 hours and that are being used to display signs are prohibited. Any such vehicle on which signage is located shall be operable and currently registered and licensed to operate on public streets. See Figure 4-2.



Figure 4-2: Vehicular Sign

K. Human Signs

Human signs may be displayed daily from sunrise to sunset and shall comply with the following requirements:

1. Each sign shall be located on private property or adjacent right-of-way in conjunction with a special event permit.
2. Human signs are not permitted in residential districts.
3. A person acting as a human sign is not permitted to hold or carry wind devices, flags, or balloons. Podiums, risers, stilts, vehicles, roofs, or other structures or devices shall not support a human sign.
4. No more than one human sign per business location may be actively engaged per major thoroughfare.

L. Mobile Billboards

Mobile billboards shall be permitted as long as they are not parked, driven, stationed, or moving in any manner on private property within the City limits for longer than 20 minutes per 24-hour day.

4.4.2. Meritorious Exceptions

A. Generally

In the development of these criteria, a primary objective has been ensuring against the kind of signage that has led to low visual quality. On the other hand, an equally important objective has been guarding against over-regulation of signage.

B. Approval Criteria

It is not the intention of these regulations to discourage innovation. It is entirely conceivable that signage proposals could be made that, while clearly nonconforming to this Article, and thus not allowable under these regulations, have obvious merit in not only being appropriate to the particular site or location, but also in making a positive contribution to the visual environment. In such cases, the Chief Building Official may approve a meritorious exception, if the proposal meets any of the following:

1. The signage is creative, innovative, or otherwise visually appealing so as to result in a positive contribution to the built environment;
2. The signage contains an architectural element that positively supplements the visual environment;
3. The regulations of this section do not adequately describe or regulate the proposed signage;

4. The signage will promote a strong public interest, including but not limited to wayfinding and the positive identification of essential services; or
5. The relocation of allowed signage is necessary based on difficulties resulting from building design, orientation, or location.

C. Board of Adjustment Consideration

1. The Chief Building Official, at their sole discretion, may refer the meritorious exception application to the Board of Adjustment, convening as Sign Board, for consideration and action.
2. The Chief Building Official may deny a meritorious exception if the proposed sign does not meet the criteria included in subsection B above. The applicant whose request was denied may appeal the decision of the Chief Building Official to the Board of Adjustment, convening as Sign Board, in accordance with the procedures outlined in §4.4.4.B of this.

4.4.3. Historic Sign Exceptions

A. Generally

In the Historic Neighborhood Improvement Zone (HNIZ)¹², there may be signs that do not meet the criteria of this Article, but that contribute to the historic character of the City. These are referred to as “Exceptional Historic Signs.” A list of Exceptional Historic Signs shall be maintained in the Development Services Division and is available in the administrative manual. These signs shall be considered exempt from the requirements of this Article.

B. Designation of Exceptional Historic Sign

For designation as an Exceptional Historic Sign, the Historic Preservation Advisory Board shall find that a sign:

1. Is at least 50 years in age; and
2. Possesses a unique quality or character that contributes to the historic character of the HNIZ, MTC -- McKinney Town Center, the sign’s immediate neighborhood, or the property on which the sign is located.

C. Appeals

Any appeal of the determination of the Historic Preservation Officer with regard to denial of designation of an Exceptional Historic Sign shall be heard by the Board of Adjustment, convening as a Sign Board.

D. Replacement or Repair

1. Minor Repairs

- a. Minor repairs for Exceptional Historic Signs shall be exempt from the requirements of this Article.
- b. Minor repairs consist of cleaning, painting, and replacement of defective parts, which will keep the sign legible and safe, and which does not change the total area of the sign.

2. Major Repairs or Replacement

- a. In the event that an Exceptional Historic Sign is damaged or destroyed, it may be rebuilt or repaired to its original dimensions.
- b. In the event that the sign requires replacement or repair beyond those that constitute minor repairs as described above, a request in writing shall be submitted to the Historic Preservation Officer.
- c. Such a request shall specify the proposed materials, colors, and any other description of the replacement sign’s character.
- d. The sign shall be reconstructed or repaired using the same materials as the original, to the greatest extent feasible.

¹² Does this area designation still exist, or should this reference be updated to Historic Overlay?

E. Approval of Requests for Major Repair or Replacement

Written requests for replacement or major repair of an Exceptional Historic Sign shall require approval by the Historic Preservation Officer and the Building Inspection Department, and shall meet the following standards, where applicable:

1. New signs replacing Exceptional Historic Signs shall comply with the current adopted building code.
2. Applications for attached signs shall show the method of attachment. For wall signs attached to historic buildings, attached signs shall be mounted in the mortar of the building, not the brick.
3. Applications for illuminated signs shall include details for electrical wiring and connections. Electrical wiring shall meet current electrical code.

4.4.4. Variances

A. Generally

The rules and regulations found in this Article are the standard requirements of the City. Suspension of any of these rules and regulations may be granted by the Board of Adjustment, convening as the Sign Board, upon a good and sufficient showing by the sign owner or his or her agent that there are special circumstances or conditions affecting the property in question, or that enforcement of the provisions of this section will deprive the owner of a substantial property right, and that such suspension, if granted, will not be materially detrimental to the public welfare or to other property or property rights in the vicinity.

B. Application and Standing

All appeals applications related to the denial of a permit shall be deemed complete before being accepted for filing. The Board of Adjustment, convening as a Sign Board, is responsible for hearing appeals, except those related to content, which are the responsibility of the City Council, as described in provision D of this subsection. Appeals may be filed by the owner of the property, or his or her agent, or by a person aggrieved by the denial of a permit under this section, subject to regulations of this Article 4: *Signs*.

C. Appeals of Board of Adjustment Determinations

Any appeals of Board of Adjustment Sign Board determinations shall be made to a district court, county court, or a county court at law in accordance with state statute, V.T.C.A. Local Government Code, §211.011 et seq., as amended.

D. Content-Based Appeals

The City Council shall hear all variance requests related to content-based speech issues.

4.5. Prohibited Signage

The following signs are specifically prohibited, except as otherwise prescribed within this section:

4.5.1. Certain Illuminated Signs

Any illuminated sign that operates at brightness levels of more than 0.3 footcandles above ambient light conditions at the property line, or at a distance equal to the square root of the area of the sign x 100 ($\sqrt{\text{Area of Sign in Sq. Ft.} \times 100}$), whichever is closer to the sign, as measured using a foot-candle meter. Illumination levels shall be measured at an approximate height of 5 feet above grade.

4.5.2. Signs Containing Obscene Matter

Any sign that contains statements, words, or pictures of an obscene character.

4.5.3. Signs Interfering with Traffic

Any sign that imitates an official traffic sign or signal. Any sign that is of a size, location, movement, coloring, or manner of illumination that may be confused with a traffic control device; or that hides from view any traffic or street sign or signal; or that obstructs the view in any direction at a street or road intersection.

4.5.4. Portable and/or Display Signs

Portable and/or display signs, except as described in §4.7.5, *Temporary Signs*.

4.5.5. Painting, Marking Streets, Sidewalks, Buildings, Utility Poles, Trees

No person shall attach any sign, paper, or other material to, or paint, stencil, or write on, or otherwise mark on any sidewalk, curb, gutter, street utility pole, tree, public building or structure unless authorized by this section or by the City Council or its delegated representatives. See Figure 4-3.

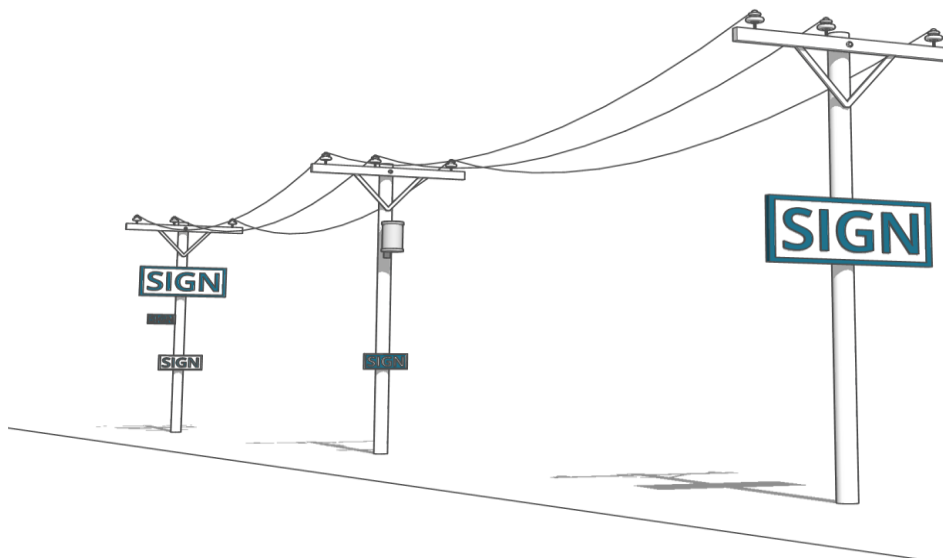


Figure 4-3: Prohibited Signs Affixed to Utility Poles

4.5.6. Signs in, on, or over Public Right-Of-Way, Railroad Right-Of-Way, Public Easements or Designated Fire Lanes

No person shall place, erect, or allow to be placed or erected any sign in, on, or over public rights-of-way and easements, railroad right-of-way, or designated fire lanes except as described in §4.7.6, *MTC – McKinney Town Center Zoning District*, or if erected by the City for public purposes. Detached signs shall maintain a setback as described in §4..2.E, *Calculation of Sign Setback*.

4.5.7. Signs on Fences or Railings

No person shall paint a sign or attach a sign to the outside of a fence or railing.

4.5.8. Searchlights

Searchlights are prohibited, unless specially permitted through the Chief Building Official. An application for such permit shall be submitted to the Chief Building Official 20 days prior to the event for which they are requested, and shall indicate the number of searchlights, time of use, intended purpose, and location.

4.5.9. Roof Signs

Signs that are erected upon or applied to any roof are prohibited. A mansard-style roof shall be considered as part of the building facade and not the roof for the purpose of attached sign location. The term "sign" in this section shall not apply to the cornice, tower, or spire of a place of worship.

4.5.10. Wind-Driven Signs

Wind-driven signs are prohibited in all zoning districts, except as permitted as part of a change in occupancy or ownership event as described in §4.7.5.D, *Change in Occupancy or Ownership Temporary Event Signage*.

4.5.11. Handbills

Distribution of handbills shall be in accordance with Chapter 78 of the Code of Ordinances.

4.5.12. Inflatable Signs

Inflatable signs are prohibited in all zoning districts, except as permitted as part of a change in occupancy or ownership event as described in §4.7.5.D, *Change in Occupancy or Ownership Temporary Event Signage*.

4.5.13. Billboards

All new billboard signs are prohibited. Billboards permitted prior to July 1, 2012, may remain in accordance with the regulations of this Article regarding nonconforming signs, as described in §4.9.2, *Billboard Signs*.

4.6. Permitted Signs

The following general provisions apply to signs in all zoning districts, with the exception of the MTC -- McKinney Town Center Zoning District, which is governed by §4.7.6, *MTC -- McKinney Town Center*.

4.6.1. Illuminated Signs

All illuminated signs shall bear the Underwriters' Laboratories, Inc. (ULI) label or be built in conformance with the City's electrical code requirements, as amended. Additionally, illuminated signs shall comply with the following provisions:

- A. No sign or associated luminaire shall create light spillover of more than 0.1 footcandles at any property line within or bounding a residential use or residential district.
- B. Neither the direct nor the reflected light from any light source shall create a traffic hazard or distraction to operators of motor vehicles on public thoroughfares.
- C. External illumination is allowed on the following signs:
 - 1. Signs in the MTC -- McKinney Town Center zoning district;
 - 2. Detached signs on tracts 25 acres or greater in industrial zoning districts;
 - 3. Ground signs in business districts; and
 - 4. Institutional signs and multi-family use signs.

4.7. On-Site Signs

4.7.1. Attached Signs: Non-Residential Zoning Districts

Only the following attached on-site signs are allowed in non-residential zoning districts.

A. Wall Signs

1. Sign Allowance

a. Sign Area

The total area per face of a sign shall not exceed 1½ square feet of face area for each linear foot of building frontage.

b. Multiuse Building

Allowances for individual occupancies within a multiuse building shall be calculated on leased or occupied length of frontage.

c. Multiple Frontages

- i. If the lot on which the building is located has frontage on more than one right-of-way, each street frontage shall be counted for purposes of determining attached sign allowance.
- ii. Signage is to be distributed on the sides of the building directly adjacent to a public right-of-way.
- iii. Alternate signage is allowed on sides of the building not adjacent to a public right-of-way, not to exceed 25 square feet. See Figure 4-4.

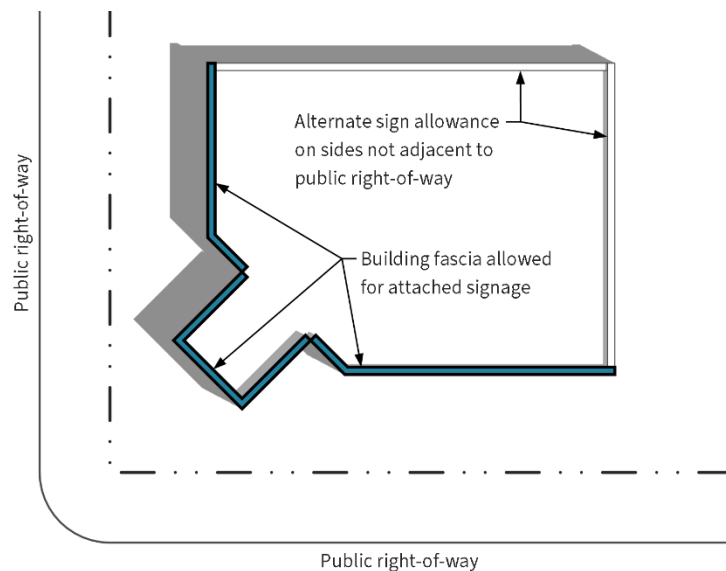


Figure 4-4: Sign Allowance

2. Sign Location

- a. Attached signs may be located on a building wall.
- b. If any part of the sign projects above the ceiling line of the first floor, then no window or part of a window shall be situated within or blocked by the flat wall sign.
- c. No sign shall extend above the roofline of the building or more than 12 inches beyond the building wall.

- d. Where such signs are located on mansard-style roofs, and the building fascia is not vertical, the bottom of the sign shall not project more than 12 inches from said roof and the sign can be oriented in a vertical manner.
- 3. Sign and Letter/Logo Height in Relation to Building Height**
- a. For multistory structures, attached signage as described in §4.7.1.A of this section is allowed between the ground level up to a height of 24 feet.
 - b. For multistory structures that are 4 stories in height or more, the standards shown in Table 4-1 below shall apply to letter/logo height in relation to building height:

Table 4-1: Sign and Letter Height on Multistory Structures

Height of Building	Maximum Letter/Logo Height (inches)
4 stories	36
5 to 10 stories	48
11 to 15 stories	60
16 stories and above	72

- c. Additionally, Table 4-1 represents the maximum letter and/or logo height in each sign height category. When a sign is totally composed of individually mounted letters, either one letter or one logo may be 25 percent taller than the maximum letter/logo height.
- d. Such signage shall be located between the floor level of the top floor and the top of the fascia wall. See Figure 4-5.



Figure 4-5: Sign and Letter/Height in Relation to Building Height

B. Projecting Signs

1. Sign Allowance

Projecting signs shall be no more than 15 square feet in area, and shall not exceed 5 feet in height.

2. Sign Location

Projecting signs may project a maximum of 5 feet from the façade of the building, or up to 50 percent of the width of the sidewalk adjacent to the building, whichever is less. The sign may extend into the right-of-way or above a pedestrian walkway or sidewalk.

3. Sign Clearance

When projecting over a public or private sidewalk, a projecting sign shall have a minimum clearance between the ground and the bottom of the sign of 8.5 feet. See Figure 4-6.

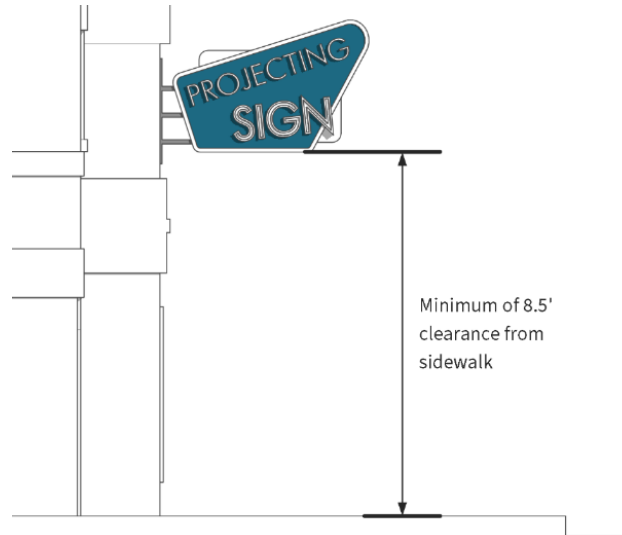


Figure 4-6: Projecting Sign Clearance

4.7.2. Detached Signs: Non-Residential Districts

A. Generally

Ground signs shall be engineered to withstand a wind load of 30 pounds per square foot.

B. Location

1. Detached signs generally shall be restricted to ground signs only; however, pole signs shall be allowed when located within 50 feet from the right-of-way lines of the linear segments of the streets listed below, and when such signs are situated so as to be viewed from such streets:
 - a. U.S. 75/Central Expressway, full length within the corporate limits of the City;
 - b. Texas Highway 121, full length within the corporate limits of the City;
 - c. University Drive, between Central Expressway and McDonald Street.
2. The Board of Adjustment, convening as a Sign Board, upon specific application, may approve an exception to allow a pole sign at a location where prohibited herein if the Sign Board determines that pole signs exist in the immediate vicinity and the proposed pole sign would be consistent with existing conditions in the vicinity.
3. No such sign shall be erected within 20 feet of the street intersection, unless the bottom of the sign exceeds 42 inches in height above ground level, and the sign is set back from the right-of-way as stated in Table 4-3: *Pole Signs*. See Figure 4-7.

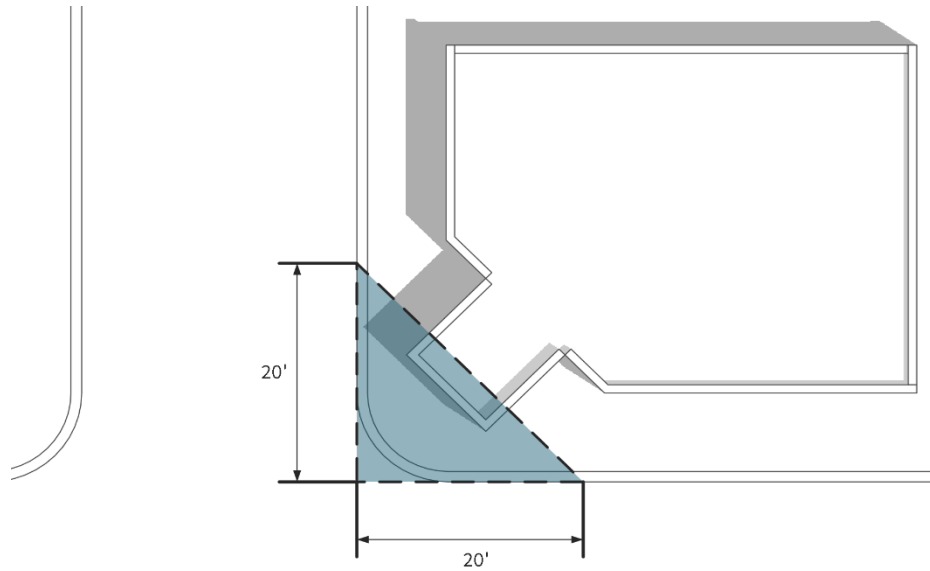


Figure 4-7: Visibility Triangle – Pole Signs

4. When determining requirements for allowable detached pole or ground signs pursuant to Table 4-3: *Pole Signs*, or Table 4-4: *Ground Signs*, first determine the right-of-way width adjacent to the subject lot, then determine the lot frontage. Next, determine the maximum square footage per side, setback from adjacent rights-of-way, and the maximum height by reading vertically below the applicable lot frontage. See Figure 4-8.

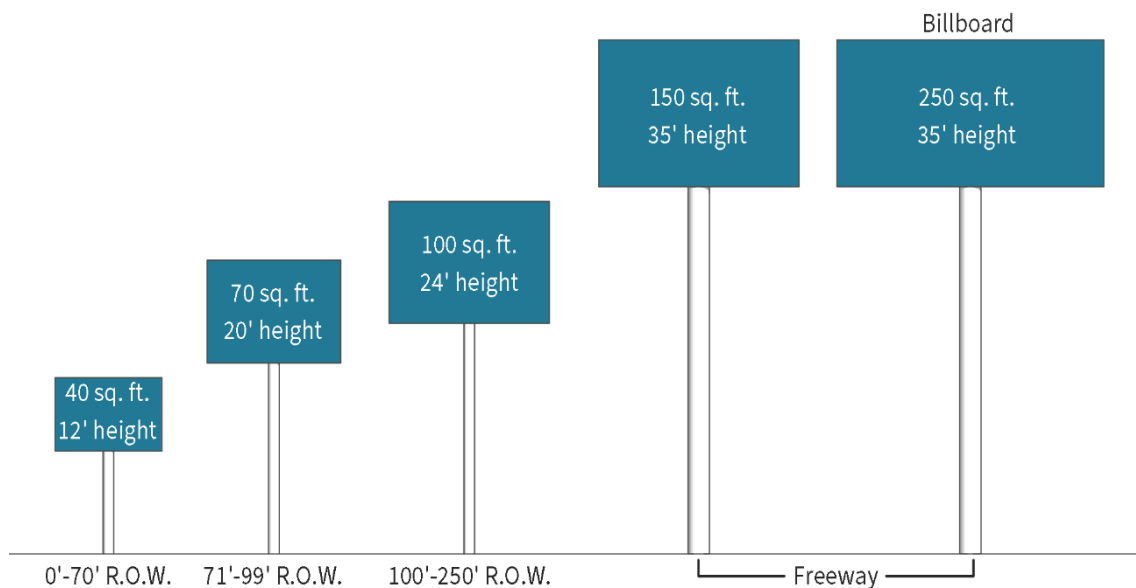


Figure 4-8: Maximum Sign Height and Square Footage – Pole Signs

5. Separation

Where there is more than one detached sign on a site, there shall be a minimum separation of 20 feet between each detached sign.

C. Size and Number of Signs for Lots with Multiple Frontages

For lots on which a building or buildings have multiple frontages, the size and number of detached signs allowed shall be based on the lot size and location, as set forth in the following table:

Table 4-2: Allowed Size and Number of Detached Signs for Lots with Multiple Frontages

Lot Size or Location	Detached Signs Allowed
3 acres or more	One ground or pole sign is permitted per street frontage based on sign allowances in <i>Table 4-3: Pole Signs</i> , or <i>Table 4-4: Ground Signs</i> .
Less than 3 acres	One ground or pole sign is permitted per street frontage with a maximum of 60 square feet per side per sign and a maximum height of 20 feet.
Any lot located at the intersection of a major thoroughfare and a freeway	One ground or pole sign is permitted per street frontage, the size to be based on allowances in <i>Table 4-3: Pole Signs</i> , or <i>Table 4-4: Ground Signs</i> .

Exception: If two of the allowable detached signs are combined into one detached sign, then the signage may exceed by 50 percent the total allowable signage of the largest permitted sign up to a maximum of 200 square feet per side.

D. Calculation of Sign Height

1. To calculate the height of a sign, measurement shall be made from the top of the curb adjacent to the street upon which a sign faces or from the natural ground level, if above curb level, to the top of the sign.
2. Construction of a berm or earthen mound for the purpose of increasing height of signage is prohibited.

E. Calculation of Sign Setback

1. For the purpose of calculating the distance from a street right-of-way line where the existing street right-of-way width is less than that required in the Master Thoroughfare Plan and Subdivision Regulations, such distance shall be measured from the line of such right-of-way as required by the Plan or Regulations (adding equal amounts to each side of the existing right-of-way) rather than from the existing right-of-way line.
2. Freeways are as proposed by the Master Thoroughfare Plan of the City.

F. Other Regulations

1. When electrical service is provided to detached signs, all such electrical service shall be underground.
2. All detached ground signs shall be framed, and finish materials used on the sign frame shall match or be complementary to exterior finishing materials of the primary structure on the site.

G. Detached Sign Types

1. Pole Signs

Pole signs, only in locations expressly permitted in §4.7.2.B, shall conform to the standards in the following table.

Table 4-3: Pole Signs

	Zero to 70-foot ROW (feet)			71- to 99-foot ROW (feet)			100- to 250-foot ROW (feet)		Freeway (feet)
Minimum width of lot frontage	50	100	150	50	80	100	100	200	125
Maximum square footage per side	20	30	40	50	60	70	80	100	150
Setback from street ROW line or any property line	5	5	10	10	10	15	15	15	15
Maximum height	[1]	8	10	20	20	20	24	24	40

Notes: Lots with multiple frontages are permitted one sign per frontage. Sign area allowances for multiple frontages may be combined into one sign, with area up to 150% of the largest allowance, or 200 square feet, whichever is less.¹³

2. Ground Signs

Ground signs shall conform to the standards in the following table.

Table 4-4: Ground Signs

	Zero to 70-foot ROW (feet)			71- to 99-foot ROW (feet)			100- to 250-foot ROW (feet)		Freeway (feet)
Minimum width of lot frontage	50	100	150	50	80	100	100	200	125
Maximum square footage per side	20	30	40	50	60	70	80	100	150
Setback from street ROW line	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5
Setback from any property line other than ROW	5	5	10	10	10	15	15	15	15
Maximum height	3.5	6	6	6	6	6	8.5	8.5	10

Notes: Lots with multiple frontages are permitted one sign per frontage. Sign area allowances for multiple frontages may be combined into one sign, with area up to 150% of the largest allowance, or 200 square feet, whichever is less.

3. Multiuse Signs

A multiuse sign that identifies a coordinated development site with more than one use, such as a shopping center, office center, or industrial park, may have a sign area not larger than one and one-half times the area allowed for a single-use sign on the site, or a maximum of 200 square feet, whichever is less. If a multiuse sign area exceeds the allowance for a single use, no additional detached ground or pole sign is allowed for any single use within the center or development.

4. Development Entrance Signs (Commercial Non-Residential Zoning Districts)¹⁴

Detached ground signs are permitted at the entrances of residential development located in commercial zoning districts located on more than one lot and bisected by one or more publicly

¹³ We have a question of interpretation as to whether this is universally correct, or whether more specific information needs to be included for lots less than three acres, depending on the kind of intersection they face. This same note applies to Ground Signs as well.

¹⁴ Two further points of clarification: Should an entry for Multi-family Use Signs also appear in this section? And we understand this provision to mean that such a development entrance sign would not be permitted alongside a driveway entrance. Has the issue ever come up that there is a non-multi-family development with no internal public streets, accessed by what would essentially be a private drive?

dedicated streets. Such signs may be located at each corner of the intersection. Such signs shall conform to the following size restrictions:

Table 4-5: Development Entrance Signs		
Size	Maximum size (square feet)	Maximum height (feet)
Under 10 acres	36	6
10 acres and above	64	8

5. Automobile Dealership Signs

a. Number Per Lot

i. Primary Detached Signs

Each franchise within an automobile dealership shall be allowed one primary detached sign, although no automobile dealership shall be allowed more than 3 primary signs.

ii. Secondary Detached Signs

One secondary detached sign per automobile dealership shall be allowed.

b. Area, Location, and Height Requirements

- All primary detached signs shall conform to provisions of this section.
- Secondary signs shall be limited to one-half of the area of the primary detached sign and a maximum of 24 feet in height.
- All signs shall be separated by a minimum distance of 100 feet.

c. Banners and Pennants

Such signage is allowed on light standards and poles, as long as signage does not exceed 20 square feet per pole or sign and is not strung or affixed in any manner other than from brackets on single poles. See Figure 4-9.

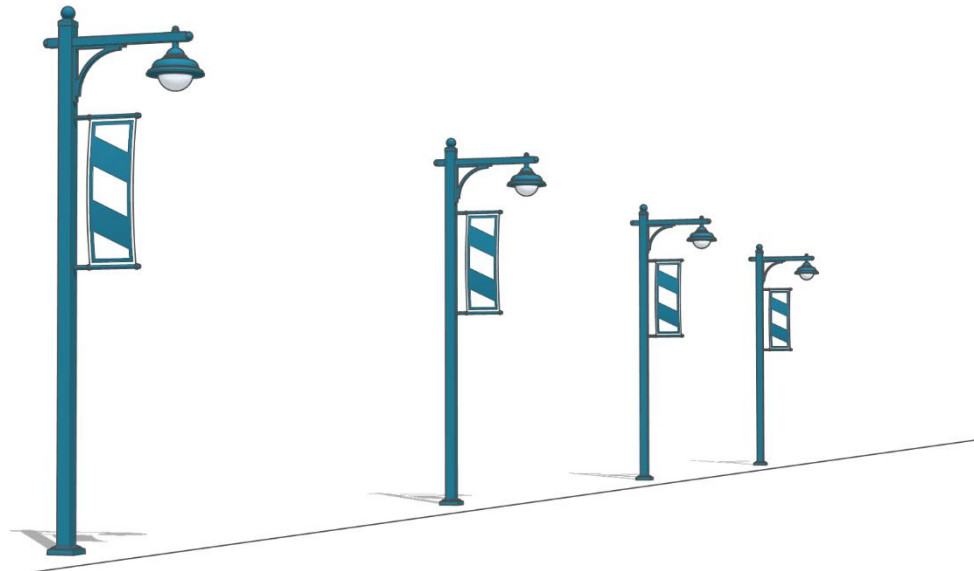


Figure 4-9: Allowed Banner Attachment to Poles

6. Changeable Electronic Variable Message Signs

- Signs shall not exceed 60 square feet.
- A sign shall display static images for a period of at least 8 seconds.

- c. Variable message signs shall not be animated, flash, travel, blink, fade, or scroll. Variable message signs shall transition instantaneously to another static image.
- d. In all zoning districts, signs shall come equipped with automatic dimming technology, which automatically adjusts the sign's brightness based on ambient light. A sign existing prior to the adoption of this ordinance shall only be required to include automatic dimming technology upon any upgrade or retrofit of the existing sign.
- e. A sign shall not exceed a brightness level of 0.3 footcandles above ambient light as measured by the guidelines below:
 - i. At least 30 minutes past sunset, use a footcandle meter to record the ambient light reading for the area. This reading is performed while the digital sign is off or displaying all black copy.
 - ii. Take a reading using footcandle meter at 5 feet above grade and 45 feet from the sign.
 - iii. The meter shall be aimed directly at the digital sign.
 - iv. Turn the sign on and illuminate entirely in white or red.
 - v. The meter shall be aimed directly at the digital sign.
 - vi. If the difference between the two readings taken above is 0.3 footcandles or lower, then the sign is in compliance. If the result is greater than 0.3 footcandles, the sign is out of compliance and must be adjusted to meet standards or turned off until compliance can be met.
 - vii. All measurements shall be taken in footcandles.
- f. Temporary signs required by government agencies for road and street repairs, public notifications, traffic control, and similar are exempt from the provisions of this section.

7. Kiosk Signs¹⁵

Shopping centers, office parks, industrial parks, and medical centers shall be permitted no more than 5 kiosk signs. Such signs shall be limited to 6 feet in height and a maximum 16 square feet in sign area per side. Once permitted, content on a kiosk sign may be amended without the necessity of additional permitting as tenants change within the development.

4.7.3. Detached Signs: Residential and Non-Residential Zoning Districts

The following detached signs are allowed in residential and non-residential zoning districts, subject to the following regulations:

A. Development Entrance Signs (Residential Subdivisions)

In residential zoning districts, detached ground signs are permitted at the entrance of residential subdivisions that are bisected by one or more publicly dedicated streets. The maximum size shall be 32 square feet per sign with a maximum height of 6 feet. Signs may be located at each corner of the intersection of an entrance street.

B. Institutional Use Signs

An institutional use shall be allowed one sign, not to exceed 25 square feet per face, and 8 feet in height, erected upon the site of the institutional use. Such sign shall require a permit and may be illuminated according to §4.7.1, *Illuminated Signs*.

C. Multi-Family Use Signs

One sign per multi-family development shall be allowed, provided such sign does not exceed 25 square feet in area at the primary entrance; and one sign per secondary entrance that is not to exceed 16 square feet. Such signs shall require a permit and may be illuminated according to §4.7.1, *Illuminated Signs*.

¹⁵ Did not carry forward content-specific regulations, "and shall only list and provide direction to individual businesses within the overall development." Additionally, as a general rule, we recommend against regulating signs that are not visible from a public right-of-way. It brings up issues of enforcement, and also goes beyond what this section specifies as the purpose of sign regulation.

4.7.4. Off-Site Signs

A. Billboard Signs

1. New billboard signs are prohibited.
2. Existing billboard signs shall be considered nonconforming signs and shall comply with §4.10.2, *Billboard Signs*, with the exception of billboard signs fronting U.S. Highway 75/Central Expressway, which may be structurally altered and/or replaced, but shall not exceed a height of 40 feet or an area of 300 square feet per side. Height shall be measured from the ground level of the street or road upon which the sign faces (including frontage roads), or from the ground level of the billboard sign location, if such ground level is above the street or road level.

4.7.5. Temporary Signs

This section is applicable in both residential and non-residential zoning districts.

A. Temporary On-Premise Yard Signs

1. One temporary freestanding yard sign shall be allowed subject to the following standards:
 - a. On tracts of land 50 acres or less, one freestanding yard sign, not exceeding 32 square feet in sign area and 12 feet in height.
 - b. On tracts of land over 50 acres, one freestanding yard sign, not exceeding 96 square feet in area and 16 feet in height.
 - c. On tracts of land over 50 acres with 1,000 feet of frontage adjacent to the public right-of-way, one free-standing yard sign, not exceeding 200 square feet per side and 16 feet in height.
2. For setback requirements, refer to §4.8.2.G.2, *Ground Signs*.
3. Freestanding yard signs measuring 32 square feet or less shall not require a permit.

B. Temporary A-Frame Sidewalk Signs

Temporary A-frame sidewalk signs are only permitted in the MTC – McKinney Town Center zoning district for businesses that have an entrance immediately adjacent to a public sidewalk. The temporary signs shall meet the standards in §4.7.6.D.

C. Temporary Banners, Posters, and Pennants

Temporary signs, including, but not limited to, banners, posters, and pennants shall be permitted, subject to the following standards:

1. Temporary banners, posters, and pennants shall be permitted for a maximum of a 30-day period, up to 4 times per year.
2. Such signs shall not exceed 50 square feet.
3. The means of attachment shall not be visible from the public right-of-way.
4. A permit fee as determined from time to time by City Council shall be applicable per 30-day period, unless all 4 periods are scheduled in advance; then a permit fee as determined from time to time by City Council will be applicable covering all 4 such periods.

D. Change in Occupancy or Ownership Temporary Event Signage

1. One additional permit may be obtained per year in conjunction with a change in occupancy or ownership event.
2. A change of ownership of less than 75 percent of the owners does not qualify as a new business.
3. Such permits may only be issued within 90 days of the issuance of a certificate of occupancy and shall be limited to 7 days.
4. A permit for change of occupancy signage may include banners, balloons, pennants, feather flags, inflatable, and wind-driven signs.

5. Banners, balloons, pennants, and inflatable and wind-driven signs shall be securely tethered, fastened, or affixed to the ground or structure.
6. Feather flags used for a change of occupancy or ownership event shall be limited to 2 flags per site.

E. Temporary Signs During Public Right-of-Way Improvements

During periods where the City of McKinney or the Texas Department of Transportation street improvements alter driveway approaches or entrances into non-residential property, temporary signs may be permitted. Such signs shall conform to the following standards:

1. Signs shall be limited to a total of 16 square feet in area and may not be more than 6 feet in height.
2. Only one sign is permitted per driveway.
3. Signs shall be attached to a temporary post and must be located on private property. Sign placement shall not block the line of sight for traffic and the sign shall be maintained by the property owner.
4. An application for a temporary sign under this subsection must include a map showing the proposed location of the sign, and must be completed by the property owner prior to sign placement. The City maintains the right to remove the sign without notice in the event there is a violation of any of the above-listed requirements.
5. During reconstruction of any highway, arterial or collector street, additional temporary signs and banners may be permitted. Such signs shall conform to the following standards:
 - a. One temporary banner per property not to exceed 150 square feet in area. Each banner shall be securely fastened and mounted flat against the face of a permanent structure and facing the right-of-way under construction.
 - b. Businesses adjacent to active roadway construction may be allowed temporary signs up to a maximum of 36 square feet in area and may not be more than 8 feet in height. Signs shall be located on private property, and maintained by the property owner. One such sign is permitted per driveway and shall not block the line of sight for traffic.
 - c. All such signs and banners must be removed from the property within 30 days of final completion of that portion of the reconstruction immediately adjacent to the property in question.

F. Neighborhood Construction Signs

One non-illuminated sign shall be permitted upon the approval of a plat for a residential subdivision containing an area of not less than 7 lots. The neighborhood construction sign shall be erected upon the property and shall not exceed 32 square feet in area, and 8 feet in height, and not more than one such sign is permitted per street frontage. Such signs shall be removed no later than 30 days after the closing of the final real estate conveyance or the issuance of a certificate of occupancy, whichever is later.

G. Construction Site Signs

1. Residential Districts

On building construction sites, one non-illuminated sign shall be allowed on the site provided that the sign shall not exceed 32 square feet in area, and 8 feet in height. Such sign shall be removed prior to the issuance of a certificate of occupancy for said building.

2. Non-Residential Districts

On building construction sites, one sign shall be permitted for all participating building contractors and subcontractors, one for all participating professional firms, one for all participating lending institutions and one for each property owner on the construction site, subject to a maximum of 3 signs for each construction site. Each sign shall be no greater than 32 square feet with a maximum height of 8 feet, and shall be removed prior to the issuance of a certificate of occupancy for said building.

H. Undeveloped Real Estate Site Signs

1. On undeveloped real estate sites, one non-illuminated sign per right-of-way frontage shall be allowed on the site.
2. The sign shall not exceed 64 square feet in area, and 12 feet in height.
3. The sign shall not face a residential neighborhood, unless separated by a major thoroughfare.

4. The sign shall be located a minimum of 15 feet from any property line.
5. The sign may be constructed of wood, metal, plastic, or equivalent durable material.
6. The sign shall have attached, written, or painted in a weatherproof manner the date of the placement and the sign permit number on the sign, in letters not less than one inch in height, in a conspicuous place on the sign face.

4.7.6. Signs in the MTC -- McKinney Town Center Zoning District

A. Applicability

The MTC -- McKinney Town Center zoning district is that area established by the MTC regulating plan as shown in **Article 8: MTC -- McKinney Town Center**. All signs within the MTC district shall adhere to the standards in this section.

B. Design

1. Signs shall be designed and constructed in keeping with the historic character and pedestrian-oriented urban design of the district. Signs are subject to review by the Director of Planning and approval is a prerequisite for the issuance of a sign permit.
2. Materials suggested for use for signs are finished hardwoods, softwoods, metals, glass, or neon.
3. Internally illuminated signs (three-dimensional cabinet, can, or box construction) with single-sided or double-sided face panels made of plastic or synthetic materials are specifically not allowed. However, signs comprised of internally illuminated individual letters are allowed.

C. Minimum Clearance

1. Hanging signs shall be allowed when such signs have a minimum clearance of 7 feet from the sidewalk and do not extend beyond an awning or canopy projection.
2. Projecting signs shall have a minimum clearance from the sidewalk of 8 feet 6 inches and shall not project more than 5 feet from the building or more than 50 percent of the width of the sidewalk adjacent to the building, whichever is less. See Figure 4-6.

D. Size

Maximum size shall be based on the following:

1. For every 1 linear foot of building primary or entrance frontage, a maximum of 1½ square feet of sign area shall be allowed.
2. The area of a sign on secondary side-street frontage shall not exceed ½ the size of the area of a sign on the primary or entrance frontage.
3. Window signs shall cover no more than 40 percent of the total glass area, and this will count as one of the signs permitted.
4. Each face of a hanging sign shall be no more than 5 square feet.
5. Projecting signs shall be no more than 15 square feet in size.
6. Temporary A-frame signs placed on any public sidewalk shall be no greater than 24 inches in width.

E. Number

1. Two signs are permitted per primary entrance, plus one additional hanging sign, if a canopy is used.
2. One secondary entrance sign is permitted.

F. A-Frame Signs, Portable Signs, or Display Signs

A-frame signs, portable signs, or display signs are allowed, provided they adhere to the following criteria:

1. One such sign shall be permitted per primary entrance.
2. Such signs may extend out a maximum depth of 2 feet from the building, with a maximum length over the right-of-way of 4 feet.
3. Such signs shall not occupy more than 6 square feet of the public right-of-way.

4. A clear path of a minimum of three feet in width shall be maintained on the public right-of-way at all times.
5. Materials not allowed include plastics, fluorescent materials, paper, or fluorescent paints. Such signs shall also not be illuminated or lighted.
6. Such signs shall be displayed during business hours only.

4.8. Comprehensive Sign Package

4.8.1. Non-Residential Zoning Districts

- A. Notwithstanding anything contained in the foregoing, if property is developed in a non-residential zoning district, in a PD planned development district, or in the MTC -- McKinney Town Center district, all signs on such property may be reviewed and approved as part of a comprehensive sign package, as described in this section.
- B. Total signage allowed for all sites in the development may be aggregated and the total allowance redistributed.
- C. Sign locations, types, and sizes may be varied; however, they shall be consistent with site and landscape planning principles and will be considered as part of the review process. Such signage shall also comply with the requirements of §4.4.2, *Removal of Unlawful and Abandoned Signs*.
- D. Roof signs may be considered in the MTC -- McKinney Town Center district only if reviewed and approved through the comprehensive sign package process.

4.8.2. Compatibility of Design

All signs applied for under the provisions of this section are subject to the approval by the Director of Planning . The following criteria shall be considered:

- A. The sign's compatibility with surrounding signage as related to location, height, size, and setback;
- B. The sign's compatibility with aesthetics as related to color scheme, shapes, design, and materials;
- C. The sign's compatibility with surrounding urban design and context; and
- D. The sign's relationship to proposed or existing landscaping.

4.9. Nonconforming Signs

4.9.1. Generally

Signs existing as of [date of the adoption of this ordinance] that were in compliance with the then-current ordinance and not in compliance herewith shall be regarded as nonconforming signs, which may continue to exist until structurally altered, removed, or destroyed as an act of God or until the business that they are advertising is no longer in existence, except for billboards (third-party outdoor advertising). Nonconforming signs that are structurally altered, relocated, or replaced shall comply immediately with all provisions of this section.

- A. Any nonconforming sign that has been damaged by fire, wind, or other cause in excess of 50 percent of its replacement cost shall not be restored except in conformance with the provisions of this section.
- B. Those signs designated as Exceptional Historic Signs and located in the Historic Neighborhood Improvement Zone (HNIZ) as described in §4.5.3 shall be regarded as nonconforming signs. These signs may be repaired or replaced as described in §4.5.3.D with the approval of the Historic Preservation Advisory Board.

4.9.2. Billboard Signs

- A.** New billboards are prohibited.
- B.** Existing billboards shall be considered nonconforming signs and shall comply with §4.10.1, with the exception of billboard signs fronting U.S. Highway 75/Central Expressway, which may be structurally altered and/or replaced, but shall not exceed a height of 40 feet or an area of 300 square feet per side. Height shall be measured from the ground level of the street or road upon which the sign faces (including frontage roads), or from the ground level of the billboard sign location, if such ground level is above the street or road level.
- C.** An existing billboard sign may be converted to a digital billboard sign if:
 - 1.** A second billboard sign is removed; and
 - 2.** The digital billboard:
 - a.** Does not exceed 300 square feet in size per side;
 - b.** Does not exceed 40 feet in height; and
 - c.** The pole is encased in brick, stone, or synthetic stone material.

Article 5: Exterior Lighting

COMMENTARY

Comments during initial interviews indicated that this current section is generally working well and should be retained. This draft incorporates minor edits as requested by staff, with the understanding that further discussion would still be needed if more extensive changes are to be made. We have also suggested some additional copy edits to use clearer, more straightforward language, and reformatted some sections to eliminate long, unbroken blocks of text.

5.1. Purpose

The standards for controlling lighting and glare are set forth to allow the reasonable enjoyment of property by owners and occupants while reducing the annoyance and inconvenience to adjacent property owners and traffic hazards to motorists.

5.2. Applicability

The provisions of this section shall apply to all new construction and lighting, except as follows:

- A. Any substantial change or addition to the existing lighting system shall, as determined by the Chief Building Official, comply with the provisions of this section.
- B. For one- to four-family residential uses, residential lighting for security and night recreation use is permitted in all residential districts, provided the following requirements are met:
 - 1. Direct lighting over 10 feet in height is shielded from adjacent property;¹⁶
 - 2. No light source or luminaire shall exceed a 30-foot mounting height; and
 - 3. Lighting shall not shine directly onto any dwelling beyond the property line.
- C. Exemptions shall include the following:
 - 1. Lighting installed by a governmental agency for public benefit on public rights-of-way, parks, and public recreation areas;
 - 2. Navigation and airport lighting required by the FAA for operation of airplanes;
 - 3. Emergency lighting by police, fire and/or other municipal, state or federal government authorities;
 - 4. Temporary special effects of holiday lighting if in compliance with the limitations at property lines as outlined in §5.4, *Illumination*. Other temporary lighting effects may be used if approved by City Council in accordance with §5.4.7, *Variances*; and
 - 5. The City Council may approve exceptions to this section for private recreational uses such as ball fields and golf courses if this exception will have minimal impact, if any, on the surrounding land uses, and no adverse impact on the public health, safety, and general welfare.

5.3. Standards

The following standards shall apply to all exterior lighting except lighting located within the public right-of-way and other lighting that is exempted herein.

5.3.1. General Requirements

- A. All luminaires must have a total cutoff angle equal to or less than 90 degrees.

¹⁶ Removed cross reference to Luminance, since content has been removed.

- B.** The use of exterior lighting with a cutoff angle greater than 90 degrees shall be permitted only when the Chief Building Official finds the following:
 - 1.** That the proposed lighting is not in conflict with the Purpose of this section;
 - 2.** That the proposed lighting will not have a negative impact on adjacent properties; and
 - 3.** The proposed lighting will not result in an impairment of vision creating a hazard for vehicular or pedestrian traffic.

5.3.2. Freestanding Luminaire Height

- A.** Freestanding luminaires are permitted to be a maximum of 30 feet in height.
- B.** When a luminaire is located within 100 feet of a residentially zoned or used property, the maximum permitted luminaire height shall be 20 feet.
- C.** Special lighting or lighting higher than 30 feet may be approved as specifically noted on a site plan.
- D.** In the MTC -- McKinney Town Center zoning district, the maximum height of poles with lights is 20 feet.

5.3.3. Shielded Light Source Required

- A.** All luminaires located shall be designed so that the light source (bulb or lamp) is completely shielded from direct view of at a point 3 feet above grade on a property line abutting a residential zone or use.
- B.** In all other instances, the light source must be completely shielded from direct view of at a point 6 feet above grade on a bounding property line.
- C.** Low intensity neon, krypton, or argon discharge tube lighting need not be shielded.
- D.** Examples of shielded or cutoff fixtures are shown in Figure 5-1 below:

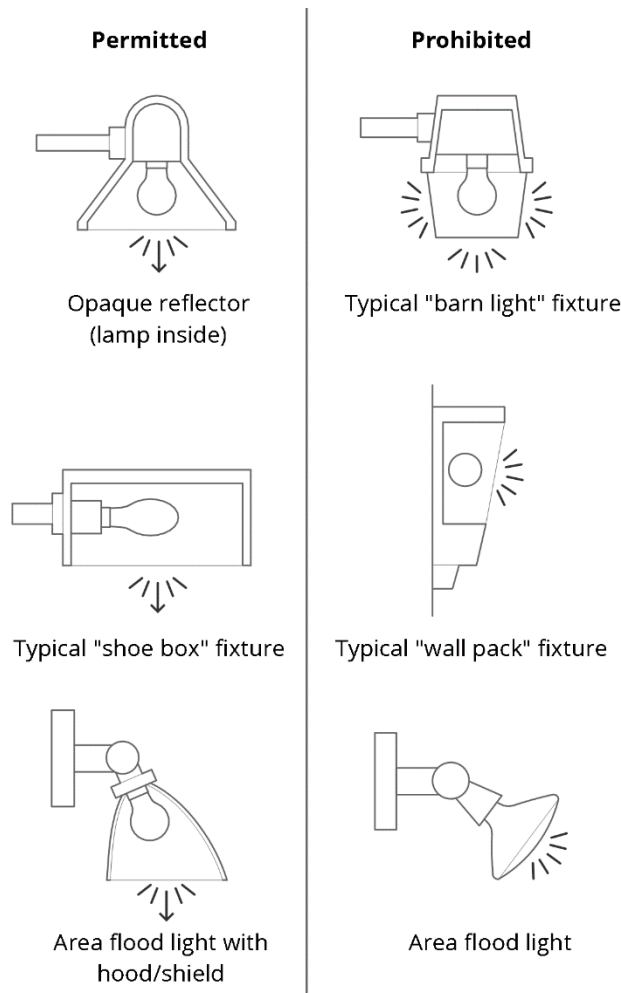


Figure 5-1: Permitted and Prohibited Light Source Shields

5.3.4. Canopy Lighting

Lighting recessed for canopies covering fueling stations at automobile service station and drive-through facilities shall not be designed so that the light source and lenses (bulb or lamp) are completely shielded from direct view at a point 5 feet above the grade on the boundary property line.

5.3.5. Wall or Roof Lighting

- A. Wall or roof lighting may be used to illuminate the pedestrian walkways, entrance areas and yard areas within 30 feet of the building.
- B. No wall or roof lighting shall be used to illuminate areas for motor vehicle parking or access unless the Chief Building Official finds the proposed lighting:
 - 1. Is not in conflict with the Purpose of this section;
 - 2. Will not have a negative impact on adjacent properties; and
 - 3. Will not result in an impairment of vision creating a hazard for vehicular or pedestrian traffic.

5.3.6. Motor Vehicle Parking, Storage, or Access

Any area used for motor vehicle parking, storage or access may be illuminated with freestanding luminaires.

5.3.7. Signs

Internal and external sign illumination shall adhere to the requirements of Article 4: Signs.

5.3.8. Flag, Statues, and Similar Objects

Outdoor light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a very narrow cone of light for the purpose of confining the light to the object of interest and minimize spill-light and glare.

5.3.9. Buildings

Building facades and architectural features of buildings may be floodlighted when the following conditions are met:

- A. Floodlight fixtures are equipped with shields and are located so as to limit the fixture's direct light distribution to the façade or feature being illuminated;
- B. The configuration of the floodlight installation shall block all view to the floodlight fixture's lamps from adjacent properties; and
- C. The maximum luminance of any floodlighted surface does not exceed 20 footcandles.

5.4. Illumination

5.4.1. Quality of Illumination

The quality of the light source shall be a minimum of 65 CRI (color rendering index) as indicated by the lamp manufacturer's data.

5.4.2. Maximum Illumination Levels

Table 5-1 describes the maximum permitted level of illumination permitted on private property.

Table 5-1: Maximum Illumination Levels on Private Property

Use of property	Maximum allowable foot-candles
Agricultural	20
Residential	20
Non-residential [1] [2] [3]	20

[1] Lighting under canopies shall not exceed 30 foot-candles. All other lighting on the property shall comply with the provisions of this section.

[2] Lighting for vehicle dealerships shall not exceed 30 foot-candles within the front yard, defined as the area between the side lot lines that extends from the main building to the front lot or street line. Lighting levels on the remainder of the property shall not exceed 20 footcandles.

[3] Illumination at interior property lines on contiguous lots in a multi-tenant, non-residential development may exceed the above criteria when necessary to provide constant lighting levels of adjoining parking areas, fire lanes, and interior access aisles as determined by the Chief Building Official.

5.4.3. Light Trespass Limitation

Table 5-2: Limits of Illumination on Neighboring Property

Zoning of neighboring property	Footcandles (horizontal/vertical)
--------------------------------	-----------------------------------

Table 5-2: Limits of Illumination on Neighboring Property

Single-family and two-to-four family residential districts	0.25/0.25
Multi-family residential districts	0.5/0.5
Agricultural	1.0/1.0
Non-residential districts (except Industrial), rights-of-way and private streets	3.0/3.0
Industrial districts	5.0/5.0

5.4.4. Equipment and Measurements

- A.** Light measuring meters used to ensure compliance with this section shall satisfy the following requirements:
1. The light measuring meter shall have a color and cosine-corrected sensor with multiple scales and shall read within an accuracy of plus or minus 5 percent; and
 2. It shall be tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within one year of its use.
- B.** Measurements and readings utilized to ensure compliance with this section shall satisfy the following requirements:
1. Illumination levels shall be measured in foot-candles with a meter sensor in a horizontal position at an approximate height of three feet above grade; and
 2. Maximum illumination readings are to be taken directly beneath the luminaires.

5.4.5. Submittal Requirements

- A.** As part of any building permit application or prior to altering any existing lighting the applicant shall submit evidence that the proposed work will comply with this section. The submission shall contain, but shall not necessarily be limited to, the following, all or part of which may also be required information elsewhere in the laws of the City, upon application for the required permit:
1. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors and other devices, and the mounting height of the light;
 2. Description of the illuminating devices, fixtures, lamps, supports, reflectors and other devices may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required); and
 3. Photometric plans showing illumination and ground elevation levels on the property, at the property line and just beyond the property line, as well as other data such as that furnished by manufacturers or similar data showing the angle of cutoff for light emissions.
- B.** The required plans, description, and data provided in provision A of this subsection shall be sufficiently complete to enable the plans examiner to readily determine whether compliance with the requirements of this section will be secured. If such plans, description and data cannot enable this ready determination, by reason of the nature of configuration of the devices, fixtures or lamps proposed, the applicant shall additionally submit as evidence of compliance certified reports of tests that enable determination of compliance; provided that these tests shall have been performed and certified by a recognized testing laboratory. Prior to issuance of a certificate of occupancy, the applicant shall submit to the Building Inspections Department an as-built photometric plan, stamped by a certified testing laboratory or engineering firm, attesting that the installed lighting is in compliance with the requirements of this Chapter.
- C.** Should any outdoor lighting fixture or type of light source be changed after the building permit has been issued, a change request must be submitted to the Chief Building Official for approval together with the adequate information to ensure compliance with this Chapter, which must be received and approved prior to substitution.

5.4.6. Prohibited Lighting

- A.** "Cobra head" type lighting fixtures having dished or "drop" lenses or refractors which house other than incandescent light sources;
- B.** Flickering or flashing lights; and
- C.** Light sources or luminaires in buffer areas and within required building setback yard areas except on pedestrian walkways or hike and bike trails.

5.4.7. Variances

The City Council may hear appeals from the denial of a permit due to lack of conformance with this section. Criteria for granting such a variance is as stated in the state statute, V.T.C.A., Local Government Code §211.008 et seq., as it may be amended.

Article 6: Fences

6.1. Fence Procedures

6.1.1. Purpose

The purpose of this section is to mitigate or minimize potential conflicts between adjacent land uses, protect the privacy and value of adjacent land uses, and provide minimum standards for the provision of fences and walls.

6.1.2. Authority

This section is enacted pursuant to the powers granted and limitations imposed by the laws of the state of Texas, including the statutory authority granted in Texas Local Government Code chapter 214 and all other relevant laws of the state of Texas.

6.1.3. Permit Required

- A. It shall be unlawful for any person within the city limits to install or cause to be installed or to permit any person to install a fence or wall or to make any alterations, additions or changes to a fence or wall without first having procured a permit to do so from the Chief Building Official. For the purposes of this section, the terms 'fence' and 'wall' may be used interchangeably.
- B. Unless otherwise reflected on an approved site plan, the Chief Building Official shall require a plot plan showing the lot size, all improvements on the lot and the proposed location of the fence, wall, or screening device to be constructed before a permit will be issued under this section.
- C. The Chief Building Official may refuse to issue a permit under this section to any person who has been convicted of a violation of any provision of this article.

6.2. Fence Standards

6.2.1. Materials and Construction Requirements

- A. Except as otherwise stated herein, fences may be constructed of stone, masonry, brick, wood, PVC, chain link or other materials of like kind that the Chief Building Official determines have the same quality, appearance, and durability.
- B. Chain link fences less than 5 feet in height in residential districts shall have the finished edge of the material on the top of the fence.
- C. A fence or wall constructed in such a manner that it may conduct electrical current shall not be permitted in any zoning district except the agricultural zoning district.
- D. Barbed wire fences shall not be permitted in any zoning district except on fence arms in industrial districts unless otherwise stated herein. Barbed wire fences shall be permitted on public properties to secure critical public infrastructure and facilities and no portion of the barbed wire fence may extend beyond the bounding property line.

- E. Fence arms shall not be permitted in any zoning district except industrial districts or on public property. Fence arms may be permitted on fences located in industrial districts or public property so long as they do not extend beyond the property line. See Figure 6-1.

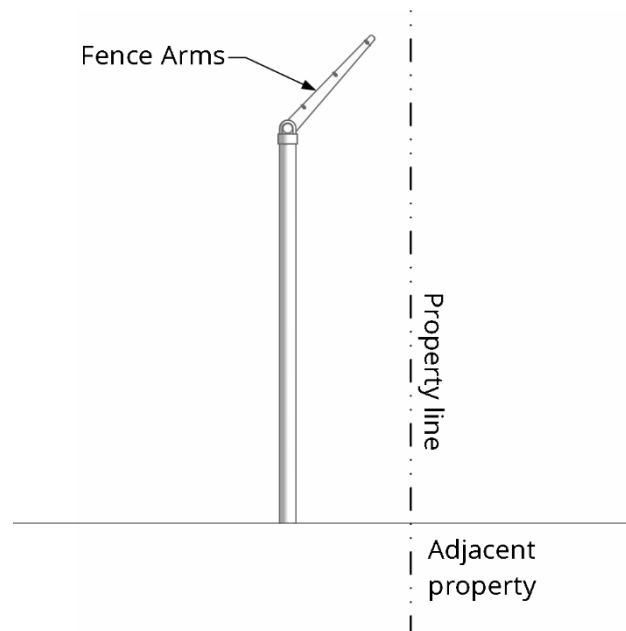


Figure 6-1: Fence Arms within Property Lines

- F. Any stone, masonry or brick wall or fence constructed of similar materials greater than 4 feet in height shall be engineered, designed and the plans sealed by a state professional engineer.
- G. Every fenced enclosure constructed under the provisions of this article shall have at least one gate in its perimeter.

6.2.2. Fence Height

- A. Within industrial districts and on public property, fences and walls may be constructed to a maximum height of 10 feet.
- B. No fence adjacent to a required subdivision screening wall, whether parallel or perpendicular to the wall, may be constructed higher than the height of the subdivision screening wall unless granted a special exception by the Board of Adjustment as provided for in §2.1.8.B, Special Exception.
- C. Fences around tennis courts, regardless of the district in which they are located, shall be chain link or other open view material to minimize the visual impact of the fence, constructed without fence arms, to a height of between 10 and 12 feet.

6.2.3. Setback Requirements

- A. **Front Yard**
 1. No fence over 4 feet in height shall be permitted from the front building line to the property line;
 2. All fences or walls shall have a minimum of 50 percent through vision in any front yard;
 3. All wire fences are prohibited in front yards in uses other than industrial or on public property; and
 4. The lot shall have an existing structure on it or a building permit to construct a structure has been issued. This requirement shall not apply to the AG District.

B. Side Yard

1. Fences may be constructed to a maximum height of 8 feet 6 inches on any side property line up to the adjacent building line.
2. Within the Historic Overlay district, the height shall not exceed 6 feet 8 inches, unless otherwise approved by the Director of Planning. The Director of Planning may allow an increased fence or wall height if the proposed fence or wall's height is appropriate for the context of the area, the fence or wall's design and materials are contextually appropriate for the area, and the fence or wall's existence will not negatively impact any adjacent properties. In any case, no fence or wall height shall exceed 8 feet 6 inches.

C. Rear Yard

1. Fences may be constructed to a maximum height of 8 feet 6 inches along the rear property line.
2. Within the Historic Overlay district, the height shall not exceed 6 feet 8 inches, unless otherwise approved by the Director of Planning. The Director of Planning may allow an increased fence or wall height if the proposed fence or wall's height is appropriate for the context of the area, the fence or wall's design and materials are contextually appropriate for the area, and the fence or wall's existence will not negatively impact any adjacent properties. In any case, no fence or wall height shall exceed 8 feet 6 inches.

D. Corner Lots

1. On all corner lots in residential districts that have opposing rear lot lines, whether shared or separated by an alley, fences may be constructed to a maximum height of 8 feet 6 inches along the side and rear yard lines, as shown in Figure 6-2.

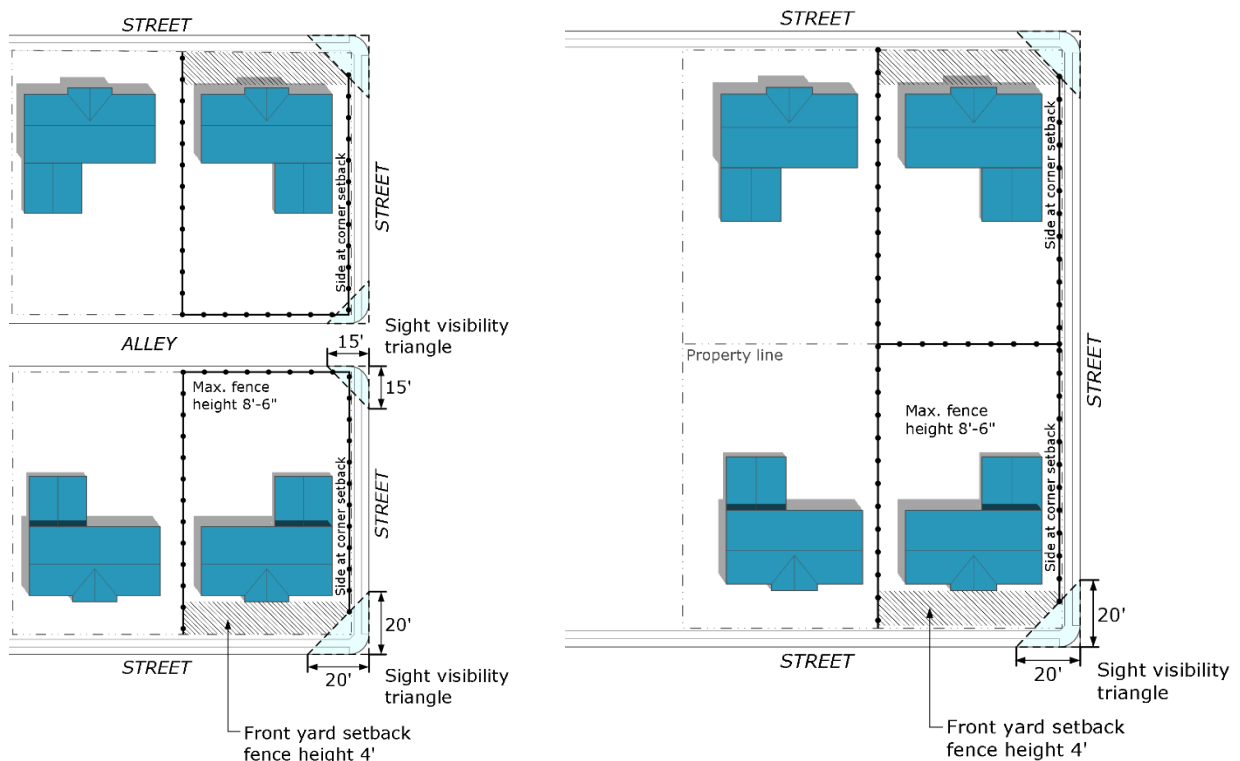


Figure 6-2: Corner Lots with Opposing Rear Lots Lines

2. On all corner lots in residential districts where the side lot line is immediately adjacent to the front yard of the adjacent lot (or immediately across an alley from the front yard of the adjacent lot), fences or walls may be constructed to a maximum height of 4 feet between the side yard setback line and the property line adjacent to the street, except that wrought iron fences may be constructed up to 6 feet in height if it does not create a sight distance issue or safety concern in the opinion of the Chief Building Official or the Director of Engineering. See Figure 6-3.

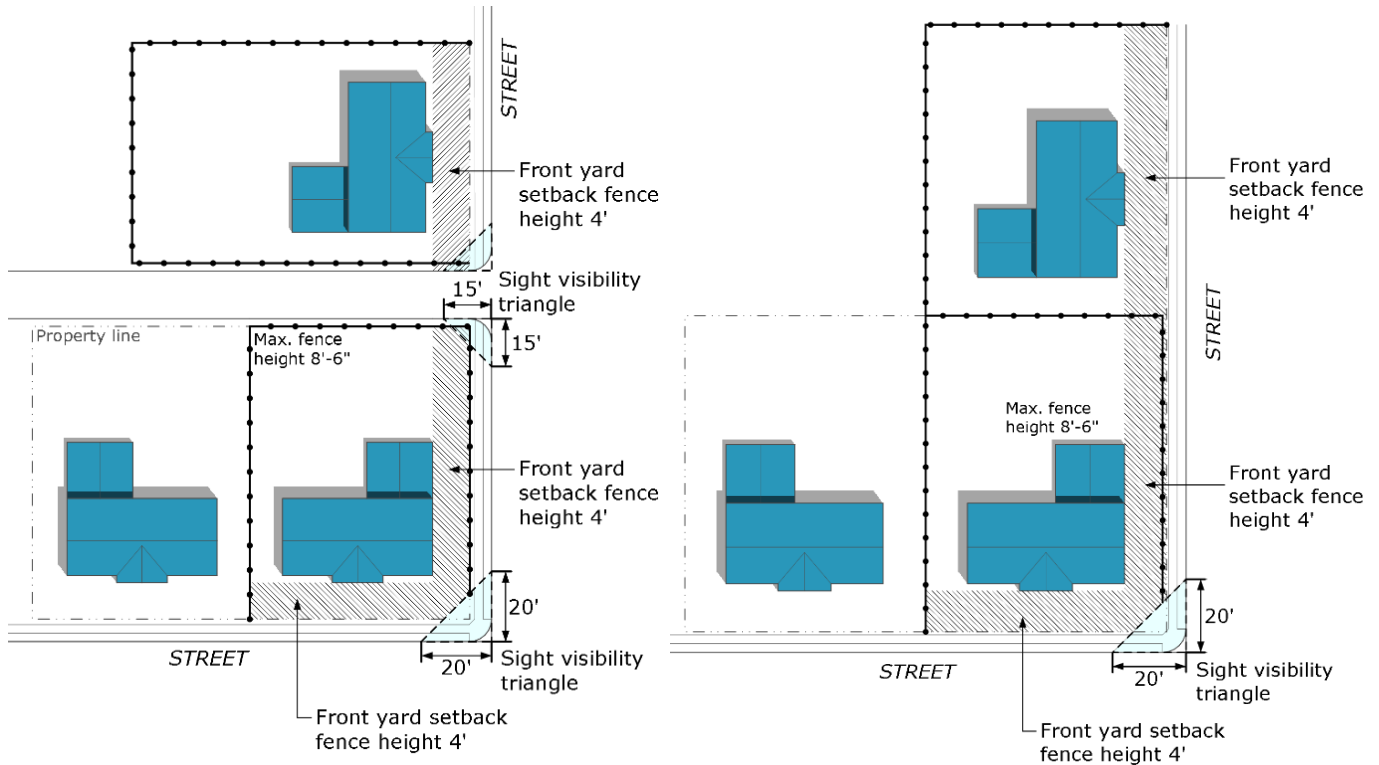


Figure 6-3: Corner Lots, Fence or Wall Heights

3. In both circumstances, fences may be constructed to the normally permitted height elsewhere on the property.

6.2.4. Swimming Pool Enclosures

All swimming pool enclosures shall comply with the following:

- A. Residential pools shall conform with the International Residential Code for pool fencing standards, as amended; and
- B. Public pools, including homeowners' association and apartment complex pools, shall conform with the most current edition of the International Swimming Pool and Spa Code adopted under Texas Local Government Code, Chapter 214, Subchapter C, by the City.
- C. Every swimming pool, or excavation designed or intended to ultimately become a swimming pool, while under construction as well as after completion, shall be continuously protected by an enclosure surrounding the pool or excavated area in such a manner as to make such pool or excavated area reasonably inaccessible to small children or animals. This provision shall not apply to:
 1. Bodies of water other than swimming pools that are owned or controlled by the federal government, state, county or any agency, subdivision or department thereof; and

2. Bodies of water located in natural drainageways.
3. All plans submitted to the City for swimming pools to be constructed shall show compliance with the requirements of this section, and the final inspection and approval of all pools constructed shall be withheld until all requirements of this section have been complied with by the owner, purchaser under contract, lessee, tenant or licensee.

6.2.5. Fence Prohibitions

A. Sight Visibility at Intersections

No fence shall be constructed in the triangle formed by measuring 20 feet back from the intersection of two streets or 15 feet back from the intersection of a street and an alley, as shown in Figure 2-67. The Director of Engineering may require additional sight distances to be maintained where specific conditions render such provisions necessary to provide for the public health and safety.

B. Construction within Drainage Easements

No fence or wall shall be constructed within any drainage easement in the corporate limits of the city unless the Director of Engineering shall have first determined and advised the Chief Building Official, in writing, that they believe such fence shall, in all probability, not interfere with or impair the natural flow of water across the drainage easement.

C. On or Over City Property

No privately owned fence, wall, or associated guy wires, braces or any other part of a privately owned fence shall be constructed upon or caused to protrude over public right-of-way or other property owned by the City.

6.2.6. Inspection Required

- A. When any fence or wall for which a permit has been issued under this article is completed, it must be inspected by the City for compliance with the applicable construction codes.
- B. The Chief Building Official's office shall be notified upon completion of the fence or wall.
- C. The Chief Building Official will certify acceptance if the fence or wall complies with the provisions of this article or reject the fence or wall if it does not comply.

6.2.7. Special Exceptions

- A. The Board of Adjustment may grant a special exception that will allow a fence or wall up to a maximum height of 8 feet 6 inches for a fence or wall that is adjacent to a required subdivision wall or screening device, provided that the board finds that:
 1. The lot has unusual topographical conditions that distinguish it from other similarly sized and shaped lots, and where such conditions create a hardship that renders privacy inadequate without such relief; and
 2. The following required provisions have all been met:
 - a. The lot shall have an existing residential structure on it or a building permit to construct a residential structure has been issued;
 - b. The subject property shall not be located within the historic overlay district;
 - c. The subject fence shall not be a corner lot fence as described in §6.2.3.D ; and
 - d. Such fences shall be constructed of either:
 - i. Stained wood, board-on-board construction or double-sided construction, with a stained trim cap and steel posts; or
 - ii. An engineered brick, stone or masonry wall in a color and style that is consistent with and compatible with the surrounding vicinity.

- B.** A special exception is only appropriate for those sides of a fence that meet the requirements set out above. A hardship may be found regardless of when the unusual condition was created.
- C.** The Board of Adjustment may grant a special exception that will allow a fence or wall up to a maximum height of 6 feet which is situated between the front building line and the public right-of-way line of a lot (a "front yard fence") provided the Board finds that:
 - 1.** The subject property shall not be located within the historic overlay district;
 - 2.** A front yard fence or wall shall not be a corner lot fence as described in §6.2.3.D;
 - 3.** The lot shall have an existing structure on it or a building permit to construct a structure has been issued;
 - 4.** All fences or walls shall have a minimum of 50 percent through vision in any front yard; and
 - 5.** The 6-foot front yard fences or walls must be consistent and appropriate to the area they are proposed.
- D.** The board of adjustment may grant a special exception allowing side and/or rear yard fences in the historic overlay district up to a maximum height of eight feet six inches, provided that the board finds that:
 - 1.** The lot has unusual topographical conditions that distinguish it from other similarly sized and shaped lots, and where such conditions create a hardship that renders privacy and security inadequate without such relief; or
 - 2.** All of the following provisions have been met:
 - a.** The lot shall have an existing residential structure on it or a building permit to construct a residential structure has been issued;
 - b.** The proposed fence does not negatively impact the health, safety and welfare of the public;
 - c.** The proposed fence's design is complimentary to other existing fences in the area; and
 - d.** The proposed fence's design, location and height is appropriate for the context of the area.

Article 7: Stormwater Management

COMMENTARY

This article carries forward the current Chapter 130, Article IV, Stormwater Management. The Assessment Report called for consideration of targeted updates to this material, including adding additional flexibility to adapt to site topography to lessen infrastructure requirements, and to align with engineering and tree preservation standards. However, staff direction from October 2020 was to maintain the standards in their current form for now.

7.1. General Regulations

7.1.1. Purpose

This article sets forth the minimum requirements necessary to provide and maintain a safe, efficient, and effective drainage system within the city and to establish the various public and private responsibilities for the provision thereof. Further, it is the purpose of this article to:

- A. Protect human life, health, and property;
- B. Minimize the expenditure of public money for building and maintaining flood control and storm drainage projects and cleaning sediment out of storm drains, streets, sidewalks, and watercourses;
- C. Minimize damage due to drainage and erosion to public facilities and utilities, such as water and gas mains, electric service, telephone and sewer lines, streets, and bridges;
- D. Help maintain a stable tax base and preserve land values;
- E. Ensure that potential buyers are notified that property is in an area of special flood hazard;
- F. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- G. Preserve the natural beauty and aesthetics of the community;
- H. Control and manage stormwater runoff, and the sediment load in that runoff from points and surfaces within subdivisions;
- I. Establish a reasonable standard of design for development that prevents potential flood and erosion damage; and
- J. Reduce the pollutant loading to streams, ponds, and other watercourses.

7.1.2. Statutory Authorization

The legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, §16.315, delegated to local governmental units the responsibility to adopt regulations designed to minimize flood losses. Therefore, the City has adopted this article as follows.

7.1.3. Findings of Fact

- A. The drainageways, creeks, and flood hazard areas of the city are subject to periodic inundation that may result in the loss of life and property, health, and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affects the public health, safety, and general welfare.
- B. These flood losses are created by the cumulative effect of obstructions in floodplains that increase flood heights and velocities and by placing structures and other improvements that are vulnerable to floods in flood hazard areas.
- C. The development of land causes large quantities of soil to be displaced and transported to downstream locations. This soil displacement can create significant soil erosion and sedimentation problems. Erosion is a dangerous activity in that it contaminates water supplies and water resources. A buildup of sediment

degrades water quality, destroys valuable environmental resources, and clogs watercourses and storm drains, which can cause flooding, thereby damaging public and private lands and property. These problems result in a serious threat to the health, safety, and general welfare of the city.

- D. Creek and floodplain areas in the city are valuable resources to the citizens of the city in that they provide recreational opportunities, improve the aesthetics of the community, convey stormwater runoff, and filter out water quality pollutants. As valuable resources, creeks and floodplains warrant protection.
- E. The development of land can cause significant changes in the manner, quality, frequency, rate, and volume of stormwater runoff entering a stream or lake. Changes in stormwater runoff can upset the natural balance of erosion and deposition in lakes and streams resulting in increased flooding and loss of bank stability, thus endangering adjacent public and private improvements and causing impacts to lake and stream characteristics that are generally viewed as negative.

7.1.4. Stormwater Management Policy

A. Purpose

Stormwater management policies shall govern the planning, design, construction, operation, and maintenance of storm drainage and erosion control facilities within the city. This stormwater management policy is written for purposes of instruction to City staff to give guidance to draft changes to our current stormwater ordinance. For this policy to be enforceable, the ordinance must be amended to reflect this policy and approved by the City Council through a public hearing process.

B. Design Standards

It is the policy of the City to adopt and maintain design standards that protect and provide for the safety and general welfare of the community.

C. Drainage and Erosion Control Standards

It is the policy of the City to implement drainage and erosion control standards to minimize flood damage and soil erosion to private and public facilities within the community and to protect water quality.

D. Review and Permit Process

The review and permit process established under §7.2, *Administration* of this article shall be utilized by the City to provide control of development activities related to erosion control and stormwater runoff through natural and constructed facilities.

E. Implementation

These stormwater management policies are defined by stormwater management ordinance No. 1773, adopted on February 16, 1988, and amendments thereto. All amendments, additions, or modifications to this article are considered effective upon the date of acceptance, in whole or in part by the City. These stormwater management policies shall apply to any stormwater management system improvement not having plans released for construction on or before the date of City Council approval of revised ordinance provisions.

F. Stormwater Management Ordinance and Engineering Design Standards

The stormwater management ordinance and engineering design standards have been adopted by official action of the City of McKinney City Council. The stormwater management ordinance and engineering design standards, as they may be amended from time to time, are part of the official stormwater management plan for streams, channels, NRCS dams and lakes, and pipe drainage systems to the limits shown in the engineering design standards. Deviations will not be permitted unless the following criteria are met:

1. It can be clearly shown by approved procedures that the deviation will not adversely affect conditions either upstream or downstream of the point of deviation;
2. The owners directly affected by the deviation are in agreement; and
3. The deviation is not in conflict with any other plans adopted by the City.

4. Request for deviation shall be approved by the Director of Engineering.

G. Relocation and Reclamation

To implement stormwater control measures in existing areas of private ownership, the City may consider the acquisition of private land or the relocation and reclamation of existing developed areas.

7.1.5. Scope of Authority

Except as exempted by §7.6.1, *Erosion Control Regulations, Applicability*, any person, firm, public utility, corporation, or business proposing to develop land or improve property within the jurisdiction of the City is subject to the provisions of this article. This article shall also apply to individual building structures, subdivisions, excavation and fill operations, and similar activities.

7.1.6. Applicability

This article shall apply to all areas of land within the incorporated limits and extraterritorial jurisdiction of the city. Certain provisions of this article apply only to special flood hazard areas within the jurisdiction of the city, while other provisions exempt certain other tracts. These limited areas of application are explained in §7.5.1, and §7.6.1. The erosion control provisions of this article do not apply to land under active agricultural use. As soon as construction or modification to the lands under active agricultural use is proposed so that the use of land will change from agriculture to any other use, then the provisions of this article shall be applicable to the previously exempted land.

7.1.7. Establishment of Special Flood Hazard Areas

The areas of special flood hazard, identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study, Collin County, Texas and Incorporated Areas," dated June 7, 2017, with accompanying flood insurance rate maps dated June 7, 2017, and any revisions thereto, are hereby adopted by reference and declared to be a part of this article. The flood insurance study is on file in the office of the Director of Engineering.

7.1.8. Abrogation and Greater Restrictions

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

7.1.9. Interpretation

In the interpretation and application of this article, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

7.1.10. Warning and Disclaimer of Liability

The degrees of flood, storm drainage, and erosion protection required by this article are considered reasonable for regulatory purposes and are based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of flood hazard or uses permitted within such areas will be free from flooding or flood damages. In addition, this article does not imply that erosion controls will survive inundation by runoff from storms greater than the design flood for erosion controls. This article shall not create liability on the part

of the City, any officer or employee thereof, or FEMA for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

7.1.11. Regulatory Permits

It shall be the developer's responsibility to secure all regulatory permits associated with development, construction, and drainage improvements. These permits include but are not limited to U.S. Corps of Engineer 404 permits, TCEQ permits, and U.S. Environmental Protection Agency discharge permits.

7.1.12. Maintenance

Subsurface public drainage improvements dedicated in rights-of-way, subsurface drainage easements, or by fee simple dedication to the public, and accepted by the City shall be maintained and operated by the City as required to maintain flow in the system.

7.1.13. Prohibited Discharges

No person may introduce into any lake, pond, stream, or municipal separate storm sewer system (MS4) within the city:

- A.** Any pollutants or materials other than stormwater that may have an adverse effect on the environment; may endanger life, health, or property; or constitute a public nuisance;
- B.** Any discharges that would cause or has the reasonable potential to cause or contribute to a violation of water quality standards or that would fail to protect and maintain existing designated uses;
- C.** Substances specifically prohibited from being discharged into the stormwater system are as follows:
 - 1.** Polluted wastewater or other liquid wastes containing concrete, building materials, oil, chemicals, or other liquid industrial wastes;
 - 2.** Any liquids, solids, or gases, including, but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, or any other substances that are a fire or other hazard to the system, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fires, explosions, or be injurious in any other way to the facilities or operation of the stormwater system;
 - 3.** Any non-stormwater, groundwater, or process water that is mixed or contaminated with gasoline or oil in concentrations exceeding a total BTEX limit of 0.5 ppm with a maximum allowable benzene concentration of 0.05 ppm or TPH limit of 15 ppm, tested on a weekly basis;
 - 4.** Any non-stormwater having a pH less than 6.5 or greater than 9.0, or any non-stormwater capable of having any other corrosive property capable of causing damage or hazard to the stormwater system;
 - 5.** Any free or emulsified fats, waxes, greases, or oils;
 - 6.** Petroleum oil, non-biodegradable cutting oil, products of mineral oil origin, transmission fluid, hydraulic fluid, brake fluid, power steering fluid, antifreeze, or other household hazardous wastes;
 - 7.** Solid or liquid substances that may cause obstruction to the flow in storm sewers or other interference with the proper operation of the stormwater system such as, but not limited to: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues, bulk solids, wastepaper, or floatables;
 - 8.** Wastewater or industrial wastes generated or produced outside the city unless approval in writing from the Director of Engineering has been given to the person discharging the wastes in advance of such discharge;
 - 9.** Any noxious or malodorous liquids, gases, or solids, which either singly or by interaction with other substances are sufficient to prevent entry into the stormwater system for maintenance and repair;

- 10. Any trucked or hauled pollutants, except at discharge points specifically designated by the City, and subject to any required permits;
 - 11. Trash, junk, refuse, garbage, grass clippings, tree limbs, tree branches, leaves, brush, or firewood;
 - 12. Any non-stormwater containing, but not limited to, detergents, surfactants, phosphates or cleaning residues generated from commercial car washing or cleaning services;
 - 13. Swimming pool or spa water containing detectable levels of chlorine, acid, or filtering agent; or
 - 14. Discharges in violation of a TPDES industrial or general construction stormwater permit.
- D. Any person subject to an industrial or general construction TPDES stormwater permit shall comply with all provisions of such permit. Upon inspection of the facility or site during any enforcement proceeding or action, or for any other reasonable cause, proof of compliance with said permit may be required in a form acceptable to the Director of Engineering.

7.1.14. Allowable Discharges

Discharge from the following sources shall not be considered a source of pollutants to the storm sewer system, the waters of the state, or waters of the United States when properly managed to ensure that no potential pollutants are present, unless determined to cause a violation of the provisions of the Clean Water Act or this article:

- A. Water line flushing, excluding discharges of hyper-chlorinated water, unless the water is first de-chlorinated and discharges are not expected to adversely affect aquatic life;
- B. Runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
- C. Discharges from potable water sources that do not violate Texas Surface Water Quality Standards;
- D. Diverted stream flows;
- E. Rising ground waters and springs;
- F. Uncontaminated ground water infiltration;
- G. Uncontaminated pumped ground water;
- H. Foundation and footing drains;
- I. Air conditioning condensation;
- J. Water from crawl space pumps;
- K. Individual residential vehicle washing;
- L. Flows from wetlands and riparian habitats;
- M. De-chlorinated swimming pool discharges that do not violate Texas Surface Water Quality Standards;
- N. Street wash water excluding street sweeper waste water;
- O. Discharges or flows from emergency firefighting activities (firefighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
- P. Other allowable non-stormwater discharges listed in 40 CFR §122.26(d)(2)(iv)(B)(1);
- Q. Non-stormwater discharges that are specifically listed in the TPDES Multi Sector General Permit (MSGP) TXR050000 or the TPDES Construction General Permit (CGP) TXR150000;
- R. Discharges that are authorized by a TPDES or NPDES permit or that are not required to be permitted;
- S. Other similar occasional incidental non-stormwater discharges such as spray park water, unless the TCEQ develops permits or regulations addressing these discharges; and
- T. Any other non-stormwater discharges that are specifically exempted in writing by the City and which are not a source of pollutants to the municipal separate storm sewer system or the waters of the state.

7.1.15. Illicit Connections

The construction, use, maintenance, or continued existence of illicit connections to the storm sewer system is prohibited. This prohibition expressly includes, without limitation, any illicit connections made in the past, regardless of whether the said connection was permissible under law or practices applicable or prevailing at the time of connection.

7.1.16. Penalties

Any person, firm, or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in §1.9.5, *Violations and Penalties*. Each and every day such offense continues, or is continued, shall constitute a new and separate offense. In addition, the violator shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. Section 7.2.3.C, *Proceeding without Applicable Permits*, states an additional penalty against persons proceeding with construction without obtaining the necessary permits from the city. Section 7.6.6, *Enforcement*, states the possible additional penalty for any private property owner, developer, or builder who is in violation of the erosion control guidelines.

7.2. Administration

7.2.1. Duties of City Officials

The Director of Engineering or designee is hereby appointed to administer and implement this article and other appropriate sections of 44 CFR (Emergency Management and Assistance National Flood Insurance Program Regulations) pertaining to floodplain management. The duties of the Director of Engineering shall include, but not be limited to:

- A. Reviewing and approving or disapproving all development permits to determine that the permit requirements of this article have been met and that all necessary, local, state, and federal permits have been obtained;
- B. Submitting and enacting the components of the municipal stormwater management program as required by TCEQ;
- C. Obtaining and recording the actual elevation in relation to mean sea level of the finished pad for all new residential or commercial building sites;
- D. Maintaining for public inspection all records pertaining to the provisions of this article, including floodproofing certifications;
- E. Notifying adjacent communities and the state coordinating agency, the Texas Water Development Board (TWDB), and also the Texas Commission on Environmental Quality (TCEQ) prior to any alteration or relocation of a watercourse and submitting evidence of such notification to FEMA;
- F. Requiring that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- G. Making interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions;
- H. Obtaining, reviewing, and reasonably utilizing any base flood elevation data available from a federal, state, or other source in order to administer this article when base flood elevation data has not been provided;
- I. Inspecting sites to determine compliance with the erosion control guidelines; and
- J. Reviewing and allowing any appropriate modifications to the residential lot drainage requirements.

7.2.2. Responsibilities of Owners

- A. The owner or developer of a property shall be responsible for all storm drainage flowing through or abutting such property. Construction of stormwater detention facilities only relieves the owner or developer of any responsibility for off-site drainage improvements with the exception of the NRCS lakes provisions of this article and does not relieve an owner or developer of the responsibility for improvements on-site or adjacent to a proposed development. This responsibility also includes drainage directed to that property by ultimate development as well as the drainage naturally flowing through the property by reason of topography.
- B. The owner, builder, or developer of a property shall be responsible for any silt or soils transported from the property by drainage.
- C. Where the improvement or construction of a storm drainage facility is required along a property line common to two or more owners, the owner hereafter proposing the development of the property shall be responsible for obtaining the necessary permits, making the required improvements at the time of development, and acquiring or dedicating the necessary rights-of-way or easements to accommodate the improvements. The initial owner or developer may recover a portion of the cost from the adjacent owner or developer in accordance with a predetermined facilities agreement.
- D. Where an applicant proposes development or use of only a portion of the property, provisions for storm drainage and erosion control shall only be required in that portion of the property proposed for immediate development, except as construction or improvements of a drainage facility or erosion controls outside that designated portion of the property are deemed essential to the development of that designated portion or if the remainder parcel is not large enough to support the required improvements financially.
- E. Floodplain and surface drainage easements shall be maintained by the property owner; save and except subsurface structure maintenance as provided by §6.1.12, Maintenance; or where maintenance is otherwise expressly assumed by the city. Regardless of maintenance responsibility, adequate maintenance easements and physical access alongside and to and from the easements so conveyed shall be provided.
- F. The owner and developer shall use their best efforts to protect trees and vegetation during and after all development activities. To the extent practicable, trees removed along natural channels by stormwater improvements shall be replaced in accordance with the city's tree preservation ordinance.

7.2.3. Plat Approval and Development Permit

The city has several approval processes and permits related to storm drainage and floodplains. These processes and permits are listed below and explained in detail in the following subsections.

A. Platting Process

In accordance with the city's subdivision regulations, a construction plan and profile sheets for all public improvements, including drainage facilities, shall be submitted with the record plat. Approval of the record plat is contingent upon city's approval of the construction plans. The required information to be shown on the construction plans for drainage facilities can be found in the engineering design standards. Platting of public drainage systems, drainage channels, and floodplains require:

1. Dedication of Drainage Easements

Public drainage systems designed to convey the design storm runoff shall be contained within a drainage easement or a floodplain easement or property dedicated to the public for that purpose. Drainage easements shall be established such that no parcel will be landlocked as a result of the platting action.

2. Platting of Property along Drainage Channels

Future platting along streams and drainage channels within the 100-year floodplain, based on fully developed watershed conditions, will require dedication of a floodplain easement. The developer platting the property shall enter into a hold-harmless agreement with the city on behalf of the current and future land owners, or shall include language on the record plat, approved by the city, that relieves

the city of any responsibility for future channel or bank stabilization or tree protection measures along the channel. The record plat language shall identify and obligate the responsible party(s) to address any sediment, erosion, or flooding related issues emanating from the reach of the creek in question that is adversely affecting private property. The agreement shall be filed for record with Collin County and shall be a covenant running with the land clearly obligating current and/or future owners to the conditions of the agreement.

3. Platting of Detention/Retention Facilities

Detention and retention facilities and all associated appurtenances shall be contained within a drainage easement. The record plat shall include language that obligates the property owner to perform all maintenance of stormwater detention and retention facilities consistent with §6.4.4.C, Detention and Retention Facilities, and shall hold the city harmless from and against any damages to persons, to the owner's lot, or any other affected lot arising from such maintenance or lack thereof.

4. Erosion Hazard Setbacks

Erosion hazard setbacks will be utilized to provide stream bank protection for all streams within the city. In all cases, a buffer shall be created and protected by easement for the determined setbacks. The setback limits may be altered through mechanical stream bank protection if such mechanical stabilization is approved by the Director of Engineering and record platted consistent with the protected bank area. Where erosion hazard setback easements are established, no building, fence, wall, deck, swimming pool, or other structure shall be located, constructed, or maintained within the area encompassing the setback. The exception to this restriction shall be any hike and bike trail dedicated to the city which may be constructed within the outer 10 feet of the determined erosion hazard setback easement or as otherwise determined appropriate by the Director of Engineering. The setback requirement for each stream or channel shall be determined as described in the Engineering Design Manual and shall be shown on the record plat. The channel and the area adjacent to the channel shall be platted as a common area lot to be owned and maintained by the applicable homeowners' association. This common area lot shall encompass all of the erosion hazard setback easement. Commercial developments are exempt from platting the erosion hazard setback easement as a dedicated common area.

B. Development Permit (Floodprone Areas)

All developers, owners, or builders shall submit a floodplain application and obtain a development permit before beginning any projects in floodplain areas, such as constructing new buildings and infrastructure, filling land, altering waterways, substantially improving existing structures located in flood hazard areas or channelizing, impounding, realigning, deepening or other altering of a natural drainageway. Application forms can be obtained from the Director of Engineering. The Director of Engineering uses the application, along with duplicate copies of the accompanying engineering or architectural plans, to identify those construction or renovation projects that would occur in a special flood hazard area. The Engineering Design Manual identifies the information that must be submitted to the Director of Engineering as part of the permit application. Construction or renovation projects cannot begin until the city issues the development permit, and building permits cannot be issued before obtaining a development permit.

C. Proceeding without Applicable Permits

Any developer, owner, or builder who fails to obtain a development permit before beginning a project is in violation of this article. In addition to the penalties outlined in §6.1.16, Penalties, no building permit, plat, site plan, certificate of occupancy, or other use permit shall be issued for any construction, reconstruction, or development upon any land where such construction, reconstruction, or development is not in conformity with the requirements and intent of this article. Anyone who violates any of the terms and provisions of this article shall be denied the use permit until the violation is corrected. The city floodplain administrator shall not approve or forward application materials for altering the federal flood insurance maps to FEMA until the application materials are in compliance with the terms of this article. No land disturbing activity for development purposes may be undertaken on undeveloped land until a site plan has been approved and a development or building permit has been issued. Plans for any associated land disturbing off-site improvements shall be submitted and approved along with the site plan. Any

infrastructure construction not related to a site plan shall require approval of construction plans prior to issuance of a development permit.

D. Deviations from Permit Terms

Permits may be revoked by the Director of Engineering if, upon periodic inspection, it is determined that the work is not progressing in accordance with specifications of the approved plan and permit, or if he determines that erosion from a building or construction site is not being controlled in a satisfactory manner.

E. Field Changes to Storm Sewer Plans; Record of As-Built Drawings

Field changes to storm sewer plans can be made upon the approval of the Director of Engineering. Record of as-built drawings of storm sewers shall be submitted to the Director of Engineering at the completion of the project.

7.2.4. Plan Requirements

Application materials and plan requirements for storm sewers or floodplain alterations are listed below. All engineering plans for storm sewers, floodplain alteration projects, and tracts greater than one acre in size shall be sealed by a professional engineer who is registered in the state and experienced in civil engineering work. The total cost for preparing the engineering plans and implementing the plans shall be borne by the applicant.

A. Storm Drainage Plans

As part of the platting process, storm drainage plans shall be prepared. These plans shall include drainage facilities for both off-site and on-site drainage, so that the proper transition between the two can be maintained. Criteria for on-site development shall also apply to off-site improvements. The construction of all improvements shall be in accordance with the current specifications and regulations adopted by the city. Storm drainage plans shall be prepared in accordance with the Engineering Design Manual.

B. Application Materials for Development Permits

1. Owners or builders who are planning to renovate existing structures or construct new structures shall apply for a building permit. Prior to submitting an application for a building permit the owner or builder shall determine whether the property on which such existing or proposed structures are situated, or will be situated, is located within a flood-prone area. If the property is located within a flood-prone area the owners or builders shall submit a floodplain permit application. Such floodplain permit application shall be submitted and a floodplain permit issued to the owner or builder by the city prior to the owner's or builder's submission of an application for a building permit. If the owner or builder fails to obtain a floodplain permit before submitting an application for building permit and the city's floodplain administrator and/or city staff determines during the permit review that the proposed project is located in a flood-prone area, then any further review and approval of a building permit shall be suspended and withheld until such time as the building permit applicant applies for and receives a floodplain permit and a development permit through the Director of Engineering as provided in §6.2.3.B, Development Permit (Floodprone Areas). The owner or builder shall submit for review duplicate copies of the appropriate materials as required by the Engineering Design Manual. Owners or developers who are proposing to build or expand subdivisions shall submit a floodplain application and a development permit application as provided in §6.2.3.B, Development Permit (Floodprone Areas). If the owner or developer proposing to build or expand subdivisions fails to obtain a floodplain permit before submitting an application for a building permit and the city staff determines the proposed work to be in flood hazard areas, then any further review and approval of a building permit shall be suspended and withheld until such time as the applicant applies for and receives a floodplain permit and a development permit through the Director of Engineering as provided in §6.2.3.B, Development Permit (Floodprone Areas). The owner or developer shall submit for review duplicate copies of the additional appropriate materials outlined in the Engineering Design Manual.

2. It is recommended that applicants coordinate the application materials listed with those needed with other city permits and with the data requirements of FEMA. Such coordination will facilitate staff review, and drawings could be combined to save the applicant from making multiple drawings.

C. Water Quality Protection

McKinney's stormwater management program requires that all new development and redevelopment projects provide water quality protection by implementation of post construction, structural, and non-structural best management practices. Prior to the start of construction activities for both new development and redevelopment, developers and/or builders must submit a detailed post construction water quality protection plan, incorporating current and appropriate best management practices to the Director of Engineering for review and approval. A maintenance plan for the approved water quality BMPs must be included with the plan submittal. Maintenance performance for the approved plan shall be the responsibility of the HOA or property owner and this maintenance performance responsibility must be clearly indicated on the record plat. The specific requirements for a water quality protection plan and guidelines for water quality protection BMPs can be found in the Engineering Design Manual.

7.2.5. Appeal and Variance Procedure

A. Appeal

Any person aggrieved by a decision of the Director of Engineering regarding the application of this article may appeal from any order, requirement, decision, or determination of the Director of Engineering to the city manager. The aggrieved person shall file an appeal in writing with the city manager within 10 days from the date of the decision. If no resolution of the appeal can be reached with the city manager, the City Council shall hear the appeal within 30 days from the date received by the city manager.

B. Variance

1. Variances concerning development permits may be issued by the City Council for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.
2. Variances for any type of permit or storm sewer facilities shall be issued only upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard, drainage problems, and soil loss. The variance shall be issued only upon meeting all 3 of the criteria listed below:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws.
3. Any applicant to whom a variance for building or renovating in a floodplain is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
4. In considering variance requests, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and the:
 - a. Danger that material may be swept onto other lands to the injury of others;
 - b. Danger to life and property due to drainage, flooding or erosion damage;
 - c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. Importance of the services provided by the proposed facility to the community;
 - e. Necessity to the facility of a waterfront location, where applicable;
 - f. Availability of alternative locations for the proposed use that are not subject to flood damage;
 - g. Compatibility of the proposed use with existing and anticipated development;

- h.** Relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - i.** Safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j.** Expected heights, velocity, duration, rate of rise, and sediment transport by the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k.** Costs of providing governmental services during and after storm events, including maintenance and repair of public utilities and facilities, such as streets, bridges, and sewer, gas, electrical, and water systems.
- 5.** Upon consideration of the factors listed above and the purposes of this article, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- 6.** The Director of Engineering shall maintain the records of all appeal actions, including technical information, and report any variances of the floodplain management portions of this article to FEMA upon request.

7.3. Drainage Requirements

7.3.1. Impact of Runoff on Downstream Facilities

Stormwater runoff, based on fully developed watershed conditions, is allowed from all new developments provided that throughout the downstream zone of influence:

- A.** The receiving drainage facilities and/or natural channels have the capacity to convey the fully developed 100-year storm event with appropriate freeboard,
- B.** The fully developed 100-year storm event is conveyed within public right-of-way or existing drainage and/or floodplain easements, and
- C.** The increased volume of runoff does not have an adverse impact on downstream properties.

7.3.2. Drainage Improvements Required for Development

- A.** All drainage systems, whether upstream, downstream, or on-site, shall be designed for fully developed watershed conditions, unless directed otherwise by the Director of Engineering.
- B.** All developments shall provide for any new drainage facilities, the improvement of any existing drainage facilities, channel improvements, grading, driveway adjustments, culvert improvements, or any other improvement, drainage facility, or work that is necessary to provide for the stormwater drainage needs of the development and to protect property situated downstream of the development. At all storm sewer outfall points, discharges shall be limited to non-erosive velocities or the discharge point shall be stabilized by the developer.
- C.** Regarding downstream impacts, the developer shall do the following:
 - 1.** Provide on-site detention facilities to limit the peak discharge of the development to pre-project levels for both the 5-year and 100-year storm events at the point(s) of discharge; or
 - 2.** Study downstream facilities throughout the zone of influence to determine if:
 - a.** The receiving drainage facilities and/or natural channels have the capacity to convey the fully developed 100-year storm event with appropriate freeboard, and
 - b.** The fully developed 100-year storm event is conveyed within public right of way or existing drainage and/or floodplain easements.
 - 3.** If the study determines that the necessary capacity with appropriate freeboard does not exist, the developer must construct the improvements to provide the necessary capacity or provide on-site detention facilities.

4. If the study determines that the drainage and/or floodplain easements do not exist, the developer must obtain the necessary easements or provide on-site detention facilities.
- D. A downstream assessment may be required if the Director of Engineering has reason to believe that on-site detention may increase the fully developed 100-year peak flow due to coincidental peaks. If the assessment demonstrates coincidental peaks, on-site detention facilities will not be an acceptable option. Downstream improvements may be required if downstream capacity and easements are inadequate to convey the increased site flow. This will be determined by the Director of Engineering on a case-by-case basis.

7.3.3. Drainage of Residential Lots

Existing drainage between developed lots will remain the responsibility of the affected property owners. Future developments are required to drain surface runoff from an individual lot to a public right-of-way or to a drainage system contained in a drainage easement. The Director of Engineering shall have the discretion to allow modifications to the lot-to-lot drainage requirements where adherence to these requirements would be in conflict with the tree preservation ordinance or where the lot size is one-fourth acre or larger, and it is determined by the Director of Engineering to not pose a burden on a future property owner.

7.4. Special Drainage Facilities

7.4.1. Channels

A. Channel Design

Unless approved by the Director of Engineering, open channels shall not be permitted when the inside pipe diameter required to carry the fully developed 100-year flow is 60 inches or less. Exceptions to this prohibition might be residential estate subdivisions and other areas where there are significant natural features, including trees, springs, exposed channels, and other environmental items that would work positively into the aesthetics of a development. Criteria for determining the nature of open channels is found in the Engineering Design Manual.

B. Starting Water Surface Condition

When performing hydraulic analyses for channel or drainageway design, the starting water surface shall be based on the criteria found in the engineering design standards.

7.4.2. Lakes and Dams

- A. All existing dams located on a property to be developed shall meet the criteria listed below and current TCEQ dam safety standards. If necessary, the property owner or developer shall upgrade existing dams to meet the criteria listed below and current TCEQ dam safety standards.
- B. In the event that a property owner or developer desires to modify an existing pond or lake or desires to impound stormwater by filling or constructing an aboveground dam, thereby creating a lake, pond, lagoon, or basin as part of the planned development of that property, the criteria listed below shall be met before city approval of the impoundment can be given. Ponds or lakes created by excavation of a channel area without erecting a dam above natural ground elevation or in-stream low water check dams are also subject to the criteria listed below, with the exception of spillway capacity requirements. The Director of Engineering has the final authority to determine the design criteria for a proposed dam, check dam, or excavated lake. The requirements of the state must also be met for the construction of dams, lakes, and other impoundments.
- C. The design criteria for a dam are dependent on the size and hazard classification of the dam. The size and hazard classification will be based on the recommended guidelines adopted by the Texas Commission on Environmental Quality (TCEQ) under V.T.C.A., Water Code § 12.052, which provides for the safe construction, maintenance, repair, and removal of dams located in the state, and will be determined by the

Director of Engineering based on information furnished by the owner. The following criteria will be used to classify a dam:

1. Size

The classification for size is based on the height of the dam and storage capacity, whichever gives the larger size category. The term "height" is defined as the distance between the top of the dam and the existing streambed at the downstream toe. The term "storage" is defined as the maximum water volume impounded at the top of the dam.

2. Hazard Classification

The hazard classification for a dam is a measure of the potential loss of life, property damage, and/or economic impact of the area downstream of the dam in the event of a failure or malfunction of the dam and/or any appurtenant structures.

3. Spillway Design Flood

- a. The classification of a dam based on the above criteria will be used to determine the spillway design flood (SDF). The total capacity of a dam structure, including principal and emergency spillways, shall be adequate to pass the SDF without exceeding the top of dam elevation. The SDFs for various dam classifications are shown in the Engineering Design Manual.
- b. In all cases, the minimum principal spillway design capacity is the total 100-year inflow design flood assuming fully developed upstream conditions.
- c. In all cases, a dam breach analysis shall be required to determine the proper hazard classification of the structure. A dam breach analysis is required to determine the downstream consequences of a failure for all dams over 6 feet in height. If the consequences of a breach failure are determined to pose a significant threat to life or properties, the spillway design flood will be equal to the probable maximum flood (PMF). All dams shall be constructed with a minimum freeboard of two feet above the SDF elevation except in the case of dam designed to pass the PMF, which will have top of dam set at the maximum water surface achieved by the passage of the PMF. See §6.4.3, Natural Resources Conservation Service (NRCS) Lakes, for NRCS dam requirements.

D. Maintenance and Liability Criteria

1. The owner or developer shall retain their private ownership of the constructed lake, pond, lagoon, or basin and shall assume full responsibility for the protection of the general public from any health or safety hazards related to the lake, pond, lagoon, or basin constructed. For NRCS assisted watershed dams, the land and lakes are in private ownership, with operation and maintenance of the dam and its appurtenances provided by the city or by the county and the County Soil and Water Conservation District.
2. The owner or developer shall assume full responsibility for the maintenance of the lake, pond, lagoon, or basin constructed. The owner or developer shall keep the Director of Engineering advised of the currently responsible agent for this maintenance.
3. The developer shall develop and submit an Emergency Action Plan (EAP) for any dam associated with the above as required by TCEQ. A copy of the EAP shall also be provided to the Director of Engineering.

7.4.3. Natural Resources Conservation Service (NRCS) Lakes

- A. There are a number of Natural Resources Conservation Service (NRCS) assisted watershed dams and lakes within the city limits and extraterritorial jurisdiction of the city. These dams and lakes were constructed to NRCS (previously Soil Conservation Service) and TCEQ standards. Although the land and lakes are in private ownership, the dams are maintained according to the operations and maintenance agreement pertaining to each dam. NRCS lakes provide stormwater retention and water quality enhancement as a design feature. This retention volume was considered in the design of the structure and shall be maintained with regard to their original design to collect silt from stormwater runoff and to provide regional flood control. The city is responsible for floodplain management of those areas upstream, downstream, and adjacent to the lakes.

- B.** The city shall control future development upstream, downstream, and adjacent to all NRCS dams and lakes. Planning for future development that impacts on or is impacted by NRCS dams shall require a detailed engineering study to provide a technical basis for development. Design for upgrading dams shall comply with other sections of this article and the Engineering Design Manual. Furthermore, the dam shall be upgraded as follows:
- 1.** Provide principal spillway capacity adequate to discharge the routed 100-year flood event based on fully developed watershed conditions and limited to constraints including both hydraulic capacity and channel stability immediately downstream;
 - 2.** Provide total capacity of the dam structure, including principal and auxiliary spillways to accommodate the probable maximum flood (PMF);
 - 3.** Maintain existing flood storage and planned sediment storage capacities;
 - 4.** Prohibit upstream development within the contour line determined by the auxiliary spillway crest elevation plus two feet, or the routed 100-year flood elevation (based on fully developed watershed conditions and the improved dam) plus two feet, whichever elevation is greater. In addition, the areas required for reasonable maintenance access to the lake, dam, and associated appurtenances and for safe operation of the spillway for the existing and rehabilitated dam shall be preserved and protected from encroachment through easement. These easements shall be described by a metes and bounds survey; and
 - 5.** Restrict development and improvements within the floodplain established by a breach flow analysis from the dam to the downstream limit of the dam breach impact. Commercial development may be allowed below NRCS dams that have been rehabilitated to safely pass the PMF, if conditions warrant and with approval of the Director of Engineering.
- C.** The detailed study of the NRCS floodwater retarding structure shall include an evaluation of the existing lake sediment level.
- D.** At the discretion of the Director of Engineering, a developer may, in lieu of upgrading an NRCS floodwater retarding structure, offer a contribution toward the future upgrade of the structure. However, easements as described in subsection (b)(4) of this section shall be required.
- E.** A metes and bounds description of an easement with elevation two feet above the emergency spillway elevation or an elevation two feet above the routed 100-year flood elevation, whichever is higher, shall be provided on a plat prior to filing.

7.4.4. Detention and Retention Facilities

- A.** Detention/retention facilities may be required to reduce runoff rates due to inadequate storm drainage facilities or increased zoning resulting in a significant increase in runoff rates, volume or frequency. Where detention is required and practicable, regional detention is encouraged. Calculations to verify downstream adequacy of hydraulic capacity shall be performed in accordance with the 10 percent rule as defined in the Engineering Design Manual. If an approved study demonstrates that the downstream facilities and stream system can adequately convey the fully developed 100-year storm event and required easements exist or can be obtained, then detention is not required.
- B.** Detention/retention facilities shall be designed to safely pass all storms up to and including the fully developed 100-year storm event according to criteria in the Engineering Design Manual.
- C.** Detention/retention facilities shall be required to have a maintenance plan that considers debris removal, mowing, trimming, and a regular inspection schedule. The plan shall be provided to the Director of Engineering and implemented by the property owner. The minimum maintenance requirements therefor may be found in the Engineering Design Manual.

7.5. Floodplain Regulations

7.5.1. Applicability

Floodplain areas shall include all areas inundated by the fully developed 100-year flood and special flood hazard areas shown in the flood insurance study and on the FEMA flood insurance rate maps for the county dated June 7, 2017, and subsequent amendments thereto. Applicants shall comply with the requirements of this article for floodplain areas before making substantial improvements to or increasing the outside dimensions of an existing structure or developing land within the floodplain as defined above.

7.5.2. General Floodplain Regulations

Utilization of natural floodplains shall be the preferred consideration in providing stormwater management control within the city. Where maintaining natural floodplains is deemed impractical by the city, structural improvements and drainage systems will be designed and constructed to minimize adverse impact on the floodplain.

A. Permitted Uses of Floodplain Areas

1. To minimize possible losses of life and property, the following uses are permitted in a floodplain area, provided such uses are also permitted in the underlying zoning district:
 - a. Farms and ranches;
 - b. Local utilities, electrical substation, water reservoir or pumping stations, and water treatment plants;
 - c. Public parks, hike and bike trails and playgrounds, private recreation clubs or areas, private community centers, and golf courses;
 - d. Parking lots in accordance with subsections (g)(5), (g)(6), and (g)(7) of this section;
 - e. Outside commercial amusements, approved by a specific use permit;
 - f. Helistops, approved by a specific use permit;
 - g. Radio, television, or microwave towers and amateur communications towers with a special permit; and
 - h. Water quality enhancement facilities such as ponds, wetlands, etc.
2. Structures customarily associated with the above uses may be constructed within a floodplain area only if the proposed structure meets the engineering requirements of subsection (l) of this section.
3. Open private recreation clubs or areas and private community centers without exterior walls are permitted in floodplain areas. Private facilities listed above, with enclosed walls that could incur damage, are not permitted in floodplain areas.
4. Uses and structures other than those permitted above shall not be permitted in floodplain areas.

B. Regional Detention/Retention of Stormwater Runoff

Existing NRCS lakes provide for up to 200 acre feet of stormwater retention within the constructed sediment pool as a design feature. This volume was considered in establishment of the design flood and shall be maintained below the level of the designed flood pool, or restored in lakes being improved. In addition, the flood pools of these facilities were sized to accommodate a specific volume of flood storage and this volume shall not be reduced in any case.

C. Residential Construction

1. New construction in reclaimed floodplain areas and substantial improvements of any existing residential structure in floodplain areas shall have the lowest floor, including basements or fully enclosed areas, elevated to at least two feet above either the base flood or the fully developed 100-year flood elevation, whichever elevation is greater. Pad elevations for residential lots raised out of the floodplain shall be at least one foot above the elevation of either the base flood or the fully developed 100-year flood elevation, whichever elevation is greater. Incremental improvements, either at one time

or over a period of time, the cumulative cost of which equals or exceeds 50 percent of the market value at the time of the first improvement, shall be considered as a substantial improvement. New residential structures on stilts or behind ring levees serving individual lots shall not be permitted.

2. Improvements to an existing residential structure located within a designated floodplain that increase the outside dimensions, but that do not result in making a substantial improvement to that structure, must meet the floodproofing requirements of subsection (l) of this section.

D. Non-Residential Construction

1. New construction in reclaimed floodplain areas and substantial improvement of any existing commercial, industrial, or other non-residential structure in floodplain areas shall either have the lowest floor, including basements, elevated to at least two feet above either the base flood or the fully developed 100-year flood elevation, whichever elevation is greater, or, together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed so that, below two feet above the design flood elevation, the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Director of Engineering; and
 - d. Meet the requirements of subsection (l) of this section.
2. Incremental improvements, either at one time or over a period of time, the cumulative cost of which equals or exceeds 50 percent of the market value at the time of the first improvement, shall be considered as a substantial improvement. Improvements to an existing commercial, industrial, or non-residential structure that increase the outside dimensions, but do not result in a substantial improvement, must meet the requirements of subsection (l) of this section.

E. Manufactured Homes

1. All existing manufactured homes located within either a FEMA or fully developed floodplain shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:
 - a. Over-the-top ties be provided at each of the 4 corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
 - b. Frame ties be provided at each corner of the home with 5 additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring 4 additional ties per side;
 - c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - d. Any additions to the manufactured home be similarly anchored.
2. For all new manufactured home parks and manufactured home subdivisions; for expansions to existing manufactured home parks and manufactured home subdivisions; for existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction, or improvement of the streets, utilities, and pads equals or exceeds 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement has commenced; for manufactured homes not placed in a manufactured home park or manufactured home subdivision; and for new manufactured homes moved into an existing site in an existing manufactured home park, require that:
 - a. Stands or lots are elevated on compacted fill, so that the lowest floor of the manufactured home will be at least two feet above the design flood elevation;
 - b. Adequate surface drainage and access for a hauler are provided; and
 - c. No new manufactured homes shall be placed in a floodplain, except on a pad site created by compacted fill in which the new pad site is elevated so that the lowest finished floor of the manufactured home is elevated at least two feet above the design flood elevation.
3. **Table 11** summarizes the requirements for manufactured homes in floodplain areas.

F. Recreational Vehicles

A recreational vehicle placed on a site in an SFHA shall:

1. Meet the elevation and anchoring requirements for manufactured homes; or
2. Be on the site for fewer than 180 consecutive days; or
3. Be fully licensed and ready for highway use. "Ready for highway use" means that it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and has no permanently attached additions.

G. Streets, Parking Lots, and Bridges

1. The top of the curb or street crown of all new streets to be built in reclaimed floodplain areas shall be at least one foot above the design flood elevation.
2. The low beam of all new bridges to be constructed across floodplains shall be a minimum of one foot above the design flood elevation.
3. All new private bridges to individual homes shall have their low beams at one foot above the design flood elevation.
4. To the extent practicable, street crossings and bridges shall be designed such that, if a larger flood or blockage should occur, they do not cause flood damages of areas that would otherwise not flood (overflow back to the creek).
5. Parking lots associated with residential uses in reclaimed floodplain areas shall be at least at the design flood elevation.
6. Parking lots for commercial and industrial uses may be built at one foot below the design flood elevation.
7. Parking lots for public parks or playgrounds, private recreation clubs or areas, private community centers, and golf courses may be located below the design flood elevation.

H. Utilities

All new and replacement water supply systems, sanitary sewer facilities, and other public utilities shall be designed to minimize or eliminate infiltration of floodwaters into the system. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

I. Fences

In any floodplain or positive overflow areas, fences (private and public screening) shall be constructed such that blockage or diversion of surface water flow does not occur. No fence having openings less than 10 feet measured horizontally, by one foot measured vertically, may be constructed within an effective flow area and perpendicular to the direction of flow. Breakaway fences may be approved by the Director of Engineering.

J. Trees

The planting of trees in existing drainage channels, designated floodways, floodway easements, floodplain effective flow areas, positive overflow areas, or on slopes greater than 4:1 is prohibited unless it is for the purpose of replacing trees destroyed by stormwater improvements as cited in §6.2.2.F, Responsibilities of Owners, or if approved by the Director of Engineering. Trees may be planted outside of these areas, but within the erosion hazard setback, so long as a 15-foot wide maintenance path would not be blocked by the planting of such trees.

K. Fill Areas

Where fill is proposed for placement to raise the ground surface, design engineers proposing the reclamation shall demonstrate that the fill will not settle below the design elevation of the fill through proper compaction; and that the fill will be adequately protected from erosion, scour, or differential settlement. Fill slopes shall be permanently protected from erosion losses by grassing, establishing vegetative cover approved by the Director of Engineering, or installing channel linings or stabilization

measures when allowed by the other provisions of this article. Additional fill requirements are included in §6.5, Floodplain Regulations.

L. Additional Construction Standards for Structures

All substantial improvements and new construction permitted in a floodplain area must comply with the following requirements:

1. Structures must be securely anchored to the foundation to prevent flotation and collapse during inundation and designed to prevent damage to nonstructural elements during inundation.
2. Thermal insulation used below the first floor elevation must be of a type that does not absorb water.
3. Adhesives must have a bonding strength that is unaffected by inundation.
4. Doors and all wood trim must be sealed with a waterproof paint or similar product.
5. Mechanical, electrical and utility equipment shall be located above the fully developed 100-year flood elevation.
6. Water heaters, furnaces, electrical distribution panels and other critical mechanical or electrical installations must not be placed in basements. Electrical circuits for basements shall be separate from circuits serving floors above the basement, and circuits for basements shall be installed lowered from above.
7. Basements are permitted for non-residential structures only if they are designed to preclude inundation by the design flood elevation, either by:
 - a. The elimination of exterior openings below the design flood elevation; or
 - b. The use of watertight closures, such as bulkheads and flood shields. However, no basements are permitted in soils whose permeability meets or exceeds the minimum local standards of permeability established for the installation of individual sewer disposal systems.
8. Plywood used at or below the lowest floor elevation must be of an exterior or marine grade and of a water-resistant or waterproof variety.
9. Wood flooring used at or below the lowest floor elevation must be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without incurring structural damage to the building.
10. Basement ceilings for non-residential structures must be of sufficient wet strength and be so installed as to survive inundation.
11. Paints or other finishes used at or below the lowest floor elevation must be capable of surviving inundation.
12. All air ducts, large pipes and storage tanks located at or below the lowest floor elevation must be firmly anchored to prevent flotation.
13. Tanks must be vented at a location above the design flood elevation.

7.5.3. Criteria for Approval of Floodplain Alterations

- A. No new construction is allowed in floodplain areas, but construction is allowed in those areas that can be reclaimed from the floodplain. Portions of the 100-year floodplain, based on fully developed conditions, may be reclaimed; provided that there is not a significant rise in the water surface elevation, acceptable velocities are maintained, and channel stability is maintained in the reach being reclaimed. Additionally, in any stream with a contributing watershed of 200 acres or more at the point of a proposed development, an equivalent volume of valley storage must be provided in the same reach to offset any fill placed in the floodplain. Arterial roadway and/or pedestrian bridge projects may be exempt from the valley storage requirement. A development permit for floodplain reclamation or alteration for all types of reclamation shall be allowed only if all of the following criteria are met:

1. Alterations shall be in compliance with FEMA guidelines. A portion of the 100-year floodplain may be reclaimed provided there is no upstream or downstream increase in the water surface elevation and acceptable channel stability and velocities are maintained.
2. Any alteration of floodplain areas shall not cause any additional expense in any current or projected public improvements.
3. Maximum slopes of filled areas or excavated areas not in sound rock shall not exceed 3 to 1 (3 horizontal to 1 vertical). Any city-maintained land shall be at least on a 4 to 1 slope regardless of the existence of rock with the following exceptions: When proposed as part of a landscape plan, fill slopes, vertical walls, terracing and other slope treatments may be considered where public safety and maintenance are not jeopardized and where no unbalancing of stream flow or upsetting of the channel's stability results.
4. Alterations to the floodplain are permitted without consideration to the water surface elevations when the entire floodplain is on the owner's, builder's or developer's own property. No rise in water surface elevations of the fully developed 100-year flood event of the creek is permitted on adjacent properties unless the rise is fully contained within a floodplain or drainage easement.
5. Alterations to the floodplain shall not create an erosive or aggradational flow velocity on either side of a natural channel adjacent to floodplain reclamation, whether on- or off-site, in any flood event up to and including the fully developed 100-year flood event.
6. The effects of existing improvements, or public and private improvements for which a future commitment has been made by the city or county, state or federal agencies, shall be used in determining water surface elevations and velocities.
7. The floodplain shall be altered only to the extent permitted by equal conveyance on both sides of the natural channel. The right of equal conveyance applies to all owners and uses, including greenbelt, park areas and recreational usages. Owners may relinquish their right to equal conveyance by providing a written agreement to the city.
8. When constructing a swale parallel to the main channel, which swale also ties to the main channel, the lowest elevation of excavated areas shall not be lower than one-third of the depth of the main channel, as measured down from the top of bank of the main channel, or the water surface elevation resulting from the one-year flood, whichever is lower. The Director of Engineering may consider an exception to this provision, depending upon the distance between the swale and the main channel and with the provision of appropriate stabilization of the swale outfall. The upstream end of the excavation area shall not tie into the creek, and no excavation shall be closer than 50 feet to the bank of the natural channel, except as necessary to drain. Excavation of lakes may exceed the depth indicated above. In any case, excavation in the floodplain shall not cause or allow a diversion of flood flows outside the FEMA floodway.
9. Relocation or alteration of natural streams shall not be permitted without:
 - a. An environmental evaluation, the scope of which will be determined by the Director of Engineering; and
 - b. Appropriate permitting by state and federal regulators.
- B. The criteria in subsection 1 of this section shall be met before a floodplain, grading and/or development permit can be issued for a proposed project. Typical projects requiring a floodplain permit or a development permit include placing fill, whether or not it actually raises the property out of the floodplain; constructing a dam; straightening channel sections; temporary storage of fill materials, supplies and equipment; creating on- or off-line lakes; installing retaining walls or other creek side-slope protection; changing the streambed gradient; constructing a swale parallel to the main channel; and making improvements, substantial or otherwise, to existing structures in a floodplain in which the existing outside dimensions of the structure are increased.
- C. The required submittals for a floodplain, grading or development permit are listed in §7.2.4, *Plan Requirements*. The flood routing and modeling requirements needed for projects involving floodplain

areas can be found in the Engineering Design Manual. Flood routing information shall be used to ensure any changes in floodplain valley storage will not cause downstream increases in water surface elevations.

- D. Applicants can obtain copies of the existing conditions backwater models and flood-routing where available from the Director of Engineering. These models shall be kept current with modification to the floodplains at the expense of the party making the changes.

7.5.4. Verification of Floodplain Alterations

- A. Prior to final city acceptance of utilities and street construction for projects involving floodplain alterations or adjacent to defined floodplains, creeks, channels, and drainageways, a certified statement shall be prepared by a registered professional land surveyor, or a licensed professional engineer, showing that all lot elevations, as developed within the subject project, meet or exceed the required minimum finished pad elevations necessary to create the minimum finished floor elevations as shown on the record plat of the subdivision. This certification shall be filed with the Director of Engineering.
- B. In addition, at any time in the future when a building permit is desired for an existing platted property, which is subject to flooding or carries a specified or recorded minimum finished floor elevation, a registered professional land surveyor or a registered professional engineer shall prepare a certified statement that sites are built to the design elevations. The certified survey data showing the property to be at or above the specified elevation shall be furnished to the Chief Building Official for approval. A certificate of compliance with the provisions of this article, pertaining to specified finished floor elevations, shall be required.
- C. The applicants shall furnish, at their expense, to the Director of Engineering the above certifications and any other certified engineering and surveying information requested by the Director of Engineering to confirm that the required minimum floor and pad elevations have been achieved. Save and except as provided in subsection (d) of this section, building permits will not be issued until:
 - 1. A letter of map revision or amendment has been issued by FEMA; and
 - 2. Lots and/or sites are certified by a registered professional land surveyor or a registered professional engineer that they are elevated from the floodplain according to FEMA-approved revisions to the floodplain and the requirements of this article.
- D. As an alternative to the above requirements the following procedure may be used to obtain subdivision acceptance, record a final plat which includes a lot, and/or obtain a building permit for a lot within an area shown as flood plain on an existing FEMA map that is proposed to be reclaimed pursuant to, and prior to the approval of a letter of map revision (LOMR) by FEMA:
 - 1. A city reviewed and approved conditional letter of map revision (CLOMR) must have been submitted to and approved by FEMA.
 - 2. The infrastructure must have been constructed in accordance with plans and specifications, accepted by the city, and in substantial conformance with the FEMA-approved CLOMR as determined by the floodplain administrator.
 - 3. A LOMR must have been submitted to and approved by the city, and then submitted to and receipt acknowledged by FEMA.
 - 4. A record plat that includes the lot must have been approved that includes the proposed revised floodplain line (the floodplain line on the then effective FEMA map will not be shown) and the following form of note prominently affixed on the record plat: The floodplain line shown on this plat represents a proposed floodplain line that has been designated on a FEMA-approved CLOMR Number X-XXXX, for which a LOMR has been submitted and after approval of which LOMR, if it is approved by FEMA, will become the effective FEMA floodplain delineation.
 - 5. An elevation certificate must have been issued confirming that the pad elevation for the lot is at or above the proposed adjacent base flood elevation shown on the submitted LOMR.
 - 6. The developer must present to the city a signed affidavit affirming that the proposed lot is currently within the flood plain as shown on the effective FEMA FIRM and that flood insurance must be obtained

and maintained in order to receive a final green tag or certificate of occupancy prior to the effective date of FEMA approval of the LOMR.

7. An agreement must be entered into between the city and the developer that contains the following provisions and attachments:
 - a. An executed engineering contract between the developer and its engineer covering the scope of services required to complete the LOMR process (the "engineering contract"), conditionally assigned to the city;
 - b. An escrow of funds/bond in an amount equal to 120 percent of the cost of the work remaining under the engineering contract relating to the LOMR process to ensure the completion of the LOMR process; and
 - c. A provision acceptable to the city attorney whereby the developer indemnifies the city from and against any and all claims that might arise out of or be related to this alternative process.
8. In order to obtain a final green tag or certificate of occupancy as appropriate for a habitable structure on the lot, the following must be accomplished:
 - a. All other requirements for the final approval have been met;
 - b. The record plat that includes the lot has been filed; and
 - c. Proof that a policy of flood insurance written by an insurance company licensed to do business in the State of Texas and authorized to issue flood insurance policies, prepaid for up to two years as determined by the director of development services, has been issued for all habitable structures on the lot.
9. Subsequent to issuance of a green tag or a certificate of occupancy but prior to a property buyer taking ownership of the property, the property buyer shall sign an affidavit that acknowledges the property buyer agrees and understands:
 - a. The improvements on the lot are located in an area shown on the effective FEMA FIRM as being in the floodplain;
 - b. A letter of map revision has been sent to FEMA which, if approved, will modify the FIRM such that the improvements will no longer be shown as being located within the floodplain;
 - c. FEMA may not approve the LOMR;
 - d. If FEMA does not approve the LOMR the improvements will continue to be shown as being in the floodplain and the property buyer's right to use, repair, replace, restore, rebuild or expand the improvements may be limited or even prohibited;
 - e. The property buyer is assuming the foregoing risks and agrees to indemnify and hold the city harmless from and against any and all claims arising out of the absence of a FEMA approved LOMR; and
 - f. The property buyer understands the property buyer will be solely responsible for purchasing flood insurance.

7.6. Erosion Control Regulations

7.6.1. Applicability

Private property owners, developers, or builders shall be accountable for the movement of soil from their property or construction site which results in accumulation of sediment in dedicated streets, alleys, lakes, ponds, any waterway, or other private properties. Development activities shall comply with erosion control guidelines established within this article, as well as those required by the EPA and TCEQ. At its discretion, the city may review and enforce a SWP3 required by state or federal permit. Any accumulation or deposit of soil material beyond the limits of the property or in city streets, alleys, or drainage facilities in an amount sufficient to constitute a threat to public health, safety, and comfort as determined by the Director of Engineering shall constitute a nuisance and violation of this article.

7.6.2. General Guidelines

- A. Erosion and sediment controls must be designed to retain sediment on-site to the extent practicable with consideration for local topography, soil type, and rainfall.
- B. Control measures must be properly selected, installed, and maintained according to the manufacturer's or designer's specifications.
- C. Controls must be developed to minimize the offsite transport of litter, construction debris, and construction materials.

7.6.3. Plan and Permit Required

- A. All operators of sites with construction activity, including demolition, clearing, grading, excavation, and landfiling activities, shall be responsible for submitting an erosion control plan for approval by the city. This article shall apply regardless of whether a responsible party is required to obtain a permit from the city in order to conduct such land disturbing or construction activity. Each erosion control plan required by this article shall clearly identify all erosion and sediment control measures to be installed and maintained throughout the duration of the project for which that plan is submitted. For residential lots, the standard city erosion control plan found in the residential builder packet shall apply or the builder/contractor may submit an alternative erosion control plan for consideration and possible approval by the city. The responsible party shall install and maintain erosion control devices in accordance with the city approved erosion control plan.
- B. Concurrently with the approval of a floodplain, building, or development permit by the city and prior to commencement of land disturbing activities, the builder/contractor or other responsible party shall be responsible for obtaining an approved erosion control plan as the city deems appropriate. The approved erosion control plan shall indicate and apply to all areas within the project controlled by, or coming into the control of, the applicant at the time of issuance. The responsible party shall also be held liable for violations of this article committed by third parties engaging in activities related to the responsible party's project.

7.6.4. Required Erosion Control Deposit

A. Erosion Control Deposit Account

An erosion control deposit shall be posted to ensure implementation and continued maintenance of the city approved erosion control plan. At no time shall the deposit balance fall below an amount as determined from time to time by City Council, or the initial deposit amount, whichever is less (the "required minimum balance"). If the fund has less than the required minimum balance, work on the project shall stop until additional funds are deposited to bring the balance above the amount of the required minimum balance as determined from time to time by City Council.

B. Erosion Control Deposit Required

Prior to approval of the development permit for non-residential or multi-family sites greater than one acre in area or residential subdivisions, the responsible party shall pay an erosion control deposit to the city in the amount as determined from time to time by City Council.

C. Subdivisions

1. If a developer has more than one subdivision or multiple phases of a subdivision under construction, a single erosion control deposit account equal to the amount due for the largest of the developer's subdivisions or phases will be adequate (except in the case where a lake is situated within the property being developed where the maximum shall be as determined from time to time by City Council).
2. Subdivisions for which the developer certifies that all houses within the subdivision will be sold at no more than the current housing and urban development home maximum per-unit subsidy for Dallas, Texas, shall be exempt from the initial erosion control deposit requirement. The city housing division shall determine whether the subdivision meets these criteria. Upon two or more violations of the

erosion control standards of the stormwater ordinance, within an exempted subdivision, the Director of Engineering may, at his discretion, require the erosion control deposit to be paid in full, and may withhold inspections or stop work in the exempted subdivision until the erosion control deposit is paid.

3. If the developer sells all of the lots in a subdivision to one purchaser, that purchaser becomes the responsible party for the subdivision and is liable for any and all violations of this article and shall post an erosion control deposit as required by this article. The balance remaining in the original developer's account shall be released as provided herein upon the submission of written proof of transfer of all such lots and a new erosion control deposit is submitted by the purchaser.

D. Deductions

1. The city may deduct fees/citations from the responsible party's erosion control deposit account if, after multiple notifications, the erosion control devices at the site have not been brought into compliance with the approved erosion control plan.
2. The city may, at its sole discretion, cause erosion control devices to be installed or repaired, sediment to be removed, or take other actions necessary to correct the problem. Costs for such work, an administration fee, and reinspection fees may be charged against the erosion control deposit account. Stop work orders may be issued until the total amount of all charges are refunded by the responsible party into the erosion control deposit account. A citation may also be issued for each violation in which the city acts to cure the violation. The responsible party shall have the right of appeal as set forth in §7.6.7, *Appeals*.

E. Refunds

A developer may request the return of the remainder or balance of his deposit by submitting a written request to the Director of Engineering as follows:

1. For single-family residential subdivisions, the request may be submitted after building permits have been issued for 90 percent of the lots within the development and perennial vegetation is fully established along all rights-of-way and common areas. Notwithstanding any partial refund, the developer shall continue to maintain temporary erosion control devices on those remaining lots for which building permits have not been issued and for any other areas upon which permanent erosion control has not been established.
2. For multi-family/non-residential subdivisions, the request may be submitted after the project area, including any off-site areas, is fully stabilized, including a perennial vegetative cover, all BMPs are removed, and the NOT has been submitted, if applicable.
3. In either case 1. or 2. above, if the developer fails to request the return of the remainder of his deposit, the city may initiate the refund of the balance to the party making such deposit at the address provided to the city by the developer in the same fashion as a refund requested by the developer. The balance of the deposit remaining in an account after deductions for all violations have been made shall be refunded within 30 days of receipt of the written request. The responsible party shall have the right of appeal as set forth in §7.6.7, *Appeals*.

F. Charges

Such charges shall be as specified in **Appendix A** – Schedule of Fees, the amount of which fees amount may be amended from time to time by ordinance.

G. Interest

Erosion control deposits posted pursuant to the requirements of this article shall not accrue interest.

7.6.5. Required Erosion Control Implementation, Maintenance, and Removal

A. Erosion Control Plan Implementation and Compliance

Each responsible party shall implement and maintain the erosion control measures shown on its approved erosion control plan in order to minimize the erosion and the transport of silt, earth, topsoil, etc., by water runoff or construction activities, beyond the limits of the responsible party's site onto city streets, drainage

easements, drainage facilities, storm drains, or other city property prior to beginning any land disturbing activity. Other than for erosion control, no city inspection of any type may be scheduled or approved on a project or portion thereof until a city approved erosion control plan is implemented by the responsible party.

B. Related Land Areas

The erosion control requirements of this article shall apply to all land areas relating to project construction. This section applies whether or not a building permit is required.

C. Removal of Erosion Control Devices

Upon issuance of a certificate of occupancy or upon establishing permanent ground cover on a site or lot, all temporary erosion control devices shall be removed and disposed of legally, and notice of termination as applicable shall be submitted to the state and copied to the city.

D. Final Acceptance

Developers, builders, or owners of property shall install the applicable landscape plan and all utilities, including franchise utilities, before final acceptance of a subdivision, property and/or structure. Final acceptance will also be contingent upon having permanent stabilization measures initiated (such as required perennial vegetative cover) and all necessary erosion control measures as approved, installed, and maintained to minimize off-site sediment deposition. The owner shall continue to maintain the erosion control measures until permanent stabilization measures are fully established. A site may be accepted, at the discretion of the Director of Engineering, without erosion control measures, if perennial vegetative cover is established with > 70 percent density and actively growing, and if all conditions of any permits (including 404, SWP3, etc.) have been met prior to acceptance. Any and all off-site areas disturbed during construction must be fully vegetated and established with > 70 percent density and actively growing prior to final acceptance of the project.

1. For subdivisions, the developer shall continue to maintain all temporary erosion control devices until permanent stabilization measures have been established on all those lots within the subdivision for which a building permit has not been issued.
2. For non-residential or multi-family construction projects requesting phased acceptance, permanent stabilization shall be established prior to the occupancy of the requested phase. Phased occupancy will be allowed only when there are no outstanding erosion control violations for the project for which the request is made.

E. Notice of Termination

For all projects, residential or non-residential, the owner shall remove all BMPs and submit a notice of termination (NOT) as applicable to the state and/or federal agency, and copy the city once permanent stabilization is fully established. It shall be a violation to submit an NOT to either the state or federal agency prior to establishment of permanent stabilization and/or removal of BMPs.

7.6.6. Enforcement

A. Violations

It shall be an offense for a responsible party or a third party performing work on a project to violate any of the requirements of this article, including, but not limited to, the following:

1. Conducting any land disturbing or construction activity without an approved erosion control plan and any state or federal permits for the location where the violation occurred;
2. Failing to install erosion control devices or to maintain erosion control devices throughout the duration of land disturbing activities, in compliance with the approved erosion control plan for the location where the violation occurred;
3. Failing to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices as specified in an approved erosion control plan for the location where the violation occurred;

4. Allowing sediment-laden water resulting from belowground installations to flow from a site without being treated through an erosion control device; or
5. Failing to repair damage to existing erosion control devices, including replacement of existing grass or sod.

B. Notice of Violation

Written notice of violation shall be given to the responsible party or his job site representative as identified in the erosion control plan for a site. Such notice shall identify the nature of the alleged violation and the action required to obtain compliance with the intent of the approved erosion control plan.

C. Citation/Stop Work Order

An erosion control inspector shall verify that the erosion control measures are in place prior to and during the permitted activity. If a permittee (which includes the site's owner, his/her contractor, or other agent) does not comply, or is not complying, with any correction notice or erosion control measures, the enforcement process may take the following form in the following order.

1. If a responsible party fails to implement or maintain erosion control devices as specified in the approved erosion control plan, the city shall provide such party with written notice of noncompliance identifying the nature of such noncompliance. The responsible party shall have 24 hours to bring the erosion control devices into compliance with the approved erosion control plan for the site where the violation occurred.
2. Modifications to the approved erosion control plan may be required to maintain all sediment on-site. Correction may include any or all of the following: sediment clean-up, erosion control device repair, erosion control device maintenance, and/or installation of additional erosion control devices to prevent reoccurrence of the violation. The 24-hour period may be extended for inclement weather or other factors at the discretion of the Director of Engineering.
3. At the end of the 24-hour period the city may reinspect the site. If at the time of reinspection the erosion control devices at the site have not been brought into compliance with the approved erosion control plan a reinspection fee shall be assessed.
4. If an inspector returns to a site for a third or subsequent inspection because erosion control measures have not been brought into compliance, reinspection fees shall be doubled. In addition, a stop work order shall be issued and no department shall proceed with further inspections until the erosion control measures have been brought into compliance. The stop work order may apply to all sites subject to the erosion control permit or may apply to specific sites, at the discretion of the Director of Engineering. To remove the stop work order the inspection and reinspection fee(s) shall be paid in full and erosion control violations corrected.
5. If at any time the erosion control devices at the site have not been brought into compliance with the approved erosion control plan, the city may avail itself of any or all of the following processes, which processes shall not be exclusive:
 - a. Issue a stop work order;
 - b. Revoke the erosion control permit; or
 - c. Issue a citation for each violation of the city's erosion control requirements.
6. If any soil or material is deposited, by natural event or by an actor, on the right-of-way adjacent to a site or upon any adjacent site, in violation of any provision of this article or of any state statute regulating soil erosion, and the identity of the actor (property owner, builder, permittee, or responsible party) cannot be determined, the owner or person in whose name the permit was issued is presumed to be the person who caused or failed to prevent the deposit of soil or material from a site to the adjacent right-of-way or to an adjacent site. This presumption is rebuttable and shall have the effects and consequences set forth in Texas Penal Code § 2.05, and as it may be amended. The city records relative to the permit are prima facie evidence of the contents of the record.
7. If the erosion control devices have been properly installed and maintained, but the intent of the approved erosion control plan (maintaining sediment on-site) is not met, the responsible party shall

take action within 24 hours to control soil eroding from the site and clean up any sediment and shall have 5 days to submit for review by the engineering department a revised erosion control plan. Work may continue during the review period. Implementation of this new plan will be required within 24 hours of plan approval by the Director of Engineering. If no plan is submitted within 5 days, then a construction activities stop work order may be issued until a revised plan is submitted and approved.

8. The city may issue an immediate construction activities stop work order to any applicant, builder, developer, and/or other responsible person or party when the city finds:
 - a. There is an imminent threat to public health or safety or to private property arising out of any action that violates this section; or
 - b. Actions/inactions by a person have contributed to an actual or threatened illicit discharge to the MS4; or
 - c. A person has proceeded with construction activities without an approved erosion control plan or applicable state or federal permits.
 - d. In addition to the issuance of a construction activities stop work order, the city may also direct the applicant, builder, developer, and/or any other person or party responsible for the situation or condition giving rise to the issuance of the stop work order to (a) immediately cease and desist all such acts or omissions and (b) clean up, correct, and/or cure said situation or condition.
 - e. The city may at its discretion issue a fee assessment and/or a class C misdemeanor violation citation for each such violation. Each and every day, or part of a day, that such situation or condition continues to exist without correction shall be deemed to constitute a separate violation for which the stop work order shall remain in full force and effect and for which an additional fee assessments or citations may be issued.

D. Class C Misdemeanor

Any person, firm, or corporation performing land disturbing activities and violating any of the provisions or terms of this article and not complying within the time periods stated in this article shall be deemed guilty of a class C misdemeanor and, upon conviction thereof, be subject to a fine not exceeding \$500.00 for each offense, and each and every day, such violation shall continue shall be deemed to constitute a separate offense.

7.6.7. Appeals

A. Appeal to Executive Director of Development Services

Upon notice of noncompliance, a responsible party may appeal the city's decision to take deductions from his erosion control deposit pursuant to §7.6.4, *Erosion Control Deposit*, by filing a written appeal to the Executive Director of Development Services within 7 days of the city's written notice of its intent to make such deduction for assessments, citations, costs for corrective work, administrative fees, and inspection and reinspection fees as allowed herein. An appeal filed pursuant to this section shall specifically state the bases for the aggrieved party's challenge to the city's authority to take deductions under this article.

B. Standard for Appeals

When reviewing an appeal filed pursuant to this section, the Executive Director of Development Services shall evaluate all evidence submitted. The burden of proving that a violation of this article occurred shall be on the City. The City shall provide evidence sufficient to reasonably support a determination that the responsible party failed to comply with the requirements of this article as alleged by the City.

C. Issuance of Opinion by Executive Director of Development Services

Decisions of the Executive Director of Development Services shall be issued within 20 days of the City's receipt of the written appeal. Decisions of the Executive Director of Development Services shall be final.

7.7. Funding of Improvements

7.7.1. On-Site Drainage Improvements

The cost of any drainage system improvements required by the proposed development and located completely within the limits of the proposed development shall be financed entirely by the developer.

7.7.2. Off-Site Drainage Improvements

- A.** The initial constructing developer shall fund, at the developer's sole cost and expense, the design cost, construction cost, and the cost of the drainage plan necessitated by the proposed development including the impacts from flows up to and including the 100-year flows generated from future improvements to developed and undeveloped tracts within the watershed and those tracts that lie outside the city limits, and all engineering, construction, and other costs, including drainage studies or portions thereof, related to drainage within the watershed.
- B.** Drainage improvements for streets defined on the thoroughfare plan may be reimbursed with roadway impact fees, following the guidelines established for those fees.
- C.** The developer shall sign an acknowledgement of payment on a form approved by the city as a condition of receipt of payment and developer shall forward a copy of the signed acknowledgment to the Director of Engineering.

7.8. Adoption

This article will become effective on September 7, 2014, except that documents meeting one of the following conditions shall be exempted from provisions of this article exceeding requirements of the previously adopted stormwater management ordinance:

- 7.8.1.** Commercial, residential, or industrial subdivision lots less than 2.5 acres in area where the plat was recorded or where a complete preliminary plat had been submitted and approved prior to July 1, 1999; and
- 7.8.2.** All on-site and adjacent infrastructure required by the then-existing ordinance was constructed and accepted prior to July 1, 2001.
- 7.8.3.** Any lot which is replatted shall meet the requirements of this article unless the resulting lots were contemplated and shown on an approved preliminary plat or conceptual site plan prior to July 1, 1999, which lots shall be exempt.

Article 8: MTC – McKinney Town Center

Included in Consolidated Draft.

Article 9: Rules of Construction and Definitions

9.1. Rules of Construction

9.1.1. Meanings and Intent

The provisions, terms, phrases, and expressions in this Code shall be construed according to the general purpose set forth in §1.2, *Purpose*, and the additional specific purpose statements set forth throughout this Code. When, in a specific section of this Code, a different meaning is given for a term defined for general purposes in this Code, the specific section's meaning and application of the term shall control.

9.1.2. Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this Code and any heading, caption, figure, illustration, table, or map, the text shall control.

9.1.3. Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

9.1.4. Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, holiday observed by the City, or other day that City offices are not open, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, holiday observed by the City, or other day that City offices are not open. References to days are calendar days unless otherwise stated.

9.1.5. Technical and Non-Technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

9.1.6. Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are discretionary.

9.1.7. Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- A. "And" indicates that all connected items, conditions, provisions, or events apply; and
- B. "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

9.1.8. Tenses, Plurals, and Gender

Whenever appropriate with the context, words used in the present tense include the future tense. Words used in the singular number include the plural. Words used in the plural number include the singular, unless the context of the usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

9.1.9. Titles and Headings

All titles and headings of articles, sections, or subsections of this Code are to be used for convenience in arrangement only and shall not be construed to alter the intended meaning.

9.2. Lighting Definitions

NEW DEFINITION SECTIONS

Where the current McKinney code had definitions embedded in sections by topic (Lighting, Signs, Stormwater, Tree Preservation), we have moved them to these new subsections.

Bulb or Lamp

The source of electric light. To be distinguished from the whole assembly, lamp is used to denote the bulb and its housing.

Candela

The unit of luminous intensity in a given direction, commonly called one candlepower.

Class I Lighting

All outdoor lighting used for, but not limited to, outdoor sales areas, recreational facilities and assembly areas, eating areas, repair areas, advertising displays, billboards and other signs and similar applications when color rendition is important.

Class II Lighting

All other outdoor lighting including, but not limited to, illumination for walkways, roadways, equipment yards, parking areas, outdoor security and similar application when color rendition is not important.

Cutoff

A luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 25 (2.5 percent) at an angle of 90 degrees above nadir, and 100 (10 percent) at a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

Diffusing Luminaire

A luminaire that scatters light substantially in all directions as contrasted with a directional luminaire which confines its light principally in an angle of less than 180 degrees.

Fixture

The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or defractor (lens), the ballast, housing and the attachment parts.

Floodlight

A luminaire designed to project its light in a well-defined area. It is directional in character.

Floodlight Beam

The angular spread of light between two orthogonal planes each of which equal 10 percent of the maximum candlepower within the beam.

Footcandle

The amount of illumination provided by one lumen uniformly distributed on one square foot of surface.

Footlambert

The luminance of a surface uniformly emitting, transmitting, or reflecting one lumen per square foot of surface.

Full Cutoff

A luminaire light distribution where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (10 percent) at a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

Glare

Direct lighting emitted from a luminaire that causes reduced vision or temporary blindness.

High Pressure Sodium (HPS)

A high intensity discharge lamp where radiation is produced from sodium vapor at relatively high partial pressures (100 torr). HPS is essentially point source light.

Horizontal Plane

A line horizontal to the lowest point on the fixture from which light is emitted.

Illumination

The density of the luminous flux (lumens) incident on a surface. It is the quotient of the luminous flux divided by the area of the surface, expressed in footcandles.

Incandescent Lamp

Any lamp that produces light by heating a filament through use of an electric current.

Installation

The attachment, or assembly fixed in place, whether or not connected to a power source, or any outdoor light fixture.

Kilowatt Hour (kwh)

A unit of energy equal to the work done by one kilowatt (1,000 watts) of power acting for one hour.

Light Source

A device (such as a lamp) which produces visible energy as distinguished from devices or bodies which reflect or transmit light such as a luminaire.

Light Trespass

Light falling outside the boundary of property for which it was originally intended or needed. Also referred to as spillover light or obtrusive light.

Low Pressure Sodium (LPS)

A discharge lamp where the light is produced by radiation from sodium vapor at a relatively low partial pressure (about 0.001 torr). LPS is a "tube source" monochromatic light.

Lumen

The quantity of luminous flux intercepted by a surface of one square foot, all points of which are one foot from a uniform source of one candela. A one-candela source provides 12.57 lumens.

Luminaire

A device or fixture containing a light source and means for directing and controlling the distribution of light from the source.

Luminance

The luminous intensity per unit projected area of a given surface viewed from a given direction for purposes of this section expressed in candelas divided by distance squared.

Mercury Lamp

A high intensity discharge lamp where light is produced by radiation from mercury vapor.

Metal Halide Lamp

A high intensity discharge lamp where light is produced by radiation from metal halide vapor.

Mounting Height

The maximum height of the pole from ground level. The lighting fixture shall not exceed the height of the pole. Refer to §5.3.2, *Freestanding Luminaire Height*, for maximum pole height.

Noncutoff

A luminaire light distribution where there is no candela limitation in the zone above maximum candela.

Outdoor Lighting Fixture

An outdoor artificial illumination device, whether permanent or portable, used for illumination outdoors and shall include, but not be limited to, devices used for search, spot, flood and area lighting for buildings and structures, recreational facilities, parking areas, landscape lighting, outdoor advertising displays, billboards, signs, public and private street lighting and walkway lighting.

Photometric

The quantitative measurements of light levels and distribution.

Semicutoff

A luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 50 (5 percent) at an angle of 90 degrees above nadir, and 200 (20 percent) at a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

9.3. Signs Definitions

Automobile Dealership Franchise

Franchises that are granted specifically by a motor vehicle manufacturer to an authorized dealer for sales only of a specific make of motor vehicle, such as Ford or Chevrolet.

Change in Occupancy or Ownership

A commemoration that promotes the opening of a new business. A change in occupancy or ownership shall be limited to one occurrence to be held within 90 days of the issuance of a certificate of occupancy from the Chief Building Official and shall not exceed 5 consecutive days in length.

Feather Flag

A wind device that contains a harpoon-style pole or staff driven into the ground for support.

Repair, Major

Any repair, other than minor repair as defined below, of an existing sign, which through an act of God or other event has become damaged. Such repair work will require a permit and shall meet all provisions described in Article 4: *Signs*, of this Code.

Repair, Minor

Minor repair is limited to painting, replacement of defective parts, cleaning or other similar minor maintenance to a sign, which will keep said sign at an acceptable level and which does not change the total area of the sign, and which repair is less than 60 percent of the replacement cost of the sign.

Sign

Includes any writing, letter, word, numeral, pictorial representation, emblem, symbol, trademark, object, design, or other identification that is designed or intended to identify, advertise, announce, or inform. The term "sign" shall not include:

- 1) Works of art that in no way identify a product or business and that are not displayed in conjunction with a numerical for-profit enterprise;

- 2) Temporary decorations or displays directly incidental to and customary and commonly associated with national, local or religious holiday celebrations; or
- 3) Traffic and other official signs and devices of any public or governmental agency.

Sign, Abandoned

A sign that depicts or refers to a product, business, service, activity, condition, or person, which has changed in such a manner that the sign no longer correctly identifies or describes him/it, or which no longer exists at the location referred to in the sign, or which no longer exists in any way or at any place.

Sign, A-Frame

Any sign intended to be located on a sidewalk adjacent to the business it promotes, which sign can be readily moved, as it is not affixed to a building, vehicle, or the ground.

Sign, Attached

Any sign attached to, applied on, or supported by any part of a building (such as a wall, roof, window, canopy, awning, arcade or marquee) that encloses or covers usable space and does not extend more than 12 inches from the building facade.

Sign, Billboard and/or Off-Site

A permanent structure sign erected for the purpose of the display of commercial or non-commercial messages which are not related to the products or services sold, manufactured, or distributed on the premises on which the sign is located.

Sign, Changeable Electronic Variable Message Sign (CEVMS)

A sign that permits light that may be flashing or pulsating, to be turned on or off intermittently or that is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, that may or may not vary in intensity or color.

Sign, Detached

Any sign permanently placed on or anchored to the ground and structurally independent of any building or other structure.

Sign, Detached Ground

A sign having a low profile, either made of or contained within stone, concrete, metal, wood, brick, or similar material, that does not exceed 6 feet in height from the adjacent ground level.

Sign, Detached Pole, or Pole Sign

Any sign supported by one or two freestanding poles and having no guys or braces to the ground or to any structure.

Sign, Kiosk

A sign within a multi-tenant shopping center, office park, or medical center.

Sign, Effective Sign Area Measurement

The area enclosed by drawing one or more rectangles of horizontal and vertical lines that fully contain all extremities of the sign drawn to scale, exclusive of its supports. The measurement is to be calculated from the viewpoint that gives the largest rectangle of that kind as the viewpoint is rotated horizontally around the sign.

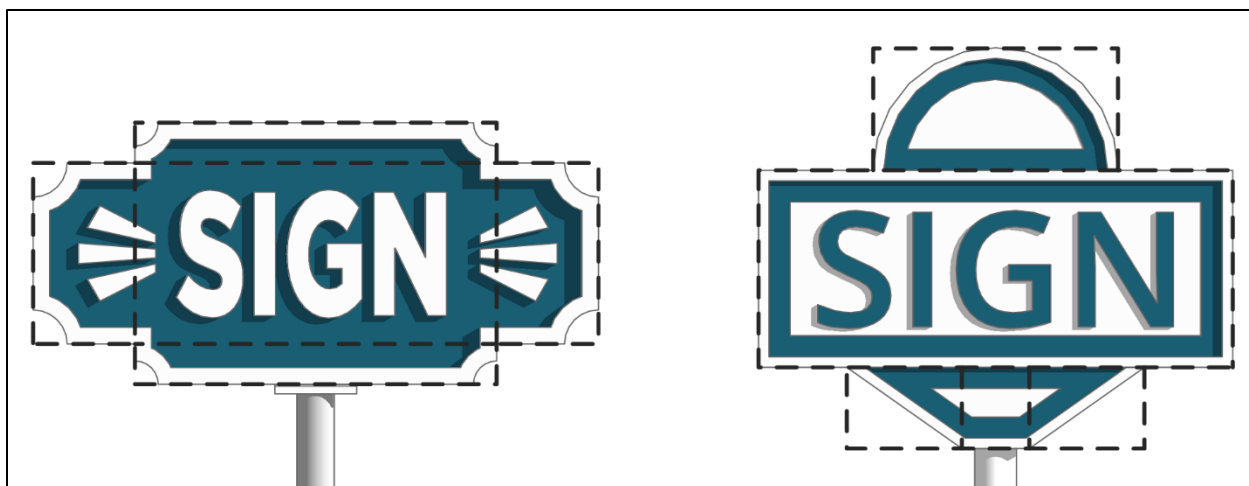


Figure 7-1: Sign Measurement Area

Sign, Hanging

A sign that is attached beneath an awning or canopy of a building.

Sign, Human

A sign held by or attached to a human being who stands or walks on the premises or on adjacent right-of-way at a business location. A human sign includes a person dressed in costume, both for the purposes of advertising and/or otherwise drawing attention to an individual, business, commodity, service, activity or product.

Sign, Inflatable

A sign manufactured of plastic, cloth, canvas, or other flexible or light fabric, inflated with air, secured to the ground, and does not exceed 30 feet in height. Inflatable signs are only permitted as part of a change in occupancy or ownership signage display.

Sign, Menu Board

A sign erected adjacent to the drive-through ordering lane of a restaurant.

Sign, Mobile Billboard

An operable vehicle with illuminated or non-illuminated panels, other devices or appendages whose primary purpose is to advertise, promote, or draw attention to products, services, events, or other similar purpose.

Sign, Portable and/or Display

A sign that is not permanently attached to the ground or building or designed to be permanently attached to the ground or building. Portable signs include signs on wheels or on portable or mobile structures, such as, among other things, trailers, skids, banners, tents or other portable structures, A-frame signs, T-shaped signs, airborne devices, or other devices used for temporary display or advertising.

Sign, On-Premises

Any sign the content of which relates to the premises on which it is located, referring exclusively to the name, location, products, persons, accommodations, service or activities on those premises, or the sale, lease or construction of those premises.

Sign, Projecting

A sign attached to a building or extending, in whole or in part, 12 inches or more perpendicular to the surface of the building to which the sign is attached.

Sign, Roof

Any sign erected upon, against or directly above a roof, or on top of or above the parapet of the building.

Sign, Special Purpose

A sign temporarily supplementing the permanent signs on the premises.

Sign Support

Any pole, post, strut, cable, or other structural fixture or framework necessary to hold and secure a sign, providing that said support is not used as a sign.

Sign, Vehicular

A sign that identifies a vehicle used for a particular business; however, not when the primary use of the vehicle is that of a sign.

Sign, Wind-Driven

Any sign consisting of one or a series of two or more banners, flags, pennants, ribbons, spinners, streamers, captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind or breeze.

9.4. Stormwater Definitions

Active Agricultural Use

The raising of crops for harvest that requires the cultivation of soil using appropriate soil conservation procedures.

Adverse Impact

Any negative impact including, but not limited to, any of the following impacts associated with the 100-year storm event:

- 1) Any increase in peak discharge beyond the capacity of the affected system, including consideration for appropriate freeboard;
- 2) Any increase in the flood level when rounded to the nearest 0.1 feet; or
- 3) Any increase in the floodplain boundary with respect to subparagraphs a. and b. of this paragraph 2.

Appeal

A request for review or interpretation of any provision of this article or a request for a variance.

Applicant

Any firm, entity, partnership, company, public utility company, or individual that submits the appropriate application materials to clear, grub, fill, excavate, grade, or otherwise remove the vegetative cover of land, or that submits the appropriate application materials to either subdivide land and install the appropriate infrastructure or renovate existing structures.

Area of Shallow Flooding

A designated "AO" or "AH" zone on the flood insurance rate map. In such an area, the base flood depths range from one to three feet, a clearly defined channel does not exist, and the path of flooding is unpredictable and indeterminate.

Area of Special Flood Hazard

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year, determined based upon FEMA's guidelines and as shown in the current effective flood insurance study. This 100-year mean recurrence interval storm event is based on existing watershed conditions (differs from "design flood").

Base Flood Elevation

The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or V that indicates the water surface elevation resulting from the flood that has a one percent chance of equaling or exceeding that level in any given year (also called the "base flood").

Builder

A person, partnership, or corporation engaged in clearing, grubbing, filling, excavating, grading, constructing a pad, installing service utility lines, and/or constructing or placing a building or other structure on a lot or other type of tract of land that is owned by the person, partnership, or corporation, and that will not be further subdivided into other lots.

Capacity

The maximum amount of discharge that can be passed safely in a drainage conveyance system, including consideration for appropriate freeboard.

Channel

A natural or artificial stream that conveys water. Channels are often further classified by their size and purpose. For example, there are primary and secondary channels based on size, but diversions, waterways, and chutes are also channels.

Channel Improvement

The improvement of the flow characteristics of a channel by clearing, excavating, realigning, lining, or other means in order to increase or maintain its capacity. The term may also be used to mean "channel stabilization."

Channel Stabilization

Erosion prevention and stabilization of a channel using various rigid and flexible linings, jetties, grade controls, revetments, vegetation, and other measures.

Check Dam

A small dam constructed in a gully or other small watercourse to decrease the stream flow velocity, minimize channel scour, and promote deposition of sediment.

City-Maintained Land

Any land in actual ownership of the city ("fee simple ownership"); it does not include any type of easements where all or any portion of the property rights remain in private ownership.

Conduit

Any closed device for conveying flowing water.

Cover, Vegetative

All plants of all sizes and species found on an area, irrespective of whether they have forage or other value, but especially used to refer to vegetation producing a mat on or immediately above the soil surface. Temporary vegetative cover refers to the use of annual plants for the cover, while permanent vegetative cover refers to the use of perennial plants.

Crest

The top of a dam, dike, spillway, or weir, frequently restricted to the overflow portion.

Dam

Any barrier or barriers, with any appurtenant structures, constructed for the purpose of either permanently or temporarily impounding water, or for the purpose of diverting water.

Design Flood

When used in the context of floods, floodplains, or flood hazards, a flood having a one percent chance of being equaled or exceeded in any given year, based upon fully developed watershed conditions (differs from "base flood").

Detention Basin

A dry basin or depression constructed for the purpose of temporarily storing stormwater runoff and discharging all of that water over time at a rate reduced from the rate that would have otherwise occurred, but over a longer time period.

Developer

A person, partnership, or corporation that owns a tract of land and is engaged in clearing, grubbing, filling, mining, excavating, grading, installing streets and utilities to be dedicated to or accepted by the city, and/or otherwise preparing that tract of land for the eventual article of the tract into one or more lots on which buildings or other structures will be constructed or placed.

Development

Any manmade change to improved or unimproved real estate, including, but not limited to, adding buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, grading, clearing, or removing the vegetative cover.

Discharge (hydraulics)

- 1) The rate of flow; specifically, fluid flow; and
- 2) A volume of fluid passing a point per unit time, commonly expressed as cubic feet per second.

Disturbance

Any operation or activity, such as clearing, grubbing, filling, excavating, mining, cutting, grading, or removing channel linings, which results in the removal or destruction of the protective cover of soil, including vegetative cover, channel linings, retaining walls, and slope protection.

Disturbed Areas

Any area or tract of land in which a disturbance is occurring or has occurred but that has not been stabilized.

Drainage Area

The land area from which water drains to a given point.

Elevated Building

A building elevated by means of fill, so that the lowest finished floor of the building is at least two feet above the water surface elevation of the base flood or design flood, whichever is higher.

Emergency Spillway

A spillway built to carry runoff in excess of that carried by the principal spillway. Sometimes referred to as "auxiliary spillway."

Equal Conveyance

The principle of reducing stream conveyance for a proposed alteration with a corresponding reduction in conveyance to the opposite bank of the stream. The right of equal conveyance applies to all owners and uses and may be relinquished only by written agreement.

Erosion

The wearing away of land by action of wind and water.

Existing Construction

For the purposes of determining rates, any structure for which the start of construction commenced before January 1, 1975. The term "existing construction" may also be referred to as "existing structures."

Existing Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Subdivision

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA)

The federal agency that administers the National Flood Insurance Program.

Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) The overflow of inland waters; and/or
- 2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM)

The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study

The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the flood boundary/floodway map and the water surface elevation of the base flood.

Flood Protection System

Physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees, channel improvements, or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Floodplain

And includes all areas inundated by the fully developed 100-year flood and special flood hazard areas shown in the flood insurance study and on the FEMA flood insurance rate maps for the county, dated June 7, 2017, and subsequent amendments thereto.

Floodprone Area

Any land area susceptible to being inundated by water from any source (see definition of "Flood" or "Flooding").

Floodproofing

Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate the risk of flood damage to real estate or improved real property, water, and sanitation facilities, or structures together with their contents.

Floodway

See the definition for "Regulatory floodway."

Flume

Any open conduit on a prepared grade, trestle, or bridge through which stormwater is captured and directed.

Freeboard

The distance between the design flood elevation and the top of an open channel, dam, levee, or detention basin to allow for wave action, floating debris, or any other condition or emergency without overflowing the structure.

Fully Developed Flow

The flow from a fully urbanized drainage area.

Grading

Any stripping, cutting, filling, stockpiling, or combination thereof that modifies the existing land surface contour.

Grass

Any member of the botanical family Gramineae, herbaceous plants with bladelike leaves arranged in two ranks on a round to flattened stem. Common examples are fescue, Bermuda grass, and Bahia grass. The term "grass" is sometimes used to indicate a combination of grass and legumes grown for forage or turf purposes.

Highest Adjacent Grade

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure

Any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior (the "secretary") as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the secretary as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the secretary; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the secretary; or
 - b) Directly by the secretary in states without approved programs.

Illicit Connection

- 1) Any drain or conveyance, whether on the surface or subsurface, that allows an unlawful discharge to enter the storm drain system. Illicit connections include, but are not limited to, conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- 2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Inlet (hydraulics)

- 1) A surface connection to a closed drain;
- 2) A structure at the diversion end of a conduit; or
- 3) The upstream end of any structure through which water may flow.

Levee

A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System

A flood protection system, which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished, or flood-resistant enclosure, usable solely for the parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of FEMA 60.3.

Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured Home Park or Subdivision

A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level

For the purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

MS4 or Municipal Separate Storm Sewer System

A system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that discharges to waters of the United States.

Natural Drainage

The dispersal of surface waters through ground absorption and by drainage channels formed by the existing surface topography which exists at the time of adoption of the ordinance from which this article is derived or formed by any manmade change in the surface topography.

New Construction

for all purposes except the National Flood Insurance Program portion of this article means structures for which the start of construction commenced on or after February 16, 1988. For the purposes of the National Flood Insurance Program portion of this article, "new construction" means structures for which the start of construction commenced on or after December 31, 1974.

New Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the city.

Open Channel

A channel in which water flows with a free surface.

Other Municipal Ordinances

Ordinances such as, but not limited to, zoning, subdivision, and construction specifications.

Outfall

The point where water flows from a stream, river, lake, or artificial drain.

Peak Discharge

The maximum instantaneous flow from a given storm condition at a specific location.

Permanent (post-construction) Erosion Controls

The stabilization of erosive or sediment-producing areas by the use of means or techniques that will provide protection against erosion losses for an indefinite time period. Such controls or techniques may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, storm sewer inlet/outlet structures, storm sewer outlet velocity control structures, and stormwater detention or retention structures.

Permanent Ground Cover

Uniform (that is, evenly distributed, without large bare areas) perennial vegetative cover with a density of at least 70 percent of the native background vegetative cover.

Positive Overflow

A route that stormwater will follow in the event the capacity of the primary system is exceeded. A special positive overflow easement must exist where this flow is intended to go on, upon, over, and/or across private property to reach an appropriate drainage facility. The route must provide capacity within a dedicated drainage, positive overflow, or floodplain easement such that the water depth does not cause injury or damage to property or vehicles and the surface of the easement cannot be altered or blocked.

Principal Spillway

A spillway constructed of permanent material and designed to regulate the normal water level, provide flood protection, and reduce the frequency of operation of the emergency (auxiliary) spillway.

Probable Maximum Flood

The upper limit of a flood likely to occur as determined by the U.S. Army Corps of Engineers' criteria.

Public Nuisance (erosion or sediment)

A situation in which erosion of, or sediment from, one location is causing a bothersome or unsightly condition on another property owned by a different individual or entity or a situation where the movement or loss of sediment has, or is expected to, threaten public or private property. A bothersome or unsightly condition or burden includes silt, mud, or similar debris originating from one property but being deposited onto a second off-site property in which that off-site owner may have to remove or clean up the deposit due to actual or potential liability, statutory, aesthetic, drainage, or property damage concerns. Also, erosion or deposition caused by the actions or inaction of an upstream or downstream property owner, which threatens public or private property, is a nuisance. The adversely affected off-site property owner could be a private citizen, corporation, government, or other entity.

Recreational Vehicle

A recreational vehicle is:

- 1) Built on a single chassis;
- 2) 400 square feet in area or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable by a light duty truck; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood, as calculated by the Federal Emergency Management Agency, without cumulatively increasing the water surface elevation more than a designated height. This floodway is used by FEMA to determine compliance with its regulations.

Retention Basin

A pond or other water body that has been designed to have both a conservation pool for holding some water indefinitely and a flood storage pool for storing stormwater runoff on a temporary basis for the purpose of reducing the peak discharge from the basin.

Runoff

The portion of the excess precipitation that makes its way toward stream channels or lakes as surface or subsurface flow. When the term "runoff" is used alone, surface runoff usually is implied.

Sediment

Solid soil material, both mineral and organic, that is being moved or has been moved from its original site by wind, gravity, flowing water, or ice. Also sometimes referred to as "silt" or "sand."

Significant Rise

An increase, when rounded to the nearest 0.1 feet, in either the base flood elevation or the design flood elevation. For encroachments within the regulatory floodway, significant rise means an increase, when rounded to the nearest 0.01 feet, in the base flood elevation.

Site Plan

A plan meeting the requirements of the subdivision regulations of the city that provides a layout of a proposed project.

Soil

The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of plants.

Special Flood Hazard Area (SFHA)

The land in the floodplain within a community that is subject to a one percent, or greater, chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map ("FHBM"). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A is usually refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. The SQ.FT.HA is also called the base floodplain, 100-year floodplain, or one percent annual chance floodplain.

Stabilized

Protected from possible erosion losses, usually by mechanical means or the use of vegetative cover.

Start of Construction

For a structure, the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The term "start of construction" includes substantial improvement. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction of a structure does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Storm Frequency

An expression or measure of how often a hydrologic event of given size or magnitude should, on an average, be equaled or exceeded.

Structure

A walled and roofed building, a manufactured home, a substation, or a gas or liquid storage tank that is principally above ground. When used in the context of stormwater, the term means a drainage improvement, such as a dam, levee, bridge, culvert, headwall, flume, etc.

Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before damage occurred.

Substantial Improvement

- 1) Any combination of repairs, reconstruction, or improvements of a structure, the cumulative cost of which equals or exceeds 50 percent of the initial market value of the structure either:
 - a) Before the first improvement or repair is started; or
 - b) If the structure has been damaged and is being restored, before the damage occurred.

- 2) For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Incremental improvements over a period of time, the cumulative cost of which equals or exceeds 50 percent of the market value at the time of the first improvement, shall be considered a substantial improvement. The term does not, however, include either:
 - a) Any project for the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or
 - b) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Temporary Erosion Control

The stabilization of erosive or sediment-producing areas for a specific time period, usually during a construction job and until stabilization is restored regardless of whether by mechanical or vegetative means.

Ten Percent Rule

The basis for establishing the downstream limits of the influence that a proposed development has on the downstream drainage system as defined in the integrated stormwater management (ISWM) manual published by the North Central Texas Council of Governments (NCTCOG). The 10 percent rule is also described in the Engineering Design Manual.

Texas Commission on Environmental Quality (TCEQ)

The state coordinating agency for environmental issues.

Texas Water Development Board (TWDB)

The state coordinating agency for the National Flood Insurance Program.

Use

Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Use Permit

The permit required before any use may be commenced.

Variance

A grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article.

Violation

The failure of a structure or other development to be fully compliant with this article. A structure or other development without the elevation certificate, other certifications, or other evidence, as required by the Director of Engineering, is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation

The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of riverine areas and behind dams.

Watershed

The area drained by a stream or drainage system.

Zone of Influence

The area downstream of a proposed development where the discharge of the development can have a significant impact upon the receiving stream or storm drainage system, as discussed further in the engineering design standards. Said another way, it is the area where the effects of a detention pond can be felt. For

additional information, refer to the integrated stormwater management (iSWM) manual published by the North Central Texas Council of Governments (NCTCOG).

9.5. Tree Preservation Definitions

100-Year Fully Developed Floodplain

The area of inundation from a storm event having a one percent chance of being equaled or exceeded in any given year, based upon fully developed watershed conditions.

Building Pad

The actual base area of a building and an area not to exceed 6 feet around the foundation necessary for construction and grade transitions.

Caliper

Caliper is a measurement of the diameter of a tree trunk. All newly planted tree measurements are in caliper inches in accordance with the American Standards for Nursery Stock (ANSI Z60.1-2004) and shall be measured at 6 inches above the ground unless otherwise noted. All existing tree measurements are in caliper inches as measured 4 ½ feet **DBH** above the natural ground level. For multiple trunk trees, combine the diameter of largest stem or trunk with one-half of the diameter of each additional stem or trunk, all measured at 4 ½ feet above ground level. If a tree splits into multiple trunks below 4 ½ feet, the trunk is measured at its most narrow point beneath the split.

Clear-Cutting

The removal of 10 or more protected trees from a property within a 90-day period.

Critical Alteration

Uprooting or severing the main trunk of a tree, or any act that causes or may reasonably be expected to cause a tree to die. This includes, but is not limited to: damage inflicted upon the root system of a tree by machinery, storage of materials, or the compaction of soil above the root system of a tree; a change in the natural grade above the root system of a tree; an application of herbicidal chemical or the misapplication of beneficial chemicals; excessive pruning; placement of non-permeable pavement over the root system of a tree; or trenching within the primary root zone. Additionally, a tree may be considered critically altered if more than 25 percent of the primary root zone is altered or disturbed at natural grade, or more than 25 percent of the canopy is removed.

Cut/Fill

Areas where the natural ground level has been excavated (cut) or where fill material has been brought in.

Diameter at Breast Height (DBH)

Definition to be added. [measurement at 4 feet above ground?]

Determination of Exemption

A determination made by the Director of Planning that no tree permit or tree preservation is required for the site.

Drip Line

Refers to whichever is greater:

- 1) A vertical line running through the outermost portion of the canopy of a tree and extending to the ground; or
- 2) If the tree is damaged or deformed, a circular area with a radius equal to 2 feet per inch of caliper.

Erosion Hazard Setback

The area along a drainage channel designated as an erosion setback under the city's stormwater ordinance.

Exemption Area

An area that is clearly exempt from all tree replacement and tree protection requirements of this section, as approved by the Director of Planning.

FEMA 100-Year Floodplain

The area designated as being within the 100-year flood plain on the Federal Emergency Management Agency flood insurance rate map (FIRM) as of the effective date of the ordinance from which this section is derived. The boundary may be verified and established through field surveys based on elevation. Any changes made by FEMA to the 100-year flood plain boundary after the effective date of the ordinance from which this section is derived due to filling of the flood plain, channelization, or other drainage improvements shall not reduce the area in which tree preservation, replacement or protection requirements apply.

Grubbing

Excavating or removing a significant part of the root system of a tree.

Municipal and Public Domain Property

Property in which title is held in the name of a governmental entity. Examples of this include city buildings, county property, public parks, U.S. Army Corps of Engineers property, state rights-of-way, libraries, fire stations, water tower sites or similar properties.

Non-Disturbance Area

An area in which no development activity or vehicular traffic associated with the construction or development of land occurs.

NRCS Lake Tree Preservation Zone

The area within an elevation 2 feet above the emergency spillway elevation of any Natural Resources Conservation Service lake.

Owner

Any person with an interest in land, or a lessee, agent, employee, or other person acting on behalf of the owner.

Protected Tree

A quality tree with a trunk 6 inches or greater in caliper at 4 feet 6 inches above the ground. The caliper of a multi-trunk protected tree shall be determined by adding the total caliper of the largest trunk to one-half the caliper of each additional trunk.

Protective Fencing

Chain link fencing, orange vinyl construction fencing or other fencing at least 4 feet high and supported at a maximum of 10-foot intervals by approved methods sufficient to keep the fence upright and in place. The fencing shall be of a highly visible material.

Pruning

The removal of dead, injured, or diseased limbs or roots to maintain plant health or the removal of limbs or roots to control or direct vegetative growth.

Quality Tree

A tree species that typically has significant positive characteristics worthy of preservation. See [section A-2 of appendix A](#).

Root Zone, Primary

The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line. See [section A-3 of appendix A](#).

Tree

Any self-supporting woody plant, which will attain a trunk caliper of 2 inches or more when measured at a point 4½ feet above ground level and normally an overall height of at least 15 feet with a canopy of at least 15 feet in caliper at maturity. A tree may have one main stem or trunk or several stems or trunks.

Tree Board

A board appointed by the City Council to carry out the duties and responsibilities set forth in §2.4.4, *Tree Preservation*. The Planning and Zoning Commission shall constitute the Tree Board unless the City Council appoints a separate Tree Board.

Tree Protection Sign

A sign describing prohibited conduct detrimental to trees and meeting specifications of the city's Chief Building Official to be posted on the site upon approval of a tree permit.

Tree Survey

A plan drawing that identifies the location of trees and contains the information set forth in §2.4.4.D of the *Tree Preservation* section. The tree survey shall be prepared by an arborist, a licensed surveyor, a registered landscape architect licensed by the Texas Board of Architectural Examiners, or other qualified person approved by the Director of Planning. For projects of limited scope, the Director of Planning may approve a tree survey prepared by a non-professional if complete and accurate information is provided.

Tree Topping

The severe cutting back of limbs to stubs larger than three inches in caliper within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Utility Company, Franchise Utility, or Public Utility

A company or entity, or agent for a company or entity, that provides a utility service such as the provision of gas, electric, cable, or telephone service within the city.

9.6. Other Defined Terms

NEW AND EXISTING TERMS

This is a partial list of defined terms; this section does not include the full list of definitions included with modules 1 and 2.

The following words, terms and phrases when used in this Code, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Administrative Official

The approving authority within the Development Services Division. This official, depending on the context and the specific circumstances, may be the Chief Building Official, Director of Engineering, Director of Planning, or their authorized representative(s).

Administrative Manual

The administrative manual referenced in this document is available online on the City's website at [WEBSITE] and a hard copy shall be maintained in the Development Services Division.

Adverse Impact¹⁷

An impact that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, unhealthy conditions on a site or degrades or damages environmental, historical, or cultural resources or facilities on a site proposed for development or on an off-site property or facility.

¹⁷ New.

Alley

A public or private way set aside as a permanent right-of-way for the movement of vehicular traffic. An alley is meant to provide access to the rear yard, side yard of abutting property, provide utility service, and has a right-of-way with an ultimate width of 20 feet or less, typically. An alley may have a right-of-way with an ultimate width up to 30 feet in unique circumstances.

Amending Plat

A map, drawing or chart that modifies a recorded final plat or minor plat in accordance with the provisions of §3.1.6, *Amending Plat*.

Applicant

Unless otherwise specified, an owner or other person with a legal property interest, including heirs, successors, and assigns, or an owner's authorized agent, who has filed an application for zoning, subdivision, or development activity.

Area of the Lot

The net area of the lot excluding portions of streets and alleys.

Basement

Definition to be added.

Block

An area enclosed by streets and occupied by or intended for buildings; or if "block" is used as a term of measurement, it shall mean the distance along a side of a street between the nearest two streets which intersect said street.

Board

The Zoning Board of Adjustment as provided for in §1.13.4, *Board of Adjustment*.

Build

To erect, convert, enlarge, reconstruct, or alter a building or structure.

Building

Any structure built for the support, shelter and enclosure of persons, animals, chattel or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building Line

A line beyond which buildings must be set back from a street right-of-way line or property line.

Building Permit

--- [TBD]

Building Site

A single tract of land located within a single block, which (at time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. It shall front upon a street or approved place. A building site may be subsequently subdivided into two or more building sites, and a number of building sites may be combined into one building site, subject to the provisions of this Code pertaining to subdivisions.

Certificate of Appropriateness

A document issued after review by the Historic Preservation Officer, or the Historic Preservation Advisory Board, following prescribed public review procedures, certifying that proposed work on a designated historic resource is compatible with the historic character, style and building materials of the historic resource, and therefore may be completed as specified in the Certificate of Appropriateness, and any building permits needed to do the work specified in the Certificate may be issued.

Certificate of Occupancy

An official certificate issued by the city through the Administrative Official, which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued.

Change in Occupancy or Ownership

A commemoration that promotes the opening of a new business. A change in occupancy or ownership shall be limited to one occurrence to be held within 90 days of the issuance of a certificate of occupancy from the Chief Building Official and shall not exceed 5 consecutive days in length.

City

The municipal corporation of the City of McKinney, Texas.

Chief Building Official¹⁸

The City administrative official charged with the responsibility of issuing permits and enforcing the building ordinances.

City Council or Council

The duly elected governing body of the City of McKinney, Texas.

City Manager

The chief administrative office of the City.

Commission

The governmental body designated in this Code as the Planning and Zoning Commission and appointed by the City Council as an advisory body to it and which is authorized to recommend changes to this Code.

Comprehensive Plan

The Comprehensive Plan of the City, as adopted by the City Council. The Comprehensive Plan shall consist of a land use plan, a thoroughfare plan, a potable water system plan, a sanitary sewer plan, a storm drainage plan, a park system plan, and such other plans as may be adopted from time to time by the City Council.

Conveyance Plat

A map of property approved by the City for the purpose of sale or conveyance in accordance with §3.1.7, **Conveyance Plat**. A conveyance plat is not the first step in the development of a project as it does not provide any detail regarding a project. As such the submission and approval of a conveyance plat does not vest any rights in the property.

Courtyard

A hard-surfaced or landscaped space within a lot, open and unobstructed to the sky so as to receive sunlight, located at or above grade level, and bounded on three or more sides by the walls of a building or a vegetative wall.

Developer¹⁹

Any person seeking approval under this Code for any form of development, including the subdivision of land.

Development or to Develop

The construction of a new building or any structure on a building lot, the relocation of an existing building on another building lot, or the use of open land for a new use. To develop is to create a development.

Development Permit

--- [TBD]

¹⁸ Removed reference to enforcing the zoning ordinance.

¹⁹ Reconciles inconsistent definitions in subdivision and the REC overlay.

Director of Code Services

Definition to be added.

Director of Engineering

The engineer employed by the City of McKinney, Texas, or the engineers retained as consultants to the City, or their duly authorized representative.

Director of Planning

The City official designated to administer the provisions of these regulations, or their duly authorized representative.

Dwelling

A building or portion thereof designed and used exclusively for residential occupancy, including one family, two-to-four family, or multi-family dwellings but not including hotels, motels, or lodging houses.

Dwelling Unit²⁰

A structure or portion thereof that provides living, sleeping, eating, cooking, and sanitation accommodations.

Easement

A right in a particular area of real property that exists because of an express or implied agreement between the landowner and another party, that grants the right to use or access the land area.

Encroachment

The extension of a building or structure beyond a property line onto a neighbor's property, or into a designated setback area on a specific lot. Some encroachments are permitted under circumstances specifically described in this code. Encroachments not so permitted are violations of this ordinance.

Extraterritorial Jurisdiction (ETJ)

McKinney's ETJ is the area outside the City's current corporate limits, but within the City's planning area.

Façade

Any separate face of a building, including parapet walls and omitted wall lines, or any part of a building which encloses or covers usable space. Where separate faces are oriented in the same direction or in directions within 45 degrees of one another, they are to be considered as a part of a single facade.

Family

Any number of individuals living together as a single housekeeping unit, in which not more than 6 individuals are unrelated by blood, marriage, or adoption.

Final Plat²¹

A map, drawing, or chart prepared according to and complying with the provisions of this Code, and containing all engineering and legal data, dedications, and certificates necessary to the recording of same in the map and plat records of the county.

Frontage or Property Frontage

The entire length of the boundary line of any one tract of real property adjacent to a public right-of-way, measured parallel to the right-of-way line in a horizontal manner.

Grade, Finished

The final elevation of the ground level after development.

Gross Floor Area

The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding

²⁰ Reconciles inconsistent definitions in subdivision and in the REC overlay definitions.

²¹ Currently "record plat."

exterior walls, shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

Height²²

The vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to:

- 1) The highest point of the roofs surface if a flat surface;
- 2) The deck line of a mansard roof; or
- 3) The mean height level between eaves and ridge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevators, bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes and spires, and parapet walls not exceeding 10 feet in height.²³

If the street grade has not been officially established, the average front yard grade shall be used for a base level.

Historic Preservation Officer

The staff member designated by the Director of Planning to administer the City's historic preservation regulations.

Infrastructure

Facilities and services needed to sustain industry, residential, commercial and all other land use activities. The term "infrastructure" includes water, sewer lines, and other utilities, streets and roads, communications, and public facilities, such as fire houses, parks, schools, and such.

Landscape Buffer

A required piece of land in a specific location used to physically separate or screen one land use or piece of property from another using landscaping as specified in §2.4.1, *Landscaping*.

Lot

Land occupied or to be occupied by a building and its accessory buildings and including such open spaces as are required under this section and having its principal frontage upon a public street or officially approved place.

Lot Area

The total horizontal area within the lot lines of a lot, said area to be exclusive of street right-of-way.

Lot, Corner

A lot situated at the junction of 2 or more dedicated public streets.

Lot Depth

The horizontal distance from the midpoint of the rear of lot line to the midpoint of the front lot line.

Lot, Interior

A lot situated in a block with frontage on only one dedicated public street and specifically not a corner lot.

Lot Lines

A boundary of a lot. "Lot line" is synonymous with "property line."

Lot of Record

An area of land designated as a lot on a plat of a subdivision recorded, pursuant to statutes of the state, with the county clerk of the county, or an area of land held in single ownership described by metes and bounds upon a deed recorded or registered with the county clerk prior to and continuously from ---.²⁴

²² Will be revisited during installment 2 – districts and uses.

²³ This should be relocated to the measurements and exceptions to dimensional standards when the districts and uses are drafted with installment 2.

²⁴ Legal staff requests specific date be added here; requires further discussion.

Lot Width

The horizontal distance between the side lines, measured at the front property line adjacent to the public right-of-way. The lot width for a corner lot shall be measured along the right-of-way upon which the address is assigned.

Maximum Extent Practicable

The degree to which a project meets an adopted standard in which all possible efforts to comply with the standard or to minimize harmful or adverse impacts have been undertaken by the applicant, but full compliance cannot be achieved, and no feasible or practical alternative exists. Economic considerations may be considered but shall not be the overriding factor determining “maximum extent practicable.”

Minor Plat

A map, drawing, or chart prepared according to the provisions of this Code, and containing all engineering and legal data, dedications, and certificates necessary to the recording of same in the map and plat records of the county, and meeting the criteria defined in §3.1.4, *Minor Plat*.

Minor Repair

[TBD]--- for purposes of nonconformities.

Multi-Family Dwelling

Any building or portion of a building, that is designed, built, rented, leased or let to contain three or more dwelling units on a single lot, or that is occupied as a home or place of residence by three or more families living in independent dwelling units on a single lot.

Nonconforming Use²⁵

A building, structure, or use of land that was lawfully constructed and lawfully occupied without interruption at the time of the effective date of this Code, or that was subsequently annexed to the City and that does not conform to the use regulations of the district in which it is situated.

Occupancy

The use or intended use of the land or buildings by proprietors or tenants.

Overlay District

A zoning district that encompasses one or more underlying base zoning districts and that imposes additional or alternate requirements to that required by the underlying zone(s).

Parent Tract

The original unsubdivided parcel from which the platted lots of a subdivision are created.

Planned Development (PD)

A zoning district that in which the terms of development are individually determined to provide for the unified and coordinated development of parcels or tracts of land and is intended to achieve greater flexibility than otherwise allowed by strict application of this Code, while providing greater benefit to the City.

Plat

A plan of a subdivision or land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City and subject to approval by the Planning and Zoning Commission and/or City Council, and filed in the plat records of the county.

Plaza

A gathering space typically open and accessible to the general public, predominately hard-surfaced with complementary landscaping, water features, and other site furnishings; framed on at least 2 sides by the vertical rise of building walls; or framed by closely planted large maturing trees in lieu of buildings.

²⁵ Revised to remove reference to 1968 effective date.

Preliminary Plat

A map, drawing, or chart drawn to scale, on which the subdivider's proposed arrangement of streets, lots, easements, and other public spaces in the subdivision are shown on a form for recording via an associated final plat.

Premises

A lot or unplatted tract that is recorded in the City.

Primary Entrance

The main entry to a building on a block face; any additional building entries may be considered a secondary entrance.

Primary Structure

The principal or main building or structure on any lot. The primary structure is normally larger in area and prominence than any accessory or secondary buildings or structures on the same lot.

Primary Use

The principal or main activity or use on any lot, as defined and permitted by zoning district.

Public View

What can be seen of a property, site, or building by a viewer on any adjacent public sidewalk, street, alley, or public right-of-way, or by a viewer from any location on an abutting property.

Replat

A map, drawing, or chart drawn to scale that modifies a platted lot(s) of record that may or may not front onto an existing street and involves more than 4 lots, the creation of a new public street, or requires the extension of municipal facilities.

Rezoning

To change the zoning of a parcel of land, also referred to as a zoning amendment. Rezoning may require an amendment to the Comprehensive Plan.

Right-of-Way²⁶

The right-of-way, or the dedicated strip of land that encompasses a publicly owned infrastructure, such as a street and sidewalk.

Roadway Benefits Area

The geographic area(s) within the city's corporate limits designated on the map incorporated with ordinance number 2020-12-091 as exhibit 3, which do not exceed six miles and within which geographic area(s) roadway impact fees for capital improvements will be collected for new development occurring within such area, and within which area fees so collected will be expended for those capital improvements identified in the roadway improvements plan to be located within the roadway service area. Also called "roadway service area." Neither roadway service area or roadway benefits area does not include any land outside the city limits.

Setback

The minimum required distance of open space between a lot line and a building or structure. A setback must be open from the ground to the sky, and may not be encumbered by any permanent structure or encroachment, except as specifically permitted throughout this Code.

Siding, Lap

Traditional horizontal siding that consists of long narrow boards installed horizontally on a house. Also known as "clapboard siding."

²⁶ From the REC overlay definitions.

Siding, Sheet

Sheet siding is installed in panels, rather than as individual boards, across the façade of a house. The orientation can be either horizontal or vertical, depending on design.

Site Plan

A plan drawing of a site that includes the layout of buildings, circulation system, parking, walls, landscaping, open space and any other appropriate information as required by the City. The term “site plan” also refers to the approval procedure in §2.1.6 by which site plans are evaluated for compliance with this Code prior to development permits.

Specific Use Permit

A review and approval process in accordance with §2.1.7 for specific uses that have unique or widely varying operating characteristics or unusual site development features warranting review by City officials including a public hearing.

Stacking Lane

A paved area designated for the queuing of motor vehicles as they await access to drive-through facility or auto-oriented service such as a car wash, bank service window or a restaurant’s ordering and delivery window.

Street

A public or private way set aside as a permanent right-of-way for the movement of vehicular traffic, to provide access to abutting property, and to provide utility service. A street is a right-of-way with an ultimate width of more than 30 feet.

Structural Alteration

Any change in the supporting member of a building, such as a load-bearing wall, column, beam or girder.

Subdivision

The division of any lot, tract, or parcel of land into 2 or more lots or sites for the purpose of sale or of building development, whether immediate or future. The term includes resubdivision or replatting of an existing subdivision, building upon, or other development of land, but does not include the division of land into tracts where each resulting lot is more than 5 acres in size; does not involve or require any new street, alley or easement of access; and no public improvement is being dedicated. As part of a subdivision, if any lot is proposed to be 5 acres in area or smaller, the entire parent tract must be platted together with such other lots or tracts. When appropriate to context, the term subdivision shall relate to the process of subdividing or to the land subdivided. Subdivisions of mobile home spaces for sale, lease or rent shall comply with all provisions of Chapter 138, Article III, Division 2, regulating mobile home parks, as it now exists or as amended.

TLGC²⁷

The Texas Local Government Code, as amended (i.e., including future amendments).

Two-Family Dwelling

A single structure designed and constructed with 2 dwelling units under a single roof for occupancy by 2 families. Also known as a “duplex.”

Use

The purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of such activity with respect to the standards of this Code.

²⁷ Revised to clarify that any future amendments would be included with definition of the Texas Local Government Code as referred to in this Code.

Variance

An adjustment in the application of the specific regulations of this Code to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to enable the property to enjoy the same or similar enjoyed by other parcels in the same vicinity and zoning district.

Wet Utility

Any utility line dedicated to carrying water or other liquid, including but not limited to water lines, sewer lines, fire connections including hydrants, and drainage infrastructure.

Yard

A required open space located on the same lot as the principal structure, unoccupied and unobstructed except for accessory uses and landscaping. In this code, yard is often used synonymously with the term “setback.”

Front Yard

A yard extended across the full width of and situated between the front lot line and the principal structure extending to the side lot lines. In the case of a corner lot, the front yard adjoins the public or private rights-of-way where the entrance/address is located.

Side Yard

A yard extended across the full width of and situated between the side lot line and the principal structure extending from the front yard to the rear yard. In the case of a corner lot, the corner side yard shall extend from the front yard to the rear lot line.

Rear Yard

A yard extended across the full width of and situated between the rear lot line and the principal structure extending to the side lot lines. In the case of a corner lot, the rear yard shall not extend past the corner side yard.

Zoning District

A geographical division or area of the City created by legislative regulation in which there are specifically defined allowable uses for real property and size restrictions for buildings and lots within the defined zones.

Zoning District Map

The official certified map upon which the boundaries of the various zoning districts are drawn, and which is an integral part of this Code.

Zoning District, Non-Residential

Any zoning district designated by the Zoning Ordinance of the City as a commercial, industrial or otherwise non-residential district, and any other non-residential districts that should replace these or be added to them in the future; refer to §2.2, *Zoning Districts*.

Zoning District, Residential

Any zoning district designated by the Comprehensive Zoning Ordinance of the City as primarily for residential use, and any residential district that should replace these or be added to them in the future; refer to §2.2, *Zoning Districts*.

Article 10: Heading 1²⁸

10.1.1. List 3

10.2. Heading 2

Body 2

10.2.1. Heading 3

Body 3

A. List 4

B. Heading 4

Body 4

1. List 5

2. Heading 5

Body 5

a. List 6

b. Heading 6

Body 6

i. List 7

ii. Heading 7

Body 7

a. List 8

Definition Heading

Definition Text 1:

4) Definition List:

c) Definition List 2.

Definition Subheading

Definition Text 2.

²⁸ This section is only included for style reference and will be removed prior to final adoption.