TOWN OF PROSPER

# ZONING ORDINANCE

Ordinance Number 05-20
Adopted May 10, 2005

Updated November 13, 2018

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# List of Recent Amendments

| Ord. No. | Date of Ord. Approval | Case No. | Chapters/Sections Amended or Added | Description |
|---|---|---|---|---|
| 15-55 | 09-22-2015 | Z15-0005 | Ch. 2, Sections 4– 9 | Establish size of garages; established maximum impervious coverage of front yards; referenced section for exterior construction of main buildings |
| ″ | ″ | ″ | Ch. 4, Section 2.6 | Establish tree requirements for corner lots |
| ″ | ″ | ″ | Ch. 4, Section 7.7 | Establish carport standards |
| ″ | ″ | ″ | Ch. 4, Section 9.8 | Establish masonry standards for upper stories and chimneys |
| ″ | ″ | ″ | Ch. 4, Section 9.19 | Establish standards for alternating single family plan elevations |
| ″ | ″ | ″ | Ch. 4, Section 9.20 | Establish standards for residential garages |
| | | | | |
| 15-74 | 12-08-2015 | Z15-0007 | Ch. 2, Sections 3-23 | Remove list of permitted uses and referenced list of permitted uses Ch. 3, Section 1.3 |
| ″ | ″ | ″ | Ch. 3, Section 1.3 | Comprehensive Amendment of Schedule of Uses |
| | | | | |
| 16-29 | 04-26-2016 | Z16-0008 | Ch. 4, Section 9.8 | Establish exception process for exterior façade requirements |
| | | | | |
| 16-46 | 07-26-2016 | Z16-0012 | Ch. 4, Section 2.6 | Amend landscaping requirements in the DTO District |
| ″ | ″ | ″ | Ch. 4, Section 4.3 | Permit dead-end parking aisle in the DTO District |
| ″ | ″ | ″ | Ch. 4, Section 5.2 | Amend screening requirements in the DTO District |
| | | | | |
| 16-60 | 09-13-2016 | Z16-0017 | Ch. 3, Section 1.4 | Amend “Alcoholic Beverages Sales,” Conditional Development Standards regarding variances |
| | | | | |
| 16-79 | 12-13-2016 | Z16-0024 | Ch. 3, Section 1.4 | Amend “Alcoholic Beverages Sales,” Conditional Development Standards by deleting distance requirement for child day care centers |
| | | | | |
| 17-32 | 04-11-2017 | Z17-0002 | Ch. 3, Section 1.4 | Amend “Private Clubs” Conditional Development Standards regarding variances |
| Ord. No. | Date of Ord. | Case No. | Chapters/Sections | Description |

| | Approval | | Amended or Added | |
|---|---|---|---|---|
| 17-43 | 06-13-17 | Z16-0014 | Ch. 3, Section 1.3 | Amend Use Chart regarding Guest Houses and Residential Garage Lofts |
| ″ | ″ | ″ | Ch. 3, Section 1.4 | Establish new Conditional Development Standards for “Guest Houses” and “Residential Garage Lofts” |
| ″ | ″ | ″ | Ch. 3, Section 2.2 | Amend definition of “Guest House” and establish new definition of “Residential Garage Loft” |
| ″ | ″ | ″ | Ch. 4, Section 7.6 | Amend development requirements for accessory structures and buildings |
| | | | | |
| 17-49 | 06-27-17 | Z17-0006 | Ch. 3, Section 1.3 | Amend “Restaurant” Conditional Development Standards by requiring SUP for Restaurants with drive-through service |
| ″ | ″ | ″ | Ch. 3, Section 2.2 | Establish a new definition, “Automobile Sales, Service, and Leasing,” and amend the definition of “Restaurants” |
| | | | | |
| 17-62 | 08-22-17 | Z17-0007 | Ch. 3, Section 1.4 | Amend “Temporary Building” Conditional Development Standards regarding temporary buildings on public property |
| | | | | |
| 17-74 | 09-26-17 | Z17-0011 | Ch. 4, Section 2.4 | Amend maintenance requirements of landscaping on Town property |
| | | | | |
| 18-11 | 01-23-18 | Z17-020 | Ch. 4, Section 3 | Comprehensive amendments regarding “Tree Mitigation” |
| | | | | |
| 18-12 | 01-23-18 | Z17-0023 | Ch. 3, Section 1.3 | Amend term, “Antenna and/or Antenna Support Structure, Commercial” to “Wireless Communications and Support Structures” and permit by SUP in all Zoning Districts |
| “ | “ | “ | Ch. 3, Section 1.4 | New Conditional Development Standard for “Wireless Communications and Support Structures” |

| Ord. No. | Date of Ord. Approval | Case No. | Chapters/Sections Amended or Added | Description |
|---|---|---|---|---|
| 18-12 | 01-23-18 | Z17-0023 | Ch. 3, Section 2.2 | Provide Definition of "Wireless Communications and Support Structures" and "Temporary Wireless Communications and Support Structures" |
| | | | | |
| 18-23 | 03-27-18 | Z17-0020 | Ch. 3, Section 2.2 | Amend Definition of "Protected Tree" |
| | | | | |
| 18-39 | 05-22-18 | Z17-0015 | Ch. 3, Section 1.3 | Adding the use, "Community Home" and permitted as a Conditional Use in Residential Districts |
| " | " | " | Ch. 3, Section 1.3 | Amend various terms related to Child Care |
| " | " | " | Ch. 3, Section 1.4 | Amend Conditional Development Standards for "Home Occupations" in its entirety |
| " | " | " | Ch. 3, Section 1.4 | Amend various terms related to Child Care |
| " | " | " | Ch. 3, Section 1.4 | Add new Conditional Development Standard term, "Community Home" |
| " | " | " | Ch. 3, Section 2.2 | Amend various definitions related to Child Care, Community Home and Household Care Facility |
| | | | | |
| 18-62 | 08-14-18 | Z18-0006 | Ch. 1, Section 7 | Amend "Nonconforming Uses and Structures" in its Entirety |
| | | | | |
| 18-76 | 09-25-18 | Z17-0021 | Ch. 1, Section 8 | Establishing Criteria for "Zoning Signs," Previously Referenced in the Sign Ordinance |
| | | | | |
| 18-93 | 11-13-18 | Z18-0014 | Ch. 3, Section 1.4 | Amend Conditional Development Standards for Stealth Antennas |
| " | " | " | Ch. 3, Section 2.2 | Amend Definition of Stealth Antenna |
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# Chapter 1

## General Provisions, Administration, and Procedures

# SECTION 1
# ENACTING CLAUSE AND PURPOSE

## 1.1 ENACTING CLAUSE

The Zoning Ordinance, Ordinance No. 84-16, of the Town of Prosper, Texas, as passed and approved on the 9th day of October, 1984, together with all amendments thereto, is hereby amended in its entirety to read as follows:

## 1.2 PURPOSE

The zoning regulations and districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the Town of Prosper. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to insure adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town consistent with the Comprehensive Plan.

# SECTION 2
# ZONING DISTRICT MAP

2.1 The boundaries of zoning districts set out herein are delineated upon a zoning district map of the Town, adopted as part of this ordinance as fully as if the same were set forth herein in detail.

2.2 One original of the Zoning District Map shall be filed in the office of the Town Secretary and labeled as Ordinance number 05-20. This copy shall be the official Zoning District Map and shall bear the signature of the Mayor and attestation of the Town Secretary. This copy shall not be changed in any manner. In case of any question, this copy, together with amending ordinances, shall be controlling.

2.3 An additional copy of the original Zoning District Map shall be placed in the office of the Director of Planning. The copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments and shall be identified as the official zoning map. Reproductions for informational purposes may be made of the official Zoning District Map.

2.4 The district boundary lines shown on the Zoning District Map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerline.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following city limits shall be construed as following city limits.

D. Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.

E. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerline of streams, lakes, or other bodies of water shall be construed to follow such centerline, and in the event of change in the centerline, shall be construed to move with such centerline.

F. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through E above shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.

G. Whenever any street, alley, or other public way is vacated by official action of the Town Council or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

H. The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street, unless as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street.

I. Where physical features on the ground are at variance with information shown on the official zoning district map or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of Subsections A through H, the property shall be considered as classified Agricultural (A) District, in the same manner as provided for newly annexed territory and the issuance of a building permit and the determination of permanent zoning shall be in accordance with the provisions provided in Chapter 1, Section 4 for temporarily zoned areas.

# SECTION 3
# COMPLIANCE REQUIRED/INTERPRETATION/RULES OF CONSTRUCTION

## 3.1 COMPLIANCE REQUIRED

A. All land, buildings, structures or appurtenances thereon located within the Town that are hereafter occupied, used, erected, altered, graded, developed, removed, placed, demolished, or converted shall be occupied, used, erected, altered, graded, developed, removed, placed, demolished or converted in conformance with the zoning regulations prescribed herein provided or be subject to penalties as per Chapter 5, Section 1.2 of this ordinance.

B. No land, buildings, structures or appurtenances thereon located shall hereafter be occupied, used, erected, altered, graded, developed, removed, placed, demolished or converted without first receiving all necessary approvals, releases, and/or permits, including, but not limited to site plan approval, plat approval, landscape plan approval, engineering plan approval, grading release, preconstruction conference, paving permit, plumbing permit, electric permit, or building permit.

## 3.2 INTERPRETATION

A. Where the regulations imposed herein are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards are the requirements that shall govern.

B. The provisions of these regulations are not intended to abrogate any easement, covenant or other private agreement, provided that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement, the requirements of these regulations shall govern.

C. The provisions of these regulations are cumulative and additional limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter set forth in the provisions of these regulations.

D. In the event that any property or Zoning District set forth on the Zoning District Map of the Town as provided in Chapter 1, Section 2 of this Ordinance is misnamed, designated incorrectly, the boundaries are incorrect or the property is omitted, in part or in whole, the Zoning District Map may be amended and/or supplemented according to the following rules. Upon notification of error, the Town Council shall give notice of a public meeting to consider correcting the error and at such public meeting, shall consider any comments or any persons desiring to address the Town Council concerning such error, and after due consideration of such comments, the Town Council may amend the Zoning District Map by an affirmative vote of the majority of the Town Council. Upon approval of the correction to the Zoning District Map, said District Map shall be amended to reflect the correction of the error, and the Zoning District Map, as amended and corrected, shall be the official Zoning District Map.

## 3.3 RULES OF CONSTRUCTION

The language set forth in these regulations shall be interpreted in accordance with the following rules of construction:

A. The singular number includes the plural and the plural the singular; and

B. The present tense includes the past and future tenses and the future the present; and

C. The word "shall" is mandatory while the word "may" is permissive; and

D. The masculine gender includes the feminine and neuter; and

E. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation, as

well as an individual; and

F. Any word appearing in parentheses directly after a word herein defined shall be construed in the same sense as that word.

# SECTION 4
# ZONING UPON ANNEXATION

4.1 All territory hereinafter annexed into the Town shall be classified as Agricultural (A) District, until permanent zoning is established by the Town Council. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure set forth in Chapter 1, Section 8 of this Ordinance.

4.2 In the A District:

A. No person shall erect, construct, proceed or continue with the erection or construction of any building or structure or cause the same to be done in any newly annexed territory to the Town without first applying for and obtaining a Building Permit or Certificate of Occupancy from the Building Official.

B. No permit for the construction of a building or use of land shall be issued by the Building Official other than a permit which will allow the construction of a building or use permitted in the A District, unless and until such territory has been classified in a zoning district other than the A District, by the Town Council in the manner prescribed by law, except as provided in Chapter 1, Section 4.2(C).

C. An application for a building permit for any proposed use other than those specified in paragraph B above must be made to the Building Official within three (3) months after annexation and referred to the Town Council for consideration. The applicant shall show that plans and other preparation for developing the property commenced prior to annexation into the Town. The action of the Town Council concerning any such permit shall take into consideration the appropriate land use for the area. The Town Council may, by majority vote, authorize the issuance of a Building Permit or Certificate of Occupancy or may disapprove the application pending permanent zoning.

# SECTION 5
# CREATION OF BUILDING SITE

5.1 No permit for the construction of a building or buildings upon any tract or plot shall be issued until a building site, building tract, or building lot has been created by compliance with one of the following conditions:

A. The lot or tract is part of a plat of record, properly approved by the Town Council, and filed in the Plat Records of Collin or Denton Counties, Texas as may be applicable by location of property.

B. The plat, tract, or lot faces upon a dedicated street and was separately owned prior to annexation to the Town of Prosper, in which event a building permit for only one main building conforming to all the requirements of this Ordinance may be issued on each such original separately owned parcel without first complying with paragraph A preceding.

C. The plat or tract is all or part of a site plan officially approved by the Town Council, and compliance has been made with provisions and improvements approved on such site plan for all utility and drainage easements, dedication of streets, alleys and other public improvements required to meet the standards established for the platting of land.

5.2 No building hereafter erected, converted or structurally altered shall be used or occupied until a Certificate of Occupancy has been issued by the Building Official which signifies compliance with the appropriate Zoning District.

# SECTION 6
# CERTIFICATES OF OCCUPANCY AND COMPLIANCE

## 6.1 CERTIFICATES OF OCCUPANCY SHALL BE REQUIRED FOR ANY OF THE FOLLOWING

A. Occupancy and use of a building hereafter erected or structurally altered

B. Change in use of an existing building to a use of a different classification

C. Occupancy and use of vacant land, except agricultural use

D. Change in the use of land to a use of a different classification

E. Any change in the use of a nonconforming use

No such use, or change of use, shall take place until a Certificate of Occupancy shall have been issued by the Building Official.

## 6.2 PROCEDURE FOR NEW OR ALTERED BUILDINGS

Written application for a Certificate of Occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the Building Permit for such building. Said Certificate shall be issued within ten (10) days after a written request for the same has been made to said Building Official or his agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Ordinance.

## 6.3 PROCEDURE FOR VACANT LAND OR A CHANGE IN BUILDING USE

Written application for a Certificate of Occupancy for the use of vacant land, a change in the use of land or a building, or a change in a nonconforming use to a conforming use, as herein provided shall be made to said Building Official for review according to Chapter 1, Section 6.2. If the proposed use is in conformity with the provisions of this Ordinance, the Certificate of Occupancy shall be issued within ten (10) days after the application for same has been made.

## 6.4 CONTENTS

Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all provision of the building and fire laws and ordinances. A record of all Certificates of Occupancy shall be kept in file on the office of the Building Official or his agent and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building or land affected.

## 6.5 TEMPORARY CERTIFICATE

Pending the issuance of a regular certificate, a temporary Certificate of Occupancy may be issued by the Building Official, subject to any and all necessary conditions, for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties, or obligations of the owners or of the Town relating to the use or occupancy of the premises or any other matter covered by this Ordinance.

## 6.6 CERTIFICATES FOR NONCONFORMING USES

A Certificate of Occupancy shall be required for all lawful nonconforming uses of land or buildings created by adoption of this Ordinance. Application for such Certificate of Occupancy for a nonconforming use shall be filed with the Building Official by the owner or lessee of the building or land occupied by such nonconforming use within one (1) year of the effective date of this Ordinance.

# SECTION 7
# NONCONFORMING USES AND STRUCTURES

*(Amended in its Entirety by Ord. No. 18-62; 08-14-18)*

## 7.1 Purpose, Definitions, and General Provisions

A. Purpose

The purpose of this section is to establish provisions for the allowance, potential alteration or discontinuation of uses and/or structures which do not conform to currently applicable zoning standards or regulations, but which were in conformance with standards in place at the time of their inception and have been rendered nonconforming due to a change in the applicable standards and regulations.

B. Definitions

Nonconformities occur in three (3) general categories: structures, uses, lots or combinations thereof.

1. *Nonconforming Structure* means a structure which does not conform to the regulations (other than the use regulations) of the Zoning Ordinance, but which was lawfully constructed under the regulations in force at the time of construction.

2. *Nonconforming Use* means a use that does not conform to the use regulations of this Ordinance, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.

3. *Nonconforming Lot* means a platted lot of record that does not conform to the lot area, lot width, or lot depth requirements established in this Ordinance, except as otherwise provided for in this section.

C. Intent

It is the declared intent of this section that any modification to nonconforming uses and structures result in greater conformance with the Zoning Ordinance such that nonconforming uses and structures eventually come into full compliance with this Zoning Ordinance.

D. General Provisions

Notwithstanding anything to the contrary, nonconforming uses are hereby declared incompatible with the permitted uses in the districts involved.

## 7.2 Status

A. For purposes of interpretation, any uses, structures and/or lots, which in whole or part are not in conformance with current zoning standards, shall be considered as follows:

1. Legal Nonconforming. Those uses, structures or lots, which in whole or part are not in conformance with current zoning standards but were legally established at a prior date at which time they were in conformance with applicable standards. Such uses, structures or lots may be maintained or potentially altered subject to the provisions of this Section.
2. Illegal Status. Those uses, structures or lots which in whole or part are not in conformance with current zoning standards and were not in conformance with applicable standards at the time of their inception shall not be considered nonconforming, but shall be considered illegal uses, structures, or lots and shall not be approved for any alteration or expansion and shall undertake necessary remedial measures to reach conformance with current standards or be discontinued.

## 7.3 Time of Adoption

A. Any use, platted lot, and/or structure that is a lawful use at the time of the adoption of any amendment to

the Zoning Ordinance but by such amendment is placed in a district wherein such use, platted lot, and/or structure is not otherwise permitted shall be deemed legal nonconforming.

B. Annexation

If a use, platted lot and/or structure was in existence at the time of annexation to the Town and has since been in regular and continuous use, it shall be deemed legal nonconforming.

## 7.4 Burden of Demonstration

The burden of establishing that any nonconformity is a legal nonconformity as defined in this subsection shall be borne by the owner or proponent of such nonconformity.

## 7.5 Continuing Lawful Use of Property

A. Abandonment of Nonconforming Use

If a nonconforming use on a particular parcel of land ceases operations for a continuous period of more than six (6) months, then such nonconforming use shall be deemed to be permanently abandoned. Any nonconforming use which does not involve a permanent type of structure or operation and which is moved from the premises shall be considered to have been abandoned.

B. Reinstatement of Nonconforming Use Rights

An owner and/or operator of a nonconforming use that has been deemed permanently abandoned pursuant to Section 7.5 (A), above, may request that the nonconforming rights to the use be reinstated pursuant to Section 7.10.

C. Prohibited Expansion or Reoccupation

A nonconforming use shall not be expanded, reoccupied with another nonconforming use, or increased as of the effective date of the Zoning Ordinance, except as provided in Section 7.7.

## 7.6 Changing Uses and Nonconforming Right

A. Nonconforming Use to Conforming Use

Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not be changed back to a nonconforming use.

B. Nonconforming Use to Another Nonconforming Use

A nonconforming use may not be changed to another nonconforming use, when the new nonconforming use is a more intense land use in terms of generating additional traffic, parking, noise, light, or providing additional outdoor uses in comparison to the current nonconforming use.

C. Conforming Use in a Nonconforming Structure

Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use as outlined in Section 7.7, below.

## 7.7 Nonconforming Uses

A. Registration of Nonconforming Uses

The operator, owner, or occupant of any nonconforming uses of land or buildings shall, within 12 months after the date on which the same became nonconforming, register such nonconforming use by obtaining a certificate of occupancy from the Building Official. The certificate of occupancy (nonconforming) shall be considered as evidence of the legal existence of a nonconforming use, as contrasted to an illegal use or violation of this Code. The Building Official shall maintain a register of all certificates of occupancy issued for nonconforming uses.

B. An expansion of a nonconforming use is allowed in accordance with the following:

1. Nonconforming Use Expansion in Existing Building. A nonconforming use located within a building may be extended throughout the existing building, provided:

   a. No structural alteration, except as provided in Section 7.8, may be made on or in the building except those required by law to preserve such building in a structurally sound condition.

   b. The number of dwelling units or rooms in a nonconforming residential use shall not be increased so as to exceed the number of dwelling units or rooms existing at the time said use became a nonconforming use.

C. Nonconforming Use Prohibited from Expansion beyond Existing Building. A nonconforming use within a building shall not be extended to occupy any land outside the building except where the rights are fully or partially re-instated by the Board of Adjustment pursuant to Section 7.10.

D. Off-Street Loading and Parking

A nonconforming use of land or building shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the land became a nonconforming use, except to provide off-street loading or off-street parking space when the additional parking complies with Chapter 4 of the Zoning Ordinance.

## 7.8 Nonconforming Structures

A. Enlargement

A nonconforming structure used for a conforming use may be enlarged by a maximum of 10% of the total floor area or 1,000 square feet, whichever is less. The enlargement of the floor area is only permitted one time.

B. Reuse of Abandoned or Vacant Buildings by Conforming Uses Allowed

Buildings or structures which have been vacant or abandoned for more than six (6) months and do not meet the current area regulations or development standards shall be allowed to be re-occupied by a conforming use.

C. Restoration of Nonconforming Structures

1. Total Destruction

If a nonconforming structure is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of the Zoning Ordinance unless the rights are fully or partially re-instated by the Board of Adjustment pursuant to Section 7.10.

2. Partial Destruction

In the event that a nonconforming structure that is devoted in whole or in part to a conforming use is damaged or destroyed, by any means other than voluntary demolition, to the extent of 50% or less the replacement cost of the structure immediately prior to such damage, such structure may be repaired and reconstructed and used for the same purposes and degree as it was before the damage or destruction, provided that such repair or reconstruction is commenced with a valid building permit within six (6) months of the date of such damage or destruction unless the rights are fully or partially re-instated by the Board of Adjustment pursuant to Section 7.10.

D. Relocation

No nonconforming structure shall be relocated in whole or in part to any other location on the same or any other lot unless the entire structure conforms to the regulations of the district to which such structure is

relocated.

## 7.9 Completion of Structures

A. Nothing herein contained shall require any change in the plans, construction, or designated use of the following:

1. Building in the Approval Process
   A building or structure for which a complete application for a building permit was accepted by the Chief Building Official on or before the effective date of this Zoning Ordinance or applicable amendments thereto; provided however, that such building permit shall comply with all applicable ordinances in effect on the date such application was filed.

## 7.10 Reinstatement of Nonconforming Rights

A. Applicability

A property owner may apply to the Board of Adjustment for a change in the status of a nonconforming use or nonconforming structure for the following matters:

1. Resumption of a nonconforming use previously abandoned;
2. Expansion of the land area of a nonconforming use;
3. Expansion of the gross floor area of a nonconforming structure beyond 25%; or
4. Reconstruction of a nonconforming structure that has been destroyed.

B. Effect

If the Board of Adjustment grants the application for a change in nonconforming status, modifications made in the nonconforming use, structure or lot that are consistent with the approved application shall enjoy the same status and shall be subject to the same limitations as the original nonconformity under this Zoning Ordinance.

C. Application Requirements

1. An application for a change in nonconforming status may be filed by the property owner on forms provided by the Department of Development Services.
2. An application for a change in nonconforming status shall contain a detailed written statement of the reasons why the nonconforming rights should be reinstated.

D. Review and Determination Process

1. Upon receipt of an application for a change in nonconforming status, the Director of Development Services or his or her representative shall transmit the application to the Board of Adjustment for processing and determination in accordance with this Section.
2. The Board of Adjustment shall hold a public hearing with notification of the hearing provided as follows:
   a. written notice being mailed to each property owner, as indicated by the most recently approved tax roll, within 200 feet of the subject property, prior to the tenth ($10^{th}$) day before the hearing, and
   b. publication in the official newspaper of the Town prior to the fifteenth ($15^{th}$) day before the hearing.

E. Burden of Proof

The applicant bears the burden of proof to demonstrate that an application for a change in nonconforming status should be granted.

F. Criteria for Considering Application

The Board of Adjustment shall consider the following criteria:

1. The proposed change in nonconforming status results in greater conformance with the Comprehensive Plan;
2. The proposed change in nonconforming status results in greater conformance with this Zoning Ordinance such that the nonconforming use or structure can eventually come into full compliance with this Zoning Ordinance;
3. The degree of the proposed request is the minimum amount necessary; and
4. Granting the application shall not result in greater harm to adjacent and neighboring land uses than the original nonconformity.

G. The Board of Adjustment shall approve, approve subject to conditions, or deny the request for a change in nonconforming status.

## 7.11 Amortization of Nonconforming Uses or Structures

A. First Public Hearing

Upon direction by the Town Council, the Board of Adjustment shall hold a public hearing to determine whether the continued operation of the nonconforming use will have an adverse effect on nearby properties or the community welfare. Notice of the public hearing shall be in the manner established in Section 7.10(D)(2).

B. In determining whether the continued operation will have an adverse effect on nearby properties or the community welfare, the Board of Adjustment shall consider the following factors:

1. The Comprehensive Plan;
2. The character of the surrounding neighborhood;
3. The degree of incompatibility of the use with the zoning district, in which it is located;
4. The manner in which the use is being conducted;
5. The hours of operation of the use;
6. The extent to which continued operation of the use may threaten public health or safety;
7. The environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor;
8. The extent to which public disturbances and nuisances may be created or perpetuated by continued operation of the use;
9. The extent to which traffic or parking problems may be created or perpetuated by continued operation of the use; and
10. Any other factors relevant to the issue of whether continued operation of the use will adversely affect nearby properties.

C. If the Board of Adjustment determines that the nonconforming use has an adverse effect on nearby properties or the community welfare, it shall hold a second public hearing to set a date for compliance. The Board of Adjustment shall have the authority to request the owner to produce financial documentation and/or records to the factors listed in Section 7.11(E), below. The owner shall provide said documents and/or records at least thirty (30) days before the second public hearing. If the owner does not provide said documentation, the Board of Adjustment is authorized to make its determination of a compliance date based upon any reasonably available public records as well as public or expert testimony at the hearing. Failure by owner to provide the requested financial documents and records shall not prevent the Board of

Adjustment from setting a compliance date.

D. Second Public Hearing

Notice of the public hearing shall be in the manner established in Section 7.10(D)(2).

E. The Board of Adjustment shall, in accordance with the law, provide a compliance date for the nonconforming use under a plan whereby the owner's actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period. The following factors shall be considered by the Board of Adjustment in determining a reasonable amortization period:

1. The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became nonconforming;
2. Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages;
3. Any return on investment since inception of the use, including net income and depreciation;
4. The anticipated annual recovery of investment, including net income and depreciation; and/or
5. A reasonable wind-up period for the nonconforming use.

F. Ceasing Operations

If the Board of Adjustment establishes a compliance date for a nonconforming use, the use must cease operations on that date, and it may not operate thereafter unless it becomes a conforming use.

G. Decisions that Cannot be Immediately Appealed

A decision by the Board of Adjustment that the continued operation of a nonconforming use will have an adverse effect on neighboring property or the community welfare and the Board of Adjustment's decision to schedule a second public hearing to establish a compliance date are not final decisions and cannot be immediately appealed.

H. Decision to Deny a Request to Establish a Compliance Date

A decision by the Board of Adjustment to deny a request to establish a compliance date is final unless appealed to state court within ten (10) calendar days in accordance with Chapter 211 of the Local Government Code.

I. Decision Setting a Compliance Date

A decision by the Board of Adjustment setting a compliance date is final unless appealed to state court within ten (10) calendar days in accordance with Chapter 211 of the Local Government Code.

J. Nothing in this section shall prohibit the Town and the property owner(s) of such nonconforming use from mutually agreeing upon a compliance date and memorialize such agreement in writing, to be approved by the Town Council and said property owner(s) and filed in the real property records of the county in which the property is located.

# SECTION 8
# CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES AND DISTRICTS AND ADMINISTRATIVE PROCEDURES

## 8.1 AUTHORITY TO AMEND ORDINANCE

A. The Town Council may from time to time, after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning Map. Any Zoning Ordinance regulations may be ordered for consideration by the Planning & Zoning Commission or Town Council. Any Zoning District boundary amendment may be ordered for consideration by the:

1. Town Council;
2. Planning & Zoning Commission; or
3. The owner of the real property (or the authorized representative of an owner of real property)

B. In no case shall the Town Council act upon any zoning request prior to recommendation by the Planning & Zoning Commission.

C. Each applicant for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall submit a zoning application (available from the Planning Department) to the Planning Department on or before a scheduled submission date and shall be accompanied by payment of the appropriate fee as established by the Town. All applications received on a date other than an official submittal date shall be dated received on the next official submittal date. Applications must be complete for acceptance.

D. Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, by the Planning & Zoning Commission, or by the Town Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the Town records are different, the applicant shall submit written proof of ownership acceptable to the Town.

E. Zoning Application Details: To ensure the submission of adequate information, the Planning staff is hereby empowered to maintain and distribute a list of specific requirements for zoning applications. Upon periodic review, the Planning staff shall have the authority to update such requirements for zoning application details.

## 8.2 PUBLIC HEARING AND NOTICE

A. Zoning Changes: Prior to making its report to the Town Council, the Planning & Zoning Commission shall hold at least one public hearing on each application. Prior to the tenth (10th) day before the hearing date before the Planning & Zoning Commission, written notice of each public hearing before the Planning & Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved Municipal Tax Roll, of property within two hundred (200) feet of the property in which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. Notice of Town Council hearing shall be given by publication in the official newspaper of the Town, stating the time and place of such hearing, a minimum of fifteen (15) days prior to the date of the public hearing.

B. Text Amendments: Notice of hearings on proposed changes in the text of the Zoning Ordinance shall be accomplished by one publication not less than fifteen (15) days prior to both the Planning & Zoning Commission and Town Council meetings thereto in the official newspaper of the Town. Changes in Ordinance text that do not change zoning district boundaries do not require written notification to individual property owners.

C. Zoning Signs: A zoning sign is a sign erected to publicize the request for zoning or rezoning of a

property. Zoning signs are permissible subject to the following conditions:

1. Time
   a. The property owner or his/her representative shall erect the sign on the property ten (10) days prior to the first public hearing scheduled to discuss the applicable zoning case. The property owner shall be responsible for maintaining the sign on the property throughout the entire zoning case.
   b. The property owner or his/her representative must provide verification with a photograph that the zoning sign is in place ten (10) days prior to the first public hearing meeting date.
   c. The property owner or his/her representative must remove the sign within three (3) days after the Town's approval of the ordinance rezoning the property or after the Town denies the request.
2. Place
   a. The sign(s) shall be placed in a location visible from all streets adjacent to the property included in the zoning request. If the subject property does not have existing street adjacency, no zoning sign shall be required.
   b. Signs shall be located no greater than twenty (20) feet from front property line, unless otherwise directed by the Director of Development Services or his/her designee. Zoning signs are not permitted in the Right of Way.
3. Manner
   a. One (1) zoning sign shall be erected adjacent to each existing street frontage of the property. For properties under three (3) acres and located at the intersection of two (2) streets, one (1) zoning sign may be provided at the intersection.
   b. The area of a zoning sign shall be a minimum of sixteen (16) square feet.
   c. The width of a zoning sign shall be a minimum of four (4) feet.
   d. The sign shall be constructed in accordance with Prosper's design standards for zoning signs, located in the Development Manual.

*(Ord. No. 18-76; 09-25-18)*

## 8.3 FAILURE TO APPEAR

The Planning & Zoning Commission and/or Town Council may deny a zoning application if the applicant or representative fails to appear at one (1) or more hearings before the Planning & Zoning Commission and/or Town Council.

## 8.4 COMMISSION CONSIDERATION AND REPORT

A. The Planning & Zoning Commission, after the public hearing is closed, may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the application. The Planning & Zoning Commission may table for not more than ninety (90) days from the time it is posted on the agenda until it has had opportunity to consider other proposed changes which may have a direct bearing thereon. Should the applicant wish to submit a request to table prior to the public hearing, the request shall be submitted in writing to the Planning Department a minimum of seven (7) days prior to the meeting. In making their determination, the Planning & Zoning Commission shall consider, among other things, the following factors:
   1. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the Town as a whole.
   2. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area, and shall note the

findings.

3. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the Town, and any special circumstances that may make a substantial part of such vacant land unavailable for development.

4. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

5. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.

6. Any other factors which will substantially affect the health, safety, morals, or general welfare.

If the Planning & Zoning Commission denies the zoning request, it may offer reasons to the applicant for the denial.

B. Proposal Recommended for Denial by the Commission: The affirmative vote of a majority of the Town Council present is required to overrule a recommendation of the Commission that a proposed zoning amendment, supplement, or change be denied, in accordance with the Town Charter, as it currently exists or may be amended. *(Ordinance 14-72; 10/14/14)*.

## 8.5 TOWN COUNCIL CONSIDERATION

A. Proposal Recommended for Approval by the Commission: Every proposal which is recommended favorable by the Planning & Zoning Commission shall be automatically forwarded to the Town Council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.

B. Town Council Consideration and Action: Town Council, after the public hearing is closed, may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the application. Should the applicant wish to submit a request to table, the request shall be submitted in writing to the Planning Department a minimum of seven (7) days prior to the meeting.

C. Three-Fourths Vote (Z14-0007): If a written protest against a proposed amendment, supplement or change to a zoning regulation or boundary has been filed with the Planning Department, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the lots or land included in such a proposed change to a zoning regulation or boundary or the area of the lots, or land, immediately adjoining the area thereof extending two hundred (200) feet therefrom or of those directly opposite thereto extending two hundred (200) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the affirmative vote of three-fourths (3/4) of all members of the Town Council. Written protests shall be subject to the following requirements: *(Ordinance 14-72; 10/14/14).*

1. All protests must be submitted to the Planning Department in writing. Such written protest(s) shall include the zoning case number, the name of the protesting property owner, the address(es) or property description(s) of the property for which the property owner is asserting a protest, the reasons for the property owner's protest such as the zoning classifications or uses to which the property owner is opposed, and the signature of the protesting property owner(s).

2. The protest must be filed with the Planning Department before 5:00 p.m. of the fourth ($4^{th}$) working day immediately preceding the date advertised for the Town Council public hearing in the statutory notice published in the official newspaper of the Town. For example, a written protest must be received by 5:00 p.m., on the Wednesday prior to a regularly scheduled Tuesday Town Council meeting. A protest sent through the mail must be received by the Planning Department before the deadline.

3. In all cases where a protest has been properly signed pursuant to this section, the Town shall

presume that the signatures appearing on the protest are authentic and that the persons whose signatures appear on the protest are either owners of the property or authorized to sign on behalf of one or more owners as represented. Upon the advice of the Town Attorney, this presumption shall not be followed in a specific case based on evidence presented.

4. A person may by written request withdraw his or her signature from the protest at any time prior to the close of the public hearing for the zoning case. If the withdrawal of an owner's signature from a protest reduces the percentage of land area ownership protesting the zoning change to less than twenty percent (20%) of the total area of land, a three-fourths (3/4) vote of the Town Council for approval of the zoning change shall not be required.

5. In the event that multiple protests and withdrawals are filed on behalf of the same owner, the instrument with the latest date and time of execution controls.

6. At any time before Town Council action on a zoning case, the filing deadline for a protest is automatically extended whenever the zoning case is postponed or continued to a later date.

D. Denial by Town Council: The Town Council may deny any request with prejudice. If a request has been denied with prejudice, the same or similar request may not be resubmitted to the Town for six (6) months from the original date of denial.

E. Final Approval and Ordinance Adoption: Approval of any zoning change, amendment, or supplement by the Town Council at the scheduled public hearing shall constitute instruction to Town staff to prepare the appropriate ordinance for final formal passage at a subsequent time. If finally approved by the required number of votes, the ordinance shall be executed by the Mayor.

## 8.6 BOARD OF ADJUSTMENT

A. Establishment of the Board of Adjustment

1. There is hereby created the Prosper Board of Adjustment (the "Board") and the Board may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the Zoning Ordinance that are consistent with the general purposes and intent of said Ordinance and in accordance with any applicable rules contained in this Ordinance or in rules and regulations adopted by the Board and approved by the Town Council. All rules and regulations adopted by the Board shall be reviewed and approved by the Town Council. The rules and regulations shall be consistent with and not in conflict with this Ordinance or other rules and regulations prescribed by the Town Council. The Board shall function according to the laws of the State of Texas and, when applicable, the provisions of this Ordinance.

2. The Board shall consist of five (5) members, to be appointed by the Town Council for a term of two (2) years; provided, however, that of the first five (5) appointments made under this Ordinance, three (3) shall be appointed to serve a two (2) year term and two (2) shall be appointed to serve a one (1) year term; and, thereafter, three (3) shall be appointed during odd-numbered years and two (2) shall be appointed during even-numbered years, for said two (2) year term. No Board Member shall serve for more than three (3) consecutive terms or six (6) consecutive years (whichever is less).

3. When vacancies occur on the Board, the Town Council shall appoint, by majority vote, a replacement to serve the remainder of that term.

4. Each Board Member may be removed by the Town Council for cause on a written charge after a public hearing. By way of example, any Board Member who is absent from three (3) consecutive regular meetings without explanation acceptable to a majority of the other Board Members is good cause for removal.

5. Each Board Member shall serve without compensation, but may be reimbursed for actual expenses approved in advance by the Town Council.

6. The Board shall keep and maintain minutes of any and all proceedings held and shall submit a written

report of such proceedings to the Town Council not more than three (3) weeks following each such meeting.

7. Each case before the Board must be heard by at least four (4) members.

8. The Board shall have two (2) alternate Board Members appointed by the Town Council to serve in the absence of one (1) or more regular Board Members when requested to do so by the Mayor or Town Administrator. Each alternate Board Member serves for the same period as a regular Board Member and is subject to removal in the same manner as a regular Board Member. A vacancy among the alternate Board Members is filled in the same manner as a vacancy among the regular Board Members. An alternate Board member serves upon the same terms and conditions as a regular Board Member.

B. Officers

1. The Board shall have a Chair and Vice-Chair whose terms shall be one (1) year. At the first scheduled meeting of the Board in October of each year, or as soon as practicable, the first item of business shall be the selection of the Board's Chair and Vice-Chair. The Chair and Vice-Chair shall be appointed by a majority vote of the Board. *(Ordinance 14-72; 10/14/14).*

2. The Chairperson shall preside over meetings and shall be entitled to vote upon each issue.

3. The Vice-Chair shall assist the Chair in directing the affairs of the Board. In the absence of the Chair, the Vice-Chair shall assume all duties of the Chair.

C. By-laws

The Board shall have the power to develop and revise by-laws for its own governance, which shall be subject to approval by the Town Council. The by-laws shall include provisions for:

1. establishment of meeting dates; and

2. establishment of an appointment to certain committees made up of Board Members and other lay persons to assist the Board in the conduct of its responsibilities; and

3. Board members' attendance requirements, not inconsistent with this Ordinance.

D. Duties and Responsibilities

1. The Board may:

a. hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance or Section 211.007, Texas Local Government Code ("the Code"), as it exists or may be amended.

In exercising the Board's authority herein, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the Board has the same authority as the administrative official; and

b. hear and decide special exceptions to the terms of the Zoning Ordinance when the Ordinance requires the Board to do so; and

c. permit the reconstruction, extension or enlargement of a building occupied by non-conforming uses, on the lot or tract occupied by such building, provided such reconstruction, extension or enlargement does not prevent the return of such property to a conforming use; and

d. authorize, in specific cases, a variance of height, yard, area, exterior structure, lot coverage, off-street parking and loading requirements from the terms of the Zoning Ordinance, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the Ordinance would result in unnecessary hardship, and so that the spirit of the Ordinance

is observed and substantial justice is done. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by Ordinance to other parcels of land in the Town or the district. No variance may be granted if it results in an unnecessary hardship, as herein defined, on another parcel of land.

In order to make a finding of hardship and to grant a variance, the Board of Adjustment must determine that:

i. the requested variance does not violate the intent of the Zoning Ordinance or its amendments; and

ii. special conditions of restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district; and

iii. the hardship is in no way the result of the applicant's own actions; and

iv. the interpretation of the provisions in the Zoning Ordinance or its amendments would deprive the applicant of rights commonly enjoyed by other properties, in the same zoning district, that comply with the same provisions.

No variance may authorize a use other than those uses permitted in the zoning district for which the variance is sought. Also, an application or request for a variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which a Preliminary Site Plan, Site Plan, Preliminary Plat or Final Plat, when required by the Zoning Ordinance, and any amendments thereto, or the Subdivision Ordinance, and any amendments thereto, for any parcel of property or portion thereof, has not been finally acted upon by both the Planning & Zoning Commission and, where required, by the Town Council. The administrative procedures and requirements of the Zoning Ordinance, and any amendments thereto, and the Subdivision Ordinance, and any amendments thereto, with regard to both the Planning & Zoning Commission and Town Council consideration and action, on Preliminary Site Plans, Site Plans, Preliminary Plats, and Final Plats, must be exhausted prior to requesting a variance.

2. The concurring vote of four (4) members of the Board is necessary to:

   a. Reverse an order, requirement, decision, or determination of an administrative official;

   b. Decide in favor of an applicant on a matter on which the Board is required to pass under the Zoning Ordinance; or

   c. Authorize a variation from the terms of the Zoning Ordinance.

E. Appeal of Board Decision's

Any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any officer, department or board of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the Office of the Board and not thereafter. The date of filing of the decision in the Office of the Board shall be the date the Board announces its decision either orally or in writing to the applicant.

F. Power to Obligate and Finance

The Board shall have no power to obligate the Town in any manner whatsoever. The Board's finances shall be handled in the same manner as any division of the Town Government.

## SECTION 9
## COMPLETE APPLICATION REQUIREMENT

9.1 No request for establishment or amendment of a zoning district, including a request to establish or amend a Planned Development District, or a Conceptual Plan or Development Plan incorporated therein, nor application for a site plan or other permit authorized by these zoning regulations shall be accepted for filing or processing unless such request is accompanied by a completed application and all documents required by and prepared in accordance with the requirements of the Zoning Ordinance and the Subdivision Ordinance. The acceptance or processing by any Town official of a zoning request or zoning permit application prior to the time a complete application is submitted hereby is deemed to be null and void and, upon discovery, shall be grounds for denial or revocation of such application. A typographical error shall not constitute an incomplete application. The applicant will be notified of, and the reasons for, such denial or revocation within ten (10) business days of the official application date.

# Chapter 2

## Zoning Districts

# SECTION 1
# ZONING DISTRICTS ESTABLISHED AND DEFINITIONS

1.1 The Town of Prosper, Texas is hereby divided into the following zoning districts. Development occurring in the following Districts shall comply with the regulations and standards as established herein. The Districts established herein shall be known as:

| Abbreviated Designation | Zoning District Name |
|---|---|
| A | Agricultural |
| SF-E | Single Family-Estate |
| SF-22 | Single Family-22 |
| SF-17.5 | Single Family-17.5 |
| SF-15 | Single Family-15 |
| SF-12.5 | Single Family-12.5 |
| SF-10 | Single Family-10 |
| DTSF | Downtown Single Family |
| TH | Townhome |
| 2F | Two Family Residential |
| MF | Multifamily |
| MH | Mobile Home |
| O | Office |
| DTO | Downtown Office |
| NS | Neighborhood Service |
| DTR | Downtown Retail |
| R | Retail |
| DTC | Downtown Commercial |
| C | Commercial |
| CC | Commercial Corridor |
| I | Industrial |
| PD | Planned Development |
| SUP | Specific Use Permit |

1.2 DEFINITIONS AND PURPOSE OF ZONING DISTRICTS (BASE ZONING DISTRICTS) (Z07-8)

A. A - AGRICULTURAL DISTRICT: This District is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used for agricultural purposes, but may become an urban area in the future. Generally, the Agricultural District will be near development; therefore, the agricultural activities conducted in this District should not be detrimental to urban land uses. The types of uses and the area and intensity of uses permitted in this District shall encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made. The Agricultural District is also intended to protect areas that may be unsuitable for development because of, among other things, physical problems, lack of infrastructure, constraints, or potential health or safety hazards such as flooding, as well as providing for preservation of natural open space areas.

B. SF-E - SINGLE FAMILY-ESTATE DISTRICT: This District will provide for development of single family detached dwelling units on a minimum lot size of one (1) acre. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly,

convenient, and attractive residential area.

C. SF-22 - SINGLE FAMILY-22 DISTRICT: This District will provide for development of single family detached dwelling units on a minimum lot size of twenty two thousand (22,000) square feet. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

D. SF-17.5 - SINGLE FAMILY-17.5 DISTRICT: This District will provide for development of single family detached dwelling units on a minimum lot size of seventeen thousand five hundred (17,500) square feet. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

E. SF-15 - SINGLE FAMILY-15 DISTRICT: This District will provide for development of single family detached dwelling units on a minimum lot size of fifteen thousand (15,000) square feet. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

F. SF-12.5 - SINGLE FAMILY-12.5 DISTRICT: This District will provide for development of single family detached dwelling units on a minimum lot size of twelve thousand five hundred (12,500) square feet. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

G. SF-10 - SINGLE FAMILY-10 DISTRICT: This District will provide for development of single family detached dwelling units on a minimum lot size of ten thousand (10,000) square feet. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

H. DTSF - DOWNTOWN SINGLE FAMILY DISTRICT: This District is designed specifically for the residential portions of the original or downtown area of the Town. This area is generally bounded by the Railroad tracks on the west, Eighth Street on the north, Craig Road on the east, and First Street on the south. The standards set forth in this district strive to accommodate the original platting, as well as the preferable standard for a minimum fifty-foot lot width. These standards will provide for a suitable residential environment for family life on smaller parcels of land. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area. This zoning district is appropriate in residential areas designated as Old Town Core District on the Future Land Use Plan.

I. TH - TOWNHOME DISTRICT: This District will provide for development of attached residential dwelling units in structures accommodating three (3) to nine (9) units. This district is a high density district, not to exceed ten (10) units per acre. The standards in this district are intended to promote stable, quality multiple occupancy residential development at increased densities. Individual ownership of the Townhome units is encouraged. Multiple Townhome units may be constructed on a single lot, or on adjacent individual lots. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area. This zoning district is appropriate in areas designated as High Density Residential on the Future Land Use Plan. Limited amounts of this district may also be appropriate in areas designated as Tollway Corridor or U.S. 380 Adjacency Corridor on the Future Land Use Plan.

J. 2F - TWO FAMILY DISTRICT: This District will provide for development of two family attached dwelling units on either a single lot, or two (2) adjacent lots. The standards in this district are intended to promote

stable, quality multiple occupancy residential development at slightly increased densities. Individual ownership of the two family or duplex units is encouraged. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area. This zoning district is appropriate in areas designated as High Density Residential or residential in-fill development in areas designated as Historic on the Future Land Use Plan.

K. MF - MULTIFAMILY DISTRICT: This District will provide for development of high density attached residential dwelling units, not to exceed fifteen (15) units per acre. The standards in this district are intended to promote stable, quality multiple occupancy residential development at high densities. The principal permitted land uses will include apartment complexes and townhomes. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area. This zoning district should be located adjacent to a major thoroughfare and is appropriate in areas designated as High Density Residential on the Future Land Use Plan. Limited amounts of this district may also be appropriate in areas designated as Tollway Corridor or U.S. 380 Adjacency Corridor on the Future Land Use Plan.

L. MH - MOBILE HOME DISTRICT: This District is a detached residential district establishing standards for the development of a mobile home park, a mobile home subdivision, or a recreational vehicle park. A mobile home park offers spaces for the placement of mobile home units on a lease or rental basis. Mobile home subdivisions include individually platted lots, for sale within the subdivision, for the placement of mobile home units. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area. This zoning district may be appropriate in areas designated as High Density Residential on the Future Land Use Plan.

M. O - OFFICE DISTRICT: This District is established to accommodate a variety of office developments providing for professional, financial, medical, and similar services for local residents; corporate offices for regional and national operations; major employment centers for city, county, and state governmental entities; and service uses necessary to support such office uses. Such uses do require accessibility to major thoroughfares. This zoning district may be appropriate in areas designated as Office, Tollway Corridor, U.S. 380 Adjacency Corridor, or Retail on the Future Land Use Plan.

N. DTO - DOWNTOWN OFFICE DISTRICT: This District is established to maintain existing and encourage additional office development in the original downtown portion of the Town. Standards for vehicle parking, building set-backs, and building height are similar to those existing on developed properties in this section of the Town. Therefore, these standards are only applicable to this section of the Town. This district will accommodate a variety of office developments providing for professional, financial, medical, and similar services for local residents and service uses necessary to support such office uses. This zoning district may be appropriate in areas designated as Old Town Core District on the Future Land Use Plan.

O. NS - NEIGHBORHOOD SERVICE DISTRICT: This District is established as a limited retail category intended for use by residents of nearby neighborhood areas for the purpose of supplying day-to-day needs and personal services. Establishments should include small, free-standing retail structures, such as convenience stores and neighborhood oriented personal service establishments. Sites zoned Neighborhood Service should be located on a major thoroughfare and generally utilize a site adjacent to one or more logical neighborhood service areas. The total gross floor area of all structures in an individual Neighborhood Service District should not exceed fourteen thousand (14,000) square feet. This zoning district may be appropriate in areas designated as Office or Retail on the Future Land Use Plan.

P. DTR – DOWNTOWN RETAIL DISTRICT: This District is established to maintain existing and encourage additional retail development in the original downtown portion of the Town, west of Coleman Street.

Standards for vehicle parking, building set-backs, and building height are similar to those existing on developed properties in this section of the Town. Therefore, these standards are only applicable to this section of the Town. This zoning district may be appropriate in areas designated as Old Town Core District on the Future Land Use Plan.

Q. R - RETAIL DISTRICT: This District is established to provide locations for various types of general retail and service uses for one (1) or more neighborhoods. Developments within a Retail District should utilize established landscape and buffering requirements and be limited to two (2) stories in height. The Retail District and shopping areas should generally be located at intersections of major thoroughfares and convenient to their residential service area. This zoning district may be appropriate in areas designated as Retail on the Future Land Use Plan.

R. DTC - DOWNTOWN COMMERCIAL DISTRICT: This District is established to maintain existing and encourage additional retail and commercial development in the original downtown portion of the Town. Standards for vehicle parking, building set-backs, and building height are similar to those existing on developed properties in this section of the Town. Therefore, these standards are only applicable to this section of the Town. This zoning district may be appropriate in areas designated as Old Town Core District on the Future Land Use Plan.

S. C - COMMERCIAL DISTRICT: This District is intended predominately for heavy retail, service, light intensity wholesale and commercial uses, but excluding warehousing uses. The nature of uses in this District has operating characteristics and traffic service requirements generally compatible with typical office, retail, and some residential environments. Uses in this District may require open, but screened, storage areas for materials. This zoning district may be appropriate in areas designated as Community or Regional Retail on the Future Land Use Plan.

T. CC - COMMERCIAL CORRIDOR DISTRICT: This District is intended primarily for employment center uses such as light manufacturing, warehousing, wholesaling, office, and distribution operations that do not depend upon frequent customer or client visits, as well as service uses necessary to support such employment center uses. Such uses do require accessibility to major thoroughfares or highways. This zoning district may be appropriate in areas designated as Tollway Corridor, U.S. 380 Adjacency Corridor, or Industrial on the Future Land Use Plan.

U. I - INDUSTRIAL DISTRICT: This District is intended primarily for uses in the conduct of light manufacturing, assembling and fabrication, and for warehousing, wholesaling and service operations that do not depend upon frequent customer or client visits. Such uses do require accessibility to major highways, rail lines or other means of transportation. This zoning district is appropriate in areas designated as Industrial on the Future Land Use Plan.

V. PD - PLANNED DEVELOPMENT DISTRICT: The Planned Development District is a district that accommodates planned associations of uses developed as integral land use units such as offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing (including attached single-family dwellings), or any appropriate combination of uses that may be planned, developed, or operated as integral land use units either by a single owner or a combination of owners. A PD District may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this Ordinance. While greater flexibility is given to allow special conditions or restrictions that would not otherwise allow the development to occur, procedures are established herein to insure against misuse of increased flexibility.

W. SUP - SPECIFIC USE PERMIT: The Specific Use Permit provides the Town an opportunity to approve,

conditionally approve, or deny identified specific uses that may be permitted in specified zoning districts. These uses generally have unusual nuisance characteristics or are of a public or semi-public character and are often essential or desirable for the general convenience and welfare of the community. However, because of the nature of the use, the importance of the use's relationship to the Comprehensive Plan, and possible adverse impacts on neighboring properties review, evaluation, and exercise of sound planning judgment relative to the location and site plan are required.

# SECTION 2
# EQUIVALENCY TABLE

2.1 **Equivalency Table** - The following table will identify zoning districts adopted in the previous Zoning Ordinance and the District that now applies in this Ordinance to those Districts:

| Abbreviated Designation Zoning Ordinance No. 84-16 | Abbreviated Designation This Ordinance | Zoning District Name |
|---|---|---|
| A | A | Agricultural |
| SF-E | SF-E | Single Family-Estate |
| | SF-22 | Single Family-22 |
| | SF-17.5 | Single Family-17.5 |
| SF-1 | SF-15 | Single Family-15 |
| | SF-12.5 | Single Family-12.5 |
| SF-2 | SF-10 | Single Family-10 |
| SF-3 | DTSF | Downtown Single Family |
| SF-A | TH | Townhome |
| 2F | 2F | Two Family (Duplex) |
| MF-1 & MF-2 | MF | Multifamily |
| MH | MH | Mobile Home |
| O, CC, & REC | O | Office |
| | DTO | Downtown Office |
| NS | NS | Neighborhood Service |
| | DTR | Downtown Retail |
| R | R | Retail |
| | DTC | Downtown Commercial |
| C | C | Commercial |
| | CC | Commercial Corridor |
| I | I | Industrial |
| PD | PD | Planned Development |
| SUP | SUP | Specific Use Permit |

# SECTION 3
# AGRICULTURAL DISTRICT

## 3.1 GENERAL PURPOSE AND DESCRIPTION

The Agricultural District is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used for agricultural purposes, but may become an urban area in the future. Generally, the Agricultural District will be near development; therefore, the agricultural activities conducted in this District should not be detrimental to urban land uses. The types of uses and the area and intensity of uses permitted in this District shall encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made. The Agricultural District is also intended to protect areas that may be unsuitable for development because of physical problems, lack of infrastructure, constraints, or potential health or safety hazards such as flooding, as well as providing for preservation of natural open space areas.

## 3.2 REGULATIONS

A. Size of Yards:

1. Minimum Front Yard – Forty (40) feet.
2. Minimum Side Yard – Twenty (20) feet; twenty five (25) feet on corner adjacent to side street.
3. Minimum Rear Yard – Twenty (20) feet.

B. Size of Lots:

1. Minimum Lot Area – Two (2) acres.
2. Minimum Lot Width – Two hundred (200) feet.
3. Minimum Lot Depth – Two hundred (200) feet.

C. Minimum Dwelling Area: One thousand eight hundred (1,800) square feet.

D. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

E. Maximum Lot Coverage: Twenty (20) percent.

## 3.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 4
# SINGLE FAMILY-ESTATE DISTRICT

## 4.1 GENERAL PURPOSE AND DESCRIPTION

The Single Family-Estate District will provide for development of single family detached dwelling units on a minimum lot size of one (1) acre. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

## 4.2 REGULATIONS *(Ord. 15-55; 09-22-15)*

A. Size of Yards:

1. Minimum Front Yard – Forty (40) feet.
2. Minimum Side Yard – Fifteen (15) feet; including on corner adjacent to side street.
3. Minimum Rear Yard – Twenty five (25) feet.

B. Size of Lots:

1. Minimum Lot Area – One (1) acre.
2. Minimum Lot Width – One hundred and fifty (150) feet.
3. Minimum Lot Depth – Two hundred (200) feet.

C. Minimum Dwelling Area: One thousand eight hundred (1,800) square feet.

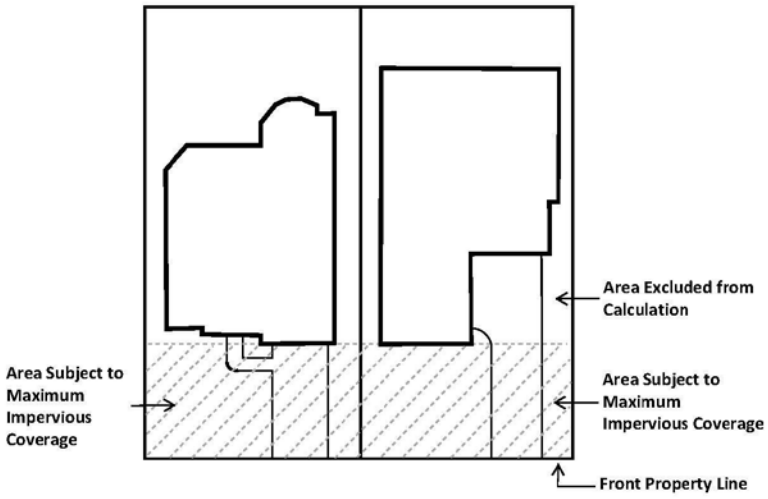
D. Minimum Enclosed Parking (Garage) Area: Four hundred (400) square feet.

E. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

F. Exterior Construction of Main Buildings: Refer to Chapter 4, Section 9.8.

G. Maximum Lot Coverage: Forty five (45) percent.

H. Maximum Impervious Coverage of Front Yards: The cumulative area of any driveway plus any other impervious surface area located between the front property line and any front building wall shall not exceed fifty (50) percent of the area between the front property line and any front building wall. The area subject to the maximum impervious coverage is illustrated below.



## 4.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 5
# SINGLE FAMILY-22 DISTRICT

## 5.1 GENERAL PURPOSE AND DESCRIPTION

The Single Family-22 District will provide for development of single family detached dwelling units on a minimum lot size of twenty two thousand (22,000) square feet. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

## 5.2 REGULATIONS *(Ord. 15-55; 09-22-15)*

A. Size of Yards:

1. Minimum Front Yard – Forty (40) feet.
2. Minimum Side Yard – Twelve (12) feet; fifteen (15) feet on corner adjacent to side street.
3. Minimum Rear Yard – Twenty five (25) feet.

B. Size of Lots:

1. Minimum Lot Area – Twenty two thousand (22,000) square feet.
2. Minimum Lot Width – One hundred and twenty (120) feet.
3. Minimum Lot Depth – One hundred and seventy (170) feet.

C. Minimum Dwelling Area: One thousand eight hundred (1,800) square feet.

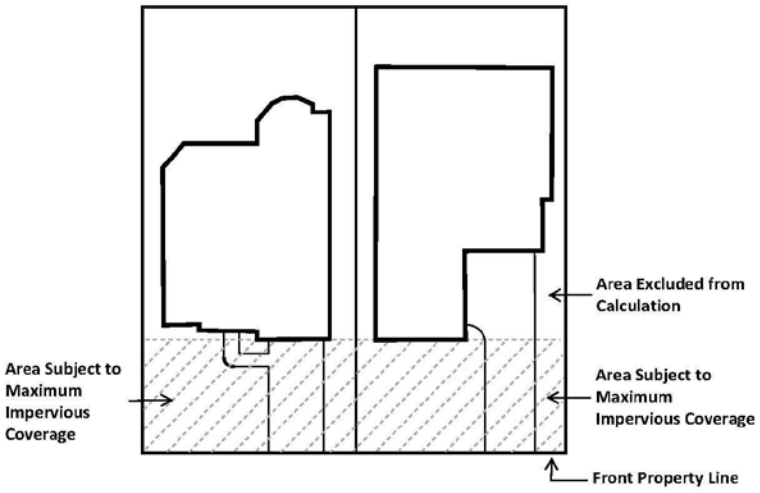
D. Minimum Enclosed Parking (Garage) Area: Four hundred (400) square feet.

E. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

F. Exterior Construction of Main Buildings: Refer to Chapter 4, Section 9.8.

G. Maximum Lot Coverage: Forty five (45) percent.

H. Maximum Impervious Coverage of Front Yards: The cumulative area of any driveway plus any other impervious surface area located between the front property line and any front building wall shall not exceed fifty (50) percent of the area between the front property line and any front building wall. The area subject to the maximum impervious coverage is illustrated below.



## 5.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 6
# SINGLE FAMILY-17.5 DISTRICT

## 6.1 GENERAL PURPOSE AND DESCRIPTION

The Single Family-17.5 District will provide for development of single family detached dwelling units on a minimum lot size of seventeen thousand five hundred (17,500) square feet. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

## 6.2 REGULATIONS *(Ord. 15-55; 09-22-15)*

A. Size of Yards:

1. Minimum Front Yard – Thirty five (35) feet.
2. Minimum Side Yard – Ten (10) feet; fifteen (15) feet on corner adjacent to side street.
3. Minimum Rear Yard – Twenty five (25) feet.

B. Size of Lots:

1. Minimum Lot Area – Seventeen thousand five hundred (17,500) square feet.
2. Minimum Lot Width – One hundred (100) feet.
3. Minimum Lot Depth – One hundred and fifty (150) feet.

C. Minimum Dwelling Area: One thousand eight hundred (1,800) square feet.

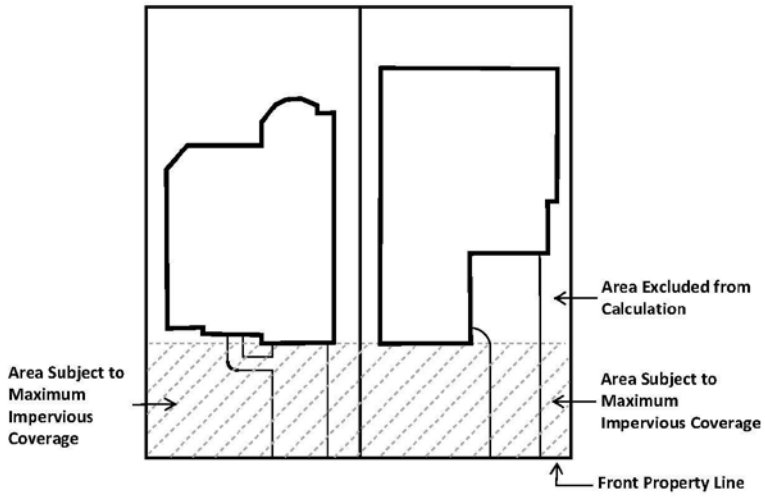
D. Minimum Enclosed Parking (Garage) Area: Four hundred (400) square feet.

E. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

F. Exterior Construction of Main Buildings: Refer to Chapter 4, Section 9.8.

G. Maximum Lot Coverage: Forty five (45) percent.

H. Maximum Impervious Coverage of Front Yards: The cumulative area of any driveway plus any other impervious surface area located between the front property line and any front building wall shall not exceed fifty (50) percent of the area between the front property line and any front building wall. The area subject to the maximum impervious coverage is illustrated below.



## 6.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 7
# SINGLE FAMILY-15 DISTRICT

## 7.1 GENERAL PURPOSE AND DESCRIPTION

The Single Family-15 District will provide for development of single family detached dwelling units on a minimum lot size of fifteen thousand (15,000) square feet. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

## 7.2 REGULATIONS *(Ord. 15-55; 09-22-15)*

A. Size of Yards:

1. Minimum Front Yard – Thirty five (35) feet.
2. Minimum Side Yard – Ten (10) feet; fifteen (15) feet on corner adjacent to side street.
3. Minimum Rear Yard – Twenty five (25) feet.

B. Size of Lots:

1. Minimum Lot Area – Fifteen thousand (15,000) square feet.
2. Minimum Lot Width – One hundred (100) feet.
3. Minimum Lot Depth – One hundred and thirty five (135) feet.

C. Minimum Dwelling Area: One thousand eight hundred (1,800) square feet.

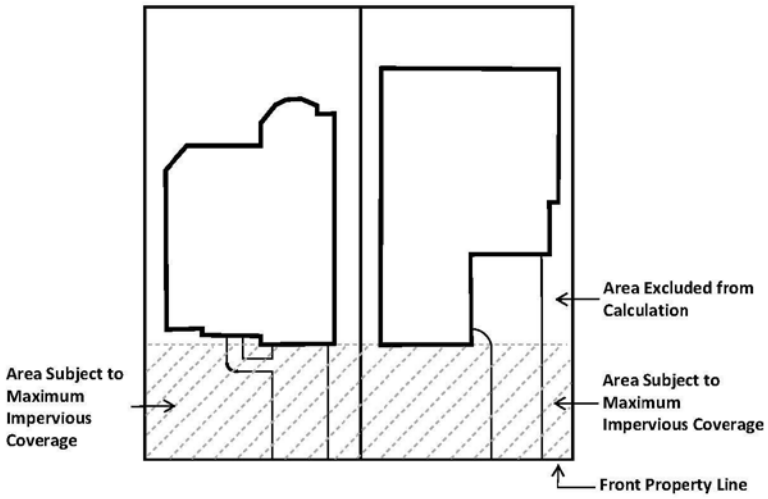
D. Minimum Enclosed Parking (Garage) Area: Four hundred (400) square feet.

E. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

F. Exterior Construction of Main Buildings: Refer to Chapter 4, Section 9.8.

G. Maximum Lot Coverage: Forty five (45) percent.

H. Maximum Impervious Coverage of Front Yards: The cumulative area of any driveway plus any other impervious surface area located between the front property line and any front building wall shall not exceed fifty (50) percent of the area between the front property line and any front building wall. The area subject to the maximum impervious coverage is illustrated below.



## 7.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 8
# SINGLE FAMILY-12.5 DISTRICT

## 8.1 GENERAL PURPOSE AND DESCRIPTION

The Single Family-12.5 District will provide for development of single family detached dwelling units on a minimum lot size of twelve thousand five hundred (12,500) square feet. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

## 8.2 REGULATIONS *(Ord. 15-55; 09-22-15)*

A. Size of Yards:

1. Minimum Front Yard – Thirty (30) feet.
2. Minimum Side Yard – Eight (8) feet; fifteen (15) feet on corner adjacent to side street.
3. Minimum Rear Yard – Twenty five (25) feet.

B. Size of Lots:

1. Minimum Lot Area – Twelve thousand five hundred (12,500) square feet.
2. Minimum Lot Width – Eighty (80) feet.
3. Minimum Lot Depth – One hundred and thirty five (135) feet.

C. Minimum Dwelling Area: One thousand eight hundred (1,800) square feet.

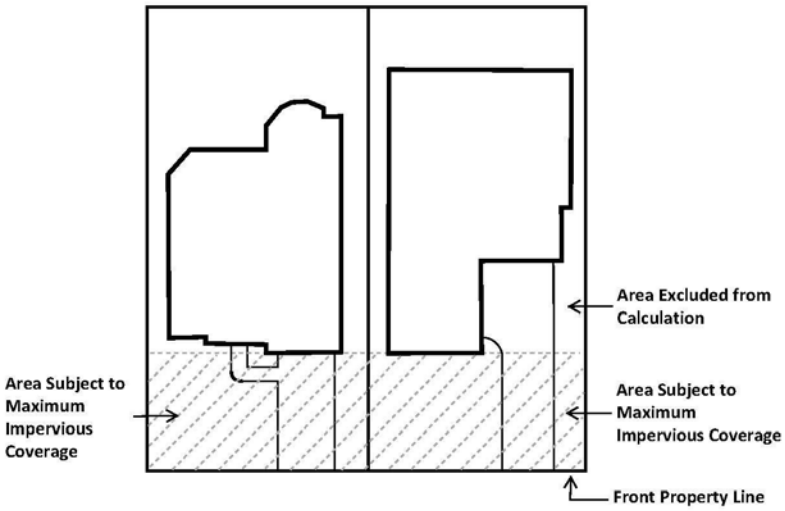
D. Minimum Enclosed Parking (Garage) Area: Four hundred (400) square feet.

E. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

F. Exterior Construction of Main Buildings: Refer to Chapter 4, Section 9.8.

G. Maximum Lot Coverage: Forty five (45) percent.

H. Maximum Impervious Coverage of Front Yards: The cumulative area of any driveway plus any other impervious surface area located between the front property line and any front building wall shall not exceed fifty (50) percent of the area between the front property line and any front building wall. The area subject to the maximum impervious coverage is illustrated below.



## 8.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 9
# SINGLE FAMILY-10 DISTRICT

## 9.1 GENERAL PURPOSE AND DESCRIPTION

The Single Family-10 District will provide for development of single family detached dwelling units on a minimum lot size of ten thousand (10,000) square feet. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area.

## 9.2 REGULATIONS *(Ord. 15-55; 09-22-15)*

A. Size of Yards:

1. Minimum Front Yard – Twenty five (25) feet.
2. Minimum Side Yard – Eight (8) feet; fifteen (15) feet on corner adjacent to side street.
3. Minimum Rear Yard – Twenty five (25) feet.

B. Size of Lots:

1. Minimum Lot Area – Ten thousand (10,000) square feet.
2. Minimum Lot Width – Eighty (80) feet.
3. Minimum Lot Depth – One hundred and twenty five (125) feet.

C. Minimum Dwelling Area: One thousand eight hundred (1,800) square feet.

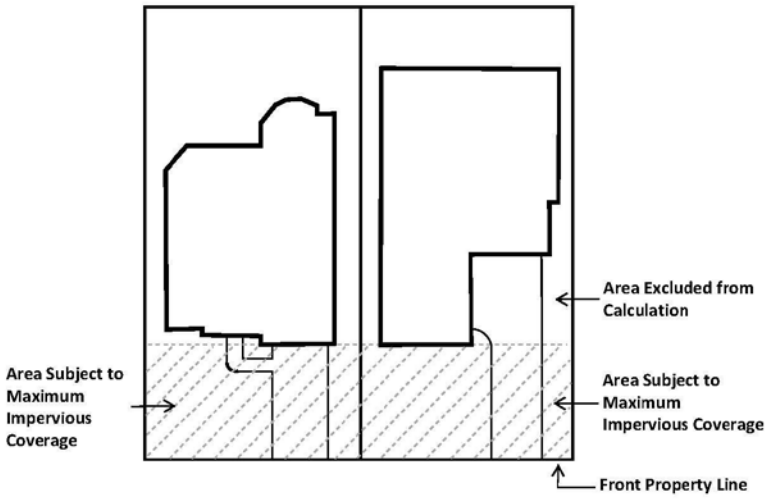
D. Minimum Enclosed Parking (Garage) Area: Four hundred (400) square feet.

E. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

F. Exterior Construction of Main Buildings: Refer to Chapter 4, Section 9.8.

G. Maximum Lot Coverage: Forty five (45) percent.

H. Maximum Impervious Coverage of Front Yards: The cumulative area of any driveway plus any other impervious surface area located between the front property line and any front building wall shall not exceed fifty (50) percent of the area between the front property line and any front building wall. The area subject to the maximum impervious coverage is illustrated below.



## 9.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 10
# DOWNTOWN SINGLE FAMILY DISTRICT (Z07-7)

## 10.1 GENERAL PURPOSE AND DESCRIPTION

The Downtown Single Family District is designed specifically for the residential portions of the original or downtown area of the Town. This area is generally bounded by the Railroad tracks on the west, Eighth Street on the north, Craig Road on the east, and First Street on the south. The standards set forth in this district strive to accommodate the original platting, as well as the preferable standard for a minimum fifty-foot lot width. These standards will provide for a suitable residential environment for family life on smaller parcels of land. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area. This zoning district is appropriate in residential areas designated as Old Town Core District on the Future Land Use Plan.

## 10.2 REGULATIONS

A. Size of Yards:

1. Minimum Front Yard – Twenty five (25) feet.
2. Minimum Side Yard – Five (5) feet; fifteen (15) feet on corner adjacent to side street.
3. Minimum Rear Yard – Ten (10) feet.

B. Size of Lots:

1. Minimum Lot Area – Six thousand (6,000) square feet.
2. Minimum Lot Width – Fifty (50) feet.
3. Minimum Lot Depth – One hundred and twenty (120) feet.

C. Minimum Dwelling Area: One thousand five hundred (1,500) square feet.

D. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

E. Lot Coverage: fifty five (55) percent.

F. Building Materials: Exterior Construction of Main Buildings, Chapter 4, Section 9.8

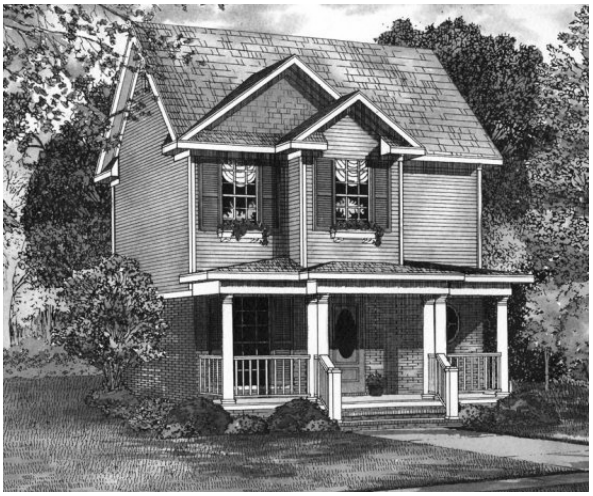
## 10.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

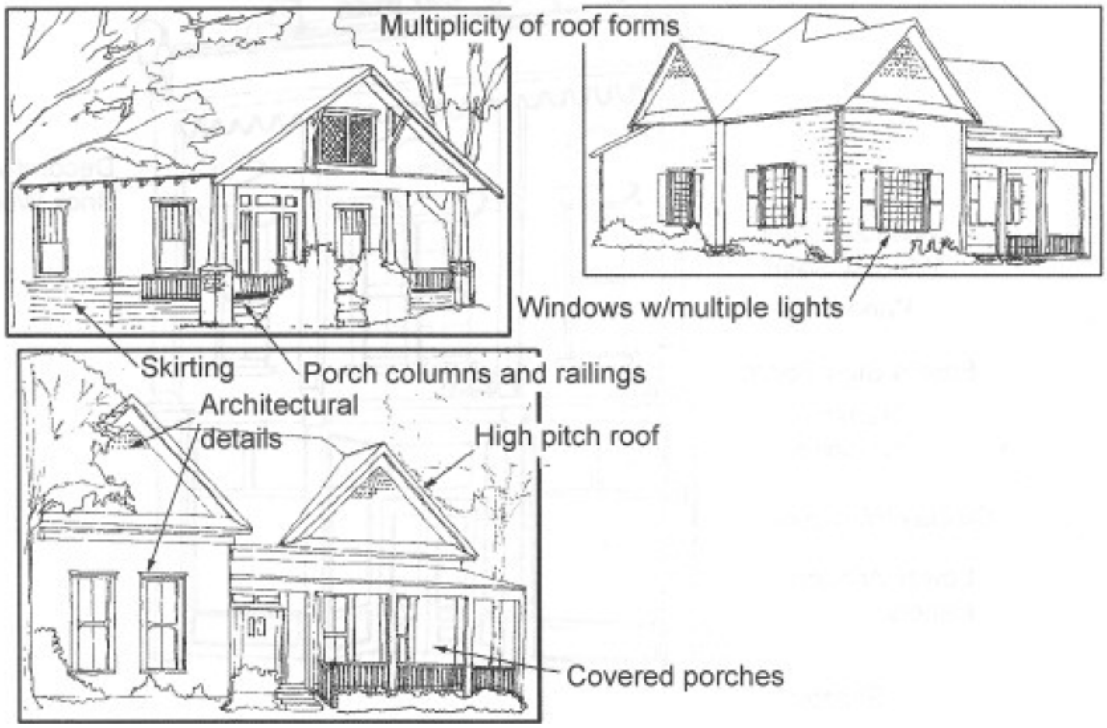
Permitted uses shall be in accordance with the "Schedule of Uses" as outlined in Section 1.3 of Chapter 3.

## 10.4 ARCHITECTURAL STANDARDS

A. All construction must have an approved façade plan before issuance of a building permit. The Town Planner or his/her designee will review all façade plans according to the following standards and will either approve or deny the request. The applicant shall submit the appeal request in writing, within 14 days of the decision, to the Planning Department. The written request shall include specific reasons for the appeal and will be heard by the Town Council. Appeals will require notification of property owners within 200 feet and shall be mailed 10 days prior to the hearing.

B. Structures must incorporate covered porches into the front façade, a multiplicity of roof forms, and high pitch roof lines. The recommended architectural styles are Folk traditional, Craftsman, and Victorian. The following examples are provided as guides for all new construction in the Downtown Single Family District:




Multiplicity of roof forms
Windows w/multiple lights
Skirting
Porch columns and railings
Architectural details
High pitch roof
Covered porches

# SECTION 11
# TOWNHOME DISTRICT

## 11.1 GENERAL PURPOSE AND DESCRIPTION

The Townhome District will provide for development of attached residential dwelling units in structures accommodating three (3) to nine (9) units. This district is a high density district, not to exceed ten (10) units per acre. The standards in this district are intended to promote stable, quality multiple occupancy residential development at increased densities. Individual ownership of the Townhome units is encouraged. Multiple Townhome units may be constructed on a single lot, or on adjacent individual lots. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area. This zoning district is appropriate in areas designated as High Density Residential on the Future Land Use Plan. Limited amounts of this district may also be appropriate in areas designated as Tollway Corridor or US 380 Adjacency Corridor on the Future Land Use Plan.

## 11.2 REGULATIONS

A. Maximum Permitted Density: Ten (10) units per acre.

B. Size of Yards:

1. Minimum Front Yard – Twenty five (25) feet.
2. Minimum Side Yard – Zero (0) feet for the side of a unit that is attached to another unit.
   - Ten (10) feet for the side of a unit at the end of the structure; fifteen (15) feet on corner lot adjacent to side street.
   - Multiple Townhome structures constructed on the same lot shall maintain a minimum separation of twenty (20) feet.
3. Minimum Rear Yard – Twenty (20) feet.

C. Size of Lots:

1. Minimum Lot Area – Two thousand five hundred (2,500) square feet per dwelling unit.
2. Minimum Lot Width – Twenty (20) feet per dwelling unit.
3. Minimum Lot Depth – One hundred (100) feet.

D. Minimum Dwelling Area: One thousand (1,000) square feet.

E. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

F. Lot Coverage: Fifty five (55) percent.

G. Minimum Usable Open Space: Twenty (20) percent.

## 11.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 12
# TWO FAMILY (DUPLEX) DISTRICT

## 12.1 GENERAL PURPOSE AND DESCRIPTION

The Two Family (Duplex) District will provide for development of two (2) family attached dwelling units on either a single lot, or two (2) adjacent lots. The standards in this district are intended to promote stable, quality multiple occupancy residential development at slightly increased densities. Individual ownership of the two (2) family or duplex units is encouraged. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area. This zoning district is appropriate in areas designated as High Density Residential or residential in-fill development in areas designated as Historic on the Future Land Use Plan.

## 12.2 REGULATIONS

A. Size of Yards:

1. Minimum Front Yard – Thirty (30) feet.
2. Minimum Side Yard – Seven (7) feet; fifteen (15) feet on corner adjacent to side street.
3. Minimum Rear Yard – Twenty (20) feet.

B. Size of Lots:

1. Minimum Lot Area – Five thousand (5,000) square feet, if each unit is located on its own lot.
   – Ten thousand (10,000) square feet, if two (2) units are located on a single lot.
2. Minimum Lot Width – Forty (40) feet, if each unit is located on its own lot.
   – Eighty (80) feet, if two (2) units are located on a single lot
3. Minimum Lot Depth – One hundred (100) feet.

C. Minimum Dwelling Area: One thousand two hundred (1,200) square feet.

D. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

E. Lot Coverage: Fifty (50) percent.

F. Minimum Usable Open Space: Ten (10) percent.

G. District Platting Requirements:

1. A lot in the 2F District may be platted into individual pairs such that a unit may be placed on each of the individual pairs of the lot. The subdivision plat shall designate the pairs for each lot and which lot lines are to be outside lot lines of each pair. There shall be only one (1) dwelling unit per lot, and no dwelling unit shall cross a designated outside lot line. No single-family dwelling may be constructed on one (1) of the designated pair of lots.
2. All utilities shall be provided to each separate unit of each duplex in a 2F District such that each unit is individually metered.
3. Special provisions shall be made when land is platted in a 2F District into lots consisting of individual pairs permitting a separately owned dwelling unit to be placed on each of the individual pairs of a lot.
   a. Plats shall be submitted and approved subject to a legal instrument(s) setting forth the manner in which common facilities or shared elements of a structure on a lot are to be maintained, or repaired, and shall include facades, roofs, and fencing.

b. Building permits will be issued for a structure comprised of two (2) dwelling units to be built on lot pairs but not for a single dwelling unit.

## 12.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 13
# MULTIFAMILY DISTRICT

## 13.1 GENERAL PURPOSE AND DESCRIPTION

The Multifamily District will provide for development of high density attached residential dwelling units, not to exceed fifteen (15) units per acre. The standards in this district are intended to promote stable, quality multiple occupancy residential development at high densities. The principal permitted land uses will include apartment complexes and townhomes. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area. This zoning district should be located adjacent to a major thoroughfare and is appropriate in areas designated as High Density Residential on the Future Land Use Plan. Limited amounts of this district may also be appropriate in areas designated as Tollway Corridor or U.S. 380 Adjacency Corridor on the Future Land Use Plan.

## 13.2 REGULATIONS

A. Maximum Permitted Density: Fifteen (15) units per acre.

B. Size of Yards:

1. Minimum Front Yard – Fifty (50) feet for one (1) or two (2) story structures.

   – One hundred and fifty (150) feet for three (3) story structures.

2. Minimum Side Yard – Fifty (50) feet for one (1) or two (2) story structures adjacent to property that is either zoned or designated on the Future Land Use Plan for single family or two (2) family uses.

   – One hundred and fifty (150) feet for three (3) story structures adjacent to property that is either zoned or designated on the Future Land Use Plan for single family or two family uses.

   – Thirty (30) feet for one (1) or two (2) story structures adjacent to property that is either zoned or designated on the Future Land Use Plan for multifamily or nonresidential uses.

   – One hundred (100) feet for one (1) or two (2) story structures adjacent to property that is either zoned or designated on the Future Land Use Plan for multifamily or nonresidential uses.

   – Multiple structures constructed on the same lot shall maintain a minimum separation of thirty (30) feet.

3. Minimum Rear Yard – Same as Minimum Side Yard requirements above.

C. Size of Lots:

1. Minimum Lot Area – one (1) acre.
2. Minimum Lot Width – One hundred (100) feet.
3. Minimum Lot Depth – One hundred and fifty (150) feet.

D. Minimum Dwelling Area:

1. One (1) or two (2) bedroom – eight hundred and fifty (850) square feet.
2. Additional bedrooms – one hundred and fifty (150) square feet per additional bedroom.

E. Maximum Height: Three (3) stories, no greater than fifty (50) feet.

F. Lot Coverage: Forty five (45) percent.

G. Minimum Usable Open Space: Thirty (30) percent.

13.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 14
# MOBILE HOME DISTRICT

## 14.1 GENERAL PURPOSE AND DESCRIPTION

The Mobile Home District is a detached residential district establishing standards for the development of a mobile home park, a mobile home subdivision, or a recreational vehicle park. A mobile home park offers spaces for the placement of mobile home units on a lease or rental basis. Mobile home subdivisions include individually platted lots, for sale within the subdivision, for the placement of mobile home units. Other uses, such as religious and educational facilities, parks, and open spaces will be provided for to maintain a balanced, orderly, convenient, and attractive residential area. This zoning district may be appropriate in areas designated as High Density Residential on the Future Land Use Plan.

## 14.2 REGULATIONS

A. Size of Yards:

1. Minimum Front Yard – Thirty (30) feet.
2. Minimum Side Yard – Five (5) feet with a minimum of twenty (20) feet separation between adjacent units; fifteen (15) feet on corner adjacent to side street.
3. Minimum Rear Yard – Ten (10) feet.

B. Size of Lots:

1. Minimum Lot Area – Six thousand (6,000) square feet, for individually platted lots.

   – Five (5) acres minimum and twenty (20) acres maximum, for a mobile home or recreational vehicle park, including a minimum of two thousand five hundred (2,500) square feet per lease space.
2. Minimum Lot Width – Fifty (50) feet per individually platted lot.

   – Forty (40) feet per lease space within a mobile home or recreational vehicle park.
3. Minimum Lot Depth – One hundred and twenty (120) feet.

C. Minimum Dwelling Area: Six hundred and fifty (650) square feet.

D. Maximum Height: One (1) story, no greater than twenty (20) feet.

E. Lot Coverage: N/A

F. Minimum Average Vertical Clearance of Frame above Ground Elevation: Eighteen (18) inches.

## 14.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 15
# OFFICE DISTRICT

## 15.1 GENERAL PURPOSE AND DESCRIPTION

The Office District is established to accommodate a variety of office developments providing for professional, financial, medical, and similar services for local residents; corporate offices for regional and national operations; major employment centers for city, county, and state governmental entities; and service uses necessary to support such office uses. Such uses do require accessibility to major thoroughfares. This zoning district may be appropriate in areas designated as Office, Tollway Corridor, U.S. 380 Adjacency Corridor, or Retail on the Future Land Use Plan.

## 15.2 REGULATIONS

A. Size of Yards:

1. Minimum Front Yard: Thirty (30) feet.
2. Minimum Side Yard:
   a. Ten (10) feet adjacent to any nonresidential district.
   b. Twenty five (25) feet for a one (1) story building adjacent to any residential district. Forty (40) feet for a two (2) story building adjacent to any residential district
3. Minimum Rear Yard:
   a. Ten (10) feet adjacent to any nonresidential district.
   b. Twenty five (25) feet for a one (1) story building adjacent to any residential district. Forty (40) feet for a two (2) story building adjacent to any residential district

B. Size of Lots:

1. Minimum Size of Lot Area: Seven thousand (7,000) square feet.
2. Minimum Lot Width: Seventy (70) feet.
3. Minimum Lot Depth: One hundred (100) feet.

C. Maximum Height: Two (2) stories, no greater than forty (40) feet.

D. Lot Coverage: Thirty (30) percent.

E. Floor Area Ratio: Maximum 0.5:1.

F. Maximum Floor Area: Ten thousand (10,000) square feet; the maximum floor area may exceed ten thousand (10,000) square feet only if the entire structure is in excess of two hundred (200) feet from a residential use or zone.

## 15.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# CHAPTER 2, SECTION 16
# DOWNTOWN OFFICE DISTRICT (Z07-7)

## 16.1 GENERAL PURPOSE AND DESCRIPTION

The Downtown Office District is established to maintain existing and encourage additional office development in the original downtown portion of the Town. Standards for vehicle parking, building set-backs, and building height are similar to those existing on developed properties in this section of the Town. Therefore, these standards are only applicable to this section of the Town. This district will accommodate a variety of office developments providing for professional, financial, medical, and similar services for local residents and service uses necessary to support such office uses. This zoning district may be appropriate in areas designated as Old Town Core District on the Future Land Use Plan.

## 16.2 REGULATIONS

A. Size of Yards:

1. Minimum Front Yard – Twenty five (25) feet.
2. Minimum Side Yard – Five (5) feet; fifteen (15) feet on corner adjacent to side street.
3. Minimum Rear Yard – Ten (10) feet.

B. Size of Lots:

1. Minimum Lot Area – Six thousand (6,000) square feet.
2. Minimum Lot Width – Fifty (50) feet.
3. Minimum Lot Depth – One hundred and twenty (120) feet.

C. Minimum Dwelling Area: One thousand five hundred (1,500) square feet.

D. Maximum Height: Two and a half (2½) stories, no greater than forty (40) feet.

E. Lot Coverage: fifty five (55) percent.

F. Building Materials: Exterior Construction of Main Buildings, Chapter 4, Section 9.8

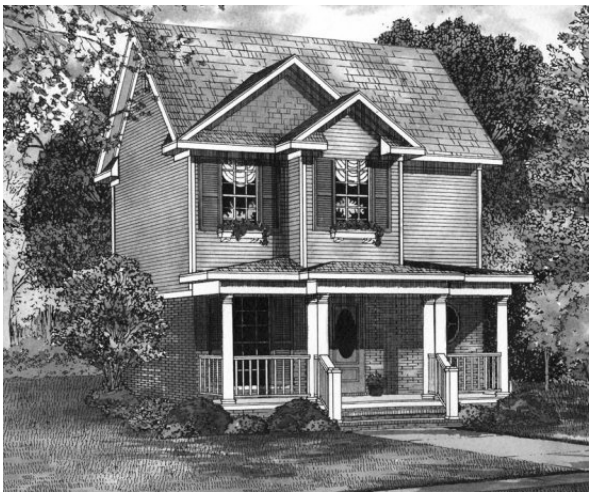
## 16.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

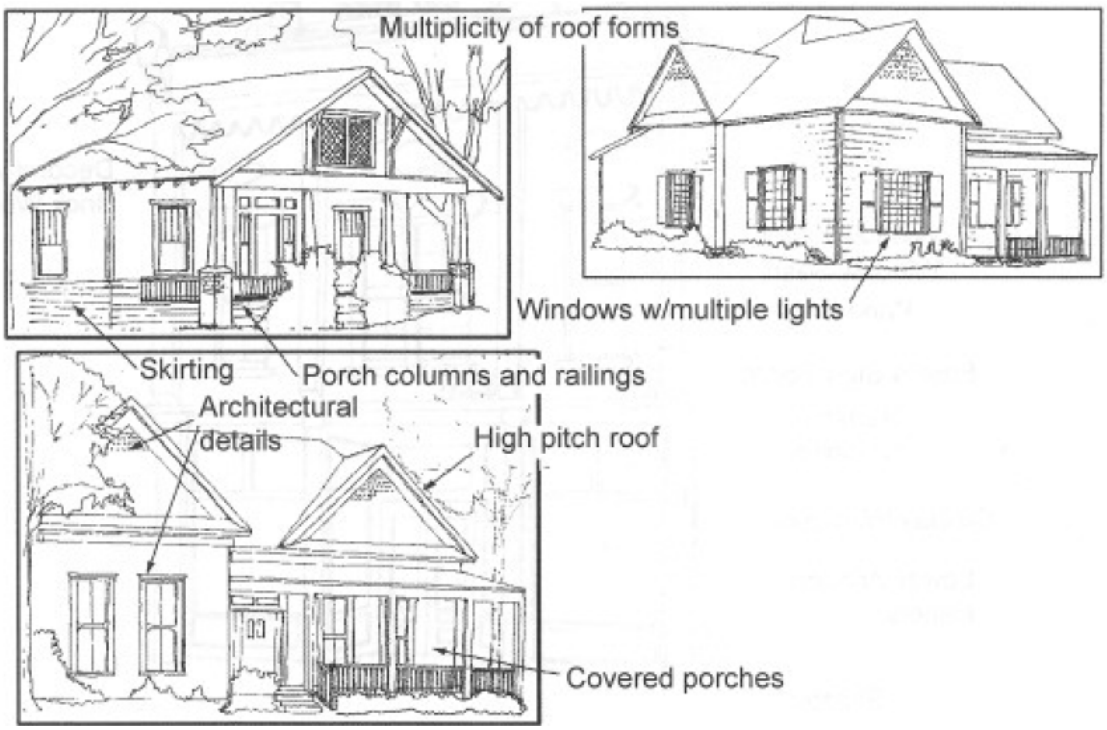
Permitted uses shall be in accordance with the "Schedule of Uses" as outlined in Section 1.3 of Chapter 3.

## 16.4 ARCHITECTURAL STANDARDS

A. All construction must have an approved façade plan before issuance of a building permit. The Town Planner or his/her designee will review all façade plans according to the following standards and will either approve or deny the request. The applicant shall submit the appeal request in writing, within 14 days of the decision, to the Planning Department. The written request shall include specific reasons for the appeal and will be heard by the Town Council. Appeals will require notification of property owners within 200 feet and shall be mailed 10 days prior to the hearing.

B. Structures must incorporate covered porches into the front façade, a multiplicity of roof forms, and high pitch roof lines. The recommended architectural styles are Folk traditional, Craftsman, and Victorian. The following examples are provided as guides for all new construction in the Downtown Office District:




Multiplicity of roof forms
Windows w/multiple lights
Skirting
Porch columns and railings
Architectural details
High pitch roof
Covered porches

# SECTION 17
# NEIGHBORHOOD SERVICE DISTRICT

## 17.1 GENERAL PURPOSE AND DESCRIPTION

The Neighborhood Service District is established as a limited retail category intended for use by residents of nearby neighborhood areas for the purpose of supplying day-to-day needs and personal services. Establishments should include small, free-standing retail structures, such as convenience stores and neighborhood oriented personal service establishments. Sites zoned Neighborhood Service should be located on a major thoroughfare and generally utilize a site adjacent to one or more logical neighborhood service areas. The total gross floor area of all structures in an individual Neighborhood Service District should not exceed fourteen thousand (14,000) square feet. This zoning district may be appropriate in areas designated as Office or Retail on the Future Land Use Plan.

## 17.2 REGULATIONS

A. Size of Yards:

1. Minimum Front Yard: Twenty five (25) feet.
2. Minimum Side Yard: Fifteen (15) feet; twenty five (25) feet adjacent to a residential use or zone.
3. Minimum Rear Yard: Ten (10) feet; twenty five (25) feet adjacent to a residential use or zone.

B. Size of Lots:

1. Minimum Size of Lot Area: Seven thousand (7,000) square feet.
2. Minimum Lot Width: Seventy (70) feet.
3. Minimum Lot Depth: One hundred (100) feet.

C. Maximum Height: One (1) story, no greater than thirty (30) feet.

D. Lot Coverage: Thirty five (35) percent.

E. Floor Area Ratio: Maximum 0.35:1.

F. Maximum Floor Area: The combined floor area of all buildings or structures on a lot shall not exceed fourteen thousand (14,000) square feet.

## 17.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# CHAPTER 2, SECTION 18
# DOWNTOWN RETAIL DISTRICT (Z07-7)

## 18.1 GENERAL PURPOSE AND DESCRIPTION

The Downtown Retail District is established to maintain existing and encourage additional retail development in the original downtown portion of the Town. Standards for vehicle parking, building set-backs, and building height are similar to those existing on developed properties in this section of the Town. Therefore, these standards are only applicable to this section of the Town. This zoning district may be appropriate in areas designated as Old Town Core District on the Future Land Use Plan.

## 18.2 REGULATIONS

A. Size of Yards:

1. Minimum Front Yard:

a. None if adjacent to a street with a right-of-way of eighty (80) feet or greater, a minimum of eighty (80) percent of any building façade adjacent to a street must be constructed on the property line.

b. Five (5) feet if adjacent to a street with less than eighty (80) if right-of-way, a minimum of eighty (80) percent of any building façade adjacent to a street must be constructed on the front yard setback line.

c. If adjacent to an intersection, all property lines adjacent to a street shall be deemed a front yard. The building façade adjacent to the streets must be located on the front yard setback lines towards the corner of the intersection. The setback is determined by the right-of-way width.

The area between the back of curb and the building façade shall be provided as a minimum of twelve (12) foot wide concrete sidewalk measured from the back of curb. Any area beyond the twelve (12) feet and adjacent to the building façade may be provided as sidewalk or landscaping.

The following projections shall be permitted in the required setback or beyond the property line:

a. Ordinary building projections, including but not limited to: water tables, sills, belt courses, and pilasters, may project up to twelve (12) inches into the required front yard or beyond the property line, or beyond the face of an architectural projection.

b. Balconies above the first floor may project up to forty-eight (48) inches into the required front yard or beyond the property line and have a minimum of nine (9) feet of clearance over the sidewalk.

c. Canopies, awnings, cinema or theater marquees, and/or kiosks may project up to forty-eight (48) inches into the required front yard or beyond the property line and have a minimum of nine (9) feet of clearance over the sidewalk.

d. Roof eaves, soffits, cornices, and parapet treatments may project up to thirty-six (36) inches into the required front yard or beyond the property line, or beyond the face of an architectural projection, provided that no portion extending below nine (9) feet above the sidewalk may project more than twelve (12) inches.

e. Architectural projections, including bays, first floor show windows, towers, and oriels; below grade vaults and areaways; and elements of a nature similar to the preceding; may project up to thirty-six (36) inches into the required front yard or beyond the property line.

2. Minimum Side Yard:
   a. None, subject to provision of fire retardant wall as required by current adopted edition of the Uniform Building Code.
   b. Ten (10) feet without fire retardant wall.
3. Minimum Rear Yard:
   a. None, if abutting an alley and constructed with fire retardant wall.
   b. None, if attached to an adjacent building and constructed with fire retardant wall.
   c. Ten (10) feet without alley separation or fire retardant wall.

B. Size of Lots:
1. Minimum Size of Lot Area: Five thousand (5,000) square feet unless platted as a lot of record prior to the adoption of this district.
2. Minimum Lot Width: Forty five (45) feet unless platted as a lot of record prior to the adoption of this district.
3. Minimum Lot Depth: One hundred (100) feet unless platted as a lot of record prior to the adoption of this district.

C. Maximum Height: Two (2) stories, no greater than forty (40) feet.

## 18.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the "Schedule of Uses" as outlined in Section 1.3 of Chapter 3.

## 18.4 ARCHITECTURAL STANDARDS

A. All construction must have an approved façade plan before issuance of a building permit. The Town Planner or his/her designee will review all façade plans according to the following standards and will either approve or deny the request. The applicant shall submit the appeal request in writing, within 14 days of the decision, to the Planning Department. The written request shall include specific reasons for the appeal and will be heard by the Town Council. Appeals will require notification of property owners within 200 feet and shall be mailed 10 days prior to the hearing.

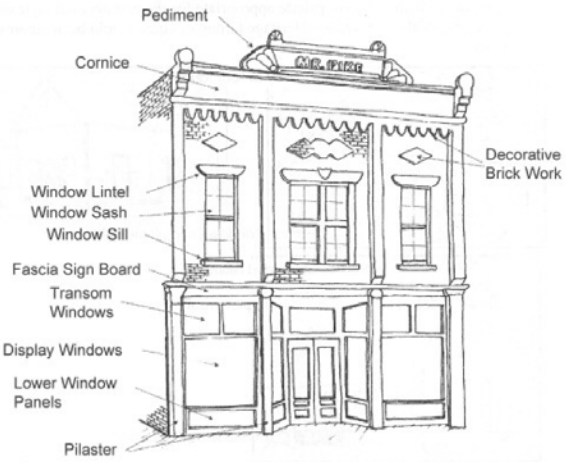
B. The primary building material shall be clay fired brick. Natural stones and other masonry materials are encouraged for architectural details and accents.

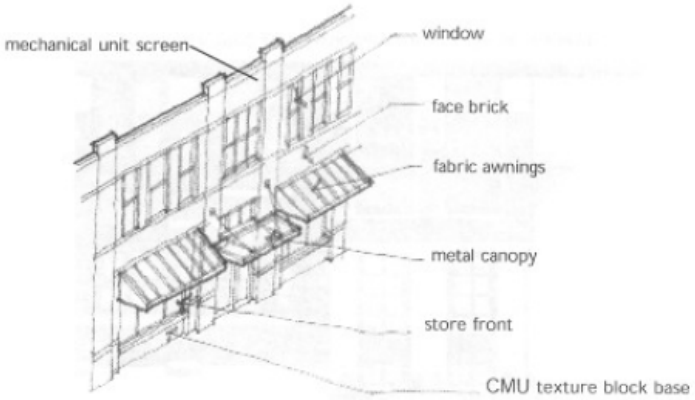
C. Awning and canopies should be architectural materials that complement the building such as metal flashing, wood trim, or fabric. Vinyl is not permitted.

D. Choice of color for the primary façade, various architectural elements, or details shall be compatible with the overall visual qualities existing within the original downtown portion of the Town.

E. The following examples are provided as guides for all new construction in the Downtown Retail District:

Parapet Wall
Medallion
Bracket
Cornice
Upper Façade
Storefront


Pediment
Cornice
Decorative Brick Work
Window Lintel
Window Sash
Window Sill
Fascia Sign Board
Transom Windows
Display Windows
Lower Window Panels
Pilaster


mechanical unit screen
window
face brick
fabric awnings
metal canopy
store front
CMU texture block base

# SECTION 19
# RETAIL DISTRICT

## 19.1 GENERAL PURPOSE AND DESCRIPTION

The Retail District is established to provide locations for various types of general retail and service uses for one (1) or more neighborhoods. Developments within a Retail District should utilize established landscape and buffering requirements and be limited to two (2) stories in height. The Retail District and shopping areas should generally be located at intersections of major thoroughfares and convenient to their residential service area. This zoning district may be appropriate in areas designated as Retail on the Future Land Use Plan.

## 19.2 REGULATIONS

A. Size of Yards:

1. Minimum Front Yard: Thirty (30) feet.
2. Minimum Side Yard:
   a. Fifteen (15) feet adjacent to a nonresidential district. The minimum side yard setback may be eliminated for attached retail buildings on separate lots as shown on an approved site plan.
   b. Thirty (30) feet for a one (1) story building adjacent to a residential district and sixty (60) feet for a two (2) story building adjacent to a residential district.
   c. Thirty (30) feet adjacent to a street.
3. Minimum Rear Yard:
   a. Fifteen (15) feet adjacent to a nonresidential district. The minimum side yard setback may be eliminated for attached retail buildings on separate lots as shown on an approved site plan.
   b. Thirty (30) feet for a one (1) story building adjacent to a residential district and sixty (60) feet for a two (2) story building adjacent to a residential district.

B. Size of Lots:

1. Minimum Size of Lot Area: Ten thousand (10,000) square feet.
2. Minimum Lot Width: One hundred (100) feet.
3. Minimum Lot Depth: One hundred (100) feet.

C. Maximum Height: Two (2) stories, no greater than forty (40) feet.

D. Lot Coverage: Forty (40) percent.

E. Floor Area Ratio: Maximum 0.4:1.

## 19.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# CHAPTER 2, SECTION 20
# DOWNTOWN COMMERCIAL DISTRICT (Z07-7)

## 20.1 GENERAL PURPOSE AND DESCRIPTION

The Downtown Commercial District is established to maintain existing and encourage additional retail and commercial development in the original downtown portion of the Town. Standards for vehicle parking, building set-backs, and building height are similar to those existing on developed properties in this section of the Town. Therefore, these standards are only applicable to this section of the Town. This zoning district may be appropriate in areas designated as Old Town Core District on the Future Land Use Plan.

## 20.2 REGULATIONS

### A. Size of Yards

#### 1. Minimum Front Yard

a. None if adjacent to a street with a right-of-way of eighty (80) feet or greater, a minimum of eighty (80) percent of any building façade adjacent to a street must be constructed on the property line.

b. Five (5) feet if adjacent to a street with less than eighty (80) if right-of-way, a minimum of eighty (80) percent of any building façade adjacent to a street must be constructed on the front yard setback line.

c. If adjacent to an intersection, all property lines adjacent to a street shall be deemed a front yard. The building façade adjacent to the streets must be located on the front yard setback lines towards the corner of the intersection. The setback is determined by the right-of-way width.

d. The area between the back of curb and the building façade shall be provided as a minimum of twelve (12) foot wide concrete sidewalk measured from the back of curb. Any area beyond the twelve (12) feet and adjacent to the building façade may be provided as sidewalk or landscaping.

e. The following projections shall be permitted in the required setback or beyond the property line:

i. Ordinary building projections, including but not limited to: water tables, sills, belt courses, and pilasters, may project up to twelve (12) inches into the required front yard or beyond the property line, or beyond the face of an architectural projection.

ii. Balconies above the first floor may project up to forty-eight (48) inches into the required front yard or beyond the property line and have a minimum of nine (9) feet of clearance over the sidewalk.

iii. Canopies, awnings, cinema or theater marquees, and/or kiosks may project up to forty-eight (48) inches into the required front yard or beyond the property line and have a minimum of nine (9) feet of clearance over the sidewalk.

iv. Roof eaves, soffits, cornices, and parapet treatments may project up to thirty-six (36) inches into the required front yard or beyond the property line, or beyond the face of an architectural projection, provided that no portion extending below nine (9) feet above the sidewalk may project more than twelve (12) inches.

v. Architectural projections, including bays, first floor show windows, towers, and oriels;

below grade vaults and areaways; and elements of a nature similar to the preceding; may project up to thirty-six (36) inches into the required front yard or beyond the property line.

2. Minimum Side Yard
   a. None if adjacent to a non-residential district, subject to provision of fire retardant wall as required by current adopted edition of the Uniform Building Code.
   b. Thirty (30) feet for a one (1) story building adjacent to a residential district and sixty (60) feet for a two (2) or more story building adjacent to a residential district.
3. Minimum Rear Yard
   a. None, if adjacent to a non-residential district and abutting an alley and constructed with fire retardant wall.
   b. None, if attached to an adjacent building and constructed with fire retardant wall.
   c. Ten (10) feet, if adjacent to a non-residential district without alley separation or fire retardant wall.
   d. Thirty (30) feet for a one (1) story building adjacent to a residential district and sixty (60) feet for a two (2) or more story building adjacent to a residential district.

B. Size of Lots
   1. Minimum Size of Lot Area: Five thousand (5,000) square feet unless platted as a lot of record prior to the adoption of this district.
   2. Minimum Lot Width: Forty five (45) feet unless platted as a lot of record prior to the adoption of this district.
   3. Minimum Lot Depth: One hundred (100) feet unless platted as a lot of record prior to the adoption of this district.

C. Maximum Height: Two (2) stories, no greater than forty (40) feet.

## 20.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the "Schedule of Uses" as outlined in Section 1.3 of Chapter 3.

## 20.4 ARCHITECTURAL STANDARDS

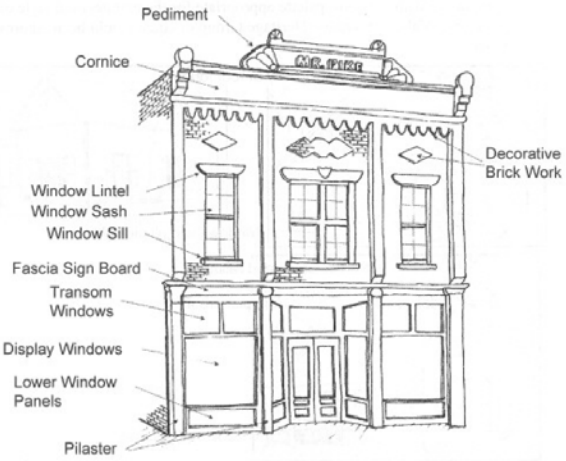
A. All construction must have an approved façade plan before issuance of a building permit. The Town Planner or his/her designee will review all façade plans according to the following standards and will either approve or deny the request. The applicant shall submit the appeal request in writing, within 14 days of the decision, to the Department of Development Services. The written request shall include specific reasons for the appeal and will be heard by the Town Council. Appeals will require notification of property owners within 200 feet and shall be mailed 10 days prior to the hearing.

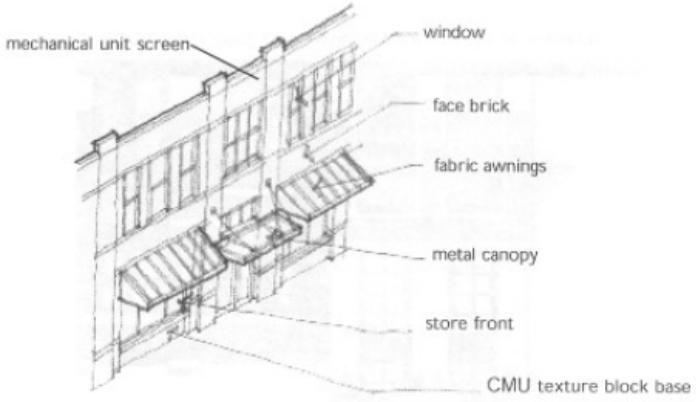
B. The primary building material shall be clay fired brick. Natural stones and other masonry materials are encouraged for architectural details and accents.

C. Awning and canopies should be architectural materials that complement the building such as metal flashing, wood trim, or fabric. Vinyl is not permitted.

D. Choice of color for the primary façade, various architectural elements, or details shall be compatible with the overall visual qualities existing within the original downtown portion of the Town.

E. The following examples are provided as guides for all new construction in the Downtown Commercial District:



# SECTION 21
# COMMERCIAL DISTRICT

## 21.1 GENERAL PURPOSE AND DESCRIPTION

The Commercial District is intended predominately for heavy retail, service, light intensity wholesale and commercial uses, but excluding warehousing uses. The nature of uses in this District has operating characteristics and traffic service requirements generally compatible with typical office, retail, and some residential environments. Uses in this District may require open, but screened, storage areas for materials. This zoning district may be appropriate in areas designated as Community or Regional Retail on the Future Land Use Plan.

## 21.2 REGULATIONS

A. Size of Yards

1. Minimum Front Yard: Thirty (30) feet.
2. Minimum Side Yard:
   a. Fifteen (15) feet adjacent to a nonresidential district. The minimum side yard setback may be eliminated for attached retail buildings on separate lots as shown on an approved site plan.
   b. Forty (40) feet for a one (1) story building adjacent to a residential district and sixty (60) feet for a two (2) story building adjacent to a residential district.
   c. Thirty (30) feet adjacent to a street.
3. Minimum Rear Yard:
   a. Fifteen (15) feet adjacent to a nonresidential district. The minimum side yard setback may be eliminated for attached retail buildings on separate lots as shown on an approved site plan.
   b. Forty (40) feet for a one (1) story building adjacent to a residential district and sixty (60) feet for a two (2) story building adjacent to a residential district.

B. Size of Lots

1. Minimum Size of Lot Area: Ten thousand (10,000) square feet.
2. Minimum Lot Width: Seventy (100) feet.
3. Minimum Lot Depth: One hundred (100) feet.

C. Maximum Height: Two (2) stories, no greater than forty (40) feet.

D. Lot Coverage: Fifty (50) percent.

E. Floor Area Ratio: Maximum 0.5:1.

## 21.3 PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 22
# COMMERCIAL CORRIDOR DISTRICT

## 22.1 GENERAL PURPOSE AND DESCRIPTION

The Commercial Corridor District is intended primarily for employment center uses such as light manufacturing, warehousing, wholesaling, office, and distribution operations that do not depend upon frequent customer or client visits, as well as service uses necessary to support such employment center uses. Such uses do require accessibility to major thoroughfares or highways. This zoning district may be appropriate in areas designated as Tollway Corridor, US 380 Adjacency Corridor, or Industrial on the Future Land Use Plan.

## 22.2 REGULATIONS

A. Size of Yards

1. Minimum Front Yard: Thirty (30) feet for one (1) or two (2) story buildings, fifty (50) feet for buildings taller than two (2) stories.
2. Minimum Side Yard:
   a. Twenty five (25) feet adjacent to a nonresidential district. The minimum side yard setback may be eliminated for attached buildings on separate lots as shown on an approved site plan.
   b. Forty (40) feet for a one (1) story building adjacent to a residential district and sixty (60) feet for a two (2) story building adjacent to a residential district.
   c. Forty (40) feet adjacent to a street.
3. Minimum Rear Yard:
   a. Twenty five (25) feet adjacent to a nonresidential district. The minimum rear yard setback may be eliminated for attached buildings on separate lots as shown on an approved site plan.
   b. Forty (40) feet for a one (1) story building adjacent to a residential district and sixty (60) feet for a two (2) story building adjacent to a residential district.

B. Size of Lots

1. Minimum Size of Lot Area: Ten thousand (10,000) square feet.
2. Minimum Lot Width: One hundred (100) feet.
3. Minimum Lot Depth: One hundred (100) feet.

C. Maximum Height: Eight (8) stories, not greater than one hundred (100) feet. Where buildings or structures exceed forty (40) feet in height, such buildings or structures shall not be located closer to any residential district boundary line than a distance equal to the sum of the required side or rear yard specified plus twice the height of the building above forty (40) feet.

D. Lot Coverage: Sixty (60) percent.

E. Floor Area Ratio: Maximum 1.5:1

## 22.3 PERMITTED USES

A. Compliance with State and Federal Law: No uses shall be allowed which are prohibited by State law or which operate in excess of State or Federal environment or pollution standards as determined by the U.S. Environmental Protection Agency, Texas Air Control Board, Texas State Department of Health, or the Texas Water Commission, as the case.

B. Open Storage: Not more than twenty (20) percent of the lot or tract may be used for the open storage of

products, materials, or equipment, all of which shall be screened from adjoining properties or streets.

C. High Risk or Hazardous Uses:

1. The uses listed in 22.3(D) below are permitted in the Commercial Corridor District, provided that such uses shall not disseminate dust, fumes, gas, noxious odor, smoke, glare, or other atmospheric influence beyond the boundaries of the property on which such use is located and which produces no noise exceeding the average intensity of noise of street traffic at that point and provided that such use does not create fire hazards on surrounding property.

2. "High risk or hazardous" uses are not permitted in the Commercial Corridor District. In this section, "high risk or hazardous" use means any use whose operation, in the opinion of the Fire Chief, involves a much higher than average risk to public health and safety. These uses include but are not limited to facilities where significant amounts of radiation, radioactive materials, highly toxic chemicals or substances, or highly combustible or explosive materials are present, used, produced, stored, or disposed of.

D. PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 23
# INDUSTRIAL DISTRICT

## 23.1 GENERAL PURPOSE AND DESCRIPTION

The Industrial District is intended primarily for uses in the conduct of light manufacturing, assembling and fabrication, and for warehousing, wholesaling and service operations that do not depend upon frequent customer or client visits. Such uses do require accessibility to major highways, rail lines or other means of transportation. This zoning district is appropriate in areas designated as Industrial on the Future Land Use Plan.

## 23.2 REGULATIONS

A. Size of Yards

1. Minimum Front Yard: Fifty (50) feet.
2. Minimum Side Yard:
   a. Thirty (30) feet adjacent to a nonresidential district.
   b. Sixty (60) feet adjacent to a residential district.
   c. Fifty (50) feet adjacent to a street.
3. Minimum Rear Yard:
   a. Thirty (30) feet adjacent to a nonresidential district.
   b. Sixty (60) feet adjacent to a residential district.
4. Additional Setback - For structures requiring railroad access, setback requirements from the centerline of the railroad right-of-way shall be in accordance with applicable State law.

B. Size of Lots

1. Minimum Size of Lot Area: Ten thousand (10,000) square feet.
2. Minimum Lot Width: One hundred (100) feet.
3. Minimum Lot Depth: One hundred (100) feet.

C. Maximum Height: Eight (8) stories, not greater than one hundred (100) feet. Where buildings or structures exceed forty (40) feet in height, such buildings or structures shall not be located closer to any residential district boundary line than a distance equal to the sum of the required side or rear yard specified plus twice the height of the building above forty (40) feet.

D. Floor Area Ratio: Maximum 1:1

## 23.3 PERMITTED USES

A. Compliance with State and Federal Law: No uses shall be allowed which are prohibited by State law or which operate in excess of State or Federal environment or pollution standards as determined by the U.S. Environmental Protection Agency, Texas Air Control Board, Texas State Department of Health, or the Texas Water Commission, as the case.

B. Open Storage: Not more than twenty (20) percent of the lot or tract may be used for the open storage of products, materials, or equipment, all of which shall be screened from adjoining properties or streets.

C. High Risk or Hazardous Uses:

1. The uses listed in 1.3(D) below are permitted in the Industrial District, provided that such uses shall

not disseminate dust, fumes, gas, noxious odor, smoke, glare, or other atmospheric influence beyond the boundaries of the property on which such use is located and which produces no noise exceeding the average intensity of noise of street traffic at that point and provided that such use does not create fire hazards on surrounding property.

2. A "high risk or hazardous industrial use" is permitted by specific use permit only. In this section, "high risk or hazardous industrial use" means any industrial use whose operation, in the opinion of the Fire Chief, involves a much higher than average risk to public health and safety. These uses include but are not limited to facilities where significant amounts of radiation, radioactive materials, highly toxic chemicals or substances, or highly combustible or explosive materials are present, used, produced, stored, or disposed of.

D. PERMITTED USES *(Ord. 15-74; 12-08-15)*

Permitted uses shall be in accordance with the “Schedule of Uses” as outlined in Section 1.3 of Chapter 3.

# SECTION 24
# PLANNED DEVELOPMENT DISTRICT

## 24.1 GENERAL PURPOSE AND DESCRIPTION

The Planned Development (PD) District is a district that accommodates planned associations of uses developed as integral land use units such as offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing (including attached single-family dwellings), or any appropriate combination of uses that may be planned, developed, or operated as integral land use units either by a single owner or a combination of owners. A PD District may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this Ordinance. While greater flexibility is given to allow special conditions or restrictions that would not otherwise allow the development to occur, procedures are established herein to insure against misuse of increased flexibility.

## 24.2 PLANNED DEVELOPMENT REGULATIONS

A. Development requirements for each PD District shall be set forth in the amending ordinance granting that PD District and shall include, but may not be limited to; base district(s), uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, architectural standards, project phasing or scheduling, management associations, and other requirements as the Town Council and/or Planning & Zoning Commission may deem appropriate.

B. In the PD District, uses shall conform to the standards and regulations of the base zoning district(s) to which it is most similar. The particular zoning district shall be stated in the granting ordinance. All applications to the Town shall list all requested variances from the standard requirements set forth throughout this Ordinance (applications without this list, as well as other reasons, will be considered incomplete).

C. The ordinance granting a PD District shall include a statement as to the purpose and intent of the PD granted therein, including a general statement citing the reason for the PD request. The ordinance granting a PD District shall also include a proposed development schedule for the PD District.

D. The PD District shall conform to all sections of this Ordinance unless specifically addressed in the granting ordinance.

## 24.3 CONCEPTUAL DEVELOPMENT PLAN

In establishing a PD District in accordance with this section, the Town Council shall approve and file as part of the amending ordinance appropriate exhibits and standards for each PD District. To facilitate understanding of the request during the review and public hearing process, the Planning & Zoning Commission and/or Town Council may require a Conceptual Development Plan that illustrates graphically the standards contained therein.

A. Any applicant requesting approval of a PD District shall schedule a pre-submittal meeting with the Director of Planning, or his/her designee, to determine whether or not a conceptual development plan is to be submitted with the PD zoning request.

B. If it is determined that a conceptual development plan is necessary, this plan shall be submitted by the applicant at the time of the PD zoning request. The plan shall show the applicant's intent for the use(s) of the land within the proposed PD District in a graphic manner and supported by written documentation of proposals and standards for development. Dependent on the nature of the PD request, this plan may be submitted as a residential plan, non-residential plan, or a mixed-use combination of the two. For a mixed-use development, the plan shall comply with requirements for both the residential and non-residential plans.

1. **Residential Conceptual Development Plan** - A conceptual development plan for residential land use

shall show in a graphic format the proposed general land use, streets, thoroughfares and preliminary lot arrangements. The applicant shall submit text material to further explain the characteristics of the plan, including but not limited to, the size, type and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, project scheduling, and other pertinent development data.

2. Non-Residential Conceptual Development Plan - A conceptual development plan for non-residential uses shall set forth the land use proposals in a manner to adequately illustrate the type and nature of the proposed development. The plan may include, but is not limited to, the types of use(s), topography and boundary of PD area, proposed ingress and egress, physical features of the site, existing streets, alleys and easements, location of future public facilities, building height and location, parking ratios, project scheduling and other information to adequately describe the proposed development and to provide data for approval that is to be used in preparing the final development plan(s).

## 24.4 CONFORMANCE TO THE CONCEPTUAL DEVELOPMENT PLAN

Plats and/or site plans submitted for the development of the PD District shall conform to the data presented and approved on the conceptual development plan. Changes of detail on these final development plan(s) that differ from the conceptual development plan may be authorized by the Planning & Zoning Commission, with their approval of the final development plan(s) and without public hearing, if the proposed changes do not:

1. alter the basic relationship of the proposed development to adjacent property,
2. alter the uses permitted,
3. increase the density
4. increase the building height,
5. increase the coverage of the site,
6. reduce the off-street parking ratio,
7. reduce the building lines provided at the boundary of the site, or
8. significantly alter any open space plans

If the Planning & Zoning Commission determines that the proposed change(s) violates one (1) or more of the above eight (8) criteria, then a public hearing must be held to adequately amend the PD District's granting ordinance prior to the Planning & Zoning Commission's approval of the final development plan(s).

## 24.5 PROCEDURE (Z11-0005)

A. The procedure for establishing a PD District shall follow the procedure for zoning amendments as set forth in Chapter 1, Section 9.

B. If no development has occurred in the PD District within five (5) years from the date of adoption of the granting ordinance, the Planning & Zoning Commission and Town Council may review the original conceptual development plan to ensure its continued validity. If the Town determines the concept is not valid, a new conceptual development plan shall be approved prior to the Town issuing a building permit for any portion of the PD District.

C. All PD Districts approved in accordance with the provisions of this Ordinance in its original form, or by subsequent amendments thereto, shall be referenced on the Zoning District Map, and a list of such PD Districts, together with the category of uses permitted therein, shall be maintained as part of this ordinance in Chapter 5, Section 2.

D. Owners of property within a PD District may request rezoning for only the portion of the PD District they own. Notice of such rezoning will be based on the boundary of the portion of the PD District being rezoned

rather than the entire PD District. In considering the request, the Planning and Zoning Commission and Town Council shall evaluate the effect of the rezoning on the remaining property within the PD District. If the Planning and Zoning Commission or Town Council determine that the rezoning necessitates adjustments to the terms and conditions of the original PD District, the zoning case to rezone the portion of the PD District will be tabled so that the Town can initiate a zoning case for the remainder of the PD District and first consider amendments to the terms and conditions of the original PD District.

# SECTION 25
# SPECIFIC USE PERMITS

## 25.1 GENERAL PURPOSE AND DESCRIPTION

This section provides the Town an opportunity to approve, conditionally approve, or deny identified specific uses that may be permitted in specified zoning districts. These uses generally have, among other things, unusual nuisance characteristics or are of a public or semi-public character and are often essential or desirable for the general convenience and welfare of the community. However, because of the nature of the use, the importance of the use's relationship to the Comprehensive Plan, and possible adverse impacts on neighboring properties review, evaluation, and exercise of sound planning judgment relative to the location and site plan are required.

## 25.2 PROCEDURE

A. The procedure for authorizing a Specific Use Permit (SUP) shall follow the procedure for zoning amendments as set forth in Chapter 1, Section 9.

B. All SUP applications shall be accompanied by a site plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials, and locations of buildings and the uses to be permitted; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred (200) feet.

C. The Planning & Zoning Commission or Town Council may require additional information or drawings (such as, among other things, building floor plans), operating data and expert evaluation or testimony concerning the location, function and characteristics of any building or use proposed.

## 25.3 SPECIFIC USE PERMIT REGULATIONS

A. In recommending that a SUP for the premises under consideration be granted, the Planning & Zoning Commission shall determine that such uses are harmonious and adaptable to building structures and uses of abutting property and other property in the vicinity of the premises under consideration, and shall make recommendations as to, among other things, requirements for the paving of streets, alleys and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate off-street parking, protective screening and open space, area or security lighting, heights of structures, and compatibility of buildings. The Planning & Zoning Commission and Town Council shall consider the following criteria in determining the validity of the SUP request:

1. Is the use harmonious and compatible with its surrounding existing uses or proposed uses?
2. Are the activities requested by the applicant normally associated with the requested use?
3. Is the nature of the use reasonable?
4. Has any impact on the surrounding area been mitigated?

B. In granting a SUP, the Town Council may impose conditions that shall be complied with by the owner or grantee before a Certificate of Occupancy (CO) may be issued by the Building Official for use of the building on such property pursuant to such SUP and such conditions precedent to the granting of the CO. Any special conditions shall be set forth in writing by the Town Council prior to issuance of the CO.

C. No SUP shall be granted unless the applicant, owner and grantee of the SUP shall be willing to accept and agree to be bound by and comply with the written requirements of the SUP as attached to the site plan drawing(s) and approved by the Planning & Zoning Commission and Town Council.

D. If required, a building permit shall be applied for and secured within six (6) months from the time of

granting the SUP, provided however, that the Town Council may authorize an extension of this time upon recommendation by the Planning & Zoning Commission. After six (6) months from the date of approval has elapsed, the Planning & Zoning Commission and Town Council may review the site plan for continued validity. If the site plan is determined invalid, the property owner(s) must submit a new or revised site plan for approval prior to any construction or application for building permit for the area designated for the SUP.

E. A building, premise, or land used under a SUP may be enlarged, modified, structurally altered, or otherwise changed provided the changes do not:

1. Increase the height of structures, including, without limitation, antenna support structures.
2. Increase building square footage from its size at the time the original SUP was granted by greater than ten (10) percent;
3. Reduce the distance between a building or noise-generating activity on the property and an adjacent, off-site residential use. This provision shall not apply should the property and the residential use be separated by a major thoroughfare depicted on the Town's Thoroughfare Plan; or
4. Reduce the amount of open space as indicated on the previously approved zoning exhibit.

All other enlargements, modifications, structural alterations, or changes shall require the approval of a new SUP.

F. The Board of Adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any SUP.

G. When the Town Council authorizes granting of a SUP, the Zoning Map shall be amended according to its legend to indicate that the affected area has conditional and limited uses, and said amendment is to indicate the appropriate zoning district for the approved use and prefixed by an "S" designation. SUPs granted shall be indicated by numerical designation on the Zoning District Map. Chapter 5, Section 2 of this Ordinance shall list by the numerical designation each SUP and the conditions of approval. SUPs are issued to the property.

H. Upon holding a properly notified public hearing, the Town Council may amend, change, or rescind a SUP if:

1. There is a violation and conviction of any of the provisions of this Ordinance or any ordinance of the Town that occurs on the property for which the SUP is granted.
2. The building, premise, or land used under a SUP is enlarged, modified, structurally altered, or otherwise significantly changed without approval of a separate SUP for such enlargement, modification, structural alteration, or change.
3. Violation of any provision of the terms or conditions of a SUP.
4. Ad valorem taxes on the property are delinquent by more than six (6) months.
5. The SUP was obtained by fraud or with deception.

## 25.4 SPECIFIC USE PERMIT FOR PRIVATE CLUB (Z13-0010)

*(Deleted in entirety by Ordinance 13-48, 9/10/13)*

# Chapter 3

## Permitted Uses and Definitions

# SECTION 1
# USE OF LAND AND BUILDINGS

## 1.1 USES PERMITTED BY DISTRICT

A. Land and buildings in each of the zoning districts may be used for any of the indicated uses but no land shall hereafter be used, and no building or structure shall hereafter be erected, altered, or converted, which is arranged or designed or used for other than those uses specified as permitted uses in the district in which it is located, according to the Chapter 3, Section 1.3 and in accordance with Chapter 1, Section 3 and the provisions of this Ordinance.

B. Legend for Schedule of Uses in Section 1.3

| | |
|---|---|
| ● | Use is permitted in district indicated |
| | Use is prohibited in district indicated |
| S | Use is permitted in district upon approval of a specific use permit |
| 1 | Use is permitted in the district indicated if conditional development standards or limitations in the corresponding numeric end note in Chapter 3, Section 1.4 are complied with |

C. If a use is not on the Schedule of Uses, it is prohibited subject to compliance with Section 1.2 below.

## 1.2 CLASSIFICATION OF NEW AND UNLISTED USES

It is recognized that new types of land use will develop and forms of land use not presently anticipated may seek to locate in the Town. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

A. The Building Official shall refer the question concerning any new or unlisted use to the Planning & Zoning Commission requesting an interpretation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing, among other things, the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer.

B. The Planning & Zoning Commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and recommend to the Town Council the zoning district(s), use, and classification.

C. The Planning & Zoning Commission shall transmit its recommendations to the Town Council as to the zoning district(s), use, and classification proposed for any new or unlisted use. The Town Council shall make such determination concerning the zoning district(s) and classification of such use as it determines appropriate.

D. Standards for new and unlisted uses may be interpreted as those of a similar use. When determination of the minimum requirements cannot be readily ascertained, the same process outlined in Chapter 3, Section 1.2 (1-3) shall be followed for determination of the new standards.

## 1.3 SCHEDULE OF USES

The Schedule of Uses appears on the following charts. *(Ord 13-48; 9-10-13 & Ord 15-74; 12-08-15)*

| SECTION 1.3(A) RESIDENTIAL USES | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A - Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Mobile and/or Manufactured Home | | | | | | | ● | | | | | | | | | |
| Model Home | | ● | ● | ● | ● | | | | | | | | | | | |
| Multifamily Dwelling | | | | | | ● | | | | | | | | | | |
| Private Street Development | | 1 | 1 | 1 | 1 | | | | | | | | | | | |
| Retirement Housing *(Ord. 15-74; 12-08-15)* | | | | | | S | | | | | | | | | | |
| Single Family Dwelling, Attached (Townhome) | | | | ● | | ● | | | | | | | | | | |
| Single Family Dwelling, Detached | ● | ● | ● | 2 | 2 | 2 | 2 | | | | | | | | | |
| Studio Dwelling | | | | | | | | | ● | | ● | | ● | | | |
| Two Family Dwelling (Duplex) | | | S | ● | ● | | | | | | | | | | | |
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| SECTION 1.3(B) ACCESORY AND INCIDENTAL USES | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A - Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Accessory Building | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Caretaker's/Guard's Residence | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Construction Yard and Field Office, Temporary | TEMPORARY BLDG PERMIT ISSUED BY BLDG OFFICIAL | | | | | | | TEMPORARY BLDG PERMIT ISSUED BY BLDG OFFICIAL | | | | | | | | |
| Donation or Recycling Bin *(Ord. 15-74; 12-08-15)* | | 32 | 32 | | | | | | | | | 32 | | 32 | | |
| Gas Pumps | | | | | | | | | | | | 3 | | 3 | | |
| Guest House *(Ord. 17-43; 06-13-17)* | 45 | 45 | 45 | | | | | | | | | | | | | |
| Helistop *(Ord. 15-74; 12-08-15)* | | | | | | | | S | | | | S | | S | S | S |
| Homebuilder Marketing Center | | 4 | 4 | 4 | 4 | | | ● | ● | ● | ● | ● | ● | ● | ● | |
| Home Occupation | 5 | 5 | 5 | 5 | 5 | 5 | 5 | | | | | | | | | |
| Mobile Food Vendor | | | | | | | | | | | 6 | 6 | 6 | 6 | | |
| Outdoor Merchandise Display, Incidental *(Ord. 15-74; 12-08-15)* | | | | | | | | | | S | S | S | S | S | S | |
| Outdoor Merchandise Display, Temporary *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | 31 | 31 | 31 | 31 | | |
| Outside Storage, Incidental *(Ord. 15-74; 12-08-15)* | | | | | | | | | | S | S | S | S | S | S | |
| Residential Garage Loft (Ord. 17-43; 06-13-17) | 46 | 46 | 46 | | | | | | | | | | | | | |
| Retail/Service Incidental Use | | | | | | | | ● | ● | | ● | ● | ● | ● | ● | ● |
| Temporary Building | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 |
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| SECTION 1.3(C) EDUCATIONAL, INSTITUTIONAL, PUBLIC, AND SPECIAL USES | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A - Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Airport/Heliport | | | | | | | | | | | | | | | | S |
| Assisted Care or Living Facility | | | | | | ● | ● | S | | S | | S | | S | ● | ● |
| Athletic Stadium or Field, Private | 8 | 8 | 8 | 8 | 8 | 8 | 8 | S | | S | | S | | S | S | ● |
| Athletic Stadium or Field, Public | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Cemetery or Mausoleum | S | S | | S | S | S | S | S | | S | | S | | S | S | |
| Civic/Convention Center | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| College, University, Trade, or Private Boarding School | | | | | | | | ● | ● | | ● | ● | ● | ● | ● | ● |
| Community Center | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Community Home *(Ord. 18-39; 05-22-18)* | 47 | 47 | 47 | 47 | 47 | 47 | 47 | | | | | | | | | |
| Farm, Ranch, Stable, Garden, or Orchard | ● | ● | | ● | ● | ● | ● | ● | | ● | | ● | | ● | ● | ● |
| Fraternal Organization, Lodge, Civic Club, Fraternity, or Sorority | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | |
| Hospital | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | |
| Household Care Facility | | ● | ● | ● | ● | ● | ● | | | | | | | | | |
| House of Worship | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Municipal Uses Operated by the Town of Prosper | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Museum/Art Gallery | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Open Storage | | | | | | | | | | | | | ● | ● | ● | ● |
| Park or Playground | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Private Recreation Center | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Rehabilitation Care Facility | 9 | 9 | 9 | 9 | 9 | 9 | 9 | | | | | | | | | |
| Rehabilitation Care Institution | | | | | | | | S | | S | | S | S | S | S | S |
| School, Public | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | |
| School, Private or Parochial | S | S | S | S | S | S | S | ● | ● | ● | ● | ● | ● | ● | ● | |
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| SECTION 1.3(D) TRANSPORTATION, UTILITY, AND COMMUNICATIONS USES | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A - Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Antenna and/or Antenna Support Structure, Non-Commercial | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Stealth Antenna, Commercial | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 |
| Bus Terminal | | | | | | | | | | | | | | 13 | 13 | 13 |
| Electric Power Generating Plant | | | | | | | | | | | | | | | | S |
| Landfill | | | | | | | | | | | | | | | | S |
| Office and Storage Area for Public/Private Utility | | | | | | | | | | | | | | ● | | ● |
| Private Utility, Other Than Listed | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| School District Bus Yard | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | | 14 | | 14 | | 14 | 14 | 14 |
| Sewage Treatment Plant/Pumping Station | S | S | | S | S | S | S | S | | S | | S | | S | S | S |
| Telephone Exchange | S | S | S | S | S | S | S | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Transit Center | | | | | | | | | | | | | | ● | ● | ● |
| Utility Distribution/Transmission Facility | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S |
| Water Treatment Plant | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S |
| Wind Energy System | PROHIBITED IN ALL DISTRICTS | | | | | | | PROHIBITED IN ALL DISTRICTS | | | | | | | | |
| Wireless Communications and Support Structures *(Ord. 18-12; 01-23-18)* | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 |
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| SECTION 1.3(E) OFFICE AND PROFESSIONAL USES | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A - Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Administrative, Medical, or Professional Office | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Governmental Office | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Insurance Office | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Research and Development Center | | | | | | | | | | | | | 15 | 15 | 15 | 15 |
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| SECTION 1.3(F) RETAIL USES | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A - Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Antique Shop and Used Furniture | | | | | | | | | | | ● | ● | ● | ● | | |
| Alcoholic Beverage Sales | | | | | | | | | | 16 | 16 | 16 | 16 | 16 | 16 | 16 |
| Building Material and Hardware Sales, Major | | | | | | | | | | | | S | S | ● | | ● |
| Building Material and Hardware Sales, Minor | | | | | | | | | | | | ● | ● | ● | | ● |
| Convenience Store with Gas Pumps | | | | | | | | | | | | 17 | | 17 | 17 | |
| Convenience Store without Gas Pumps | | | | | | | | | | ● | ● | ● | ● | ● | | |
| Equipment and Machinery Sales and Rental, Major *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | S | | ● |
| Equipment and Machinery Sales and Rental, Minor | | | | | | | | | | | | ● | ● | ● | | |
| Farmer's Market | | | | | | | | | | | ● | ● | ● | ● | | |
| Feed Store | | | | | | | | | | | ● | ● | ● | ● | | ● |
| Flea Market, Inside *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | S | | |
| Furniture, Home Furnishings and Appliance Store | | | | | | | | | | | ● | ● | ● | ● | | |
| Nursery, Major *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | S | S | |
| Nursery, Minor | | | | | | | | | | | | ● | ● | ● | | |
| Pawn Shop *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | | | ● |
| Retail Stores and Shops | | | | | | | | | | | ● | ● | ● | ● | | |
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| SECTION 1.3(G) SERVICE USES | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A - Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Alcoholic Beverage Establishment | | | | | | | | | | | | 30 | | 30 | 30 | |
| Artisan's Workshop | | | | | | | | | | ● | ● | ● | ● | ● | | |
| Bank, Savings and Loan, or Credit Union | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Beauty Salon/Barber Shop | | | | | | | | | ● | ● | ● | ● | ● | ● | ● | |
| Bed and Breakfast Inn | S | S | S | | | | | S | S | S | ● | ● | ● | ● | | |
| Body Art Studio | | | | | | | | | | | | | | | | 19 |
| Business Service | | | | | | | | ● | ● | | ● | ● | ● | ● | ● | ● |
| Cabinet/Upholstery Shop | | | | | | | | | | | | | ● | ● | ● | ● |
| Campground or Recreational Vehicle Park | S | | | | | | S | | | | | | | | | |
| Child Care Center, Licensed *(Ord. No. 18-39; 05-22-18)* | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | |
| Child Care Center, Home *(Ord. No. 18-39; 05-22-18)* | 21 | 21 | 21 | | | | | | | | | | | | | |
| Child Care Center, Incidental *(Ord. No. 18-39; 05-22-18)* | | | | | | | | S | S | | S | | S | S | S | |
| Commercial Amusement, Indoor | | | | | | | | ● | ● | | ● | ● | ● | ● | ● | ● |
| Commercial Amusement, Outdoor | | | | | | | | | | | | S | S | S | S | S |
| Contractor's Shop and/or Storage Yard | | | | | | | | | | | | | | ● | | ● |
| Day Care Center, Adult | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | |
| Dry Cleaning, Major | | | | | | | | | | | | | | ● | | ● |
| Dry Cleaning, Minor | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Fairgrounds/Exhibition Area | | | | | | | | | | | | | | S | S | S |
| Fortune Teller/Psychic | | | | | | | | | | | | | | | | ● |
| Funeral Home *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | 33 | 33 | 33 | 33 |
| Furniture Restoration *(Ord. 15-74; 12-08-15)* | | | | | | | | | | ● | ● | ● | ● | ● | ● | ● |
| Golf Course and/or Country Club | ● | ● | | ● | ● | ● | ● | ● | | ● | | ● | | ● | ● | ● |
| Gymnastics/Dance Studio | | | | | | | | | ● | ● | ● | ● | ● | ● | ● | |
| Health/Fitness Center | | | | | | | | ● | ● | S | ● | ● | ● | ● | ● | ● |
| Hotel, Full Service *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | 22 | 22 | 22 | 22 | 22 | |
| Hotel, Limited Service *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | 23 | 23 | 23 | 23 | 23 | |
| Hotel, Residence/Extended Stay *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | 24 | | 24 | 24 | |
| Indoor Gun Range | | | | | | | | | | | | | | S | S | ● |
| Laundromat | | | | | | | | | | ● | | ● | ● | ● | ● | |

| SECTION 1.3(G) SERVICE USES (CONTINUED) | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A – Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Locksmith/Security System Company | | | | | | | | | | | ● | ● | ● | ● | ● | ● |
| Massage Therapy, Licensed | | | | | | | | | | | ● | ● | ● | ● | ● | ● |
| Massage Therapy, Unlicensed | | | | | | | | | | | | | | | | S |
| Meeting/Banquet/Reception Facility *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | S | S | S | S | |
| Pet Day Care | | | | | | | | | | | | 25 | 25 | 25 | 25 | |
| Print Shop, Major | | | | | | | | | | | | | ● | ● | ● | ● |
| Print Shop, Minor | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Private Club | | | | | | | | | | | | 29 | | 29 | 29 | |
| Repair Service, Indoor *(Ord. 15-74; 12-08-15)* | | | | | | | | | | ● | ● | ● | ● | ● | ● | ● |
| Restaurant *(Ord. 15-74; 12-08-15)* | | | | | | | | 26 | 26 | 26 | 26 | 26 | 26 | 26 | 26 | |
| Restaurant, Drive In | | | | | | | | | | | | 34 | 34 | 34 | 34 | |
| Sexually Oriented Uses | | | | | | | | | | | | | | | | |
| Small Engine Repair Shop | | | | | | | | | | | | ● | ● | ● | ● | S |
| Stable, Commercial | S | | | | | | | | | | | | | | | ● |
| Taxidermist | | | | | | | | | | | | | | ● | ● | ● |
| Theater, Drive In | | | | | | | | | | | | | | | | ● |
| Theater, Neighborhood | | | | | | | | | | | ● | ● | ● | ● | ● | S |
| Theater, Regional | | | | | | | | | | | | | | ● | ● | |
| Trailer Rental *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | S | | ● |
| Veterinarian Clinic and/or Kennel, Indoor | | | | | | | | | | | ● | ● | ● | ● | ● | ● |
| Veterinarian Clinic and/or Kennel, Outdoor *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | S | | ● |
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| SECTION 1.3(H) AUTOMOBILE AND RELATED USES | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A - Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Auto Parts Sales, Inside | | | | | | | | | | | | ● | ● | ● | | ● |
| Auto Parts Sales, Outside | | | | | | | | | | | | | | | | ● |
| Automobile Parking Lot/Garage | | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Automobile Paid Parking Lot/Garage | | | | | | | | S | | | | ● | ● | ● | ● | ● |
| Automobile Repair, Major *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | 35 | | 35 |
| Automobile Repair, Minor *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | 36 | 36 | 36 | 36 | 36 |
| Automobile Sales/Leasing, New *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | 37 | 37 | 37 |
| Automobile Sales, Used *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | 38 | 38 | 38 |
| Automobile Storage *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | S | | ● |
| Car Wash | | | | | | | | | | | | 27 | | 27 | 27 | 27 |
| Car Wash, Self-Serve *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | 39 | | |
| Motorcycle Sales/Service | | | | | | | | | | | | | | 40 | 40 | 40 |
| Recreational Vehicle/Truck Parking Lot or Garage | | | | | | | | | | | | | | S | | ● |
| Recreational Vehicle Sales and Service, New/Used | | | | | | | | | | | | | | 41 | | 41 |
| Salvage Yard | | | | | | | | | | | | | | | | S |
| Truck/Bus Repair | | | | | | | | | | | | | | | | 42 |
| Truck Sales, Heavy Trucks | | | | | | | | | | | | | | 43 | | 43 |
| Truck Terminal | | | | | | | | | | | | | | | | 44 |

| SECTION 1.3(I) WHOLESALE USES | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A - Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Mini-Warehouse/Public Storage | | | | | | | | | | | | | | S | | ● |
| Office/Showroom | | | | | | | | | | | ● | | ● | ● | ● | ● |
| Office/Warehouse/Distribution Center | | | | | | | | | | | | | ● | ● | ● | ● |
| Storage or Wholesale Warehouse | | | | | | | | | | | | | ● | ● | ● | ● |
| Winery | 28 | | | | | | | | | | | | ● | ● | ● | ● |

| SECTION 1.3(J) MANUFACTURING AND INDUSTRIAL USES | Residential Districts | | | | | | | Non-Residential Districts | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A - Agricultural | SF – Single Family (E – 10) | DTSF – Downtown SF | TH - Townhome | 2F – Two Family | MF – Multifamily | MH – Mobile Home | O – Office | DTO – Downtown Office | NS – Neighborhood Service | DTR – Downtown Retail | R – Retail | DTC – Downtown Commercial | C – Commercial | CC – Commercial Corridor | I – Industrial |
| Concrete/Asphalt Batching Plant, Permanent | | | | | | | | | | | | | | | | S |
| Concrete/Asphalt Batching Plant, Temporary | TEMPORARY BLDG PERMIT ISSUED BY BLDG OFFICIAL | | | | | | | TEMPORARY BLDG PERMIT ISSUED BY BLDG OFFICIAL | | | | | | | | |
| General Manufacturing/Industrial Use Complying with Performance Standards *(Ord. 15-74; 12-08-15)* | | | | | | | | | | | | | | S | S | ● |
| Limited Assembly and Manufacturing Use Complying with Performance Standards | | | | | | | | | | | | | S | ● | ● | ● |
| Machine Shop | | | | | | | | | | | | | | ● | ● | ● |
| Mineral Extraction | | | | | | | | | | | | | | | | S |
| Miscellaneous Hazardous Industrial Uses | | | | | | | | | | | | | | | | S |
| Portable Building Sales | | | | | | | | | | | | | | | | S |
| Recycling Collection Point | | | | | | | | ● | | ● | | ● | ● | ● | ● | ● |
| Recycling Center | | | | | | | | | | | | | | S | S | ● |
| Recycling Plant | | | | | | | | | | | | | | | | ● |
| Trailer/Mobile Home Display and Sales | | | | | | | | | | | | | | | | S |
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## 1.4 Conditional Development Standards

### 1. Private Street Development

Private Street Developments are subject to provisions of the Thoroughfare and Circulation Design Requirements ordinance, as it exists or may be amended. Private Street Developments are permitted by Specific Use Permit in the referenced districts. Private Street Developments that exist as of the adoption of the Thoroughfare and Circulation Design Requirements ordinance (May 10, 2005), and properties that are zoned by a planned development that permits Private Street Developments are excluded from the requirement for a Specific Use Permit. In considering a request for a Specific Use Permit for a Private Street Development, the Town Council shall use any of the following criteria:

a) New Development

1) Non-disruption of planned public roadways or facilities/projects (thoroughfares, parks, park trails, public pedestrian pathways, etc.);

2) Non-disruption to and from properties of future developments either on-site or off-site to the proposed subdivision;

3) No negative effect on traffic circulation on public streets;

4) No impairment of access to and from public facilities including schools or parks;

5) Adequate and timely provision of essential municipal services (emergency services, water/sewer improvements or maintenance, etc.);

6) Existence of natural and/or man-made boundaries around the development (creeks, floodplain, golf courses, parks); and/or

7) Absence of a concentration of Private Street Developments in the vicinity of the requested Private Street Development.

8) And any other criteria deemed appropriate by the Town Council

b) Conversion of existing subdivision to private streets

1) Criteria would include all the issues and procedures involved with new developments;

2) Petition signed by one hundred percent (100%) of the owners in the existing subdivision requesting approval to convert to private streets;

3) Formation of a property owners' association, if none exists, that would be responsible for owning and maintaining the converted streets and right-of-ways;

4) Replatting of existing subdivision to reflect changes; and/or

5) Applicant agreeing to contract with the Town for purchase of the converted infrastructure and rights-of-way from the Town.

### 2. Single Family Dwelling, Detached

Single family dwellings, detached may be developed in the referenced districts using the minimum development standards for the SF residential districts. The district standards selected shall be indicated on the preliminary and final plats for the property to be developed as single family dwellings, detached.

### 3. Gas Pumps

Gas pumps shall be subject to the following development standards:

a) Gas Pumps are permitted only within two hundred feet (200') of the right-of-way lines of intersecting major thoroughfares;

b) Gas Pumps are permitted at a maximum of two (2) corners at an intersection of two (2) major thoroughfares;

c) Canopies shall have pitched roofs;

d) Canopy support columns shall be entirely masonry encased;

e) A raised landscape planter of the same material as the masonry columns shall be provided at both ends of all pump islands. Raised landscape planters shall be between eighteen inches (18") and twenty-four inches (24") tall and a minimum of four feet (4') wide and four feet (4') long;

f) Raised planters shall be landscaped with a combination of shrubs and ground cover as approved by the Director of Planning, or his/her Designee.

g) Landscape island(s) totaling a length equal to fifty percent (50%) of the canopy perimeter and a minimum of six feet (6') wide shall be provided for screening and traffic flow purposes. These areas shall have a minimum of one (1) ornamental tree per twelve (12) linear feet or portion thereof and one (1) five (5) gallon shrub per one (1) linear foot arranged as approved by the Director of Planning, or his/her Designee.

h) Use shall be removed if closed for more than six (6) months; and

i) The canopy band face shall be of a color consistent with the main structure or an accent color and may not be backlit.

4. Homebuilder Marketing Center

Shall be used only to market homes/lots in the development where it is located when located in a residential zoning district. The use must be removed when all homes/lots in the development have been sold.

5. Home Occupation *(Ord. No. 18-39; 05-22-18)*

A home occupation, in districts where allowed, shall meet the following standards to maintain the residential character of the neighborhood while providing opportunities for home-based businesses:

a) Unless specifically permitted by this section, home occupations shall be conducted entirely within the main building.

b) The home occupation shall be clearly incidental and secondary to the use of the premises for residential purposes.

c) Home occupations shall not produce any alteration or change in the exterior appearance of the residence which is inconsistent with the typical appearance of a residential dwelling.

d) No external evidence of the occupation shall be detectable at any lot line, including advertising, signs, smoke, dust, noise, fumes, glare, vibration, or electrical disturbance beyond the property line.

e) No exterior storage of material, equipment, vehicles, and/or supplies used in conjunction with the home occupation.

f) No storage of hazardous materials for business purposes shall be allowed on the premises.

g) The home occupation shall not have a separate entrance.

h) Not more than two (2) patron- or business-related vehicles shall be present at any one time, and the proprietor shall provide adequate off-street parking for such vehicles. A business-related vehicle is one with a sign relating to the home occupation displayed on the exterior of the vehicle.

i) A maximum of one (1) commercial vehicle, capacity one (1) ton or less, may be used or parked on the property in connection with the home occupation. The commercial vehicle shall not be parked on the street.

j) The home occupation shall not require regular or frequent deliveries by large delivery trucks or vehicles in excess of one and one-half (1½) tons. This shall not be construed to prohibit deliveries by commercial package delivery companies.

k) The home occupation shall not display advertising signs or other visual or audio devices which call attention to the business use.

l) Merchandise shall not be offered or displayed for sale on the premises. Sales incidental to a service shall be allowed; and orders previously made via the telephone, internet, or at a sales party may be filled on the premises.

m) No traffic shall be generated by a home occupation in greater volumes than normally expected in a residential neighborhood, and any need for parking must be accommodated within the off-street parking provided for the residence (i.e. the driveway or garage) and along the street frontage of the lot.

n) The home occupation shall prohibit more than one (1) non-resident employee from regularly visiting the home for purposes related to the business.

o) The home occupation shall not offer a ready inventory of any commodity for sale.

p) The home occupation shall not accept clients or customers before 7:00 a.m. or after 10:00 p.m. This limitation on hours of operation shall not apply to allowed child care home occupations. Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. for outdoor activities.

q) Outdoor activities are not allowed, unless the activities are screened from neighboring property and public rights-of-way.

r) Uses permitted as home occupations shall include the following:

(1) Office of an accountant, architect, attorney, engineer, realtor, minister, rabbi, clergyman, or similar profession;

(2) Office of a salesman or manufacturer's representative, provided that no retail or wholesale transactions or provision of services may be personally and physically made on premises;

(3) Author, artist, sculptor;

(4) Dressmaker, seamstress, tailor, milliner;

(5) Music/dance teacher, tutoring, or similar instruction, provided that no more than three (3) pupils may be present at any one time;

(6) Swimming lessons or water safety instruction provided that a maximum of six (6) pupils may be present at any one time;

(7) Home crafts, such as weaving, model making, etc.

(8) Child Care: Licensed Child Care Home and Registered Child Care Home. Homes with seven (7) or more children shall meet the Town's building and/or fire codes.

(9) Community home and other residential care facility that qualifies as a community home under the Community Homes for Disabled Persons Location Act, Chapter 123 of the Texas Human

Resources Code and as amended, provided such facilities meet the requirements set out within this Ordinance;

(10) Internet based businesses; and

(11) Food Production Operations that produce non-potentially hazardous food. Examples of non-potentially hazardous foods include; bread, rolls, biscuits, sweet breads, muffins, cakes, pastries, cookies, fruit pies, jams, jellies, dried fruit and vegetables, pickles, and dry herbs.

s) Uses prohibited as home occupations shall include, but are not limited to the following:

(1) Animal hospital, commercial stable, kennel;

(2) Hair or Nail Salon/Barbershop;

(3) Boarding house or rooming house;

(4) Schooling or instruction with more than five (5) pupils;

(5) Restaurant or the sale of on premise food/beverage consumption of any kind;

(6) Automobile, boat, or trailer repair, small engine or motorcycle repair, large appliance repair, repair of any items with internal combustion engines, or other repairs shops;

(7) Cabinetry, metal work, or welding shop;

(8) Office for doctor, dentist, veterinarian, or other medical-related profession for the purpose of providing care to patients;

(9) On-premise retail or wholesale sale of any kind, except cottage food items produced entirely on premises as indicated in Paragraph r, (11) above;

(10) Commercial clothing laundering or cleaning;

(11) Mortuary or funeral home;

(12) Trailer, vehicle, tool, or equipment rental;

(13) Antique, gift, or specialty shop;

(14) Office or storage facility for a vehicle fleet operation; and

(15) Any use defined by the building code as assembly, factory/industrial, hazardous, institutional, or mercantile occupancy.

t) Determination of a Home Occupation Use not specifically listed. The Director of Development Services, or designee, shall determine whether a proposed use not specifically listed is appropriate as a home occupation. The Director shall evaluate the proposed home occupation in terms of its impact on neighboring property, its similarity to other allowed and prohibited uses, and its conformance with the regulations herein.

u) Appeal of the Director's Home Occupation Determination. If the applicant disagrees with the determination of the Director, the applicant may appeal to the Planning & Zoning Commission.

v) Any home occupation that was legally in existence as of the effective date of this Ordinance and that is not in full conformity with these provisions shall be deemed a legal nonconforming use.

6. Mobile Food Vendor

Mobile food vendors are subject to the following regulations:

a) Mobile food vendors are permitted in Retail, Downtown Retail, Downtown Commercial, and Commercial zoning districts;

b) Mobile food vendors shall be located on private property where an existing, permanent business operates in a building with a Certificate of Occupancy;

c) Mobile food vendors shall provide the Town with a copy of written permission from the property owner on an annual basis to allow the operation of a mobile vendor and to allow the mobile vendor and their customers access to a commercially plumbed public restroom on-site;

d) A mobile food vendor shall submit a site plan depicting the location of the mobile food vendor on the property, shall secure a health permit from the Town, and a permit from Building Inspections prior to the operation of such use;

e) Temporary connections to potable water are prohibited. Water shall be from an internal tank, and electricity shall be from a generator or an electrical outlet via a portable cord that is in conformance with the Electrical Code as adopted by the Town, including amendments thereto;

f) Mobile food vendors shall be located within fifty feet (50') of an entrance of a primary building that holds the Certificate of Occupancy;

g) Mobile food vendors shall be setback a minimum of one hundred feet (100') from major thoroughfares, as designated on the Town's Thoroughfare Plan, as it exists or may be amended;

h) Mobile food vendors may operate only during the business hours of the primary business on the property;

i) The operator shall possess a Town tax certificate showed as paid;

j) A drive through is not permitted in conjunction with the mobile food vendor;

k) Mobile food vendors shall not operate in required parking spaces, driveways, fire lanes or public roads;

l) Sales of food from a stationary vehicle excludes catering trucks; and

m) Mobile food vendors are prohibited in a temporary building.

7. Temporary Building *(Ord. No. 17-62; 08-22-17)*

a) Temporary buildings are permitted by right for houses of worship, public schools (kindergarten through twelfth grade only), and government agencies (*see* Chapter 3, Section 2.2).

b) Temporary buildings for private enterprises are permitted by Specific Use Permit.

c) A permit to erect a temporary building for a house of worship may be issued for an initial period of three (3) years.

d) The application for temporary building(s) shall be submitted to the Development Services Department in the form of a Preliminary Site Plan or Site Plan application with the accompanying material and exhibits:

(1) Written report documenting the following:

i. capacity of the permanent building(s), which is located or planned to be located on the same property for which the temporary building permit is being sought, compared to the enrollment, employment, and/or number of people attending the permanent building(s) at one time;

ii. total enrollment, employment, and/or membership size;

iii. documentation of growth records depicting the number of people in the congregation, school and/or office;

iv. whether the facility is a start-up or new facility;

v. indication of alternative options that were explored before a temporary building application was considered;

vi. acts of nature; and/or

vii. any other evidence which is reasonably related to the immediate need for additional space;

(2) A Preliminary Site Plan or Site Plan depicting the following:

i. a permanent solution to the immediate need for a new temporary building(s) showing the permanent building(s),

ii. the temporary building(s), and

iii. the required parking,

(3) Where an approved Preliminary Site Plan or Site Plan is in effect on the property, the applicant may note the location of the proposed temporary building(s) on the approved plan in lieu of submitting a new plan.

e) The temporary building(s) shall be removed within thirty (30) days of the date:

1. a Certificate of Occupancy is issued for the permanent building; or

2. the permit for the temporary building expires, whichever occurs first.

f) After the initial three-year period, a request for a one-year extension of the temporary building permit for a house of worship may be granted by the Planning & Zoning Commission provided the applicant:

1. has an approved and valid preliminary site plan or site plan for the permanent building(s).

2. has a specific plan of how an additional year would allow the applicant to construct the permanent building(s) by providing:

i. evidence of numeric growth, beyond that which was specifically anticipated by the applicant;

ii. membership, enrollment, and/or employment growth records;

iii. evidence that alternative options were explored before an extension of the temporary building permit was requested; and

iv. any other criteria reasonably deemed appropriate by the Planning & Zoning Commission.

8. Athletic Stadium or Field, Private

Permitted by Specific Use Permit when developed in conjunction with a School, Private or Parochial.

9. Rehabilitation Care Facility

Shall maintain a minimum separation of fifteen hundred feet (1,500') measured linearly from property line to property line from any other Rehabilitation Care Facility.

10. Antenna, Non-Commercial

a) Satellite Dishes and Wireless Broadband Antennas

1. In the A, SF, DTSF, 2F, and MH districts, satellite dishes and wireless broadband antennas are permitted only on the back half of a residential structure or in the back yard of a residential lot

unless a signal cannot be received in these areas. Should a satellite dish or wireless broadband antenna be placed somewhere other than on the back half of a residential structure or in the back yard of a residential lot, it shall be limited to not more than two feet (2') in diameter. Only three (3) satellite dishes and/or wireless broadband antennas shall be permitted per lot or primary structure. One (1) of the three (3) satellite dishes and/or wireless broadband antennas on a residential structure and/or lot may be up to twelve feet (12') in diameter. The other two (2) satellite dishes and/or wireless broadband antennas shall not exceed two feet (2') in diameter.

2. In the TH and MF districts, satellite dishes and wireless broadband antennas are permitted only on the back half of a residential structure or in the back yard of a residential lot unless a signal cannot be received in these areas. Should a satellite dish or wireless broadband antenna be placed somewhere other than on the back half of a residential structure or in the back yard of a residential lot, it shall be limited to not more than two feet (2') in diameter. Only three (3) satellite dishes and/or wireless broadband antennas shall be permitted per residential unit. One (1) of the three (3) satellite dishes and/or wireless broadband antennas on a residential unit may be up to twelve feet (12') in diameter. The other two (2) satellite dishes and/or wireless broadband antennas shall not exceed two feet (2') in diameter.

b) Non-commercial antennas shall not interfere with radio or television reception of adjoining property owners, and shall comply with all regulations of the Federal Communications Commission (FCC). In no case shall the height of such antennas exceed forty-five feet (45'), unless located on property owned or leased by the Town of Prosper, and proper guy wire securement shall be followed. In no manner shall the use of such equipment infringe upon adjoining property owners. Roof mounted satellite dishes in excess of fifty (50) pounds shall be approved by a registered architect or professional engineer by written letter to the building official, prior to installation, stating the antenna's stability and support and shall not extend more than six feet (6') above the first story.

11. Wireless Communications and Support Structures *(Ord. No. 18-12; 01-23-18)*

Permitted by Specific Use Permit in the referenced districts subject to the following standards:

a) The distance of a wireless communications support structure from an adjacent property line shall be determined by the Specific Use Permit.

b) The height of the support structure shall be determined by the Specific Use Permit.

c) Additional antennas may be placed on a wireless communications support structure with an existing Specific Use Permit without approval of a separate Specific Use Permit subject to approval of a site plan as necessary for the property.

d) Screening of the ground-mounted equipment shall be determined by the Specific Use Permit.

e) Temporary Wireless Communications and Support Structures shall be subject to the above-noted conditions; however, wireless communications and support structures and related equipment used on a temporary basis in conjunction with a special event, emergency situation, or equipment failure are not required to obtain a Specific Use Permit nor subject to the above-noted requirements but shall be required to obtain any and all permits as required by the Town. In no event shall any temporary wireless communications and support structures related to a special event, emergency situation, or equipment failure be maintained for more than sixty (60) days except with the express written approval of the Director of Development Services or designee, for any extension of time.

12. Antenna, Stealth *(Ord. No. 18-93; 11-13-18)*

a) Stealth antennas are permitted by right in the residential districts only as a secondary use when the primary use on the lot is a church, school, or athletic stadium or field.

b) Stealth antennas are permitted by right in the non-residential districts.

c) The Director of Development Services, or his /her designee, may approve a request to install a stealth antenna when the proposed stealth antenna is of a type that is specifically listed in the definition of Antenna, Stealth in Chapter 2, Section 1.2.

d) For stealth antenna requests of a type that are not specifically listed in this definition, the Town Council may determine if a proposed commercial antenna is a stealth antenna or not when considering site plan approval for the proposal.

13. Bus Terminal

Permitted by right in the CC district. Permitted by Specific Use Permit in the C and I districts. Bus parking and storage areas will be screened with a six foot (6') ornamental metal fence, three inch (3") caliper evergreen trees on twenty (20) foot centers, and five (5) gallon evergreen shrubs on three (3) foot centers located within a fifteen foot (15') landscape edge.

14. School District Bus Yard

A School District Bus Yard shall be owned and/or operated by a public Independent School District. Unless otherwise approved by the Planning & Zoning Commission, School District Bus Yards shall be screened using one of the following methods:

Option 1

a) A six foot (6') ornamental metal fence,
b) Three inch (3") caliper evergreen trees on twenty foot (20') centers, and
c) Five (5) gallon evergreen shrubs on three foot (3') centers.

Option 2

a) A six foot (6') clay-fired brick wall, and
b) Three inch (3") caliper evergreen trees on twenty foot (20') centers.

15. Research and Development Center

Any Research and Development Center that includes animal or biological testing will be permitted by Specific Use Permit in the designated districts; otherwise they are permitted by right.

16. Alcoholic Beverage Sales (*Ord. No. 16-60; 09-13-16); (Ord. No. 16-79; 12-13-16)*

Alcoholic Beverage Sales, as defined by the Prosper Zoning Ordinance, as amended, shall mean any establishment, place of business or person engaged in the selling of Alcoholic Beverages, as defined in the Texas Alcoholic Beverage Code, as amended, to the general public for off-premise personal or household consumption.

a) Alcoholic Beverage Sales shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.

b) Alcoholic Beverage Sales are permitted only in the NS, DTR, R, DTC, C, CC and I zoning districts.

c) Beer sales are not permitted in residential zoning districts.

d) Pursuant to the Town Charter, the sale of liquor, as defined in the Texas Alcoholic Beverage Code, as amended, shall be prohibited by a person or entity holding a package store permit, as described in the Texas Alcoholic Beverage Code, as amended, in any zoning district which allows, in whole or in part, residential development in the Town.

e) Alcoholic Beverage Sales shall not be located within the following:

1. Three hundred feet (300') from a church, public school, private school, and/or public hospital. However, Alcoholic Beverage Sales may be located within three hundred feet (300') of a private school if minors are prohibited from entering the place of business, as required by Section 109.53, Texas Alcoholic Beverage Code, as amended; or

2. One thousand feet (1,000) from a private school if the Town Council receives a request for this additional spacing requirement from the board of the private school, and the Town Council adopts the additional spacing requirements by resolution. But, the Town Council may not adopt this additional spacing requirement if: (i) minors are prohibited from entering the place of business engaged in Alcoholic Beverage Sales, pursuant to Section 109.53, Texas Alcoholic Beverage Code, as amended; (ii) the holder of a retail off-premise consumption permit or license if less than fifty percent (50%) of the gross receipt for the premises, excluding the sale of items subject to the motor fuels are from the sale or service of alcoholic beverages; or (iii) the holder of a license or permit issued under Chapter 27, 31 or 72, Texas Alcoholic Beverage Code, as amended, who is operating on the premises of a private school.

f) Measurement of the distance between the place of business engaged in Alcoholic Beverage Sales and the church or public hospital shall be along the property line of the street fronts, from front door to front door, and in a direct line across intersections. Measurement for the distance between the place of business engaged in Alcoholic Beverage Sales and a public or private school shall be:

1. In a direct line from the Property Line of the public or private school to the Property Line of the place of business, and in a direct line across intersections; or

2. If Alcoholic Beverage Sales are located on or above the fifth (5$^{th}$) story of a multistory building, in a direct line from the Property Line of the public or private school to the Property Line of the place of business, in a direct line across intersections, and vertically up the building at the Property Line to the base floor on which Alcoholic Beverage Sales are located.

g) In accordance with Section 109.33, Texas Alcoholic Beverage Code, as amended, in this Paragraph 16, "private school" means a private school, including a parochial school, that:

1. Offers a course of instruction for students in one or more grades from kindergarten through grade twelve; and

2. Has more than one hundred (100) students enrolled and attending courses at a single location.

h) If at any time an original Alcoholic Beverage permit or license is granted by the Texas Alcoholic Beverage Commission to an establishment, place of business, or person and the establishment, place of business or person satisfies the requirements regarding the distance requirements in this Paragraph 16, then the same shall be deemed to satisfy the distance requirements for all subject renewals of the license or permit. This shall not be the case if the Texas Alcoholic Beverage Commission revokes the license or permit.

17. Convenience Store With Gas Pumps (*Ord. No. 15-74; 12-08-15)*

Convenience Stores with Gas Pumps shall be subject to the following development standards:

a) Permitted in the designated districts only within two hundred feet (200') of the right-of-way lines of intersecting major thoroughfares;

b) Gas Pumps are permitted at a maximum of two (2) corners at an intersection of two (2) major thoroughfares;

c) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

d) Canopies shall have pitched roofs;

e) Canopy support columns shall be entirely masonry encased;

f) The canopy band face shall be a color consistent with the main structure or an accent color and may not be backlit; and

g) Use shall be removed if closed for more than six (6) months.

18. Nursery, Major

Permitted by Specific Use Permit in an Agricultural zoning district if designated as non-residential on the Future Land Use Plan.

19. Body Art Studio

Must be set back one thousand feet (1,000') from any other Body Art Studio, Residential Zoning District, church, Public, Private, or Parochial School, and day care.

20. Child Care Center, Licensed *(Ord. No. 18-39; 05-22-18)*

Notwithstanding anything to the contrary herein, a public independent school district is not required to obtain a SUP for the operation of a Licensed Child Care in a public school. A Licensed Child Care Center not operated by a public independent school district is permitted by SUP in all districts except the Industrial District.

21. Child Care Center, Home *(Ord. No. 18-39; 05-22-18)*

Permitted by right as a home occupation in the designated zoning districts and is subject to the regulations of Home Occupation.

22. Hotel, Full Service *(Ord. No. 15-74; 12-08-15)*

Full Service Hotel developments shall be subject to the following development standards:

a) External balconies and walkways shall be set back two hundred feet (200') from any residential zoning district.

b) Shall provide management staff on-site twenty four (24) hours a day.

c) Shall provide at least four (4) amenities from the list below:

- Indoor/Outdoor Pool
- Spa/Sauna
- Weight Room/Fitness Center
- Playground
- Sports Court
- Game Room
- Jogging Trail

d) Shall provide a full service restaurant offering three (3) meals a day.

e) Shall provide a minimum total of 10,000 square feet of meeting/event space.

f) No more than five percent (5%) of the total number of guest rooms shall have cooking facilities.

g) All room units must be accessed through an internal hallway, lobby, or courtyard.

23. Hotel, Limited Service *(Ord. No. 15-74; 12-08-15)*

Limited Service Hotel developments shall be subject to the following development standards:

a) A Specific Use Permit is required.

b) Access to guest rooms shall be restricted to exclusively to interior corridors.

c) External balconies and walkways shall be set back two hundred feet (200') from any residential zoning district.

d) Shall provide management staff on-site twenty four (24) hours a day.

e) Shall provide at least four (4) amenities from the list below:

- Indoor/Outdoor Pool
- Spa/Sauna
- Weight Room/Fitness Center
- Playground
- Sports Court
- Game Room
- Jogging Trail
- Conference Room (one thousand (1,000) square foot minimum)

f) Shall provide daily housekeeping.

g) The guest rooms shall not contain any cooking facility that includes a conventional oven, convection oven, stove top burner, grill, hibachi or hotplate.

24. Hotel, Residence/Extended Stay (*Ord. No. 15-74; 12-08-15)*

Residence/Extended Stay Hotel developments shall be subject to the following development standards:

a) A Specific Use Permit is required.

b) External balconies and walkways shall be set back two hundred feet (200') from any residential zoning district.

c) Shall provide laundry facilities on-site for guest use.

d) Access to guest rooms shall be restricted exclusively to interior corridors.

e) Shall provide management staff on-site twenty four (24) hours a day.

f) Shall provide at least five (5) amenities from the list below:

- Indoor/Outdoor Pool
- Spa/Sauna
- Weight Room/Fitness Center
- Playground
- Sports Court
- Game Room
- Jogging Trail
- Conference Room (one thousand (1,000) square foot minimum)

g) Shall be set back a minimum of one hundred feet (100') from any residential district.

h) Shall maintain fifteen percent (15%) of the lot area as outdoor open space, exclusive of required setbacks and parking areas, but including amenities from the above list except for the indoor pool and conference room(s) shall not count toward meeting the open space requirement. The minimum fifteen percent (15%) open space may be reduced by the Town Council upon approval of a Specific Use Permit providing evidence of other amenities meeting the intent of the open space requirement.

i) Shall provide daily housekeeping.

j) Any guest room indoor cooking facility shall not include a grill, hibachi or hotplate.

k) Shall provide a restaurant offering a minimum of one meal per day.

l) Shall be permitted only with frontage along US 380, Preston Road, or the Dallas Parkway.

25. Pet Day Care

Permitted by right subject to the following standards:

a) Hours of operation limited to 6:00 a.m. to 8:00 p.m.

b) A Pet Day Care must be located a minimum of one hundred feet (100') from restaurants and food preparation establishments (property line to property line).

c) Overnight boarding of animals and outdoor kennels are prohibited.

d) Provisions must be made for the sanitary disposal of all animal waste in accordance with the Animal Control ordinance and Building Codes, as they exist or may be amended.

26. Restaurant *(Ord. No. 15-74; 12-08-15); (Ord. No. 16-79; 12-13-16); (Ord. No. 17-49; 06-27-17)*

a) A Restaurant is permitted by Specific Use Permit in the NS Zoning District and is permitted by right in the O, DTO, DTR, R, DTC, C, and CC Zoning Districts subject.

b) Restaurants with drive-through are only permitted in the R, C, and CC Zoning Districts upon approval of a Specific Use Permit.

c) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 applies to restaurants with a drive-through.

d) Restaurants that sell Alcoholic Beverages for on-premise consumption shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.

e) A Restaurant that sells Alcoholic Beverages for on-premise consumption shall not be located within the following:

1. Three hundred feet (300') from a church, public hospital, public school and/or private school. However, Alcoholic Beverage Sales may be located within three hundred feet (300') of a private school if the holder of a license or permit holds a food and beverage certificate covering a premise that is located within three hundred feet (300') of a private school; or

2. One thousand feet (1000') from a private school if the Town Council receives a request for this additional spacing requirement from the board of the private school, and the Town Council adopts such additional spacing requirements by resolution. Measurement for the distance between a Restaurant or Cafeteria where Alcoholic Beverages for on-premise consumption are sold and a church or public hospital shall be along the property lines of the street fronts, from front door to front door, and in a direct line across intersections.

f) Measurement for the distance between a Restaurant or Cafeteria where Alcoholic Beverages for on-premise consumption are sold and a public and/or private school shall be:

1. In a direct line from the Property Line of the public and/or private school to the Property Line of the place of business, and in a direct line across intersections; or

2. If the Restaurant or Cafeteria that sells Alcoholic Beverages for on-premise consumption is located on or above the fifth ($5^{th}$) story of a multistory building, in a direct line from the Property

Line of the public and/or private school to the Property Line of the place of business, in a direct line across intersections, and vertically up the building at the Property Line to the base of the floor on which the Restaurant or Cafeteria is located.

g) If a Restaurant receives seventy-five percent (75%) or more of its gross revenue on a quarterly basis from the sale or service of Alcoholic Beverages for on-premise consumption, the use will no longer qualify as a Restaurant or Cafeteria and will be classified and regulated by the Town as an Alcoholic Beverage Establishment under the Zoning Ordinance.

h) There shall be no variances considered with regard to the regulations set forth herein.

27. Car Wash *(Ord. No. 15-74; 12-08-15)*

a) Permitted as only as an accessory use to a Convenience Store with Gas Pumps in the Commercial Corridor District.

b) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

28. Winery

A winery is permitted by right in the Agricultural District only when located on the same lot as a vineyard. The vineyard shall occupy a minimum of eighty percent (80%) of the lot, and the winery may not exceed twenty percent (20%) of the lot.

29. Private Club *(Ord. No. 17-32; 04-11-17)*

Private Clubs shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.

a) A Private Club is permitted only by specific use permit in R, C and CC zoning districts. A Private Club is also permitted by specific use permit as an accessory use in any zoning district only when in conjunction with the operation of a golf course.

b) The regulations herein applicable to a public school shall also apply to a day-care center or a child-care center as provided in Section 109.331, Texas Alcoholic Beverage Code, as amended.

c) A Private Club shall not be located within:

1. Eight hundred feet (800') from a church, public hospital, public school, private school, and/or residential zoning district. For this purpose, residential zoning districts shall include, but are not limited to, properties that are zoned Neighborhood Service and residential Planned Development Districts;

2. One thousand feet (1000') from a public school if the Town Council receives a request for this additional spacing requirement from the school district, and the Town Council adopts such additional spacing requirements by resolution; or

3. One thousand feet (1000') from a private school if the Town Council receives a request for this additional spacing requirement from the board of the private school, and the Town Council adopts the additional spacing requirements by resolution.

d) Measurement for the distance between a Private Club and the uses listed above or the nearest residential zoning district shall be in a direct line from the Property Line of the applicable use listed above or the nearest residential zoning district to the Property Line of the Private Club, and in a direct line across intersections.

e) There shall be no variances considered with regard to the regulations set forth herein however, a variance from the distances referenced herein may be approved by the Town Council for any property annexed by the Town after May 13, 2006, and upon which a restaurant is, or is proposed to be, located. In considering a distance variance, the following shall apply:

1. An application shall be submitted to the Town on a form provided by the Department of Development Services.
2. The application shall contain all required information on the form.
3. The Department of Development Services shall set a date for consideration of the application by the Town Council at a public hearing.
4. No less than ten (10) days before the date of consideration by the Town Council, the Director of Development Services or his or her designee shall provide notice to each owner, as indicated by the most recently approved municipal tax roll, of property within two hundred feet (200') of the property on which the distance variance is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.
5. In considering the application for a variance to any distance requirement, the Town Council shall consider if the distance requirement in the particular instance:
   i. is not in the best interest of the public;
   ii. constitutes waste or inefficient use of land or other resources;
   iii. creates an undue hardship on an applicant for a private club permit;
   iv. does not serve its intended purpose;
   v. is not effective or necessary; or
   vi. for any other reason that the Town Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.
6. The Town Council may impose reasonable conditions on the granting of a distance variance.
7. A variance granted pursuant to this section is valid for any subsequent renewals for the state-issued alcohol permit. A distance variance granted pursuant to this section may not be transferred to another location.

30. Alcoholic Beverage Establishment

a) Alcoholic Beverage Establishments shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.

b) An Alcoholic Beverage Establishment is permitted only by specific use permit in R, C and CC zoning districts.

c) The regulations herein applicable to a public school shall also apply to a day-care center or a child-care center as provided in Section 109.331, Texas Alcoholic Beverage Code, as amended.

d) An Alcoholic Beverage Establishment shall not be located within:

1. Eight hundred feet (800') from a church, public hospital, public school, private school, and/or residential zoning district. For this purpose, residential zoning districts shall include, but is not limited to, properties that are zoned Neighborhood Service and residential Planned Development Districts;

2. One thousand feet (1000') from a public school if the Town Council receives a request for this additional spacing requirement from the school district, and the Town Council adopts such additional spacing requirements by resolution; or
3. One thousand feet (1000') from a private school if the Town Council receives a request for this additional spacing requirement from the board of the private school, and the Town Council adopts the additional spacing requirements by resolution.

e) Measurement for the distance between an Alcoholic Beverage Establishment and the uses listed above or the nearest residential zoning district shall be in a direct line from the Property Line of the applicable use listed above or the nearest residential zoning district to the Property Line of the Alcoholic Beverage Establishment, and in a direct line across intersections.

f) There shall be no variances considered with regard to the regulations set forth herein.

31. Outdoor Merchandise Display, Temporary *(Ord. No. 15-74; 12-08-15)*

a) The outdoor display of merchandise shall be associated with the merchandise offered for sale on the same premise.

b) The outdoor display of merchandise shall not exceed 72 consecutive hours with a minimum of twenty-eight (28) days between each occurrence.

c) The outdoor display of merchandise shall not block or impede required accessibility.

32. Donation or Recycling Bin *(Ord. No. 15-74; 12-08-15)*

a) In the Single Family Districts and the Downtown Single Family District, a donation or recycling bin shall only be permitted on a lot or tract owned and occupied by a public school or a private/parochial school.

b) A donation or recycling bin requires approval of a Site Plan by the Planning & Zoning Commission and a permit issued by the Building Inspections Division.

c) The permit shall contain written authorization of the property owner.

d) A maximum of one (1) donation or recycling bin shall be permitted per lot or tract.

e) The donation or recycling bin shall be located within 100 feet (100') of the main structure but not located within the required front, side or rear property lines.

f) The donation or recycling bin shall not be located on any required parking space(s), nor located in a manner that blocks pedestrian access or a driver's visibility.

g) The donation or recycling bin shall not exceed six feet, six inches (6', 6") in height, six feet (6') in width and six feet (6') in length.

h) The donation or recycling bin shall clearly identify the name, address and telephone number of the permittee and operator, if different from the permittee.

i) The permittee shall maintain the area surrounding the donation or recycling bin free of any junk, garbage, trash, debris or other refuse material.

j) The permittee and operator shall be responsible for abating and removing all junk, garbage, trash, debris and other refuse material in the area surrounding the donation or recycling bin within twenty-four (24) hours of written or verbal notice from the Town.

k) The Town shall have the right to revoke any permit issued hereunder if permittee or operator fails to comply with the provisions of this subsection. The Town shall provide a written notification to the permittee or operator stating the specific grounds for revocation. Upon revocation, the donation or

recycling bin shall be removed from the permittee's real property within thirty (30) calendar days and, if not removed within this time period, the Town may remove, store and dispose of the donation or recycling bin at the permittee's sole cost and expense.

33. Funeral Home *(Ord. No. 15-74; 12-08-15)*

    On-site cremation services shall require a Specific Use Permit.

34. Restaurant, Drive In *(Ord. No. 15-74; 12-08-15)*

    The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

35. Automobile Repair, Major *(Ord. No. 15-74; 12-08-15)*

    a) A Specific Use Permit is required in the Commercial District

    b) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

36. Automobile Repair, Minor *(Ord. No. 15-74; 12-08-15)*

    The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

37. Automobile Sales/Leasing, New *(Ord. 15-74; 12-08-15)*

    a) A Specific Use Permit is required in the Commercial and Commercial Corridor Districts.

    b) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

38. Automobile Sales/Leasing, Used *(Ord. No. 15-74; 12-08-15)*

    a) A Specific Use Permit is required in the Commercial and Commercial Corridor Districts.

    b) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

39. Car Wash, Self-Serve *(Ord. No. 15-74; 12-08-15)*

    a) A Specific Use Permit is required in the Commercial District.

    b) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

40. Motorcycle Sales/Service *(Ord. No. 15-74; 12-08-15)*

    a) A Specific Use Permit is required in the Commercial and Commercial Corridor Districts.

    b) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

41. Recreational Vehicle Sales and Service, New/Used *(Ord. No. 15-74; 12-08-15)*

    a) A Specific Use Permit is required in the Commercial District.

    b) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

42. Truck/Bus Repair *(Ord. No. 15-74; 12-08-15)*

    The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

43. Truck Sales, Heavy Trucks *(Ord. No. 15-74; 12-08-15)*

    a) A Specific Use Permit is required in the Commercial District.

    b) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

44. Truck Terminal *(Ord. No. 15-74; 12-08-15)*

    The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.

45. Guest House *(Ord. No. 17-43; 06-13-17)*

    A guest house shall be subject to the following development standards:

    a) The guest house, if detached, shall be located on a lot or tract containing a minimum of one (1) acre.

    b) To be classified as an attached guest house, the second living quarters shall be integral to primary dwelling and be accessed through conditioned interior corridors. A guest house that is connected to the primary dwelling by a covered or enclosed walkway shall meet all conditions of a detached guest house.

    c) The guest house shall be located on the same lot or tract as the existing primary dwelling.

    d) If detached, the guest house shall be located behind the primary structure at a point no closer than ten (10) feet from the rear wall line of the primary dwelling.

    e) If detached, the guest house shall meet all rear yard and side yard setbacks that are required of the primary dwelling.

    f) If detached, the height of the guest house shall not exceed the height of the primary dwelling.

    g) If detached, a guest house shall not be finaled/approved for occupancy prior to the final/approval for occupancy of the primary dwelling.

    h) No more than one (1) guest house per lot or tract shall be permitted.

    i) The guest house shall not be rented or leased or offered for rent or lease, independently of the primary dwelling.

    j) The guest house shall not be sold separately from the sale of the entire property, including the primary dwelling.

    k) The guest house shall be serviced by the same electric and natural gas utility meters as the primary dwelling.

    l) The exterior building materials shall be consistent with the exterior materials of the primary dwelling.

    m) The maximum total area of a detached guest house, including garages, covered patios and any enclosed storage areas shall not exceed fifty percent (50%) of the dwelling area of the primary dwelling. However, in no instance, shall the maximum total area of a detached guest house, including garages, covered patios and any enclosed storage areas exceed 2,000 square feet.

n) In no case shall the combined area of the primary dwelling, guest house and/or other accessory buildings exceed the maximum percentage of lot coverage permitted for the zoning district in which the structures are located.

46. Residential Garage Loft *(Ord. No. 17-43; 06-13-17)*

A residential garage loft shall be subject to the following development standards:

a) The residential garage loft shall be located on the same lot or tract as the primary dwelling unit.

b) The residential garage loft shall be located above the garage and the total area of the unit shall not exceed 800 square feet.

c) The height of the residential garage loft shall not exceed the height of the primary dwelling.

d) No more than one (1) residential garage loft per lot or tract shall be permitted.

e) The residential garage loft shall not be rented or leased or offered for rent or lease, independently of the primary dwelling.

f) The residential garage loft shall not be sold separately from the sale of the entire property, including the primary dwelling.

g) The residential garage loft shall be serviced by the same electric and natural gas utility meters as the primary dwelling.

h) The exterior building materials shall be consistent with the exterior materials of the primary dwelling.

47. Community Home *(Ord. No. 18-39; 05-22-18)*

Community Homes are permitted in any residential zoning district but may not be located within one-half (1/2) mile of an existing Community Home. That distance is to be measured in a straight line. The number of motor vehicles permitted on the site or on a public right-of-way adjacent to the site shall not exceed the number of bedrooms in the home.

# SECTION 2
# DEFINITIONS

2.1 For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not discretionary.

2.2 Abutting, Adjacent, or Adjoining - Contiguous or sharing a common border or boundary with other property. Abutting, adjacent and adjoining shall include property immediately across an alley, but shall not include property across a street.

Accessory Building - A building that is subordinate to and functionally related to the primary building, which contributes to the comfort, convenience, or necessity of occupants of the primary building on the same platted lot. Accessory buildings shall be detached from the primary building.

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

Advertising Sign Or Structure - Any cloth, card, paper, metal, glass, wooden, plastic, plaster or stone sign or other sign, device or structure of any character whatsoever, including a statuary or place for outdoor advertising purposes on the ground or any tree, wall, bush, rock, post, fence, building or structure. The term "placed" shall include erecting, constructing, posting, painting, printing, tacking, mailing, gluing, sticking, carving, or otherwise fastening, affixing or making visible in any manner whatsoever. The area of an advertising structure shall be determined as the area of the largest cross-section of such structure. Directional, warning, or any other signs posted by public officials in the course of their public duties shall not be construed as advertising signs for the purpose of this Ordinance.

Airport/Heliport - A place where aircraft and/or helicopters can land and take off, usually equipped with hangars, facilities for refueling/repair and various accommodations for passengers.

Alcoholic Beverage - Means alcohol, or any beverage containing more than one-half (1/2) of one percent (1%) of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted, as defined by the Texas Alcoholic Beverage Code, as amended.

Alcoholic Beverage Establishment - Any establishment that derives seventy-five percent (75%) or more of its gross revenues on a quarterly basis from the sale or service of alcoholic beverages, as defined in the Texas Alcoholic Beverage Code, as amended, for on-premise consumption.

Alcoholic Beverage Sales - Any establishment, place of business, or person engaged in the selling of Alcoholic Beverages, as defined in the Texas Alcoholic Beverage Code, as amended, to the general public for off-premise personal or household consumption.

Alley - A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Antenna - An instrument or device consisting of wires, poles, rods, or reflecting discs, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum.

Antenna, Non-Commercial - An antenna and its support structure not exceeding forty-five feet (45') in height above the ground elevation at the base of the support structure, unless located on property owned or leased by the Town of Prosper, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum. This definition shall also include a satellite dish antenna not to exceed twelve feet (12') in diameter.

Antenna, Stealth - A commercial antenna and its support structure that is designed to be non-obtrusive, or virtually transparent or invisible to the surrounding neighborhood. Stealth Antennas include, but are not limited to:

- Antennas within a building's attic space;
- Antennas on the roof of a minimum three-story building and not visible from the property line of the lot on which the antenna is located; or
- Antennas located within a structure such as a flagpole, church steeple, subdivision monument, clock tower, or similar architectural feature, and Antennas located on an athletic field light pole. *(Ord. 18-93; 11-13-18)*

Antenna Support Structure - Any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of transmission, retransmission, and/or reception of electromagnetic, radio, television, or microwave signals.

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

Apartment - A room or suite of rooms in a Multiple-Family Residence arranged, designed, or occupied as a place of residence by a single family, individual, or group of individuals.

Artisan's Workshop - An establishment used for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leather-craft, hand-woven articles, and related items.

Assisted Care or Living Facility - A facility which provides residence and care to ten or more persons regardless of legal relationship who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; convalescing from illness; terminally ill; or temporarily homeless due to fire, natural disaster, or financial setback together with supervisory personnel. This definition shall also include a facility providing health care or rehabilitative services over a long period of time to persons chronically ill, aged, or disabled due to injury or disease.

Athletic Stadium or Field, Private - A private field(s) and structure used for sporting events with associated spectator seating, either permanent or temporary.

Athletic Stadium or Field, Public - A field(s) and structure owned and operated by the Town of Prosper and/or a local independent school district used for sporting events with associated spectator seating, either permanent or temporary.

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

Automobile Parking Lot/Garage - An area or structure where the parking of motor vehicles serves as the primary use on the lot. This use does not include the storage of gasoline.

Automobile Paid Parking Lot/Garage - An area or structure where a fee is charged for parking motor vehicles and which serves as the primary use on the lot. This use does not include the storage of gasoline.

Automobile Repair, Major - General repair or reconditioning of engines, air-conditioning systems, and transmissions for motor vehicles; wrecker or towing service with on-site storage of vehicles; collision services including body, frame, or fender straightening or repair; customizing; painting; vehicle steam cleaning; tire retreading; insurance estimations with on-site storage; undercoating and rust proofing, and other similar uses.

Automobile Repair, Minor - An establishment used for the dispensing or sales of automobile fuels, lubricants, and automobile accessories; the minor repair or replacement of parts and performing state inspections and making minor repairs necessary to pass said inspection; automobile detailing; and the sales and installation of automobile radios. Uses listed under "Automobile Repair, Major" or any other similar uses are not included.

Vehicles, which are inoperative or are being repaired, may not remain parked outside for a period greater than seven (7) days.

Automobile Sales, Service, and Leasing - The sale, rental or leasing of new automobiles or light load vehicles, and includes as incidental uses (i) automobile or light load vehicle used sales and (ii) on-site automobile repair services related to the sale, rental or leasing of new automobiles or light load vehicles*. (Ord. No. 17-49; 06-27-17)*

Automobile Sales/leasing, New - Sales, rental, and/or leasing of new automobiles or light load vehicles, including, as accessory uses: Automobile Sales, Used; Automobile Repair, Major; and Automobile Storage.

Automobile Sales, Used - Sales of used automobiles or light load vehicles.

Automobile Storage - The storage on a lot or tract of operable automobiles for the purpose of holding such vehicles for sale, lease, distribution, or storage.

Auto Parts Sales, Inside - The use of any building for the display and sale of new or used parts, including tires, for automobiles, panel trucks or vans, trailers, or recreation vehicles.

Auto Parts Sales, Outside - The use of any land area for the display and sale of new or used parts, including tires, for automobiles, panel trucks or vans, trailers, or recreation vehicles.

Bank, Savings and Loan, or Credit Union - An establishment for the custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds, including automated teller machines.

Basement (or Cellar) - A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

Beauty Salon/Barber Shop - Establishments primarily engaged in providing services generally involved in the care of the person or his apparel including, but not limited to, barber and beauty shops, tanning salons, ear piercing shops, cosmetic tattooing shops, and reducing salons.

Bed and Breakfast Inn - An owner (or operator) occupied residence with up to five (5) bedrooms available for overnight guests. A Bed and Breakfast Inn may provide for guest stays up to fourteen (14) consecutive days; however, it shall not offer weekly rental rates. Kitchen and dining facilities may be included to provide meals for guests only; however, no food preparation shall be permitted in guest bedrooms. A Bed and Breakfast Inn shall not include restaurants, banquet facilities, or similar services.

Big Box - Retail buildings over eighty thousand (80,000) square feet where the primary tenant occupies at least eighty percent (80%) of the building.

Block - An area enclosed by streets, or if said word is used as a term of measurement, it shall mean the distance along a side of a street between two intersecting streets; or if the street is of a dead-end type, a block shall be considered to be measured between the nearest intersecting street and the end of such dead-end street. In cases where platting is incomplete or disconnected, the Building Official shall determine the outline of the block.

Board of Adjustment - A five (5) member board with two (2) alternates appointed by the Town Council for the purpose of making special exceptions to the terms of the Town of Prosper Zoning Ordinance. See Chapter 1, Section 8.6 of this Ordinance for the specific duties and regulations of the Board of Adjustment. In the event that a Board of Adjustment is not appointed, the Town Council shall perform the duties and responsibilities assigned to the Board of Adjustment by this Ordinance.

Body Art Studio - An establishment whose services include tattooing and/or body piercing. Tattooing shall mean the placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person,

using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin. Body piercing shall mean the creation of an opening in an individual's body to insert jewelry or another decoration.

Breezeway - A covered passage one (1) story in height and six feet (6') or more in width connecting a main structure and an accessory building. A breezeway shall be considered an accessory building.

Buildable Area - The allowable area available to construct a building or structure after complying with the Town's applicable set back and maximum lot coverage requirements.

Building - Any structure intended for shelter, occupancy, housing or enclosure for persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

Building Height - The vertical distance between the average of the highest and lowest points of grade of that portion of the lot covered by the building to the highest point of a structure.

Building Line - A line parallel, or approximately parallel, to any front lot line at a specific distance there from, marking the minimum distance from the front lot line that a building may be erected.

Building, Main - A building in which the principal use of the lot on which it is situated is conducted. In a residential district the primary dwelling unit shall be deemed to be a main building on the lot on which it is situated.

Building Material and Hardware Sales, Major - An establishment for the sale of materials customarily used in the construction of buildings and other structures, including outside storage or display of materials or merchandise.

Building Material and Hardware Sales, Minor - An establishment for the sale of materials customarily used in the construction of buildings and other structures, without any outside storage or display of materials or merchandise.

Building Official - The inspector or administrative official of the Town charged with responsibility for issuing permits and enforcing the Zoning Ordinance and Building Code.

Building Permit - An official document or certificate issued by the Town of Prosper authorizing erection, construction, renovation, maintenance, or any other specified activity on any building, structure or land, or on any installations or facilities therein. The term "building permit" shall include but not be limited to building permits, electrical permits, mechanical permits, and plumbing permits.

Bus Terminal - Any premises for the transient parking or storage of motor-driven buses and the loading and unloading of passengers.

Business Service - Establishments primarily engaged in providing services not elsewhere classified, to business enterprises on a fee contract basis, including, but not limited to, advertising agencies, computer programming and software services, and office equipment sales, rental, leasing, or repair.

Cabinet/Upholstery Shop - An establishment for the production, display, and sale of cabinets, furniture, and soft coverings for furniture.

Campground or Recreational Vehicle Park - Any area that is designed for occupancy by transients using tents, mobile trailers, or recreational vehicles for temporary sleeping purposes.

Candlepower - The quantity of light required to illuminate a surface one (1) foot distance from a light source to the intensity of one (1) foot-candle.

Caretaker's/Guard's Residence - A residence located on a premises with a main non-residential use and occupied only by a caretaker or guard, and his/her family, employed on the premises.

Carport - A structure, either attached to or detached from another structure, open on a minimum of two sides designed or used to shelter not more than three vehicles and not to exceed twenty-four feet (24') on its longest dimension. Also called "covered parking area."

Car Wash - A facility where a customer can have a motorcycle, automobile and light load vehicle washed in exchange for financial consideration.

Car Wash, Self-Serve - A facility, typically coin operated, used by the customer to wash motorcycles, automobiles and light load vehicles.

Cemetery or Mausoleum - Property used for the interring of the dead.

Certificate of Occupancy - An official certificate issued by the Town through the Building Official that indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued; may be referred to as an Occupancy Permit.

Child Care Center, Home - A home occupation that occurs in the caregiver's home that provides care for less than twenty-four (24) hours a day to no more than six (6) children under the age of fourteen, plus six (6) additional children after school hours. The total number of children, including the caretaker's own children, is no more than twelve (12) at any time. This use is subject to registration/licensing with appropriate State agencies. *(Ord. No. 18-39; 05-22-18)*

Child Care Center, Incidental - An accessory use designed only for the care of children belonging to employees of the primary use. The center shall be completely contained within the primary use and shall not constitute more than fifteen percent (15%) of the main use. The operating hours of the center shall be the same as the primary use and shall not include overnight lodging, medical treatment, counseling, or rehabilitative services. This use is subject to registration/licensing with appropriate State agencies. *(Ord. No. 18-39; 05-22-18)*

Child Care Center, Licensed - A non-residential institution that provides care for less than twenty-four (24) hours a day for seven (7) or more children under the age of fourteen. This use is subject to registration/licensing with appropriate State agencies. *(Ord. No. 18-39; 05-22-18)*

Civic/Convention Center - A building or complex of buildings used for cultural, recreational, athletic, convention or entertainment purposes.

Clear-Cutting - Any indiscriminate cutting, plowing, or grubbing of Protected Tree(s) without regard to their type or size for the purpose of clearing an area of land of Trees.

College, University, Trade, or Private Boarding School - An institution established for educational purposes offering courses for study beyond the secondary education level, including trade schools and commercial schools offering training or instruction in a trade, art, or occupation. A Private Boarding School is an educational institution offering primary and secondary level courses. Dormitories for students and employees only are permitted in conjunction with these uses.

Commercial Amusement, Indoor - An enterprise providing for indoor recreational activities, services, amusements, and instruction for an admission fee. Uses may include, but are not limited to, bowling alleys, ice or roller skating rinks, bingo parlors, amusement arcades, and/or practice areas.

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

Community Center - A building or portion of a building owned and/or operated by a government entity or not-for-profit agency in which facilities are provided for civic, educational, political, or social purposes.

Community Home - A residence for persons with disabilities, limited to a maximum of six (6) persons with disabilities and two supervisors, no closer than one-half mile to an existing community home, permitted by right in all residential zoning districts. This use is subject to registration/licensing with appropriate State

agencies. This definition is subject to the Community Homes for Disabled Persons Act (Texas Human Resources Code, Section 123.001 et seq.) as it exists or may be amended. *(Ord. No. 18-39; 05-22-18)*

Comprehensive Plan - Graphic and textual form policies which govern the future development of the Town and which consists of various components governing specific geographic areas and functions and services of the Town.

Concrete/Asphalt Batching Plant, Permanent - A permanent manufacturing facility for the production of concrete or asphalt.

Concrete/Asphalt Batching Plant, Temporary - A temporary manufacturing facility for the on-site production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

Construction Yard and Field Office, Temporary - A building, structure, or storage/assembly yard used in conjunction with a development project for housing temporary supervisory or administrative functions related to development, construction, or the sale of real estate properties within the development and subject to removal at completion of construction.

Contractor's Shop and/or Storage Yard - A building, part of a building, or land area for the construction or storage (inside or out) of materials, tools, products, and vehicle fleets.

Convenience Store with Gas Pumps - A retail establishment that sells food and other consumable and non-consumable products for off-premise use or consumption. This definition shall also include the dispensing or sales of motor vehicle fuels, lubricants, and accessories, but shall not include automobile repair or the sale of replacement parts.

Convenience Store without Gas Pumps - A retail establishment that sells food and other consumable and non-consumable products for off-premise use or consumption.

Court - An open, unobstructed space, bounded on more than two sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

Coverage - The lot area covered by all buildings located thereon.

Cutoff - The point at which all light rays emitted by a lamp, light source or luminary are completely eliminated (cutoff) at a specific angle above the ground.

Cutoff Angle - The maximum angle formed by a line drawn in the direction of emitted light rays at the light source and a line perpendicular to the ground from the light source, beyond which no light is emitted.

Day Care Center, Adult - A facility that provides services under an Adult Day Care Program on a daily or regular basis, but not overnight, to four or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility. Adult Day Care Centers must be licensed by the Texas Department of Human Services.

Development - Any manmade change to improved or unimproved real estate, including but not limited to, buildings and/or other structures, paving, drainage, utilities, storage, and agricultural activities.

District - Any section or sections of the Town for which the regulations governing the use of land and the use, density, bulk, height and coverage of buildings and other structures are uniform for each class or kind of building therein.

Donation or Recycling Bin - An unattended receptacle with a door, slot or other opening that is intended to accept donated or recyclable materials, excluding containers associated with recyclable materials generated by the on-premise operator and receiving regular collection services. *(Ord. 15-74; 12-08-15)*

Downtown Public Parking Lot(s) - An area, other than street or public way, provided for self-parking by employees, visitors, and/or patrons of any state or local government, any public accommodations, retail or office establishments, or any other business open to the general public.

Drip Line - A vertical line running through the outermost portion of the crown of a tree and extending to the ground.

Dry Cleaning, Major - An industrial facility where fabrics are cleaned with substantially non-aqueous organic solvents on a commercial or wholesale basis.

Dry Cleaning, Minor - A custom cleaning shop or pick-up station not exceeding six thousand (6,000) square feet of floor area, including, but not limited to, dry cleaning plants having no more than one thousand five hundred (1,500) square feet of floor area for dry cleaning equipment.

Easement - A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Electrical Power Generating Plant - All equipment, fixtures, and property operated or maintained in connection with the production of electricity and transmission of electricity produced.

Equipment and Machinery Sales and Rental, Major - A building or open area used for the display, sale, rental, or storage of heavy equipment and machinery.

Equipment and Machinery Sales and Rental, Minor - A building or structure used for the inside display, sale, rental, or storage of light machinery, including, but not limited to, bicycles, lawn mowers, tools, and other small machinery.

Fairgrounds/Exhibition Area - An area where outdoor fairs, circuses, or exhibitions are held.

Family - One or more persons related by blood, marriage, or adoption, or a group not to exceed four (4) persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit and living as a single housekeeping unit.

Farmer's Market - An area containing individual vendors who offer fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers, and honey for sale. The following products are not permitted for sale at a Farmer's Market: any type of meat, fish, poultry, eggs, refrigerated dairy products, or home packaged items.

Farm, Ranch, Stable, Garden, or Orchard - An area which is used for the cultivation of vegetables, fruits, and grain or for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

Feed Store - An establishment for the selling of corn, grain, and other foodstuffs for animals and livestock and including other implements and goods related to agricultural processes, but not including farm machinery.

Fence - Any construction or hedge of any material, the purpose of which is to provide protection from intrusion (either physical or visual) to prevent escape, mark a boundary, or provide decoration. A wall shall be considered a fence. Restraining walls for the purpose of diverting water and retaining soil are not classified as a fence.

Flea Market, Inside - A building or structure wherein space is rented to vendors on a short-term basis for the sale of merchandise. The principal sales shall include new and used household goods, personal effects, tools, art work, small household appliances, and similar merchandise, objects, or equipment in small quantities. The term flea market shall not be deemed to include wholesale sales establishments or rental services establishments, but shall be deemed to include personal services establishments, food services establishments, retail sales establishments, and auction establishments.

Flood or Spot Light - Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Flood Plain - Any property within the limits as delineated by FEMA (Federal Emergency Management Agency) of the 100-year flood plain or as amended by an engineering flood study of the ultimate developed conditions prior to any reclamation.

Floor Area - The total gross square feet of floor space within the outside dimensions of a building including each floor level, but excluding carports, residential garages, and breezeways.

Floor Area Ratio (FAR) - The floor area of a main building or buildings on a lot, excluding structured parking garages, divided by the lot area.

Foot-Candle - A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle. When metric units are used, lux is the unit of light quantity. One (1) lux equals one (1) lumen per square meter of area. One (1) foot-candle equals 10.76 lux.

Fortune Teller/Psychic - A use involving the foretelling of the future in exchange for financial or other valuable consideration. Fortune telling shall include, but is not limited to, uses where the fortune is told through astrology, augury, card or tea reading, cartomancy, clairvoyance, clairaudience, crystal gazing, divination, magic mediumship, necromancy, palmistry, psychometry, phrenology, prophecy, and spiritual reading. Fortune telling does not include forecasting based on historical trends or patterns or religious dogma.

Fraternal Organization, Lodge, Civic Club, Fraternity, or Sorority - An organized group having a restricted membership and specific purpose related to the welfare of the members including, but not limited to, Elks, Masons, Knights of Columbus, Rotary International, Shriners, or a labor union.

Full Cutoff-Type of Luminaries or Horizontal Limited Luminaries - Luminaries constructed or shielded to direct all light at a cutoff angle of less than ninety (90) degrees.

Funeral Home - A place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation. On-site cremation services permitted in accordance with the Conditional Development Standards. *(Ord. 15-74; 12-08-15)*

Furniture, Home Furnishings and Appliance Store - Retail establishments selling goods used for furnishing the home, including, but not limited to, furniture, floor coverings, draperies, domestic stoves, refrigerators, and other household electrical and gas appliances.

Furniture Restoration - A workshop that specializes in furniture refinishing, including the use of all materials, tools, and chemicals associated with the use.

Garage, Private - An enclosed (on at least three (3) sides) accessory building, or a part of a main building, used for storage of automobiles and used solely by the occupants and their guests. Also called “enclosed parking space.”

Gas Pumps - Any facility, equipment, or fixture, including a canopy, used for retail dispensing of motor vehicle fuels.

General Manufacturing/Industrial Use Complying with Performance Standards - Manufacturing of finished products and component products or parts through the processing of materials or substances, including basic industrial processing. Such operations shall be determined by Health, Fire, and Building officials not to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation.

Glare - Direct light emitted from a light source, which is sufficient to cause annoyance, discomfort, or temporary loss of visual performance and visibility.

Golf Course and/or Country Club - A land area and buildings used for golf, including fairways, greens, tee boxes, driving range, putting green, and associated maintenance and retail facilities. This definition shall also

include clubhouses, dining rooms, swimming pools, tennis courts, and similar recreational or service uses available only to members and their guests.

Governmental Office - A building used for the provision of governmental executive, management, administrative, and/or postal services. Governmental offices include those facilities owned and/or operated by city, special district, county, state, and federal agencies.

Green Belt - An open space that may be of irregular form that may include trees typically found along a natural or manmade feature such as a creek, flood plain, escarpment, right-of-way, or park.

Guest House - A second, attached or detached dwelling unit located on the same lot or tract as the primary dwelling unit, which provides for living, sleeping, and cooking facilities and is used by family members, guests of the family, or a domestic worker hired by the homeowner of the primary dwelling unit. A mobile home or a HUD-Code manufactured home shall not be considered as a guest house. (*Ord 17-43; 06-13-17)*

Gymnastics/Dance Studio - A building or portion of a building used as a place of work for a gymnast, dancer, or martial artist or for instructional classes in gymnastics, dance, or martial arts.

Health/Fitness Center - A public or private facility operated to promote physical health and fitness. Activities may include exercise, physical therapy, training, and education pertaining to health and fitness. Uses or combinations of uses or facilities would typically include, but are not limited to, game courts, weight lifting and exercise equipment, aerobics, swimming pools and spas, and running or jogging tracks.

Heavy Load Vehicle - A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight (GVW) of greater than eleven thousand (11,000) pounds, such as large recreational vehicles (originally manufactured as RVs, not converted), tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "Heavy Load Vehicle" unless specifically stated otherwise.

Height of Luminary - The height of a luminary shall be the vertical distance from the ground directly below the centerline of the luminary to the lowest direct light emitting part of the luminary.

Helistop - A place where helicopters can land and take off only and excluding refueling, maintenance, repairs, and storage of helicopters.

Homebuilder Marketing Center - A building or structure used for the marketing and sale of lots and/or homes.

Home Occupation - An occupation, which is secondary to the primary use of a dwelling as a residence, conducted on residential premises by the occupant of the residence. Home occupations shall be subject to the conditions set forth in Chapter 3, Section 1.4(5) of this Ordinance.

Hospital - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, helistops, outpatient facilities, or training facilities as licensed by the State of Texas.

Hotel, Full Service - A building or group of buildings designed for and occupied as a temporary lodging place; where financial consideration is generally calculated on a nightly basis; provides a restaurant offering three (3) meals a day; provides meeting/event space; and is not classified as a limited service hotel or a residence hotel. *(Ord. 15-74; 12-08-15)*

Hotel, Limited Service - A building or group of buildings designed for and occupied as a temporary lodging place; where financial consideration is generally calculated on a nightly basis and is not classified as a full service hotel or a residence/extended stay hotel. *(Ord. 15-74; 12-08-15)*

Hotel, Residence/Extended Stay - A building or group of buildings designed for and occupied as a temporary lodging which may include an extended stay and where financial consideration is generally calculated on a nightly, weekly or monthly basis and is not classified as a limited service hotel or a full service hotel. *(Ord. 15-74; 12-08-15)*

Household Care Facility - A dwelling unit which provides residence and care to not more than six (6) persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; convalescing from illness; terminally ill; or rendered temporarily homeless due to fire, natural disaster or financial setbacks, living together with not more than two (2) supervisory personnel as a single housekeeping unit. This definition is subject to the Personal Care Facility Licensing Act (Texas Health and Safety Code, Section 247.001 *et seq*.) and the Community Homes for Disabled Persons Location Act (Texas Human Resources Code, Section 123.001 *et seq*.) as they presently exist or may be amended in the future. *(Ord. No. 18-39; 05-22-18)*

Household Pet - A domesticated animal kept for pleasure rather than utility, including, but not limited to, a dog, cat, or bird.

House of Worship - A building designed and used primarily for religious assembly and worship and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns, rabbis, or other religious personnel on the premises (tax exempt as defined by State law). This definition includes, but is not limited to, churches, temples, synagogues, and mosques. For the purposes of this Ordinance, bible study and other similar activities that occur in a person's primary residence shall not apply to this definition.

Illumination Level - Average lighting intensity measured at grade (in foot-candles).

Incandescent Light - Illumination produced by a filament, which is heated by an electric current, including quartz and halogen lights.

Incidental Use - Any use different from the primary use but which compliments and/or supplements the primary use, which shall not constitute more than fifteen percent (15%) of the main use.

Indoor Gun Range - Any indoor facility open to the public and occupying all or a portion of a building where firearms are discharged for testing or recreation purposes.

Industrial Park - A large tract of land that has been planned, developed, and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

Insurance Office - A building or facility used for the sales, management, and administration of insurance services, including the estimation of automobile damages, but excluding on-site parking/storage of damaged vehicles.

Lamp - The component of a luminary that produces the actual light.

Landfill - A tract of land used for the burial of farm, residential, institutional, industrial, or commercial waste that is not hazardous, medical, or radioactive.

Landscaping - Material such as, but not limited to, grass, groundcovers, shrubs, vines, hedges, trees or palms, and non-living durable material commonly used in landscaping, such as, but not limited to, rocks, pebbles, sand, walls or fences, but excluding paving.

Laundromat - A facility where patrons wash, dry, or dry-clean clothing and other fabrics in machines operated by the patron.

Light Load Vehicles - A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight (GVW) not greater than eleven thousand (11,000) pounds, and having no more than two (2) axles, such as pick-up trucks, vans, recreational vehicles (less than thirty-two feet (32') in length), campers and other similar vehicles but not including automobiles and motorcycles.

Light Pollution - The shining of light produced by luminaries above the height of the luminaries and into the sky.

Light Trespass - The shining of light produced by luminaries beyond the boundaries of the property on which it is located.

Limited Assembly and Manufacturing Use Complying with Performance Standards - The fabrication, assembly, manufacturing, and packaging of finished products or parts, predominantly from previously prepared materials, but excluding basic industrial processing. Such operations shall be determined by Health, Fire, and Building officials not to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation.

Loading Space - An off-street space or berth used for the delivery and loading or unloading of vehicles.

Locksmith/Security System Company - Establishments primarily engaged in providing, installing, repairing, and/or monitoring locks and electronic security systems.

Lot - Any plot of land occupied or intended to be occupied by one main building and the required parking, or a group of main buildings, and accessory building and uses, including such open spaces as are required by this Ordinance, and other laws or ordinances, and having its principal frontage on a public street or officially approved place.

Lot, Area - The total area, measured on a horizontal plane, included within lot lines.

Lot, Corner - A lot which has at least two adjacent sides abutting a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees.

Lot, Depth - The mean horizontal distance between the front and rear lot lines.

Lot, Double Frontage - A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, Flag or Panhandle - A lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width, but not less than twenty-five feet (25'). The maximum distance of the area less than the required width from the front property line shall be one hundred ten feet (110').

Lot, Interior - A lot other than a corner lot.

Lot, Key - A corner lot that is so designed that the lots located directly behind it face the side street of the corner lot and are not separated by an alley.

Lot Frontage - That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

Lot Line, Front - The narrower side of the lot abutting a street. Where two lot lines abutting streets are of equal length, the owner shall have a choice in designating which shall be the lot frontage. For a lot which has a boundary line which does not abut the front street line, is not a rear lot line and lies along the same general directional orientation as the front and rear lot lines, said line shall be considered a front lot line in establishing minimum setback lines.

Lot Line, Rear - The lot line farthest from and most parallel to the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line.

Lot Line, Side - Any lot line not the front or rear lot line.

Lot Lines or Property Lines - The lines bounding a lot as defined herein.

Lot of Record - A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk of Collin or Denton County or a lot subdivided by metes and bounds description prior to October 1984.

Lot Width - The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line that is closest to the front lot line.

Lumen - Unit used to express the light output of a lamp or fixture.

Luminary - A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

Luminous Tube Lighting - Gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used (*e.g.*, neon or argon).

Machine Shop - A workshop where metal fabrication tools, including, but not limited to, lathes, presses, and mills, are used for making, finishing, or repairing machines or machine parts.

Major Thoroughfare - A dedicated street or highway route designated as a Thoroughfare by the Thoroughfare Plan map of the Comprehensive Plan.

Manufactured Home - A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development (HUD), transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems with the appropriate label. The term does not include a recreational vehicle. (or under the Texas Manufactured Housing Standards Act, Chapter 1201, Texas Occupations Code, as amended).

Masonry Construction - Unless otherwise provided for in this Ordinance, Masonry Construction constitutes clay fired brick, natural and manufactured stone, granite, marble, stucco, and architectural concrete block as exterior construction materials for all structures. Other exterior construction materials for non-residential structures are tilt wall concrete panels, sealed and painted split faced concrete block, and high impact exterior insulation and finish systems (EIFS). High impact EIFS is only permitted when installed a minimum of nine feet (9') above grade at the base of the wall on which it is installed.

Massage Therapy, Licensed - Any place of business in which massage therapy is practiced by a massage therapist, as defined and licensed by State law. "Massage therapy," as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body message. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower or cabinet baths. Equivalent terms for "massage therapy" are massage, therapeutic massage. Massage and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

Massage Therapy, Unlicensed - Any place of business in which massage therapy is practiced by an unlicensed massage therapist. "Massage therapy," as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body message. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower or cabinet baths. Equivalent terms for "massage therapy" are massage, therapeutic massage. Massage and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

Meeting/Banquet/Reception Facility - A building which is rented, leased or otherwise made available to any person or group for a private event function that is not open to the general public, whether or not a fee is charged. *(Ord. 15-74; 12-08-15)*

Mineral Extraction - The process of extracting sand, gravel, stone, petroleum, gas, or other minerals/natural resources from the earth. This definition does not include drilling wells for water.

Mini-Warehouse/Public Storage - A building(s) containing separate, individual self-storage units for rent or lease. The conduct of sales, business, or any activity other than storage shall be prohibited within any individual storage unit.

Miscellaneous Hazardous Industrial Use - Any industrial use not specifically defined in this section that is determined by Health, Fire, or Building officials to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation.

Mobile Food Vendor - Any person or persons who operates or sells food from a stationary cart or trailer mounted on chassis, but without an engine for period of 15 days or greater per year. Mobile food vendors who operate for 14 days or less shall be considered temporary food establishments, as defined by the Town of Prosper Health Ordinance as it exists or may be amended.

Mobile Home - A structure that was constructed before June 15, 1976, transportable in one or more section, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. (or under the Texas Manufactured Housing Standards Act, Chapter 1201, Texas Occupations Code, as amended).

Model Home - A single-family dwelling in a developing subdivision located on a legal lot of record that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built in the same subdivision.

Modular Home (or Industrialized Housing) - "Modular home" means a structure or building module as defined, under the jurisdiction and control of the Texas Department of Licensing and Regulation and that is installed and used as a residence by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include a mobile home as defined in the Texas Manufactured Housing Standards Act (Chapter 1201, Texas Occupations Code, as amended); nor does it include building modules incorporating concrete or masonry as the primary structural component.

Motorcycle - A usually two (2) wheeled self-propelled vehicle having one (1) or two (2) saddles or seats, and which may have a sidecar attached. For purposes of this Ordinance, motorbikes, motor scooters, mopeds, and similar vehicles are classified as motorcycles.

Motorcycle Sales/Service - The display, sale, repair, and servicing of new or used motorcycles.

Motor Vehicle - Any vehicle designed to carry one or more persons, which is propelled or drawn by mechanical or electrical power, such as automobiles, trucks, motorcycles, and buses.

Multifamily Dwelling - Attached dwelling units designed to be occupied by three or more families living independently of one another, exclusive of Full Service Hotels, Limited Service Hotels, or Residence/Extended Stay Hotels. *(Ord. 15-74; 12-08-15)*

Municipal Uses Operated by the Town of Prosper - Any area, land, building, structure, and/or facility owned, used, leased, or operated by the Town of Prosper, Texas, including, but not limited to, administrative office, maintenance facility, fire station, library, sewage treatment plant, police station, water tower, service center, park, heliport, helistop, and golf course.

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

Net Acre - The area within the platted limits of a lot. For the purpose of calculating residential density, Net Acreage shall not include the following:

- Right-of-way dedicated for major thoroughfares.
- Required parkland dedication.
- Detention.
- Land used for non-residential purposes.

For the purpose of calculating residential density, Net Acreage may include the following:

- Non-reclaimed floodplain.
- Private open space.
- Park dedication in excess of minimum park dedication requirements.
- Detention ponds that contain a constant water level, are landscaped, or otherwise treated as an amenity for the development, as determined by the Director of Planning or his/her designee

Nonconforming Use - A building, structure, or use of land lawfully occupied at the time of the effective date of this Ordinance or amendments thereto, but which does not conform to the use regulations of the district in which it is situated.

Non-Residential Property - Property zoned or used for other than residential purposes.

Nursery, Major - An establishment for the cultivation and propagation, display, storage, and sale (retail and wholesale) of large plants, shrubs, trees, and other materials used in indoor or outdoor plantings; and the contracting for installation and/or maintenance of landscape material as an accessory use. Outdoor display and storage is permitted.

Nursery, Minor - A retail business for the display and/or sale of trees, shrubs, flowers, ornamental plants, seeds, garden and lawn supplies, and other materials used in indoor and outdoor planting, without outside storage or display.

Occupancy - The use or intended use of the land or buildings by proprietors or tenants.

Office and Storage Area for Public/Private Utility - The pole yard, maintenance yard, or administrative office of public or private utilities.

Office Center - A building or complex of buildings used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, which may include ancillary services for office workers such as a coffee shop, newspaper or candy stand.

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

Office/Warehouse/Distribution Center - A building primarily devoted to storage, warehousing, and distribution of goods, merchandise, supplies, and equipment. Accessory uses may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.

Officially Approved Place of Access - Access, other than a dedicated street, to a property that is approved by the Town.

Off-Street - Off the right of way of a public street or place.

Open Storage - The outside storage or exhibition of goods, materials, merchandise, or equipment on a lot or tract. Open storage must meet the requirements in Chapter 4, Section 5.2(D, E).

Ordinance - The Zoning Ordinance of the Town, as it exists or may be amended. The term "ordinance," not capitalized, refers to any other ordinance of the Town.

Outdoor Lighting - The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Outside Merchandise Display, Incidental - The unenclosed display of commodities, materials, goods, inventory or equipment readily accessible to the public for retail sales in conjunction with a primary enclosed use. *(Ord. 15-74; 12-08-15)*

Outdoor Merchandise Display, Temporary - The temporary display of merchandise such as a sidewalk sale subject to Conditional Development Standards. *(Ord. 15-74; 12-08-15)*

Outdoor Storage, Incidental - The unenclosed storage of commodities, materials, goods, or equipment in conjunction with a primary enclosed use and typically located in an area not readily accessible to the public. *(Ord. 15-74; 12-08-15)*

Parking Lot - An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.

Parking Space - An area designated for the parking of a vehicle.

Park or Playground - An area developed for active play and recreation that includes, but is not limited to, open space, sports courts, play equipment, and trails.

Pawn Shop - An establishment where money is loaned on the security of personal property pledged in the keeping of the owners (pawnbroker).

Permitted Use - Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Pet Day Care - A commercial institution or place designed for the care of no more than one (1) household pet per one hundred (100) square feet of gross floor area.

Photometric Plan - A point-by-point plan depicting the intensity and location of lighting on the property.

Planned Development District - Planned associations of uses developed as integral land use units such as industrial parks or industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing, including attached single-family dwellings or any appropriate combination of uses which may be planned, developed or operated or integral land use units either by a single owner or a combination of owners.

Planning & Zoning Commission - A board, appointed by the Town Council as an advisory body, authorized to recommend changes in the zoning and other planning functions as delegated by the Town Council. Also referred to as the "P&Z" or the "Commission." In the event that a Commission is not appointed, the Town Council shall perform the duties and responsibilities assigned to the Commission by this Ordinance.

Plat - A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the Town of Prosper and subject to approval by the Planning & Zoning Commission and filed in the plat records of either Collin or Denton County. The plat must be prepared by a Public Surveyor registered in the State of Texas.

Plot - A single unit or parcel of land or a parcel of land that can be identified and referenced to a recorded plat or map.

Portable Building Sales - An establishment that displays and sells structures which are capable of being carried and transported to another location, not including mobile homes.

Premises - Land together with any buildings or structures situated thereon.

Primary Use - The principal or predominant use of any tract, lot, or building.

Print Shop (Major) - An establishment specializing in long-run printing operations including, but not limited to, book, magazine, and newspaper publishing using engraving, die cutting, lithography, and thermography processes.

Print Shop (Minor) - An establishment specializing in short-run operations to produce newsletters, flyers, resumes, maps, construction documents and plans, and similar materials using photocopying, duplicating, and blue printing processes. This definition shall include mailing and shipping services, but exclude the on-site storage of heavy load fleet vehicles.

Private Club - An establishment holding a Private Club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code, as amended, that derives thirty-five percent (35%) or more of its gross revenue from the sale or service of Alcoholic Beverages for on-premise consumption and that is located within a dry area as defined in Title 6 (Local Option Elections) of the Texas Alcoholic Beverage Code, as amended. Private Club does not include a fraternal or veteran's organization, as defined in the Texas Alcoholic Beverage Code, as amended, holding a Private Club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code. A Private Club does not include the holder of a food and beverage certificate, as defined in the Texas Alcoholic Beverage Code, as amended. Unless the person owning or operating the use supplies the building official with records to prove otherwise, an establishment holding a Private Club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code, as amended, is presumed to derive thirty-five percent (35%) or more of its gross revenue from the sale or service of Alcoholic Beverages for on-premise consumption.

Private Recreation Center - A recreational facility, including, but not limited to, clubhouse, swimming pool, playground, and open space, operated for the exclusive use of private residents or neighborhood groups and their guests, and not the general public.

Private Street Development - A development of two or more lots sharing private gated vehicular access ways that are not dedicated to the public and are not publicly maintained. Private streets and alleys may be established only under the terms of the Subdivision Ordinance. The term "Private Street" shall be inclusive of alleys.

Private Utility (other than listed) - A non-public utility requiring special facilities in residential areas or on public property such as electricity, natural gas, or telecommunications not customarily provided by the municipality or public utilities. All radiating equipment must comply with current Federal Communications Commission (FCC), Environmental Protection Agency (EPA), Occupational Health and Safety Administration (OSHA), and all other applicable State and Federal regulatory agency requirements and guidelines for human safety.

Property Line - When the property line is the initial point of establishing measurement requirements for the sale of any type of Alcoholic Beverage, "Property Line" shall mean the nearest property line of the lot where the sale of any type of Alcoholic Beverage may occur, without regard to intervening structures or objects, to the nearest property line of the lot where the church, public hospital, public school, private school and/or residential zoning district, as applicable, is located.

Protected Area - The 100-year floodplain plus the area within three hundred feet (300') of the 100-year floodplain.

Protected Residential Property - Any property within the Town that meets one of the following requirements:

- The property is zoned a residential district as defined within the Zoning Ordinance or zoned a planned development for residential uses;
- The property is designated on the Comprehensive Plan as any type of residential; or
- The property is used or subdivided for use as residential.

Railroad Track and Right-Of-Way - The right-of-way and track used by a railroad, but not including railroad stations, sidings, team tracks, loading facilities, dockyards, or maintenance areas.

Recreational Vehicle (RV) - A portable or mobile living unit used for temporary human occupancy away from the place of permanent residence of the occupants and self-propelled (motorized). *Also see* Heavy Load Vehicle.

Recreational Vehicle/Truck Parking Lot or Garage - An area or structure designed for the short or long-term parking or storage of recreational vehicles, boats, or heavy load vehicles.

Recreational Vehicle Sales and Service, New/Used - Sales and/or leasing of new and/or used recreational vehicles or boats, including, as an accessory use, repair work of recreational vehicles and boats.

Recycling Center - A facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans are collected, stored, flattened, crushed, or bundled, essentially by hand within a completely enclosed building.

Recycling Plant - A facility that is not a junkyard and in which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal cans; and other products, are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production.

Redevelopment - Any manmade change or alteration to a design and/or layout of an existing Development(s) including repair, expansion and/or removal and replacement of existing building and/or structure, paving drainage, utilities, storage and/or agricultural uses.

Rehabilitation Care Facility - A dwelling unit which provides residence and care to not more than nine (9) persons regardless of legal relationship who have demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct living together with not more than two supervisory personnel as a single housekeeping unit.

Rehabilitation Care Institution - A facility which provides residence and care to ten (10) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

Repair Service, Indoor - The maintenance and repair of electronics, appliances and fixtures customarily used in a home or office. The term does not include any type of repair to engines or other motorized equipment or vehicles. *(Ord. 15-74; 12-08-15)*

Research and Development Center - A facility that includes laboratories and experimental equipment for medical testing, prototype design and development, and product testing. Any facility that is determined by Health, Fire, or Building officials to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation is not to be included in this category.

Residence - Any building or portion thereof, which is designed or used as living quarters for one or more families, but not including mobile homes.

Residential District - District where the primary purpose is residential use.

Residential Garage Loft - A small, accessory dwelling located above a private garage which provides for living, sleeping, and cooking facilities and is used by family members, guests of the family, or a domestic worker hired by the homeowner of the primary dwelling unit. (*Ord 17-43; 06-13-17)*

Residential Property - Any property that is either zoned for or designated on the Future Land Use Plan for residential uses.

Restaurant - An establishment where food and drink are prepared and consumed primarily on the premises. Drive-through service is permitted in accordance with the Conditional Development Standards. *(Ord. No. 17-49; 06-27-17)*

Restaurant, Drive-In - An eating establishment where primarily food or drink is served to customers in motor vehicles or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises.

Retail/Service Incidental - Any use different from the primary use but which compliments and/or supplements the primary use. Said use shall be operated for the benefit or convenience of the employees, visitors, or customers of the primary use. Incidental shall mean a floor area that constitutes not more than fifteen percent (15%) of the main use.

Retail Stores and Shops - An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Retail stores and shops include, but are not limited to, art and craft store, retail bakery, bookstore, boot and shoe sales, ceramics store, clothing and apparel store, computer store, department store, fabric store, florist, grocery store, food market, hobby or toy store, leather store, meat market, medical supply store, music instrument sales, novelty or gift shop, optical store, pet shop, drugstore or pharmacy, sporting goods (including the sale of firearms) store, trophy sales, television store, and used clothing store.

Retirement Housing - A building or group or buildings consisting of attached or detached dwelling units designed for the housing of age-restricted residents. In addition to housing, this type of facility may provide services to its residents such as meals in a central dining room, housekeeping, transportation and activity rooms. The facility shall not be licensed as an assisted living center or a skilled nursing home. *(Ord. 15-74; 12-08-15)*

Room - A building or portion of a building that is arranged, occupied, or intended to be occupied as living or sleeping quarters but not including toilet or cooking facilities.

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

Satellite Dish Antenna - An oval or round, parabolic apparatus capable of receiving communications from a transmitter relay located in planetary orbit. Usable satellite signals shall mean satellite signals, from the major communication satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations or by way of cable television.

School District Bus Yard - Any premises owned and/or operated by an independent school district, or designee, used for the parking and storage of motor-driven buses.

School, Private or Parochial - A school operated by a private or religious agency or corporation other than an independent school district, having a curriculum generally equivalent to a public elementary or secondary school.

School, Public - A school operated by an independent school district and providing elementary or secondary curriculum.

Setback - *See* definition for Building Line.

Servant's Quarters - An accessory dwelling in a residential district for the sole use and occupancy of a member of the immediate family or a person or persons employed on the premises by the occupant on a full time basis as domestic help, such as a maid, yard man, chauffeur, cook or gardener, but not involving the rental of such facilities or the use of separate utility connections.

Sewage Treatment Plant/Pumping Station - A facility owned and/or operated by a private entity that is designed for the collection, removal, treatment, and/or disposal of water borne sewage.

Sexually Oriented Uses - An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or other use that distributes, displays, or manufactures sexually oriented materials. Sexually Oriented Uses are subject to the requirements of Prosper Ordinance No. 89-2 as it exists or may be amended.

Shopping Center - A group of primarily retail and service commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

Single-Family Residence, Detached - A dwelling designed and constructed for occupancy by one (1) family and having no physical connection to a building located on any other separate lot or tract.

Small Engine Repair Shop - A shop for the repair of lawnmowers, chainsaws, lawn equipment, and other small engine equipment and machinery.

Stable, Commercial - A stable used for the rental of stall space for horses and/or mules or for the sale or rental of horses and/or mules.

Standard Masonry Construction - Having at least seventy five percent (75%) of the exterior walls of a building constructed of brick, stone or other Masonry Construction.

Story - That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. The average height for a story shall be defined as twelve feet (12'). Multiple stories, or portions thereof, shall be a result of the number of stories and story height of twelve feet (12'). The definition of a story does not include parapets, gables, and other normal roof structures.

Story, Half - A single room within a dwelling unit above the second floor. A half-story will occupy no less than two-thirds (2/3) of the area under the roof, and shall have non-operating opaque windows for facades that face adjacent properties. Transparent windows may face the front yard. A half story containing independent apartment, living quarters, or bedroom shall be counted as a full story.

Street - Any dedicated public thoroughfare that affords the principal means of access to abutting property.

Street, Intersection - Any street that joins another street at an angle, whether or not it crosses the other.

Structural Alterations - Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

Structure - Anything that is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner.

Storage or Wholesale Warehouse - A building used primarily for the storage of goods and materials.

Studio Dwelling - An accessory residence that is located in the same structure as, typically above, a commercial or office use in the Downtown Office or Downtown Commercial Districts. The minimum floor area for a studio residence shall be six-hundred fifty (650) square feet. Each individual office or commercial use may have one (1) accessory studio dwelling.

Taxidermist - An establishment whose principle business is the practice of preparing, stuffing, and mounting the skins of dead animals for exhibition in a lifelike state.

Telephone Exchange - A central switching hub servicing the public at large in which telephone lines are connected to permit communication.

Temporary Building - An industrialized or modular building or structure without a permanent foundation. Membrane structures shall not be considered a temporary building. Temporary Buildings may be used by a house of worship (church), public school (kindergarten (K) through twelfth (12th) grade), or government building for a period no greater than three (3) years, subject to approval by the Building Official. Additional

one (1) year extension(s), thereafter, may be approved by the Planning & Zoning Commission. Appeals for determinations made by the Building Official or Planning & Zoning Commission may be forwarded to Town Council for consideration. *See* Chapter 3, Section 1.4(7) Temporary Building.

Temporary Outdoor Lighting - The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than four (4) days with at least one-hundred and eighty (180) days passing before being used again.

Temporary Wireless Communications and Support Structures - Wireless communications and support structures as defined in this Section intended to provide service for a limited period of time per the conditions of a the regulating Specific Use Permit or intended to provide service on a temporary basis in conjunction with a special event, emergency situation, or equipment failure. *(Ord 18-12; 01-23-18)*

Theater, Drive-In - An open lot devoted to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in motor vehicles.

Theater, Neighborhood - A building or part of a building devoted to the showing of motion pictures or for dramatic, musical, or live performances, with a maximum of ten (10) screens, stages, or combination thereof or a combined seating capacity of two thousand five hundred (2,500) or less.

Theater, Regional - A building or portion of a building used primarily for showing motion pictures or for dramatic, musical, or live performance having more than ten (10) screens, stages, or combination thereof or a combined seating capacity greater than two thousand five hundred (2,500).

Town - References to the "Town" shall mean the Town of Prosper.

Town Council - The governing body of the Town of Prosper, Texas.

Townhome (Single Family Dwelling, Attached) - A structure containing three to eight dwelling units with each unit designed for occupancy by one family and each unit attached to another by a common wall.

Tract - An area, parcel, site, piece of land, or property that is the subject of a zoning or development application.

Trailer, Hauling - A vehicle to be pulled behind a motor vehicle that is designed for hauling animals, produce, goods or commodities, including boats.

Trailer/Mobile Home Display and Sales - The offering for sale, storage, or display of trailers or mobile homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

Trailer Rental - The display and offering for rent of trailers designed to be towed by light load vehicles.

Trailer, Travel or Camping - A portable or mobile living unit designed to be towed behind another vehicle and used for temporary human occupancy. A Travel or Camping Trailer shall not serve as the principal place of residence of the occupants.

Transit Center - Any premises, including bus stations, for the loading and unloading of passengers and the temporary parking of transit vehicles between routes or during stopovers and excluding overnight parking and storage of transit vehicles.

Tree - Any self-supporting woody perennial plant which has one well defined trunk diameter of four and one-half inches (4½") or more in diameter when measured at a point four and one-half feet (4½') above the natural ground level and which normally attains a height of at least twelve feet (12') at maturity.

Tree Permit - An official document or certificate issued by the Town of Prosper authorizing the removal of a tree in accordance with Chapter 4, Section 3 of this Ordinance.

Tree, Protected - A tree that is determined to be healthy by the Director of Development Services, or his/her designee, and meets one of the following requirements:

- Any tree, regardless of species, six inches (6") or larger in diameter when measured at a point four and one-half feet (4½') above the ground level and which normally attains a height of at least twelve feet (12') at maturity, and located within a 100-year floodplain.
- Any tree, except those species listed below, six inches (6") or larger in diameter when measured at a point four and one-half feet (4½') above the ground level and which normally attains a height of at least twelve feet (12') at maturity, and located outside of the 100-year floodplain.
- Any protected tree forty inches (40") or larger in diameter when measured at a point four and one-half feet (4 ½') above ground level and which normally attains a height of least twelve feet (12') at maturity; or any tree deemed to be of historical significance.

The following trees shall not be included in the above definition of Protected Trees:

| | |
|---|---|
| Silver Leaf Maple | *Acer saccharinum* |
| Hackberry, Texas Sugarberry | *Celtis laevigata* |
| Honey Locust | *Gleditsia triacanthos* |
| Bois d' Arc | *Maclura pomifera* |
| Mimosa | *Mimosa sp.* |
| Mulberry | *Morus rubra* |
| White Poplar | *Poplus alba* |
| Cottonwood | *Populus deltoides* |
| Mesquite | *Prosopis glandulosa* |
| Willow | *Willow sp.* |

*(Ord. No. 18-23; 03-27-18)*

Tree, Replacement or Transplanted - Any tree that is listed under Chapter 4, Section 3 of this Ordinance, as it exists or may be amended, and/or utilized for mitigation of Protected Trees that have been, or are required to be, removed and replaced or transplanted under the requirements of this Ordinance. A replacement tree is one that has been planted to mitigate the removal of a tree from the property. A transplanted tree is one that exists on the property and is relocated within the property. A tree must have a minimum size of three (3) inches when measured at a point twelve inches (12") above the natural ground level and will normally attain a height of at least twelve feet (12') at maturity to be considered a replacement or transplanted tree.

Trees, Stand of - A group of six (6) or more protected trees that have a combined caliper measurement of forty-eight inches (48") or greater and each tree is within twenty (20) linear feet of another tree within the group. The distance measurement shall occur at natural grade from edge of trunk to edge of trunk.

Truck - A light or heavy load vehicle (*see* definitions for Light and Heavy Load Vehicle).

Truck/Bus Repair - An establishment providing major and minor repair services to panel trucks, vans, trailers, recreational vehicles, or buses.

Truck Sales, Heavy Trucks - The display, storage, sale, leasing, or rental of new or used panel trucks, vans, trailers, recreational vehicles, or buses in operable condition.

Truck Terminal - An area and building where cargo is stored and where trucks, including tractors and trailer units, load and unload cargo on a regular basis, including facilities for the temporary storage of loads prior to shipment.

Two Family Residence - A detached dwelling designed with a common vertical wall between units and to be occupied by two (2) families living independently of each other.

Units per Acre - A measurement of residential density, the number of residential living units permitted to be developed on a Net Acre of land.

Usable Open Space - An area or recreational facility that is designed and intended to be used for outdoor living and/or recreation. An area of common usable open space shall have a slope not exceeding ten percent

(10%); shall have no dimension of less than fifteen feet (15'); and may include recreational facilities, water features, required perimeter landscape areas, flood plain areas and decorative objects such as art work or fountains. Usable open space shall not include: required sidewalks, rooftops, accessory buildings, except those portions or any building designed specifically for recreational purposes, parking areas, landscaped parking requirements, driveways, turn-rounds or the right-of-way or easement for streets or alleys.

Utility Distribution/Transmission Facility - Facilities, including subsidiary stations, which serve to distribute, meter, transmit, transform, or reduce the pressure of gas, water, or electric current.

Variance - An adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the Board of Adjustment of the Town of Prosper can grant a variance, in accordance with the Chapter 211 of the Texas Local Government Code, as amended.

Veterinarian Clinic and/or Kennel, Indoor - An establishment, not including outside pens, where animals and pets are admitted for examination and medical treatment, or where domesticated animals are housed, groomed, bred, boarded, trained, or sold for commercial purposes.

Veterinarian Clinic and/or Kennel, Outdoor - An establishment with outdoor pens, where animals and pets are admitted for examination and medical treatment, or where domesticated animals are housed, groomed, bred, boarded, trained, or sold for commercial purposes.

Water Treatment Plant - A facility owned and/or operated by a private entity that is used to alter the physical, chemical, or biological quality of water.

Wind Energy System - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 10kW and is intended to reduce on-site consumption of electricity.

Winery - A manufacturing facility designed to place wine into a bottle or other container for wholesale and limited retail distribution. A winery is subject to compliance with the Texas Alcoholic Beverage Code, as it exists or may be amended, and permitting by the Texas Alcoholic Beverage Commission.

Wireless Communications and Support Structures - An antenna and its supporting structures, and any appurtenances intended for transmitting or receiving electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, data transmission, television signals, or other or similar forms of electronic communication. *(Ord. 18-12; 01-23-18)*

Yard - An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this Ordinance that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

Yard, Front - A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

Yard, Rear - The area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side - The area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

Zoning District Map - The official map upon which the boundaries of the various Zoning Districts are drawn and which is an integral part of this Ordinance.

# Chapter 4

## Development Requirements

# SECTION 1
# SITE PLAN PROCESS

## 1.1 GENERAL

This Section establishes a site plan review process for land development. The process involves a series of two plans, progressing from a generalized evaluation of a site and development concept to approval of a detailed development plan.

The first plan is a Preliminary Site Plan. This plan presents detailed information on building layout, parking, drives, landscaping, screening, and other site improvements. Preliminary Site Plan approval assures the applicant that the general layout is acceptable prior to proceeding with detailed engineering and design work. Site Plan approval is the final step in the process. A Site Plan is a detailed, scaled drawing of all surface improvements, structures and utilities proposed for development. Site plan approval is required prior to a construction release and prior to the issuance of building permits. Preliminary Site Plans and Site Plans require review and approval by the Planning & Zoning Commission.

The purpose of this process is to:

A. Ensure compliance with adopted Town development regulations and other applicable regulations for which the Town has enforcement responsibility.

B. Promote safe, efficient and harmonious use of land through application of Town-adopted design standards and guidelines.

C. Protect and enhance the Town's environmental and aesthetic quality.

D. Ensure adequate public facilities to serve development.

E. Prevent or mitigate adverse development impacts, including overcrowding and congestion.

F. Aid evaluation and coordination of land subdivision.

G. Promote the public health, safety and welfare.

## 1.2 APPLICABILITY

The site plan review process shall apply to:

A. Nonresidential development, except for Agricultural buildings and temporary field construction offices/staging areas as permitted by the Building Official.

B. Multifamily residential development having more than four dwelling units, including attached single-family housing.

C. Mobile home parks.

D. Parking lot development, reconstruction or reconfiguration of more than twenty (20) spaces.

## 1.3 SUBMISSION OF APPLICATIONS

Applications for approval of plans required by this Section must be submitted to the Planning Department. A calendar of official submittal dates for items requiring Planning & Zoning Commission approval shall be published by the Town thirty (30) days prior to the beginning of each calendar year. All applications received on a date other than an official submittal date shall be dated received on the next official submittal date. Applications must be complete for acceptance, in accordance with Chapter 1, Section 9.

## 1.4 FEES, FORMS AND PROCEDURES

The Town Council shall establish a schedule of fees relating to the site plan approval process. The Director of Planning may establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for preliminary site plans and site plans.

## 1.5 PRELIMINARY SITE PLAN

A. General

A preliminary site plan is the first plan in the site plan approval process. The purpose of the plan is to:

1. Ensure compliance with applicable development regulations and previously approved, valid plans affecting development of the property.
2. Determine the placement, configuration, coverage, size and height of buildings.
3. Determine the design of public street improvements and right-of-way, the design and location of drives, aisles and parking.
4. Determine location and preliminary design of open space, landscaping, walls, screens and amenities.
5. Determine the preliminary design of drainage facilities and utilities.

B. Applicability

Except as provided in Chapter 4, Section 1.6(A), an approved, valid preliminary site plan shall be required prior to the consideration of a site plan for development property defined in Chapter 4, Section 1.2. The plan must include all contiguous property of common ownership, except that approved platted lots that are not part of the intended development may be shown for informational purposes only.

C. Application Procedure and Requirements

1. Pre-Application – Before preparing a preliminary site plan, the applicant shall meet with Planning Department staff to discuss the application procedure and requirements, and review the proposed development concept.
2. General Application – The property owner, or an authorized representative, shall submit an application for the approval of a Preliminary Site Plan. This application shall include the information listed below on a dimensioned, engineered-scaled drawing on twenty four (24) by thirty six (36) inch size paper. The drawing shall include existing and proposed site conditions and improvements, including:
   a. Site boundaries, bearings and dimensions, lot lines, site acreage and square footage, and approximate distance to the nearest cross street.
   b. Location map, north arrow, scale, title block (located in the lower right hand corner) containing the proposed subdivision name with block and lot number, and preparation date.
   c. Name, address and phone number of land owner(s) and applicant(s).
   d. Site data summary table with the following information:
      - Zoning
      - Proposed Use
      - Lot Area, excluding right-of-way (square footage and acreage)
      - Building Area (gross square footage)
      - Building Height (feet and number of stories)
      - Lot Coverage

- Floor Area Ratio (for non-residential zoning)
- Total Parking Required (with ratio)
- Total Parking Provided
- Handicap Parking Required, including van accessible
- Handicap Parking Provided, including van accessible
- Interior Landscaping Required
- Interior Landscaping Provided
- Square footage of Impervious Surface
- For multi-family developments:
  - Number of Dwelling Units with Number of Bedrooms
  - Usable Open Space Required
  - Usable Open Space Provided

e. Town of Prosper site plan notes.

f. Existing topography at two (2) foot contours or less.

g. Natural features including tree masses and anticipated tree loss, Flood Plain, drainage ways and creeks.

h. Proposed reclamation of floodplain area(s), if applicable, with acreage.

i. Existing and proposed improvements and topography within seventy five (75) feet of the subject property, subdivision name, zoning, and land use description of property adjacent to the subject property.

j. Building locations, building size and dimensions, density, height, dimensions between buildings on the same lot, building lines and setbacks, and use.

k. Public streets, private drives and fire lanes with pavement widths, right of way, median openings, turn lanes (including storage and transition space), existing driveways on adjacent property, and driveways shown on approved plans for adjacent property with dimensions, radii and surface type.

l. Visibility easements.

m. Distances (measured edge to edge) between existing and proposed driveways (on-site and off-site) and streets.

n. Existing utilities, nearest fire hydrant dimensioned to property corner, and proposed fire hydrants.

o. Proposed detention areas, including preliminary calculations.

p. Parking areas and structures, including the number and layout of standard spaces, angle of parking if other than ninety (90) degrees, handicap spaces, drive aisles, loading and unloading areas, the location of ramps, crosswalks, sidewalks, and barrier free ramps with typical dimensions.

q. Access easements and off-site parking.

r. Proposed dedications and reservations of land for public use including but not limited to rights of way, easements, park land, open space, drainage ways, Flood Plain and facility sites with gross and net acreage.

s. Screening walls, fences, living screens, headlight screens and service area screens, including conceptual height and type of construction and/or planting.

t. Dumpsters, located to minimize visibility, and including height and material of associated screening wall.

u. Landscaping islands and open space areas with dimensions.

v. Phases of development, including delineation of areas, building sites, land use and improvements to be constructed in independent phases.

w. Additional information as requested by staff to clarify the proposed development and compliance with minimum development requirements.

3. Additional Requirements – In addition to meeting the requirements for preliminary site plan approval, the following approvals may be necessary: (such applications and plans shall be accepted for filing, however, prior to approval of the preliminary site plan, and failure to submit such applications prior to approval of the preliminary site plan shall be grounds for denial or rejection of the preliminary site plan).

   a. Preliminary plat, if applicable.

   b. Preliminary utility plans, if applicable.

4. Standards of Approval – The Planning & Zoning Commission may approve, conditionally approve, table or deny a Preliminary Site Plan based on:

   a. Conformance with the Comprehensive Plan and adopted design guidelines.

   b. Compliance with the Zoning Ordinance and other applicable regulations and previously approved, valid plans for the property.

   c. Impact on the site's natural resources.

   d. Affect on adjacent and area property and land use.

   e. Safety and efficiency of vehicular and pedestrian circulation, traffic control and congestion mitigation.

   f. Safety and convenience of off-street parking and loading facilities.

   g. Access for fire fighting and emergency equipment to buildings.

   h. Use of landscaping and screening to shield lights, noise, movement or activities from adjacent properties and to complement the design and location of buildings and parking.

   i. The location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

5. Effect – Approval of a preliminary site plan by the Planning & Zoning Commission shall constitute authorization by the Town for the land owner(s) to submit an application for final site plan approval for development of the entire site or a portion thereof provided that the site plan conforms to the preliminary site plan and any conditions attached to its approval. During the time the preliminary site plan remains valid, the location of buildings, landscaped areas, open space, streets, drives, fire lanes, median breaks, curb cuts and parking shall remain fixed except as to permit minor adjustments resulting from subsequent engineering of improvements or to prevent a condition affecting public health or safety which was not known at the time of approval. Except where authorized by ordinance, a preliminary site plan may not be used to approve an exception to development regulations. Where an approved plan conflicts with an adopted regulation and no variance or exception is expressly approved, the regulation shall apply.

6. Lapse – The approval of a preliminary site plan shall be effective for a period of two (2) years from the date that the preliminary site plan is approved by the Planning & Zoning Commission, at the

end of which time the applicant must have submitted and received approval of a site plan by the Planning & Zoning Commission. If a site plan is not approved within such two (2) year period, the preliminary site plan approval is null and void. If site plan approval is only for a portion of the property, the approval of the preliminary site plan for the remaining property shall be null and void. The applicant shall be required to submit a new preliminary site plan for review and approval subject to the then existing regulations.

7. Appeal – The applicant, Director of Planning, or a simple majority of the Town Council may appeal the decision of the Planning & Zoning Commission by submitting a written notice of appeal to the Planning Department. The applicant or Director of Planning must submit said written notice of appeal no later than fourteen (14) days from the date of such decision. The Town Council shall consider and act on whether it will appeal the Commission's decision no later than fourteen (14) days from the date of such decision or at its first regular meeting (for which there is time to post an agenda as required by law) that occurs after the Commission meeting at which the decision was made, whichever is later. Written notice of the Town Council's vote to appeal shall be submitted to the Planning Department within seven (7) days of the Town Council's vote. The Town Council shall consider the appeal at a public meeting no later than forty-five (45) days after the date on which the notice of appeal is submitted to the Planning Department. The Town Council may affirm, modify, or reverse the decision of the Planning & Zoning Commission.

## 1.6 SITE PLAN

A site plan is the final plan required in the site plan approval process. The site plan is a detailed plan of the public and private improvements to be constructed. The purpose of the plan is to:

- Ensure compliance with applicable development regulations and previously approved, valid plans affecting development of the property.
- Coordinate and document the design of public and private improvements to be constructed.
- Coordinate the subdivision of land, including the granting of easements, development agreements and provision of surety.

A. Applicability

An approved and valid site plan shall be required prior to the approval of any construction plan and permit for any development defined in Chapter 4, Section 1.2 of this Ordinance. An approved, valid preliminary site plan is required prior to the consideration of a site plan except as provided below:

1. Development of a single building on one lot not exceeding three (3) net acres and where the lot is not being subdivided from a larger property.
2. Development of parking or outside storage areas.
3. Development of utilities and non-occupied structures.
4. Development of outdoor recreation structures and amenities.

B. Application Procedure and Requirements

1. Pre-application – Before preparing a site plan, the applicant shall meet with Planning Department staff to discuss the procedures for approval and to review the general concept of the proposed development.
2. General Application – The property owner shall submit an application for the approval of a Site Plan. This application shall include the information listed below on a dimensioned, engineer-scaled drawing on twenty four (24) by thirty six (36) inch size paper. The drawing shall include existing and proposed site conditions and improvements, including:

a. Site boundaries, bearings and dimensions, lot lines, site acreage and square footage, and approximate distance to the nearest cross street.

b. Location map, north arrow, scale, title block (located in the lower right hand corner) containing the proposed subdivision name with block and lot number, and preparation date.

c. Name, address and phone number of land owner(s) and applicant(s).

d. Site data summary table

- Zoning
- Proposed Use
- Lot Area, excluding right-of-way (square footage and acreage)
- Building Area (gross square footage)
- Building Height (feet and number of stories)
- Lot Coverage
- Floor Area Ratio (for non-residential zoning)
- Total Parking Required (with ratio)
- Total Parking Provided
- Handicap Parking Required, including van accessible
- Handicap Parking Provided, including van accessible
- Interior Landscaping Required
- Interior Landscaping Provided
- Square footage of Impervious Surface
- For multi-family developments:
  - Number of Dwelling Units with Number of Bedrooms
  - Usable Open Space Required
  - Usable Open Space Provided

e. Town of Prosper site plan notes.

f. Existing topography at two (2) foot contours or less and proposed at two (2) foot contours or less, referenced to sea level datum.

g. Natural features including tree masses and anticipated tree loss, Flood Plain, drainage ways and creeks.

h. Proposed reclamation of floodplain area(s), if applicable, with acreage.

i. Existing and proposed improvements within seventy five (75) feet of the subject property, subdivision name, zoning, and land use description of property adjacent to the subject property.

j. Building locations, building size and dimensions, intensity, density, height, dimensions between buildings on the same lot, building lines and setbacks, and use.

k. Finished floor elevation of structures referenced to sea level datum.

l. Public streets, private drives and fire lanes with pavement widths, right of way, median openings, turn lanes (including storage and transition space), existing driveways on adjacent property, and driveways shown on approved plans for adjacent property with dimensions, radii and surface type.

m. Distances (measured edge to edge) between existing and proposed driveways (on-site and off-site) and streets.

n. Parking areas and structures, including the number and layout of standard spaces, angle of parking if other than ninety (90) degrees, handicap spaces, drive aisles, loading and unloading areas, the location of ramps, crosswalks, sidewalks, and barrier free ramps with typical dimensions.

o. Access easements and any off-site parking.

p. Location of off-street loading areas, dumpsters, and trash compactors with height and material of screening (these shall be located to minimize visibility).

q. Proposed dedications and reservations of land for public use including but limited to: rights of way, easements, park land, open space, drainage ways, flood plains and facility sites with gross and net acreage. All dedications shall be free and clear of all encumbrances at the time of dedication.

r. Screening walls, fences, living screens, retaining walls, headlight screens and service area screens, including height and type of construction and/or planting specification.

s. Landscape islands with dimensions and open space areas with dimensions and total square footage.

t. Proposed detention areas.

u. Water and sanitary sewer mains and service lines with sizes, valves, fire hydrants, manholes, and other structures on site or immediately adjacent to the site specified.

v. Water and sewer connections, meter locations, sizes, and meter and/or detector check valve vaults indicated. Table of the number of water meters by size and noting if they are existing or proposed.

w. Inlets, culverts and other drainage structures on-site and immediately adjacent to the site.

x. Existing and proposed easements, including visibility easements.

y. Additional information as requested by staff to clarify the proposed development and compliance with minimum development requirements.

3. Additional Requirements – The following plans shall be submitted with a site plan application and approval is necessary prior to final authorization for development:

a. Final plat or replat.

b. Engineering plans.

c. Landscape plans.

d. Facade plan, if applicable.

e. Other approvals as required by ordinance or resolution.

4. Standards of Approval – Where application for site plan approval is made for development defined on an approved, valid preliminary site plan, the Planning & Zoning Commission may approve, conditionally approve or deny the application based upon the criteria listed below:

a. Conformance with the Comprehensive Plan and adopted design guidelines.

b. Compliance with the Zoning Ordinance and other applicable regulations and previously approved, valid plans for the property.

c. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.

d. The width, grade and location of streets designed to accommodate prospective traffic and to provide access for fire fighting and emergency equipment to buildings.

e. The use of landscaping and screening (1) to provide adequate buffers to shield lights, noise, movement or activities from adjacent properties when necessary, and (2) to complement the design and location of buildings and be integrated into the overall site design.

f. The location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

g. Protection and conservation of soils from erosion by wind or water or from excavation or grading.

h. Protection and conservation of water courses and areas subject to flooding.

i. The adequacy of streets, water, drainage, sewerage facilities, garbage disposal and other utilities necessary for essential services to residents and occupants.

5. Effect – Approval of a site plan is the Town's authorization to apply for approval of building permits and to receive approval of engineering plans. During the time the site plan remains valid the Town shall not apply any additional requirements concerning building placement, streets, drives, parking, landscaping or screening. Site plan approval is separate and distinct from other permits and approvals as may be required by the Town and other regulatory agencies. Approval of a site plan shall not affect other applicable regulations concerning development and land use. Except where authorized by ordinance, a site plan may not be used to approve a variance to development regulations. Where an approved plan conflicts with an adopted regulation and no variance or exception is expressly approved, the regulation shall apply.

6. Lapse – The approval of a site plan shall be effective for a period of eighteen (18) months from the date of approval by the Planning & Zoning Commission, at the end of which time the applicant must have submitted and received approval of engineering plans and building permits. If the engineering plans and building permits are not approved, the site plan approval, together with any preliminary site plan for the property, is null and void. If engineering plans and permits have been approved only for a portion of the property and for improvements, the site plan for the remaining property and/or improvements, together with any preliminary site plan for the property, shall be null and void. The applicant shall be required to submit a new preliminary site plan and, subsequently, a new site plan consistent therewith, for review and approval by the Planning & Zoning Commission subject to the then existing regulations (see Chapter 4, Section 1.6(B)). Site plan approval shall expire upon completion of the improvements shown on the plan. Subsequent additional development, site modifications and redevelopment shall be permitted in accordance with Chapter 4, Section 1.10.

7. Appeal – The applicant, Director of Planning, or a simple majority of the Town Council may appeal the decision of the Planning & Zoning Commission by submitting a written notice of appeal to the Planning Department. The applicant or Director of Planning must submit said written notice of appeal no later than fourteen (14) days from the date of such decision. The Town Council shall consider and act on whether it will appeal the Commission's decision no later than fourteen (14) days from the date of such decision or at its first regular meeting (for which there is time to post an agenda as required by law) that occurs after the Commission meeting at which the decision was made, whichever is later. Written notice of the Town Council's vote to appeal shall be submitted to the Planning Department within seven (7) days of the Town Council's vote. The Town Council shall consider the appeal at a public meeting no later than forty-five (45) days after the date on which the notice of appeal is submitted to the Planning Department. The Town Council may affirm, modify, or reverse the decision of the Planning & Zoning Commission.

## 1.7 AMENDMENTS

At any time following the approval of a preliminary site plan or site plan, and before the lapse of such approval the property owner(s) may request an amendment. Amendments shall be classified as major and minor. Minor amendments shall include corrections of distances and dimensions, adjustments of building configuration and placement, realignment of drives and aisles, layout of parking, adjustments to open space, landscaping and screening, changes to utilities and service locations which do not substantially change the original plan. Any increase of building height or proximity to an adjacent (off-site) residential use shall not be considered a minor amendment. The Director of Planning or his/her designee may approve or disapprove a minor amendment. Disapproval may be appealed to the Planning & Zoning Commission and Town Council (see Chapter 4, Section 1.6(B)(7) for appeal procedure). All other amendments shall be considered major amendments and will be considered by the Planning & Zoning Commission at a public meeting in accordance with the same procedures and requirements for the approval of a plan.

## 1.8 EXTENSION PROCEDURE

A. A property owner, or his/her representative, may request extension of an approved preliminary site plan if such request is submitted to the Director of Planning, or his/her designee at least thirty (30) days prior to lapse of such plan as provided in these regulations. The preliminary site plan may be extended up to twelve (12) months. Application for the extension shall be made by submitting a development application to the Town's Planning Department on or before one of the Town's official submittal dates for development requests. The application shall be accompanied by a letter detailing the reason for the extension and by the required number of copies of the plan. If the Director of Planning or his/her designee denies the extension, the applicant may request an appeal to the Planning & Zoning Commission in writing within fourteen (14) days of such denial. If the Planning & Zoning Commission denies the extension, the applicant may request an appeal to the Town Council in writing within fourteen (14) days of such denial.

   In reviewing an extension request, the Director of Planning or his/her designee shall consider the following:

   - Has a site plan been submitted for any portion of the property shown on the preliminary site plan?
   - Does the preliminary site plan comply with new ordinances, those approved after the initial approval of the preliminary site plan, that impact the health, safety, and general welfare of the community?
   - Are there adequate public facilities, such as parks or schools, in the area surrounding the property?

   Negative answers to any of the above shall be grounds to deny the extension or approve the extension with conditions. In granting any extension, the Director of Planning or his/her designee, the Planning & Zoning Commission, upon appeal, or the Town Council, upon appeal, may apply current development standards to the application, or make such other conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served. A second one (1) year extension may be requested using the same process after the expiration of the initial extension.

B. A property owner, or his/her representative, may request extension of an approved site plan if such request is submitted to the Director of Planning, or his/her designee at least thirty (30) days prior to lapse of such plan as provided in these regulations. Site plans may be extended up to six (6) months. Application for the extension shall be made by submitting a development application to the Town's Planning Department on or before one of the Town's official submittal dates for development requests. The application shall be accompanied by a letter detailing the reason for the extension and by the required number of copies of the plan. If the Director of Planning or his/her designee denies the extension, the applicant may request an appeal to the Planning & Zoning Commission in writing within

fourteen (14) days of such denial. If the Planning & Zoning Commission denies the extension, the applicant may request an appeal to the Town Council in writing within fourteen (14) days of such denial.

In reviewing an extension request, the Director of Planning or his/her designee shall consider the following:

- Has the preparation of civil engineering plans progressed, a grading permit been issued, or construction commenced?

A negative answer to the above shall be grounds to deny the extension. In granting an extension, the Director of Planning or his/her designee, the Planning & Zoning Commission, upon appeal, or the Town Council, upon appeal, may apply current development standards to the application, or make such other conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served. A second six (6) month extension may be requested using the same process after the expiration of the initial extension.

C. In determining whether to grant such request, the Director of Planning or his/her designee, the Planning & Zoning Commission, and/or the Town Council shall take into account the reasons for the requested extension, the ability of the property owner to comply with any conditions attached to the original approval and the extent to which newly adopted regulations shall apply to the plan. The Director of Planning or his/her designee, the Planning & Zoning Commission, and/or the Town Council shall extend or reinstate the plan, with or without conditions, or deny the request, in which instance the property owner must submit a new application for approval.

D. The Director of Planning or his/her designee, the Planning & Zoning Commission, and/or the Town Council may extend or reinstate the approval subject to additional conditions based upon newly enacted regulations or such as are necessary to assure compliance with the original conditions of approval. The Director of Planning or his/her designee, the Planning & Zoning Commission, and/or the Town Council may also specify a shorter time for lapse of the extended plan than is applicable to original approvals.

## 1.9 REVOCATION OF APPROVAL

The Town Council or the Planning & Zoning Commission may revoke approval of a preliminary site plan or site plan if it determines that the conditions of the approval have not been met or if the plan contains, or is based upon, incorrect information. The Town shall notify an applicant within fourteen (14) days of such revocation of approval via U.S. Postal Service.

## 1.10 ADDITIONAL DEVELOPMENT AND REDEVELOPMENT

Following the completion of improvements shown on an approved site plan, additional development, site modifications or redevelopment of the site shall be permitted subject to the approval of a revised site plan. Minor expansions and redevelopment may be approved by the Director of Planning or his/her designee under the terms of Chapter 4, Section 1.7. All other expansions or redevelopment shall require submittal of a revised site plan and the approval of the Planning & Zoning Commission under the requirements and procedures then in effect.

# SECTION 2
# LANDSCAPING

## 2.1 PURPOSE

The purpose of this Section is to provide for the orderly and aesthetic development of the Town and to promote the health, safety and general welfare of the community. It is the intent of this Section to achieve the following:

- A balance between the need for landscape treatments and the need for commercial growth in the Town.
- Promote a flexible attitude of enforcement sufficient to meet the spirit and intent of these requirements.
- To aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, ground-water recharge, storm water runoff retardation and erosion control.
- Provide for the separation and buffering of incongruous uses and intensity of activities; and provide for the visual softening of building masses.
- Reduce glare from paved surfaces, dust nuisances and the impact of noise.
- Protect and promote the value of residential and commercial properties within the Town.
- Promote a positive image for the attraction of new business enterprises within the Town.
- Encourage the protection of healthy trees and vegetation and promote the natural ecological environmental and aesthetic qualities of the Town.

Therefore, landscaping is required of new development and altered or repaired construction on all developments, and construction of the developments shall conform to the standards in this Section (the "Landscape Standards").

## 2.2 SCOPE

The standards and criteria contained in this Section are the minimum standards for all new development and existing developments that are expanding or redeveloping thirty (30) percent or more of that development. All construction in these developments shall conform to this Section. In addition, any use requiring a Specific Use Permit (SUP) or any property having a Planned Development (PD) zoning designation must comply with these Landscape Standards or the standards set forth in the SUP or PD zoning designation, whichever is more restrictive. The provisions of this section shall be administered and enforced by the Director of Planning, or his/her designee. For new construction, Landscape Standards shall be shown on a Landscape Plan as required in this Section.

A. <u>Permits</u>

No permits will be issued for building, paving, utilities or construction until a Landscape Plan is submitted and approved by the Town. A Certificate of Occupancy will not be issued until the Landscape Plan approved by the Town has been installed in accordance with that plan and approved by the Town.

If a Certificate of Occupancy is sought during a season of the year in which the Town determines that it would be impractical to plant trees, shrubs or grass, or to lay turf, the developer/owner will deposit with the Town a sum of money equal to the cost of installing all or the remaining portion of the approved Landscape Plan. In lieu of paying cash, the developer/owner may provide financial assurance of payment of the cost of installing the Landscape Plan acceptable to the Town, which will remain in effect until the Landscape Plan is installed and accepted by the Town. The Landscape Plan will be installed within six (6) months of final acceptance of the development by the Town or issuance of the first certificate of occupancy within the development. Failure to do so will be a violation of this Ordinance and subject to the penalties contained herein.

B. <u>Enforcement</u>

If at any time after the issuance of a Certificate of Occupancy, the landscaping that was installed does not conform to the Landscape Plan or the Landscape Standards, the Town will issue notice to the property

owner, tenant and/or agent, citing the violation and describing the action required to comply with this Section. The owner, tenant or agent shall have thirty (30) days from date of said notice to comply with approved Landscape Plan. If the landscaping is not installed within the allotted time, the property owner, tenant, and agent shall be in violation of this Ordinance. In addition to any other remedy available to the Town, the Certificate of Occupancy for that property may be revoked.

## 2.3 LANDSCAPE PLAN

A landscape plan shall be submitted in conjunction with a site plan and/or final plat for all developments. A landscape plan is not required for individual single family lots. The landscape plans shall be prepared by a Landscape Architect shall contain the following information:

A. Minimum scale of one (1) inch equals thirty (30) feet or appropriate scale for legibility.

B. Location, size and species of all existing trees to be preserved indicating true size as measured four and one half (4½) feet above natural ground level.

C. Location of all plant and landscaping material to be used, including plants, paving, benches, screens, fountains, statues, earthen berms, ponds (to include depth of water), topography of site, or other landscape features.

D. Identification of all plant material to be used, identified by both common and botanical names.

E. Size of all plant material to be used at time of planting, appropriate spacing shall be indicated on the Landscape Plan and approved by the Town.

F. Layout and description of irrigation, sprinkler, or water systems including placement of water sources. A Texas license irrigation seal is necessary on all irrigation plans that require certification.

G. All common areas, non-residential, and multi-family landscape areas will be irrigated with a mechanical irrigation system including turf and ground cover areas.

H. A certified landscape architect shall be required for the preparation and submission of the Landscape Plan. (A dry seal with signature is acceptable for the Landscape Plan).

I. North indicating mark.

J. Date of the Landscape Plan and any revisions.

K. Size and location of all existing and proposed utilities, including easements.

L. Details and/or cross sections as required for clarification by the Town.

M. Topography shall include final grade at one (1) foot intervals using spot elevations and/or contours to define proposed drainage patterns as required by the Town.

N. Parkways and medians shall have a minimum of six (6) inches of topsoil.

## 2.4 MAINTENANCE *(Ord. No. 17-74; 09-26-17)*

A. The owner, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping required by this Ordinance. All plant material shall be perpetually maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials that die shall be replaced by property owner, tenant or agent with plant material of similar variety and size, within thirty (30) days of notification by the Town or a date approved by the Town.

B. All trees located on Town Property shall be cared for by the Town unless that responsibility is transferred to another entity through a Council-approved agreement. The Director of the Parks and Recreation Department shall ensure that the Town, or its contractor, monitors and cares for trees in a way that promotes a healthy and growing urban forest, is performed according to ANSI A300, “Standards for Tree

Care Operations," and tree care best management practices published by the International Society of Arboriculture. It shall be unlawful to remove, prune, damage or otherwise harm trees on Town property without permission from the Director of the Parks and Recreation Department. The Parks and Recreation Department shall be responsible for developing and updating an annual work plan. This work plan shall document what maintenance activities are being performed and scheduled each year. The Parks and Recreation Board may appoint an advisory committee to focus on issues and initiatives that pertain to any Urban Forest that is located on public lands.

## 2.5 GENERAL STANDARDS

The following criteria and standards shall apply to landscape materials and installation:

A. All required landscaped open areas shall be completely covered with living plant material. Mulch and other materials can be used around required shrub and tree plantings. Supplemental plantings or design elements that are beyond requirements can be submitted for Town review and approval at any time. Landscape Plans must meet the minimum requirements of this Section prior to approval by the Town.

B. Plant materials shall conform to the standards of the approved plant lists in this Section and substitutions of plant material may be approved by the Town. The quantity of plant material required by this Section must equal or exceed the minimum number of plants required by this Section. Unless otherwise noted on the approved Landscape Plan, required plant material can be placed in groupings or utilized in appropriate planting designs that are proposed by the applicant and approved by the Town.

C. Trees shall have an average spread of crown of greater than fifteen (15) feet at maturity. Trees having a lesser average mature crown of fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of fifteen (15) feet crown of spread. Unless otherwise specified herein, trees shall be of a minimum of three (3) inches in caliper as measured twelve (12) inches above natural soil level and seven (7) feet in height at time of planting.

D. Shrubs other than dwarf variety shall be a minimum of two (2) feet in height when measured immediately after planting. A screening hedge, where required, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen that will be three (3) feet in height within one (1) year after planting. Any parking area abutting the landscape perimeter will be screened from the adjacent street as approved by the Town. Parking areas that are beyond sixty (60) feet from the property line do not require screening unless adjacent to a residential zoning district or a residential development.

E. Ground covers used in lieu of grass must provide complete coverage within one (1) year of planting. Ground cover planting must provide and maintain adequate coverage as approved by Town.

F. Earthen berms shall not exceed a 3:1 slope (three (3) feet of horizontal distance for each one (1) foot of height). All berms will contain adequate drainage and preventive erosion measures as may be required by the Town. Berms shall not include construction debris. Slippage or damage to the smooth finish grade of the berm must be corrected prior to acceptance by Town.

G. Large Trees must be planted four (4) feet or greater from curbs. Large trees shall be placed a minimum of four (4) feet from sidewalks, utility lines, screening walls and/or other structures. Ornamental trees can be placed closer than four (4) feet with approval from the Town. Any reduction in spacing requires a root barrier approved by the Town. Utility installation that includes common trench and conduit banks is exempt from the Large Tree planting distance requirements. The Town has final approval for all tree placements. The Landscape Plan will show the size and location of duct banks.

H. Evergreen trees such as conifers intended for screening will have a minimum height of six (6) feet at the time of planting. Evergreen shrubs intended for required screening shall be a minimum of seven (7) gallons and be capable of attaining six (6) feet in height in two growing seasons.

I. A Tree Permit, in accordance with Chapter 4, Section 3.3, and/or grading permit is required for all clear-

cutting and/or mass removal of under-story or wooded areas.

J. All driveways will maintain visibility as approved by the Town. Landscaping shall not impede visibility affecting the health, safety, and welfare of the public.

K. All plantings intended for erosion control will be maintained by the land owner, applicant, or tenant. The Town may require re-vegetation to prevent erosion or slippage.

L. Small trees maybe substituted for Large Trees at the rate of three (3) small trees for each one (1) large tree (3:1) with approval of the Town. Unless otherwise specified herein, small trees will have a minimum size of three (3) inch caliper.

M. New or proposed plant materials will be measured and sized according to the Texas Association of Nursery (TAN) standards.

N. Other plant materials in excess of the quantities required in this Ordinance may be smaller than the required material. All shrubs intended for public, non-residential, or multi-families developments should be at least two (2) gallons or more.

O. Alternate designs may be considered by the Town to conform to the intent of this Ordinance. Any alternate design requires Town approval. The alternate method of utilizing large quantities of small material may include, but are not limited to:

One (1) five (5) gallon shrub = Two (2) three (3) gallon or four (4) two (2) gallon

One (1) three (3) inch large tree = Three (3) three (3) inch ornamental trees

All substitutions are subject to Town approval and must be specified on the approved Landscape Plan.

P. The right-of-way adjacent to required landscape areas shall be maintained by the adjacent property owner in the same manner as the required landscape area.

Q. Existing trees on a property that are preserved may be used to meet the requirements of this Section upon approval by the Town.

1. Existing trees approved by the Town for credit are to remain in a living and growing condition. Any existing tree for which credit was given that dies shall be replaced on the same basis as set forth in this Section.

2. Large groups of small or under-story trees are eligible for tree preservation credits with approval from the Town. Credits shall be indicated on the landscape plan.

3. Credit will be revoked where trees intended for preservation credits are damaged due to, among other things, construction, broken branches, soil compaction or soil cut/fill.

## 2.6 LANDSCAPE AREA REQUIREMENTS

A. <u>Single Family, Two Family (Duplex), Town Home, and Mobile Home Landscape Area Requirements</u>

1. Trees from the Large Tree list in Section 2.7 below shall be planted on all Single-Family Detached, Two Family (Duplex), and Town Home lots. Trees shall be planted to meet the total number of caliper inches referenced in the table below. Required trees shall not be smaller than three (3) caliper inches. A minimum of one (1) - four (4) caliper inch tree(s) shall be located in the front yard of all residential lots less than 7,000 square feet in size. A minimum of two (2) - four (4) caliper inch trees shall be located in the front yard of all residential lots 7,000 square feet in size and larger. The remaining required Large Trees may be placed in the front or rear of the residential lot. The total caliper inches of Large Trees and number of shrubs are required as shown in the table below.

| Size of Lot (sq. ft.) | Caliper Inches | Number of Shrubs |
|---|---|---|
| 2,500 - 6,999 | 4 | 12 |
| 7,000 - 8,999 | 8 | 15 |
| 9,000 - 19,999 | 11 | 20 |
| 20,000+ | 14 | 25 |

*(Ord. 15-55; 09-22-15)*

2. A minimum of one (1) tree from the Large Tree list in Section 2.7 below shall be planted in the side yard area adjacent to the street on a corner lot. When more than two (2) trees are required per lot, the corner lot, side yard tree may count toward the requirement. Street trees (trees located in the parkway area between the curb and the sidewalk) adjacent to the side yard of a corner lot may count toward the requirement. *(Ord. 15-55; 09-22-15)*

3. Ground cover shall be planted in the front, side, and rear yards of all residential lots. Ground cover includes, but is not limited to: grasses, shrubs, mulched planter beds, and hardscape.

4. Required shrubs shall be a minimum of three (3) gallon in size when planted and shall be planted in the front yard of all residential lots.

5. All landscaping required above shall be planted prior to issuance of the certificate of occupancy on the dwelling.

B. Multifamily Landscape Area Requirements

These standards apply to all Multifamily zoning districts. Any area within a PD district containing landscaping standards shall comply with the standards set forth in the PD district.

1. General Requirements

   a. Landscaped areas will be of varying depths intended to separate and screen incompatible land uses from one another and to provide green areas along Major Thoroughfares.

   b. Foundation plantings of a single row of shrubs are required along the front façade of all buildings adjacent to a public street.

   c. Trees required by the open space planting requirements are encouraged to be placed along the south and west sides of the residential building(s) to increase energy efficiency.

   d. A summary of tabulations for all required plantings, preservation credits, tree mitigation, and/or other data as necessary to document the landscape requirements shall be shown on the Landscape Plan.

2. Perimeter Requirements

   a. A landscaped area at least twenty-five (25) feet wide shall be located between multifamily developments and public street(s) unless otherwise stated in another ordinance. One (1) large tree, three (3) inch caliper minimum, will be planted on thirty (30) foot centers within the required landscaped area (or quantity for size substitution can be approved by the Town). All landscaping shown on the approved landscape plan will be installed in the vicinity of the building and its adjoining parking prior to the issuance of a Certificate of Occupancy for units in said building.

   b. Where multifamily development is adjacent to the property line of single family zoned property or areas shown as single family on the Future Land Use Plan, a double row of three (3) inch caliper trees on fifty (50) foot offset centers shall be located adjacent to single family zoning districts with one (1) row being shade trees and the other row being evergreen trees in a twenty five (25) foot wide landscape perimeter area, unless otherwise approved by the Director of Planning or

designee.

c. Where a multifamily development is adjacent to the property line of property zoned for uses other than single family or parcels not shown as single family on the Future Land Use Plan, a fifteen (15) foot wide landscape area is required. In addition, one (1) large tree, three inch (3) inch caliper minimum, will be required for each fifty (50) linear feet that abuts the adjacent property line. Trees will be located within the fifteen (15) foot perimeter area or within the area located between the property line and the side or rear building line. Trees required under this Section that are planted in parking areas may not be credited towards meeting the number of required trees as outlined in the Interior Parking Requirements listed below.

3. Interior Parking Requirements

a. Twenty (20) square feet of landscaping for each parking space shall be provided within the paved boundaries of the parking lot, exclusive of the required perimeter landscape requirements stated above.

b. One (1) large tree, three (3) inch caliper minimum, must be provided for every ten (10) parking spaces, in addition to the perimeter trees required in Chapter 4, Section 2.6(B)(2). In addition, the trees required in this Section may not be planted in the required perimeter landscaped areas to receive credit for the perimeter landscape area. Three (3) small trees, a minimum of six (6) feet in height and three (3) inches in diameter, may be substituted for one (1) required large tree for up to twenty-five (25) percent of the required large trees.

c. Landscaped islands within the parking lot shall be a minimum of one hundred and sixty (160) square feet, not less than nine (9) foot wide, and a length equal to the abutting space.

d. There shall be at least one (1) large tree, three (3) inch caliper minimum, within fifty (50) feet of every parking space. Only trees located in parking areas are available to meet this requirement.

e. Landscaped islands will be located at the terminus of all parking rows, and should contain at least one (1) Large Tree, with no more than twelve (12) parking spaces permitted in a continuous row without being interrupted by a landscaped island. Areas where parking is located between the public street and the buildings, trees will be placed every five (5) parking spaces.

f. Landscape islands in parking areas may be grouped to form one (1) large island subject to Town approval, provided however, grouping for large islands is prohibited adjacent to public street frontage.

g. All landscaped areas will be protected by a raised six (6) inch concrete curb or wheel stop where curbs are not provided. Pavement will not be placed closer than four (4) feet from the trunk of a tree unless a Town approved root barrier is utilized.

h. A solid living screen using evergreen trees shall be placed around any RV/trailer parking areas.

4. Irrigation Requirements

Permanent irrigation shall be provided for all required landscaping as follows:

a. Irrigation lines shall be placed a minimum of two and one-half (2 ½) feet from a Town sidewalk. Reduction of this requirement is subject to review and approval by the Town Engineer.

b. Trees and shrubs shall be irrigated by bubbler irrigation lines only. Other landscaping may be irrigated by spray irrigation. Separate valves shall be provided to turn off the spray irrigation line during periods of drought or water conservation.

c. Rain, freeze, and wind detectors shall be installed on all irrigation lines.

C. Non-Residential Landscaped Area Requirements *(Ord. No 16-46; 07-26-2016)*

These standards apply to all non-residential uses. Any area within a PD containing landscaping standards shall comply with the standards set forth in the PD district.

1. Perimeter Requirements:

a. A landscaped area consisting of living trees (as specified below), turf, or other living ground cover and being at least twenty-five (25) feet in width measured from the property line interior to the property shall be provided adjacent to and outside of the right-of-way on all properties located adjacent to a major or minor thoroughfare as defined by the Town of Prosper Thoroughfare and Circulation Designs Standards.

i. The landscaped area may be reduced to fifteen (15) feet for the portion of a property adjacent to a collector street as defined by the Town of Prosper Thoroughfare and Circulation Designs Standards.

ii. The landscaped area shall be increased to thirty (30) feet for properties adjacent to Preston Road, University Drive, and Dallas Parkway.

iii. One (1) large tree, three (3) inch caliper minimum per thirty (30) linear feet of roadway frontage shall be planted within the required landscape area. The trees may be planted in groups with appropriate spacing for species.

iv. In the DTO District, one (1) large tree, three (3) inch caliper minimum per thirty (30) linear feet of roadway frontage, excluding the width of driveways at the property line, shall be planted within the required landscape area. Where the width of the roadway frontage is greater than eighty (80) feet, excluding the width of driveways at the property line, the number of large trees may be planted at a rate of one, 3" large tree per forty (40) feet of roadway frontage, in lieu of the required one tree per thirty (30) linear feet. The trees may be planted in groups with appropriate spacing for species. In the DTO District, the substitution of three (3) small, ornamental trees for one (1) large tree shall not be permitted.

v. A minimum of fifteen (15) shrubs with a minimum size of five (5) gallons each will be planted in the landscaped area for each thirty (30) feet of linear frontage.

vi. Parking abutting the landscape area shall be screened from the adjacent roadway. The required screening may be accomplished with shrubs or earthen berms.

vii. Unless there is parking adjacent to the landscape area, shrubs are not required in the landscape area in the DTO District.

b. Where a non-residential development is adjacent to the property line of residential zoned parcels or areas shown as residential on the Future Land Use Plan, one (1) large tree, three (3) inch caliper minimum, will be planted on thirty (30) foot centers in a fifteen (15) foot landscape area. Evergreen trees shall be planted on twenty (20) foot centers within areas where truck docks or loading spaces are adjacent to single family property.

i. In the DTO District, regardless of the adjacent use, zoning or Future Land Use Designation; the width of perimeter landscape area adjacent to the property line may be reduced to a minimum of five (5) feet.

ii. In the DTO District, in lieu of the required large trees, one (1) small (ornamental) tree shall be planted thirty (30) foot centers along the adjacent property lines."

c. Where a non-residential development is adjacent to the property line of parcels zoned for uses

other than residential or parcels not shown as residential on the Future Land Use Plan:

i. A five (5) foot wide landscape area is required.

ii. If the property line is the centerline of a fire lane or drive aisle, the five (5) foot wide landscape area will begin at the edge of the lane/aisle. If the drive aisle or fire lane only allows access to parking spaces, the landscape area may be eliminated or moved at the discretion of the Town.

iii. The five (5) foot wide landscape area may be eliminated for a building where the building is attached to another building and the attached buildings are shown on an approved Site Plan.

iv. One (1) small tree and one (1) five (5) gallon shrub shall be planted every fifteen (15) linear feet. These trees and shrubs may be clustered in lieu of placing them every fifteen (15) feet.

2. Interior Parking Requirements

Any non-residential parking area that contains twenty (20) or more parking spaces shall provide interior landscaping, in addition to the required landscaped edge, as follows:

a. Fifteen (15) square feet of landscaping for each parking space shall be provided within the paved boundaries of the parking lot area.

b. Where an existing parking lot area is altered or expanded to increase the number of spaces to twenty (20) or more, interior landscaping shall be provided on the new portion of the lot in accordance with this Section.

c. All landscaped areas shall be protected by a raised six (6) inch concrete curb. Pavement shall not be placed closer than four (4) feet from the trunk of a tree unless a Town approved root barrier is utilized.

d. Landscaped islands shall be located at the terminus of all parking rows, and shall contain at least one (1) large tree, three (3) inch caliper minimum, with no more than fifteen (15) parking spaces permitted in a continuous row without being interrupted by a landscaped island. Where there is a minimum eight (8) foot wide landscaped median between two rows of head-in parking, landscaped islands are required every twenty (20) spaces.

e. Landscaped islands shall be a minimum of one hundred and sixty (160) square feet, not less than nine (9) feet wide and a length equal to the abutting space.

f. Subject to approval by the Town, islands may be grouped to form one large island.

g. There shall be at least one (1) large tree, three (3) inch caliper minimum, within one hundred and fifty (150) feet of every parking space. This minimum distance may be expanded with Town approval in the event that required islands are grouped to form larger islands.

3. Building Landscaping

a. Foundation plantings are required for buildings or groups of contiguous buildings that are one hundred thousand (100,000) square feet or larger. One (1) large tree, three (3) inch caliper, shall be required for every ten thousand (10,000) square feet of gross building area. These trees shall be located within thirty (30) feet of the face of the building. These plantings are intended to provide pedestrian areas while breaking up the large areas of impervious surface. Trees required by other Sections of this Ordinance will not meet this requirement. Trees may be planted within the building landscape area described above or within tree grates. Trees can be grouped or planted in singular form. These tree plantings should be placed so as not to impede sign visibility. Trees intended for foundation plantings shall meet the following criteria:

i. Planted within thirty (30) feet of the front building face.

ii. Trees planted less than four (4) feet from the back of curb shall be located in a tree grate with a minimum dimension of four (4) feet.

iii. Small trees may be substituted for large tree foundation plantings at the rate of five ornamentals for each requirement of a large tree (5:1) with Town approval. Small trees shall have a minimum size of three (3) inch caliper. Multi-trunk trees will be required to meet a three (3) inch requirement based on standard nursery trade specifications.

iv. Trees may be placed in groups with appropriate spacing for species.

v. The above requirements may be reduced if approved by the Town and additional pedestrian features such as plazas, seating areas, fountains, and outdoor recreation facilities are provided. These facilities must occupy an area equal to or greater than five (5) percent of the total building area.

b. In the DTR and DTC Districts, large trees shall be planted every thirty (30) feet on center in tree grates within the sidewalk a minimum of four (4) feet behind the back of curb. The trees shall be a minimum three (3) inch caliper at the time of planting.

4. Irrigation Requirements

Permanent irrigation shall be provided for all required landscaping as follows:

a. Irrigation lines shall be placed a minimum of two and one-half (2 ½) feet from a Town sidewalk or alley. Reduction of this requirement is subject to review and approval by the Town Engineer.

b. Trees and shrubs shall be irrigated by bubbler irrigation lines only. Other landscaping may be irrigated by spray irrigation. Separate valves shall be provided to turn off the spray irrigation line during periods of drought or water conservation.

c. Rain, freeze, and wind detectors shall be installed on all irrigation lines.

5. Median planting requirements.

Non-residential developments having frontage on a divided thoroughfare are required to plant or escrow funds for one (1) three (3) inch caliper large tree per seventy (70) linear feet of frontage. The purpose of this requirement is to establish trees in the medians as development of properties adjacent to divided thoroughfares occurs. The Town will be responsible for maintenance of the trees and medians following the initial installation. The Town is responsible for the installation of trees and irrigation where funds are escrowed or a bond is provided. The Town will have the sole authority to approve any alternate methods of meeting median obligations. Right-of-way median plantings shall meet the following criteria:

a. Median plantings within the public right-of-way are to be a minimum of sixty (60) feet from back of curb at the median nose.

b. Median plantings shall be a minimum of five (5) feet from back of curb.

c. Visibility corridors are to be shown on Landscape Plans.

d. Trees shall be a minimum of five (5) feet from utility lines.

e. Six (6) inches of topsoil shall be provided in medians.

## 2.7 REQUIRED PLANT MATERIALS

A. Artificial plants or turf are expressly prohibited. Drought tolerant and/or native plants from the lists below are required for compliance to this Section. Other species may be utilized with approval from the Town.

| Large Trees (Shade) | Small Trees (Ornamental) | Shrubs | |
|---|---|---|---|
| Afghan Pine | Birds of Paradise | American Beautyberry | Indian Hawthorn |
| American Elm | Buckeye, Mexican | Argarita | Italian Jasmine |
| Arizona Cypress | Buckeye, Red | Aromatic Sumac | Leatherleaf Mahonia |
| Bald Cypress | Buckeye, Texas | Bridal Wreath Spirea | Miniature Crepe Myrtle |
| Bigelow Oak | Carolina Buckthorn | Burford Holly | Nellie R. Stevens Holly |
| Bur Oak | Crepe Myrtle (tree form) | Chinese Photinia | Oakleaf Hydrangea |
| Caddo Maple | Desert Willow | Cleyera | Purpleleaf Japanese |
| Cedar Elm | Eastern Red Cedar | Compact Nandina | Barberry |
| Chinquapin Oak | Eve's Necklace | Coral Berry | Red Yucca |
| Durrand Oak | Hawthorne | Crimson Pygmy Barberry | Rose of Sharon (Althea) |
| Lacebark Elm | Hollywood Juniper | Dwarf Burford Holly | Semi-Dwarf Crepe Myrtle |
| Lacy Oak | Japanese Black Pine | Dwarf Burning bush | Smooth Sumac |
| Live Oak | Juniper, Blue Point | Dwarf Chinese Holly | Spiraea |
| Pecan | Juniper, Wichita Blue | Dwarf Crepe Myrtle | Standard Nandina |
| Shumard Oak | Mesquite | Dwarf Glossy Abelia | Texas Sage |
| Southern Live Oak | Mexican Plum | Dwarf Pomegranate | |
| Southern Magnolia | Ornamental Pear* | Dwarf Spirea | |
| Texas Ash | Pomegranate | Dwarf Wax Myrtle | |
| Texas Red Oak | Possumhaw Holly | Dwarf Yaupon Holly | |
| Western Soapberry | Redbud | Elaeagnus | |
| | Roughleafed Dogwood | Flowering Quince | |
| | Texas Persimmon | Forsythia | |
| | Vitex | Foster Holly | |
| | Wax Myrtle | Glossy Abelia | |
| | Winter/Bush Honeysuckle | Harbor Dwarf Nandina | |
| | Yaupon Holly | Hypericum | |

*Ornamental Pear does not include Bradford Pears

| Groundcover | Ornamental Grass | |
|---|---|---|
| Asiatic Jasmine | Autumn Blush Muhly | Inland Sea-Oats |
| Avens, White | Big Bluestem | Lindheimer's Muhly |
| Frog Fruit | Black Fountain Grass | Little Bluestem |
| Ground Ivy | Blue Grama | Maiden Grass |
| Hardy Plumbago | Broomsedge | Morning Light Maiden |
| Horseherb | Bushy Bluestem | Ravenna Grass |
| Liriope or Lily Turf | Canada Wildrye | Sideoats Grama |
| Mondo or Monkey Grass | Dwarf Maiden Grass | Silver Bluestem |
| Pigeonberry | Dwarf Pampas Grass | Splitbeard Bluestem |
| Purpleleaf Euonymus | Eastern Gamma Grass | Standard Fountain Grass |
| Santolina | Feather Reed Grass | Switchgrass |
| Snake Herb | Hamelin's Fountain Grass | Variegated Japanese Silver Grass |
| Wood Violet | Indiangrass | Zebra Grass |

B. Landscaping installed that exceeds the minimum required amounts above does not have to be from the drought tolerant/native plant lists contained herein. However, Cottonwood Trees may not be planted within twenty five (25) feet of any public infrastructure.

C. Nonresidential and multifamily developments are strongly encouraged to use Buffalograss as turf, due to its low water usage. As an incentive to encourage the use of Buffalograss, nonresidential or multifamily developments that elect to install Buffalograss are exempt from the permanent irrigation requirements above.

# SECTION 3
# TREE MITIGATION

*(Ord. 18-11; 01-23-18)*

## 3.1 PURPOSE

The purpose of this Section is to promote site planning which furthers the preservation of mature trees and natural areas; to protect trees during construction; to facilitate site design and construction which contribute to the long-term viability of existing trees; and to control the removal of trees when necessary. It is the further purpose of this Section to achieve the following broader objectives:

A. Prohibit the indiscriminate clearing of property.

B. Protect and increase the value of residential and commercial properties within the Town.

C. Maintain and enhance a positive image for the attraction of new residences and business enterprises to the Town.

D. Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the Town.

E. To reduce the erosive effects of rainfall.

## 3.2 SCOPE

The scope of this Section includes the removal and/or transplanting of any tree and mitigation for the removal of Protected Trees. A permit approved by the Director of Development Services or his/her designee is required before removing and/or transplanting any tree and mitigation for the removal of Protected Trees.

## 3.3 DEFINITIONS

A. Protected Tree - A tree that is determined to be healthy by the Director of Development Services, or his/her designee, and meets one of the following requirements:

- Any tree, regardless of species, within a 100-year floodplain, six inches (6”) or larger in diameter when measured at a point four and one-half feet (4½’) above the ground level and which normally attains a height of at least twelve feet (12’) at maturity.
- Any tree outside of the floodplain, except those listed below, six inches (6”) or larger in diameter when measured at a point four and one-half feet (4½’) above the ground level and which normally attains a height of at least twelve feet (12’) at maturity.

B. Historic Tree - Any protected tree forty inches (40”) or larger in diameter when measured at a point four and one-half feet (4½’) above the ground level and which normally attains a height of at least twelve feet (12’) at maturity; or any tree deemed to be of historical significance.

C. Unprotected Trees - The following trees shall not be included in the above definition of Protected Trees:

| | |
|---|---|
| Silver Leaf Maple | Acer saccharinum |
| Hackberry, Texas Sugarberry | Celtis laevigata (Celtis occidentalis) |
| Honey locust | Gleditsia triacanthos |
| Bois d’Arc | Maclura pomifera |
| Mimosa | Mimosa sp. |
| Red Mulberry | Morus rubra |
| White Poplar | Poplus alba |
| Cottonwood | Populus deltoids |
| Mesquite | Prosopis glandulosa |
| Willow | Willow sp. |

## 3.4 TREE PERMIT

A Tree Permit shall be required for the transplanting and/or removal of all trees within the Town of Prosper, regardless of size or species, except for trees located on a single-family or two-family lot contained within a plat of record, and as otherwise described in Chapter 4, Section 3.5 below.

A. Application for Tree Permit. An application for a Tree Permit may be submitted at any time and is not required to be submitted in conjunction with development plans, final plat or a building permit. Tree Permits shall be obtained by making application to the Director of Development Services, or his/her designee. The application must include a letter signed by the property owner allowing the Town access to the property for verification of all survey information. The application shall also be accompanied by a written document indicating the reasons for transplanting and/or removal of Protected Trees and two (2) copies of a legible site or planting plan, and a detailed Tree survey and preservation plan if required in Chapter 4, Section 3.10.

B. Review of Application for Tree Permit. Upon receipt of a proper application for a Tree Permit, the Director of Development Services or his/her designee shall review the application and may conduct field inspections of the site or development and/or refer the permit application to other departments for review and recommendations as deemed necessary and appropriate by the Town. Protected Trees may not be removed or transplanted unless the Director of Development Services or his/her designee approves the Tree Permit. The Director of Development Services or his/her designee shall act on a tree permit application within ten (10) business days of its submittal. If action has not been taken within this specified time frame, the application shall be deemed approved.

C. Historic Tree Preservation. No tree removal permit may be issued for a historic tree unless the owner establishes that preserving the historic tree constitutes an unreasonable financial hardship on the owner. Appeals from this determination shall be to the Town Council.

## 3.5 EXCEPTIONS

A. A Tree Permit shall be required to remove and/or transplant a Protected Tree, except for a Protected Tree located on a single-family or two-family lot contained within a plat of record and having a Certificate of Occupancy. The Director of Development Services or his/her designee may authorize, in writing, removal of a Protected Tree provided that the Protected Tree:

1. is determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety;
2. hinders or obstructs the construction, maintenance, repair, and/or replacement of Town streets, water and sewer lines, and drainage and storm sewer;
3. is located in any major thoroughfare right-of-way dedicated to and accepted by the Town. This does not include trees being removed for proposed neighborhood streets, driveways, right and left turn lanes, and/or median openings. Removal of these trees shall require a permit and mitigation at a rate of fifty (50%) percent of the mitigation requirements contained in Chapter 4, Section 3.7(A) of this Ordinance;
4. hinders or obstructs the construction, repair, maintenance, and/or replacement of public improvement projects including, but not limited to, major collection lines for sanitary sewer, distribution lines for water, collection and management of storm water runoff and thoroughfares pursuant to the Town's Capital Improvement Project, Water and Sanitary Distribution Line Maps and/or Thoroughfare Plan;
5. is damaged or killed by a tornado, ice or wind storms, flooding or other acts of nature; or
6. a tree that is determined to be diseased or dead by a certified arborist or landscape architect,

regardless of species or size.

B. All retail, commercial, and wholesale nurseries are exempt from the terms and provisions of this Section 3 in relation to those Trees planted and growing on the premises of said business and that are planted and growing for the sale or intended sale in the ordinary course of business only.

C. Utility companies franchised by the Town in easements or rights-of-way accepted by the Town or otherwise authorized to provide utility service may remove Protected Tree(s) that endanger public safety and welfare by interfering with utility service. Any trimming and/or removal of Protected Tree(s) by a utility company requires prior written approval from the Director of Development Services or his/her designee, except in the case of emergency repairs. A utility company shall notify the Director of Development Services or his/her designee of any trimming and/or removal of Protected Trees done while making emergency repairs on the first business day following the emergency.

D. The mowing and clearing of brush located within or under the drip lines of Protected Trees is allowed, provided such mowing or clearing is accomplished by hand or by mechanical mowers with turf tires.

E. Developments that have submitted a preliminary plat for residential development or a final plat for non-residential development prior to the effective date of this Ordinance shall be exempt from this Ordinance.

F. The removal of trees for the development or redevelopment of golf courses and pedestrian trails shall require a permit and mitigation at a rate of fifty (50) percent of the mitigation requirements contained in Chapter 4, Section 3.7(A) of this Ordinance.

G. Agricultural users can remove Protected Tree(s) for agricultural production with prior written permission from the Director of Development Services or his/her designee. A Protected Tree inventory summary is required to list Tree(s) removed and preserved. Replacement requirements of Protected Tree(s) being removed for agricultural production will be prorated equally over a period of ten (10) years. Should the property be developed prior to the full ten (10) years the remainder of required trees shall be planted on the property in addition to the required trees.

H. A tree located on a common property line may not be removed without first obtaining a Tree Permit. Each of the affected property owners must request the Tree Permit. A single request may be submitted if it is signed by each of the affected property owners.

## 3.6 MITIGATION FOR TREES REMOVED

A. It shall be the responsibility of any person obtaining a Tree Permit for the removal of Protected Trees to provide Replacement Tree(s) having a total diameter of inches equivalent to the percentage rates set forth in Chapter 4, Section 3.7(A). The diameter for Replacement Trees shall be measured as follows:

1. For single-trunk trees, the width shall be measured at four and one half feet (4½') above ground level.

2. For multi-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 four and one half feet (4½') above ground level.

   An example: If an eight inch (8") Protected Tree in the flood plain is removed that tree must be replaced at one hundred fifty percent (150%) by trees with a total caliper width of twelve inches (12") inches. This total caliper width could be satisfied by one (1) twelve inch (12") caliper replacement tree, or two (2) six inch (6") caliper width replacement trees, or any other combination providing a total caliper width of twelve inches (12") using a minimum width of three inches (3").

B. Should a transplanted tree die, it shall be removed and replacement trees shall be planted at a rate of one hundred percent (100%) of the caliper inches of the transplanted tree(s).

C. If any tree, which was preserved and used as a credit toward mitigation requirements is later removed for any reason, it shall be replaced by the number of trees for which it was originally credited. Replacement trees shall have a minimum trunk diameter of three inches (3") measured six inches (6") above the ground.

D. If any Replacement Tree cannot be properly located on the property being developed or redeveloped, the applicant may plant these Replacement Tree(s) on property owned by the Town and/or common open space and/or pay a fee, as approved by the Director of Development Services, or his/her designee. The cash value of Replacement Trees will be set by the Director of Development Services, or his/her designee, annually.

E. The person(s) or entity responsible for the developing and or redeveloping property that causes or results in the removal of existing Tree(s) in proposed driveways, right turn lanes, and/or in proposed median openings, shall plant Replacement Tree(s) at a rate of one hundred percent (100%) of the total diameter of the Tree(s) being removed. The Replacement Tree(s) will be planted on public property according to a written plan approved by the Director of Development Services or his/her designee.

3.7 REPLACEMENT REQUIREMENTS

A. Removal of Protected Trees- Protected Trees shall be replaced by planting trees on the property equal to the total caliper inches as calculated using the following replacement rate:

| | Size of Tree | Percentage of Replacement (caliper inches) |
|---|---|---|
| Within 100-year flood plain | Less than 6" (unprotected) | 0 |
| | 6" - 12" | 150 |
| | Greater than 12" - 24" | 200 |
| | Greater than 24" - 40" | 300 |
| | Greater than 40" (Historic) | Town Council approval and 400 |
| Outside of 100-year flood plain | Less than 6" (unprotected) | 0 |
| | 6"-12" | 100 |
| | Greater than 12" - 24" | 150 |
| | Greater than 24" - 40" | 300 |
| | Greater than 40" (Historic) | Town Council approval and 400 |

*All existing tree measurements are in caliper inches as measured four and one-half feet (4 ½') above the natural ground level.

** All replacement tree measurements are in caliper inches as measured twelve inches (12") above natural ground level.

B. Transplanted Trees - Protected Trees on a property may be transplanted to another location on the same property without being subject to the above replacement rates.

C. Tree Credits - If any protected tree is preserved within an area that would otherwise be considered a buildable area, credit for preservation shall be given that will be counted toward the mitigation requirements for the removal of protected trees within the buildable area on a site or project. Such mitigation credits shall be given only for those trees whose critical root zones are left predominately in their natural state. No cutting, filling, or other construction related activities are allowed within the critical root zones of trees eligible for mitigation credit unless otherwise approved in writing and in advance by the Town. Following is a list of credits available for the preservation of protected trees on a site or project. Tree Credits will be awarded using the following table:

| Caliper Size Tree | Positive Credits* |
|---|---|
| 6”-12” | 1 |
| >12”-18” | 3 |
| >18"-24” | 4 |
| >24” | 5 |

*(1 credit is equal to one 3” caliper tree. Healthy, protected trees only.)

D. Any tree that is preserved and receives positive credit towards mitigation is exempt from being used to fulfil required landscaping as described in Chapter 4 Section 2 of this Ordinance.

E. Any tree preserved within a floodplain is exempt from receiving positive credit towards mitigation.

## 3.8 TRANSPLANTING PROTECTED TREES

No person(s) or entity, directly or indirectly, shall replant, relocate, transfer or move from one location to another any Protected Tree within the Town without first obtaining a Tree Permit as provided in Chapter 4, Section 3.4. All Transplanting shall be in accordance with the applicable Texas Association of Nurserymen Grades and Standards shall satisfy the Tree replanting requirements of this Section.

## 3.9 TREE PROTECTION MEASURES

Prior to construction, the contractor or subcontractor shall construct and maintain, for each protected tree on a construction site, a protective fence and where necessary, bark protection (See Diagram A). All protective measures shall be in place prior to commencement of any site work and remain in place until all exterior work has been completed.

During any construction or land development, the developer shall clearly mark all trees to be maintained. The developer shall not allow the movement of heavy equipment or the storage of equipment, materials, debris, or fill to be placed within the drip line of any trees. This is not intended to prohibit the normal construction required within parking lots. All Protected Tree(s) shall be protected by the owner as follows, unless otherwise directed by the Director of Development Services or his/her designee:

A. Before Development or Redevelopment, the owner shall install a minimum three foot (3’) tall protective barricade made of wood, fencing or solid material. These barricades will be installed a minimum of ten feet (10’) from protected trees or a minimum of two feet (2’) outside the designated protective root zone, whichever is the greater distance.

B. Vertical posts no less than three feet (3’) in height and no more than six feet (6’) apart. Horizontal members consisting of wood no less than three feet (3’) above existing grade and securely attached to the vertical posts.

C. Before Development or Redevelopment, the owner shall establish and maintain a construction entrance that avoids Protected Trees.

D. During the construction stage of development, the developer shall not allow cleaning of equipment or material under the canopy of any tree or group of trees to remain, nor shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy of any tree or groups of trees to remain. No attachment or wires of any kind, other than those of a protective nature, shall be attached to any tree.

E. No parking or storing of vehicles, equipment or materials allowed within the protective root zone.

F. Attachments or wires are prohibited from being attached to any Protected Tree. Cables, tree rods, and similar hardware installation that aid structural integrity of a Protected Tree are exempt from this section as approved in writing by the Director of Development Services or his/her designee.

G. Fill or excavation may not occur within the canopy or drip line of a Protected Tree. Major changes of grade (*i.e.*, three inches [3"] or greater) within the canopy or drip line will require additional measures to maintain proper oxygen and water exchange with the roots.

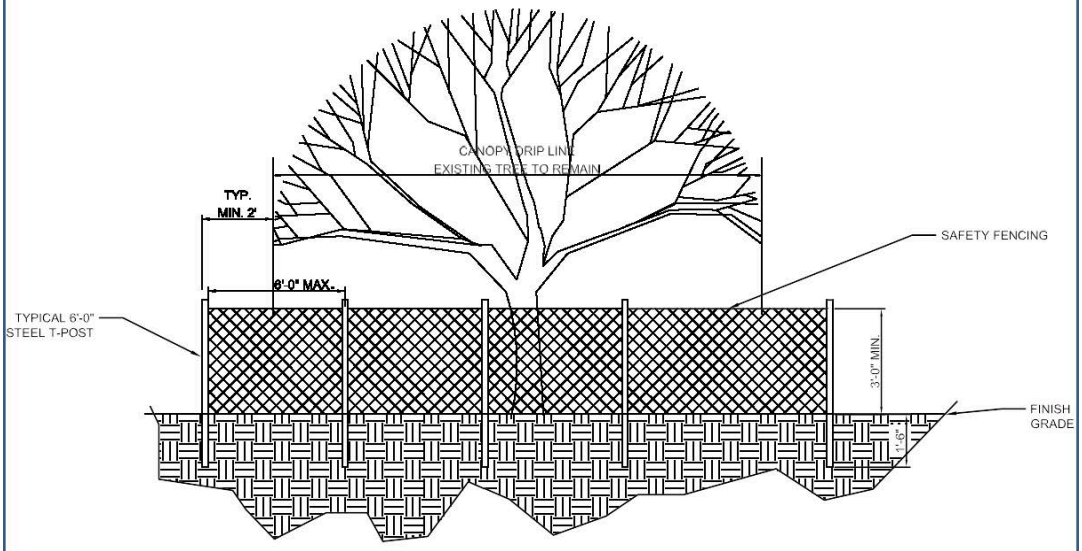
H. Unless otherwise approved in writing by the Town, construction or construction-related activity is prohibited under the canopy or drip line of Protected Trees.

I. Any trees removed shall be chipped and used for mulch on site or hauled off-site. Burning of removed trees, stumps, or foliage requires written approval by the Fire Department.

J. Root pruning will be required when disturbance will occur under the drip line of protected Trees. This root pruning shall be completed a minimum of two (2) weeks prior to any construction activity within the drip line.

K. All tree maintenance techniques shall be in conformance with industry identified standards. Alternative maintenance techniques may be approved by the Town.

L. No person(s) or entity may use improper or malicious maintenance or pruning techniques which would likely lead to the death of the tree. Improper or malicious techniques include, but are not limited to, topping or other unsymmetrical trimming of trees, trimming trees with a backhoe, or use of fire or poison to cause the death of a tree.




Notes:
1. Fence shall be maintained and repaired as required during all phases of construction.
2. No construction traffic, grading, storage, or waste disposal allowed within fenced areas around existing trees

**EXISTING TREE PROTECTION DETAIL**

**NOT TO SCALE**

Diagram A

## 3.10 TREE SURVEY AND PRESERVATION PLAN

A. Preliminary Plat and Preliminary Site Plans: A general survey identifying natural vegetation, trees, and anticipated tree losses shall be submitted with all preliminary plats for residential developments and all preliminary site plans for non-residential and multi-family developments within the Protected Area. The general tree survey can be included on the preliminary plat or preliminary site plan. The general survey shall include:

1. existing topography at five foot (5') intervals;
2. vegetation groups;
3. development plans;
4. specific trees that are twenty inches (20") and larger; and
5. photographic information is to accompany submission with sufficient data to convey which Trees are to remain as they correspond to the general survey.

B. Final Site Plans and Final Plats: A detailed tree survey and tree preservation plan shall be submitted with all site plans and final plats. The detailed tree survey and tree preservation plan shall include the following:

1. The location, diameter, height, and common name of all single-trunk trees of six inches (6") diameter or greater, measured at four and one half feet (4½') above natural grade level, and at least twelve feet (12') high; and all multi-trunk trees having a total caliper width of six inches (6"), measured by combining the diameter of the largest stem or branch with one-half (½) the diameter of each additional stem or branch, all measured at four and one half feet (4½') above natural grade level, and at least twelve feet (12') high.
2. The location of the trunk and drip line, diameter, height, estimated age (not to be determined using invasive measures which might damage the tree), a reproducible color photograph, and common name of the Protected Trees proposed to be removed or transplanted.
3. Provide existing natural grade elevation and proposed final grade elevation at each location for each Protected Tree for which a Tree Permit is requested.
4. The location and dimensions of all existing or proposed public streets, alleys, rights-of-way, and utility easements.
5. The location of all existing or proposed property lines, lot lines, building lines, setback and yard requirements, any proposed building footprint or floor plan, and other special relationships or significant features on the proposed development plans, final plat and site plan of the development.
6. Existing and proposed site elevations, grades and major contours including a table listing all Protected Trees and their respective locations.
7. The information required herein shall be summarized in legend or table form on the tree survey and note the reason for removal or transplanting of the Protected Tree(s).
8. The survey shall bear the stamp or seal of a registered surveyor relative to the location of any Protected Trees and shall bear the stamp, seal, or signature of a registered landscape architect, certified arborist, or arboriculturist relative to the specie(s) of any Protected Tree.
9. A detail tree survey shall be prepared by or under the supervision of a landscape architect, certified arborist, or certified forester. The following shall be on the tree survey:

   *"I _____ being a landscape architect or arborist attest that the identification and size of trees identified on this survey are correct and that all Protected Trees have been shown.*

   *Signature: _____ Date: _____*

10. A detailed survey is only required for areas that are intended to be disturbed by the proposed development/redevelopment. A boundary of the area to be included in a detailed survey will be established with the approval of the general survey that is submitted with the preliminary plat or preliminary site plan.

C. Field verification: Prior to written approval of the detailed tree survey and tree preservation plan, the applicant shall mark all trees to be preserved and notify (in writing) the Director of Development Services or his/her designee of the marking. The Director of Development Services or his/her designee shall inspect and verify the markings within seven (7) working days of his/her receipt of applicants' notification. If the Director of Development Services, or his/her designee, has not contacted the land owner within ten (10) working days from the date of notification, the detailed tree survey and tree preservation plan submitted by the applicant is deemed approved.

D. Preparation: Prior to the preconstruction meeting or obtaining a grading permit, all tree markings and protective fencing and standard erosion control measures (i.e. silt fence) must be installed by the owner and be inspected by the Director of Development Services or his/her designee. Approved silt fence may serve as protective fencing and must remain in place until the Town accepts the project. A stop work order will be issued at any time if Tree preservation requirements are not being met.

E. Final Inspections: The owner shall notify the Director of Development Services or his/her designee for an inspection ten (10) working days prior to receiving a Certificate of Occupancy. Any deficiencies or dead trees shall be replaced prior to receiving the Certificate of Occupancy.

## 3.11 ENFORCEMENT

The Town Landscape Architect shall be authorized to approve tree loss mitigation plans. The provisions of this section shall be enforced by the Landscape Architect and Code Compliance Officer. The Landscape Architect shall be an employee of the Town and certified as an arborist by the International Society of Arboriculture (ISA) or registered as a landscape architect by the Texas Board of Architectural Examine.

## 3.12 VIOLATIONS AND PENALTIES

A. Any person(s) or entity causing the transplanting or removing of a tree without first obtaining an approved Tree Permit is in violation of this Ordinance.

B. Each tree removed or transplanted without a permit shall constitute a separate offence. Violation of this Ordinance shall not constitute an exemption to the replacement requirements contained herein.

C. A person commits an offense if the person critically alters a protected tree not meeting an exception listed in this section without first obtaining a tree permit from the Town.

D. A person commits an offense if the person critically alters a tree in violation of a tree permit.

E. Any person who violates this section by critically altering a protected tree without first obtaining a tree permit from the Town, or by critically altering a tree in violation of the permit, or by failing to follow the tree replacement procedures, shall be guilty of a misdemeanor and upon conviction shall be fined $100.00 per caliper inch of the tree critically altered, not to exceed $500.00 per incident. The unlawful critical alteration of each protected tree shall be considered a separate incident and each incident shall subject the violator to the maximum penalty set forth herein for each tree.

F. Any person, firm, corporation, agent or employee thereof who violates any provisions of this section other than those listed in above, shall be guilty of a misdemeanor and upon conviction hereof shall be fined not to exceed $500.00 for each incident. The unlawful critical alteration of each protected tree shall be considered a separate incident and each incident subjects the violator to the maximum penalty set forth herein for each tree.

G. Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this section.

H. *Acceptance of improvements.* The Town may refuse to accept any public improvements until the person pays all penalties for violations of this section; provided, however, that acceptance of public improvements shall be authorized before all trees shall be replaced if, with the Director of Development Services' approval, the person furnishes the Town with a cash deposit or surety bond in the approximate amount of the cost to replace the tree.

I. *Certificate of occupancy.* No certificate of occupancy (CO) shall be issued until any and all penalties for violations of this section have been paid to the Town. No CO shall be issued until all required replacement trees have been planted or appropriate payments have been made to the reforestation fund; provided, however, that a CO may be granted before all trees have been replaced if, with the Director of Development Services' approval, the person furnishes the Town with a cash deposit or surety bond in the approximate amount of the cost to replace the tree.

# SECTION 4
# PARKING AND LOADING

## 4.1 PURPOSE

To secure safety from fire, panic, and other dangers; to lessen congestion on public streets; to facilitate the adequate provisions of transportation; to conserve the value of buildings; and to encourage the most appropriate use of land. Minimum off-street parking and loading shall be provided as set forth in the following schedules and provisions.

## 4.2 RESIDENTIAL PARKING PROVISIONS (Z12-0002)

A. Required parking shall be provided on the same lot as the use it is to serve.

B. All required parking spaces shall be constructed from paved concrete or another similar impervious surface if approved by the Town Council prior to construction.

C. For agricultural uses in the in the A District, required parking may be constructed from washed gravel, asphalt, or similar all-weather surface.

D. No required parking space, garage, carport, or other automobile storage space shall be used for the storage of any heavy load vehicle.

E. In the SF, DTSF, TH and 2F Zoning Districts, there shall be a minimum of two (2) parking spaces located behind the front building line and enclosed in the main or an accessory building. In addition, there shall be two (2) paved parking spaces provided behind the front property line only for the purpose of allowing on-site stacking or maneuvering to the enclosed spaces.

F. In the SF, DTSF, TH and 2F Zoning Districts, all required parking spaces shall be a minimum of nine (9) feet wide and twenty (20) feet long. Required enclosed parking and stacking spaces shall remain clear of any encroachments. (*Ord. 12-06: 02-14-2012).*

G. Circular driveways shall be designed to accommodate any required parking behind the front building line.

## 4.3 NON-RESIDENTIAL & MULTIFAMILY PARKING PROVISIONS *(Ord. 16-46; 07-26-2016)*

A. To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties and in accordance with the standards established in Chapter 4, Section 6 of this Ordinance.

B. For safety and fire-fighting purposes, free access through to adjacent parking areas shall be provided between adjoining non-residential parcels or building sites.

C. All required parking spaces shall be constructed from paved concrete or another similar impervious surface if approved by the Town Council prior to construction. Parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Non-permanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

D. Dead-end parking aisles are not permitted. In the DTO District, where ten (10) or fewer off-street parking spaces are provided, a dead-end parking aisle is permitted.

E. Each head-in parking space shall be a minimum of nine (9) feet wide and twenty (20) feet long, exclusive of driveways and maneuvering aisles, and shall be of usable shape and condition (see Chapter 5, Section 2.3, Illustrations A-G). Where it is possible for a vehicle to overhang the front of a parking space above a paved, stoned, mulched, or grassed area other than a sidewalk, street right-of-way, or adjacent property, the depth of the standard space may be reduced to eighteen (18) feet. No parking space shall overhang required landscape areas. Parallel parking spaces must be a minimum of eight (8) feet wide and twenty-two (22) feet long. Parking spaces within non-residential structured parking garages shall be a minimum of eight and one-half (8.5) feet wide and eighteen (18) feet long.

F. All parking and loading spaces and vehicle sales areas on private property shall have a vehicle stopping device installed so as to prevent parking of motor vehicles in any required landscaped areas, and to prevent any parked vehicle from overhanging a public right-of-way line, or public sidewalk. Parking shall not be permitted to encroach upon the public right-of-way in any case. All vehicle maneuvering shall take place on-site. No public right-of-way shall be used for backing or maneuvering into a parking space.

G. Refuse storage facilities placed in a parking lot shall not be located in a designated parking or loading space. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies and shall be screened according to Chapter 4, Section 5 of this Ordinance.

H. Handicap parking space(s) shall be provided according to State of Texas Program for the Elimination of Architectural Barriers and shall conform to the Americans Disability Act (ADA) of 1991, as may be amended, accessibility guidelines or the Uniform Federal Accessibility Standards.

## 4.4 PARKING ACCESS FROM A PUBLIC STREET - ALL DISTRICTS

A. In the approval of a development plan, consideration shall be given to providing entrance/exit drives which extend into the site to provide adequate queuing of vehicles on the site.

B. In all Districts (except all SF and 2F Districts) building plans shall provide for entrance/exit drive(s) appropriately designed and located to minimize traffic congestion or conflict within the site and with adjoining public streets as approved by the Building Official or designated representative.

1. Where based upon analysis by the Town, projected volumes of traffic entering or leaving the planned developments are likely to interfere with the projected peak traffic flow volumes on adjoining streets, additional right-of-way and paving in the form of a deceleration lane or turn lane may be required to be furnished by the land owner in order to reduce such interference.

2. The determination of additional right-of-way or paving requirements shall be made at the submittal and approval of a preliminary site plan for multifamily and non-residential developments and preliminary plat for all other residential developments.

C. Vehicular access to non-residential uses shall not be permitted from alleys serving residential.

## 4.5 PARKING REQUIREMENTS BASED ON USE

In all Zoning Districts, at the time any building or structure is erected or structurally altered, parking spaces shall be provided in accordance with the following requirements:

- Auto laundry or car wash (self serve): One (1) space per five hundred (500) square feet of gross floor area.
- Automobile Oil Change and Similar Establishments: One (1) parking space per service bay plus one (1) parking space per maximum number of employees on a shift.
- Bank, Savings and Loan, or similar institution: One (1) space per three hundred and fifty (350) square feet of gross floor area.
- Bed and breakfast facility: One (1) space per guest room in addition to the requirements for a normal residential use.
- Bowling alley: Three (3) parking spaces for each alley or lane.
- Business or professional office (general): One (1) space per three hundred and fifty (350) square feet of gross floor area except as otherwise specified herein.
- Church, rectory, or other place of worship: One (1) parking space for each three (3) seats in the main auditorium.
- College or University: One (1) space per each day student.

- Community Center, Library, Museum, or Art Gallery: Ten (10) parking spaces plus one (1) additional space for each three hundred (300) square feet of floor area in excess of two thousand (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 (1) space for each four (4) seats that it contains.
- Commercial Amusement: One (1) space per three (3) guests at maximum designed capacity.
- Country Club or Golf Club: One (1) parking space for each one hundred fifty (150) square feet of floor area or for every five (5) members, whichever is greater.
- Dance Hall, Assembly or Exhibition Hall without Fixed Seats: One (1) parking space for each two hundred (200) square feet of floor area thereof.
- Dwellings, Single Family and Duplex: Two (2) covered spaces, located behind the front building line, and two (2) maneuvering spaces for each unit.
- Dwellings, Multifamily: Two (2) spaces for one (1) and two (2) bedroom units, plus one half (0.5) additional space for each additional bedroom.
- Flea Market: One (1) space for each five hundred (500) square feet of site area.
- Fraternity, Sorority, or Dormitory: One (1) parking space for each two (2) beds on campus, and one and one-half (1½) spaces for each two beds in off campus projects.
- Furniture or Appliance Store, Hardware Store, Wholesale Establishments, Machinery or Equipment Sales and Service, Clothing or Shoe Repair or Service: Two (2) parking spaces plus one (1) additional parking space for each three hundred (300) square feet of floor area over one thousand (1,000).
- Gasoline Station: Minimum of three (3) spaces for employees. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling.
- Golf Course: Five (5) parking spaces per hole.
- Health Studio or Club: One (1) parking space per two hundred (200) square feet of exercise area.
- Hospital: One (1) space per employee on the largest shift, plus one and one-half (1½) spaces per each bed or examination room whichever is applicable.
- Hotel: One (1) parking space for each sleeping room or suite plus one (1) space for each two hundred (200) square feet of commercial floor area contained therein.
- Kindergartens, day schools, and similar child training and care establishments shall provide one (1) paved off-street loading and unloading space for an automobile on a through "circular" drive for each ten (10) students, or one (1) space per ten (10) students, plus one (1) space per teacher.
- Library or Museum: Ten (10) spaces plus one (1) space for every three hundred (300) square feet, over one thousand (1,000) square feet.
- Lodge or Fraternal Organization: One (1) space per two hundred (200) square feet.
- Manufacturing or Industrial Establishment, Research or Testing Laboratory, Creamery, Bottling Plant, Warehouse, Printing or Plumbing Shop, or Similar Establishment: One (1) parking space for each employee on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith, but not less than one (1) parking space for each one thousand (1,000) square feet of floor area.
- Medical or Dental Office: One (1) space per two hundred and fifty (250) square feet of floor area. Facilities over twenty thousand (20,000) square feet shall use the parking standards set forth for hospitals.
- Mini-Warehouse: Four (4) spaces per complex plus (1) one additional space per three hundred (300)

square feet of rental office.

- Mobile Home Park: Two (2) spaces for each mobile home plus additional spaces as required herein for accessory uses.
- Mortuary or Funeral Home: One (1) parking space for each fifty (50) square feet of floor space in slumber rooms, parlors or individual funeral service rooms.
- Motel: One (1) parking space for each sleeping room or suite plus one (1) additional space for each two hundred (200) square feet of commercial floor area contained therein.
- Motor Vehicle Repair and Service: Three (3) parking spaces per service bay plus one (1) parking space per maximum number of employees on a shift.
- Motor-Vehicle Salesroom and Used Car Lots: One (1) parking space for each five hundred (500) square feet of the structure. These required spaces may not be used to store or display automobiles for sale.
- Nursing Home: One (1) space per five (5) beds and one (1) parking space for each one thousand (1,000) square feet of lot area for outdoor uses.
- Private Club or Restaurant with a Private Club: One (1) parking space for each seventy five (75) square feet of gross floor area.
- Retail Store, Except as Otherwise Specified Herein (Z13-0010): One (1) space per two hundred and fifty (250) square feet of gross floor area. *(Ordinance 13-48; 9/10/13).*
- Restaurant, Cafe or Similar Dining Establishment: One (1) parking space for each seventy five (75) square feet of gross floor area for stand alone buildings without a drive-through, and One (1) parking space for each one hundred (100) square feet of gross floor area for restaurants located within a multi-tenant building and for stand alone buildings with a drive-through.
- Rooming or Boarding House: One (1) parking space for each sleeping room.
- Sanitarium, Convalescent Home, Home for the Aged or Similar Institution: One (1) parking space for each five (5) beds.
- School, Elementary, Secondary, or Middle: One and one half (1.5) parking spaces per classroom, or the requirements for public assembly areas contained herein, whichever is greater.
- School, High School: One and one half (1.5) parking spaces per classroom plus one (1) space per five (5) students the school is designed to accommodate, or the requirements for public assembly areas contained herein, whichever is greater.
- Theater, Sports Arena, Stadium, Gymnasium or Auditorium (except school): One (1) parking space for each four (4) seats or bench seating spaces.
- Truck stops: One (1) truck parking space for each ten thousand (10,000) square feet of site area, plus one (1) vehicle parking space per two hundred (200) square feet of building area.
- Warehouse, Wholesale, Mini, Manufacturing and Other Industrial Type Uses: One (1) space per one thousand (1,000) square feet of gross floor area, or one (1) space per maximum number of employees on a shift, whichever is less.

## 4.6 RULES FOR COMPUTING NUMBER OF PARKING SPACES

In computing the number of parking spaces required for each of the above uses, the following rules shall govern:

A. "Floor Area" shall mean the gross floor area of the specific use.

B. Where fractional spaces result, the parking spaces required shall be constructed to be the next whole

number.

C. The parking space requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Director of Planning.

D. Whenever a building or use constructed or established after the effective date of this Ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Ordinance is enlarged to the extent of fifty (50) percent or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.

E. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately. Up to fifty (50) percent of the parking spaces required for a theater or other place of evening entertainment (after 6:00 P.M.), or for a church, may be provided and used jointly by banks, offices, and similar uses not normally open, used, or operated during evening hours if specifically approved by the Planning & Zoning Commission. Shared parking must be on the same site. Such approval may be rescinded by the Planning & Zoning Commission and additional parking shall be obtained by the owners in the event that the Planning & Zoning Commission determines that such joint use is resulting in a public nuisance by providing an inadequate number of parking spaces or otherwise adversely affecting the public health, safety, or welfare. A decision by the Planning & Zoning Commission to rescind a shared parking approval may be appealed to the Town Council (see appeal procedure in Chapter 4, Section 1.6(B)(7) of this Ordinance).

## 4.7 LOCATION OF PARKING SPACES

All parking spaces required herein shall be located on the same lot with the building or use served, except as follows:

A. Where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located not to exceed three hundred (300) feet from an institutional building served and not to exceed six hundred (600) feet from any other non-residential building served.

B. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purpose, shall be properly drawn and executed by the parties concerned, approved as to form by the Town Attorney and shall be filed with the application for a site plan, building permit or Certificate of Occupancy (CO); whichever occurs first.

C. Required parking in the DTO, DTR, and DTC Districts may be reduced by fifty (50) percent of the current parking requirements as they exist or may be amended. If it is determined that due to existing site constraints, the requirements of this Ordinance cannot be met, the Director of Planning may approve the use of parallel or head-in parking located within the street right-of-way, if sufficient right-of-way exists, to satisfy parking requirements.

## 4.8 USE OF REQUIRED PARKING SPACES IN NON-RESIDENTIAL DISTRICTS

Required parking and loading spaces shall be used only for these respective purposes and not for the storage or permanent display of boats, trailers, campers, motor vehicles or other goods, materials, products for sale.

## 4.9 LOADING SPACE REQUIREMENTS

A. All non-residential uses having five thousand (5,000) square feet or more of gross floor area shall provide and maintain an area for the loading and unloading of merchandise and goods, in accordance with the following requirements:

1. All retail, commercial and industrial uses shall have at least one (1) space per fifty thousand (50,000) square feet of gross floor area, up to one hundred thousand (100,000) square feet and one (1) space for each additional one hundred thousand (100,000) square feet of gross floor area or fraction thereof.
2. All hotels, office buildings, restaurants and similar establishments shall have at least one (1) space per one hundred fifty thousand (150,000) square feet of gross floor area up to three hundred thousand (300,000) square feet of gross floor area or fraction thereof.
3. A loading space shall consist of an area of a minimum of twelve (12) feet wide and thirty (30) feet long.
4. All drives and approaches shall provide adequate space and clearances to allow for the maneuvering of trucks. Each site shall provide a designated maneuvering area for trucks. (See Chapter 5, Section 2.3, Illustration H)

B. Stacking spaces provide the ability for vehicles to queue on site prior to receiving a service. A stacking space shall be a minimum of nine (9) feet wide and twenty (20) feet long and shall not be located within or interfere with any other circulation driveway, parking space, or maneuvering aisle. Stacking spaces shall be provided behind the vehicle bay door, middle of the service window, or middle of the service island, whichever is applicable. In all Zoning Districts, at the time any building or structure is erected or altered, stacking spaces shall be provided in the number and manner set forth in the following list of property uses:

- Automated Teller Machine (ATM): Three (3) stacking spaces.
- Automobile Oil Change and Similar Establishments: Three (3) stacking spaces per bay.
- Car Wash (Full Service): Six (6) stacking spaces per bay.
- Car Wash (Self Service - Automated): Three (3) stacking spaces per bay.
- Car Wash (Self Service - Open Bay): Two (2) stacking spaces per bay.
- Car Wash (Self Service - Drying Areas and Vacuum Islands): Two (2) stacking spaces per drying area and/or vacuum island.
- Dry Cleaning, Pharmacy, or Other Retail Establishments with a Drive-thru: Three (3) stacking spaces for first service window.
- Financial Institution: Five (5) stacking spaces per window or service lane.
- Kiosk (with Food Service): Five (5) stacking spaces for first window, order board, or other stopping point.
- Kiosk (without Food Service): Two (2) stacking spaces for first window, order board, or other stopping point.
- Restaurant with Drive-thru: Five (5) stacking spaces for first window, order board, or other stopping point.

A single stacking space shall be provided after the final window, order board, or stopping point to allow vehicles to pull clear of the transaction area prior to entering an intersecting on-site driveway or maneuvering aisle. Buildings and other structures shall be setback a minimum of ten (10) feet from the back of the curb of the intersecting driveway or maneuvering aisle to provide adequate visibility and to allow vehicles to safely exit drive-thru lanes and escape lanes prior to merging into intersecting driveways or maneuvering aisles.

An escape lane shall be provided for any use containing a drive-thru facility. An escape lane shall be nine (9) feet wide and shall provide access around the drive-thru facility. An escape lane may be part of a circulation aisle.

# SECTION 5
# SCREENING FENCES AND WALLS

## 5.1 PURPOSE

Standards set forth in this Section are intended to encourage the appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations are prescribed for the location and type of various screening devices to be used when required in the various zoning districts or in this Section in accordance with the following standards.

## 5.2 LOCATION OF REQUIRED SCREENING *(Z07-7, Z07-8, Z07-17, Z09-5; Ord. No 16-46; 07-26-2016*)

A. When a boundary of a multifamily, institutional, or non-residential Use sides or backs to a property that is zoned or designated on the Future Land Use Plan for residential (non-multifamily) uses, or when any institutional or non-residential Use sides or backs to a MF District, a solid screening wall or fence of not less than six (6) feet nor more than eight (8) feet in height shall be erected on the property line separating these uses. The purpose of the screening wall or fence is to provide a visual barrier between the properties.

The owner of such property of the lesser restrictive use shall be responsible for and shall build the required wall or fence on his property line dividing his property from the more restrictive zoning district. In cases where the Planning & Zoning Commission finds this requirement to be better met by an irrigated living screen, the same may be substituted for the screening wall after a landscape plan has been prepared to demonstrate equal visual screening.

A screening wall or fence required under the provisions of this section, under a Specific Use Permit, a Planned Development District, or other requirement shall be constructed of clay-fired brick masonry units or other suitable permanent materials which do not contain openings constituting more than forty (40) square inches in each one square foot of wall or fence surface, and the surface of such wall or fence shall constitute a visual barrier. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or fence. Concrete masonry units, poured in place concrete, tilt-up concrete, or concrete panels may be used upon approval by the Planning & Zoning Commission.

Properties zoned for the DTC, DTR, or DTO District are only required to provide screening along property lines that are adjacent to properties shown as residential on the Future Land Use Plan. The screening shall consist of an eight foot (8') cedar board-on-board wooden fence constructed in accordance with the fence ordinance as it exists or may be amended. In the DTO District, the height of the fence may be reduced to six (6) feet.

B. All required screening walls shall be equally finished on both sides of the wall.

C. All loading and service areas shall be screened from view from adjacent public streets and adjacent property that is zoned or designated on the Future Land Use Plan for residential uses. Screening shall be by walls with complimentary landscaping that is compatible with the project design.

1. Screening walls shall be fourteen (14) feet tall with one row of perimeter evergreen trees adjacent to the loading area.

2. A screening wall is not required if a double row of perimeter evergreen trees is provided on offset fifty (50) foot centers within a fifteen (15) foot landscape edge. Fifty (50) percent of the trees shall be canopy evergreen trees.

D. All uses providing open storage shall provide a site plan and landscape plan depicting the following:

1. The location of open storage on the property;

2. The location of parking and vehicular maneuvering aisles and/or fire lanes in relation to the open storage;
3. The location of pedestrian access and/or sidewalks adjacent to and accessing the open storage and the primary use; and
4. The location, height, and type of screening.

A new use utilizing an existing building shall submit an amended site plan depicting the location of open storage. If the open storage area exceeds twenty percent (20%) of the gross floor area of the primary use building or ten (10%) of the lot area, it must be presented on a site plan and approved by the Planning & Zoning Commission.

E. Open storage shall abide by the following requirements:

1. It shall only contain equipment, vehicles, commodities, materials, goods, or merchandise that is sold, rented, or distributed within the inside of a building of a primary use, unless it is demonstrated to the Director of Development Services or his/her designee that such products or materials could not be located indoors.
2. It shall not be located within any required front, side, or rear yard setbacks.
3. It shall be screened from all streets and adjacent properties with the following:
   a. A minimum six (6) foot ornamental metal fence, not to be more than ten (10) feet in height, with a solid living screen located in a ten (10) foot landscape setback, containing a minimum of three (3) inch caliper evergreen trees on fifteen (15) foot centers with a continuous row of minimum seven (7) gallon evergreen shrubs along the exterior or interior of the fence; or
   b. A minimum six (6) foot masonry wall, not to be more than ten (10) feet in height, matching the materials of the primary building with three (3) inch caliper evergreen trees on fifteen (15) foot centers, located in a ten (10) foot landscape setback along the interior of the wall.
   c. Alternative types of screening must be reviewed by the Planning & Zoning Commission with a recommendation forwarded to Town Council for approval.
4. It shall not exceed a height of one (1) foot below the top of the solid living screen or wall screening, whichever is greater, or be visible from the property line. A Nursery, Major may store plants that exceed the height of the living screen or wall.
5. All gates and doors shall provide an opaque screen. The total of all openings for access may not exceed twenty-four (24) feet in width.
6. It shall not be located within any required parking spaces, loading areas, fire lanes, vehicular maneuvering aisles, customer pick-up lanes, or on the roof of any structure.
7. It shall not apply to new and used sales or lease of automobiles, motorcycles, recreational vehicles, watercraft, or similar facilities as approved by the Director of Development Services or his/her designee requiring open storage.
8. The Planning & Zoning Commission may waive these requirements if no public purpose would be served by the construction of the required screen, or natural features (i.e. vegetation or topography) exist that sufficiently screen the open storage.

F. Trash and recycling collection areas shall be located to minimize visibility. Trash and recycling receptacles shall be screened with a six (6) foot clay fired brick or stone wall of a color that is consistent with the color of the primary building. Trash compactors shall be screened with an eight (8) foot clay fired brick or stone wall of a color that is consistent with the color of the primary building. Screening enclosures shall be visually and aesthetically compatible with the overall project. Collection area enclosures shall

contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way or any residentially zoned property. The fourth (4th) side will incorporate a metal gate of a height equal to the height of the wall to visually screen the dumpster or compactor.

G. Where any alley intersects with a street, no fence or plant taller than two and one-half (2½) feet may be placed within a sight visibility triangle defined by measuring five (5) feet down the alley right-of-way line and measuring fifteen (15) feet down the street right-of-way line, then joining said points to form the hypotenuse of the triangle.

H. In any residential Zoning District, or along the common boundary between any residential and non-residential district where a wall, fence, or screening separation is provided, the following standards for height, location, and design shall be observed:

1. Any fence or wall located to the rear of the minimum required front yard line shall not exceed eight (8) feet in height above the grade of the adjacent property. Where a fence intersects a screening wall and the height of the fence exceeds the height of the screening wall, the height of the fence shall transition to the height of the screening wall over a distance of twenty (20) feet.

2. The maximum height of a fence or wall in a required front yard of a single family or duplex shall not exceed four (4) feet. Combinations of berms and fences shall not exceed four (4) feet in height. Ornamental metal fencing that is attached to required screening walls as defined in Subdivision Ordinance No. 03-05, as it currently exists or may be amended, may be constructed up to eight (8) feet in height in the front yard of cul-de-sac lots for only the side of the lot that is adjacent to a street with a right-of-way width of sixty (60) feet or greater. The height of this fence shall not exceed the height of the adjacent required screening wall.

3. The maximum height of a fence in a required front yard of a single family lot that is one (1) acre or larger may exceed the four (4) foot height limit established above, provided that said fence shall not exceed eight (8) feet in height and shall be constructed of wrought iron or decorative tubular steel.

I. Screening shall be required between residential lots and adjacent right-of-ways as required by Subdivision Ordinance No. 03-05, as it currently exists or may be amended.

J. All mechanical equipment shall be screened from view at a point six (6) feet above ground level at the property line. If a parapet does not accomplish this screening, a screening wall equal to the height of the equipment shall be provided. Buildings adjacent to single family zoned property or property that is designated as single family on the Future Land Use Plan shall provide a screening wall equal to the height of the equipment on all sides that face the residential property.

K. A six (6) foot irrigated living screen shall be required when parking is located adjacent to residential in the DTC or DTR District. In the DTO District, the living screen may be reduced to a minimum of three (3) feet but shall be solid at the time of planting. In the DTO District, the living screen is not required where a wood fence is required in accordance with Subsection 5.2(A) above.

L. Air conditioning units and pool equipment shall be entirely screened from view from adjacent public right-of-way by a living screen consisting of evergreen shrubs, a solid privacy fence, or through building orientation.

# SECTION 6
# OUTDOOR LIGHTING

## 6.1 PURPOSE

The purpose of this Section is to:

- Reduce the problems created by improperly designed and installed outdoor lighting.
- Eliminate problems of glare on operators of motor vehicles, pedestrians and land uses.
- Minimize light trespass.
- Reduce the energy and financial costs of outdoor lighting by establishing regulations, which limit the area that certain kinds of outdoor lighting fixtures can illuminate.
- Preserve the night sky as a natural resource and thus people's enjoyment of looking at the sky and stars.

## 6.2 GENERAL REQUIREMENTS

A. The following standards shall apply to all exterior lighting except public street lighting and other lighting that is specifically exempted by this Section.

1. Light sources or luminaries are prohibited in buffer areas and within required setback yard areas except on pedestrian walkways and hike and bike trails.
2. Light for outdoor advertising shall be designed to function as Full Cutoff Type of Luminary(s). Lighting intended for outdoor advertising shall be directed downward. The temporary use of lasers and spotlights that project light into the sky may be allowed subject to the restrictions of temporary outdoor lighting in Section 6.3 below.
3. All luminaries located on non-residential use properties shall be designed so that the light source (bulb or lamp) is completely shielded from direct view of at a point three (3) feet above grade on the lot line abutting a protected residential property. In all other instances, the light source must be completely shielded from direct view of at a point five (5) feet above grade on the lot line.
4. All luminaries located on private property shall be designed or positioned so that the maximum illumination at the property line next to protected residential property shall not exceed one-quarter (1/4) foot-candle and shall not exceed one-half (1/2) foot-candle adjacent to a street right-of-way.
5. All luminaries and light sources subject to this Section shall be maintained and kept in good working order.
6. Lighting for canopies covering fueling stations at automobile service stations and drive-thru facilities shall not illuminate abutting properties and the luminaries shall be designed so that the light source (bulb or lamp) is completely shielded from direct view at a point five (5) feet above the grade on the lot line.
7. Wall or roof lighting may be used to illuminate the pedestrian walkways, entrance areas, and yard areas within thirty (30) feet of the building. No wall or roof lighting shall be used to illuminate areas for motor vehicle parking or access unless the Building Official finds the following:

   (i) that the proposed lighting is not in conflict with the stated purpose;

   (ii) that the proposed lighting will not unreasonably harm or restrict public health, safety and welfare or create a nuisance; and

   (iii) the proposed lighting will not result in an impairment of vision creating a hazard for vehicular or pedestrian traffic.

8. Any open area used for motor vehicle parking, storage or access shall be illuminated with freestanding luminaries. Freestanding luminaries are permitted to be a maximum of thirty (30) feet in height. When a luminary is located within one hundred (100) feet of protected residential property, the maximum permitted luminaries' height shall be twenty (20) feet. All luminaries must have a total cutoff angle equal to or less than ninety (90) degrees. The use of exterior lighting with a cutoff angle greater than ninety (90) degrees shall be permitted only when the Building Official find the following:
   (i) that the proposed lighting is not in conflict with the stated purpose;
   (ii) that the proposed lighting will not unreasonably harm or restrict public health, safety and welfare or create a nuisance; and
   (iii) the proposed lighting will not result in an impairment of vision creating a hazard for vehicular or pedestrian traffic.
9. Externally illuminated signs, advertising displays, billboards, building identification, and monument signs shall use top mounted light fixtures which shine light downward and which are fully shielded or upward with pin-pointed light which are fully shielded.
10. 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.
11. Building facades and architectural features of buildings may be floodlighted when the following conditions are met:
   (i) 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;
   (ii) the configuration of the floodlight installation shall block all view to the floodlight fixture's lamp from adjacent properties; and
   (iii) the maximum luminance of any floodlighted surface does not exceed the foot-candles specified in the Illuminating Engineering Society of North America Lighting Handbook for floodlighting surfaces.

## 6.3 TEMPORARY OUTDOOR LIGHTING

A. Any temporary outdoor lighting that conforms to the requirements of this Section shall be allowed. Nonconforming temporary outdoor lighting may be permitted by the Planning & Zoning Commission after considering:
   1. the nature of the exemption;
   2. the public and/or private benefits that would result from the temporary lighting;
   3. placement and height of outdoor light fixtures;
   4. type of outdoor light fixture to be used, including total lumen output and character of shielding, if any;
   5. any annoyance or safety problems that may result from the use of the temporary lighting;
   6. the duration of the temporary nonconforming lighting and time that lights will be operating; and
   7. such other data and information as may be required by the Building Official and/or Planning & Zoning Commission to clarify the request.

B. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Building Inspections Department who shall prepare and forward a report to the Planning & Zoning Commission for its consideration.

## 6.4 ILLUMINATION LEVELS

The illumination levels contained in the Illuminating Engineering Society of North America Lighting Handbook, as amended from time to time, shall be used as a guide for providing adequate and safe illumination levels. The Planning & Zoning Commission may require conformance with the illumination levels contained in the Lighting Handbook, Illuminating Engineering Society of North America as part of the review and approval of a private and/or public development project.

## 6.5 METHOD OF MEASUREMENT

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 five (5) percent. It should have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within one (1) year of its use.

Illumination levels shall be measured in foot-candles with a meter sensor in a horizontal position at an approximate height of three (3) feet above grade. Maximum illumination readings are to be taken directly beneath the luminaries. Readings should be taken after a cumulative initial lamp burn for a period of at least two hundred (200) hours.

## 6.6 EXTERIOR LIGHTING PLAN

A. A lighting plan shall be required anytime exterior lighting is proposed, or modified, that is associated with a use of greater intensity than a single family detached or duplex dwelling. The lighting plan shall be submitted to the Building Inspections Department. The submission shall contain, but not be limited to the following:

   1. plans indicating the location of the exterior lighting on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;
   2. description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required) and height of the luminaries; and
   3. photometric plan and data sheets, such as that furnished by manufacturers, or similar to that furnished by manufacturers, showing the angle of cut off or light emissions.

B. A certified engineer, architect, landscape architect, or lighting engineer or designer shall prepare the plan. The plan shall also contain a certification by the property owner or agent and the preparer of the plan that the exterior lighting depicted on the plan complies with the requirements of this Ordinance after installation. Once the plan is approved by Building Inspections, the exterior lighting of the property shall conform to the approved plan.

C. Additional Submission

   The above required plans, descriptions and data shall be sufficiently complete to enable the reviewer to readily determine whether compliance with the requirements of this Section will be secured. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration or the devices, fixtures, or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognized testing laboratory.

   Before issuance of a Certificate of Occupancy, the applicant or his/her designee shall submit to Building Inspections a photometric plan, stamped by a certified testing laboratory or engineering firm that the installed lighting is in compliance with this Section.

D. Lamp or Fixture Substitution

   Should any outdoor light fixture or the type of light source therein be changed after the issuance of the

building permit and/or Certificate of Occupancy, a change request with adequate information, as required in Section 6.6(A) above, to assure compliance with this Section must be submitted to the Building Official for review and approval prior to the substitution.

## 6.7 PROHIBITED

The following are prohibited by this Section:

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.

C. Exposed neon lighting, except for open/closed signs hanging inside a buildings door or window.

## 6.8 EXEMPTIONS

The following are exempt from the standards contained in this Ordinance:

A. Decorative seasonal lighting. The decorative seasonal lights shall be removed within a reasonable time after any given reason. The Building Official will determine what the "reasonable time" should be.

B. Lighting for single family detached or duplex dwellings, provided that:

1. the lamps have a power rating of less than or equal to seventy-five (75) watts;
2. a cutoff component is incorporated in the design of the luminaries;
3. the lighting level at the property line shall not exceed the maximum level specified within this Section; and
4. the maximum lighting level at the property line may be exceeded in cases where the lamp is turned on and off by a motion sensor and the lamp is not on for a continuous period exceeding ten (10) minutes.

C. Signs of the type constructed of translucent materials and wholly illuminated from within are exempt from the shielding requirement.

D. Temporary emergency lighting used by police, fire fighters, or other emergency services, as well as all vehicular luminaries.

E. Hazard warning luminaries, which are required by federal and state regulatory agencies.

F. Residential party lights for social gatherings. Such temporary outdoor lighting includes, but is not limited to, strings of lights and lanterns. The party lights shall be removed within a reasonable time after any given reason. The Building Official will determine what the "reasonable time" should be.

G. Because of their unique requirement for nighttime visibility and their limited hours of operations, public and commercial ball diamonds, playing fields, and tennis courts are exempted from the general standards of this section. Private ball diamonds, playing fields, and tennis courts on a Single Family lot built as an accessory use to the home on that lot are subject to the requirements of this Section. Lighting for these public and commercial outdoor recreational uses shall be shielded to minimize light and glare from spilling over onto protected residential properties. The maximum permitted illumination at the property line shall not exceed two (2) foot-candles.

H. Town Council may vary from these requirements as part of the approval of public street or sidewalk projects.

## 6.9 NONCONFORMING LUMINARIES

A. Exterior lighting luminaries in existence on the effective date of this Ordinance shall be considered nonconforming. Such fixtures may be repaired, maintained and replaced. However, the nonconforming lighting luminaries shall be replaced to comply with this Section when the property is redeveloped.

B. Exterior lighting luminaries existing on the effective date of this Ordinance which are located on private non-residentially used property and are found to direct light or glare to protected residential properties may be declared a public nuisance if the level of illumination on protected residential property, which is caused by the luminaries, is greater than one-quarter (¼) foot-candle. Such fixtures shall be altered to reduce the level of illumination in the protected residential property to a one-quarter (¼) foot-candle within two (2) months of receiving a written notice of the violation from the Town. Two (2) foot candles are allowed for public and commercial ball diamonds, playing fields and tennis courts.

## 6.10 ENFORCEMENT

The Building Official, or his/her designee, is hereby empowered and directed to administer and enforce the provisions of this Section relating to outdoor light control.

# SECTION 7
# ACCESSORY BUILDINGS AND USES

7.1 In a residential Zoning District, an accessory building is a subordinate or incidental building, attached to or detached from the main building without separate kitchen facilities, not used for commercial purposes and not rented. A Garage Apartment and a Guest House may include kitchen facilities, but shall not be used for commercial purposes and shall not be rented.

7.2 In other Zoning Districts, an accessory building is a subordinate building, the use of which is incidental to and used only in conjunction with the main building.

7.3 A Guest House shall permitted in the A through DTR Districts as an incidental residential use of a building on the same lot or tract as the main dwelling unit and used by the same person or persons of the immediate family and shall meet the following standards:

A. The Guest House must be constructed to the rear of the main dwelling, separate from the main dwelling. A lot must have a minimum of one-half (½) acre for a Guest House to be permitted.

B. The Guest House may be constructed only upon issuance of a Building Permit.

C. The Guest House may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be sub-let.

D. Setback requirements shall be the same as for the main structure.

7.4 AREA REGULATIONS FOR ACCESSORY BUILDINGS IN RESIDENTIAL AND MULTIFAMILY DISTRICTS

A. Accessory building yard requirements in the MF District shall be the same as the main building unless approved by the Planning & Zoning Commission on a preliminary site plan for the multifamily development. Accessory building yard requirements for all other residential Zoning Districts shall be as set forth below in Section 7.4(B).

B. Size of Yards:

1. Front Yard: Detached front accessory buildings shall have a front yard not less than the main building or as specified in the particular Zoning District.

2. Side Yard: There shall be a side yard not less than three (3) feet from any side lot line, or alley line for any accessory building provided that such building is separated from the main building by a minimum distance of ten (10) feet. In the case of an accessory building being closer than ten (10) feet to the main building, the minimum side yard requirements for the main building shall be observed. Accessory buildings adjacent to a side street shall have a side yard not less than fifteen (15) feet. Garages located and arranged so as to be entered from the side yard shall have a minimum distance of twenty (20) feet from the side lot line, alley line, or easement line. Carports or garages arranged to be entered from the side yard, facing a public street, shall have a minimum distance equal to the required front yard for the main building.

3. Rear Yard: There shall be a rear yard not less than three (3) feet from any lot line or alley line, or easement line, except that;

a. If no alley exists, the rear yard shall be not less than ten (10) feet as measured from the rear lot line;

b. Carports, garages, or other accessory buildings, located within the rear portion of a lot as heretofore described, constructed closer than ten (10) feet to the main building, shall have a rear yard equivalent to the rear yard requirement for the main building;

c. Accessory buildings constructed ten (10) feet or more from the main building shall have a rear

yard of three (3) feet. If an alley exists, accessory buildings may be located within three (3) feet of a rear lot line if the height of the building is no greater than eight (8) feet and a solid fence or wall of the same height shall be built on the rear lot line to screen the building from property located to the rear;

d. Garages arranged so as to be entered by a motor vehicle from an alley or rear alley easement shall be set back from the rear yard or alley easement line a minimum distance of twenty (20) feet.

## 7.5 ACCESSORY BUILDINGS IN MH DISTRICT

In the MH District, no carport, garage, storage building, office, or caretaker's dwelling, laundry house, or other permitted structure may be located nearer than ten (10) feet to any side or rear property line. Such structures shall also be subject to front yard requirements above.

## 7.6 DETACHED GARAGE AND ACCESSORY BUILDING CONSTRUCTION *(Ord. 17-43; 06-13-17*)

A. The exterior facades of a detached garage or other accessory building or structure, greater than 160 square feet shall be subject to the same exterior construction material(s) requirements as the main building or structure.

B. An accessory building that is larger than 160 square feet may be vinyl, fiber cement board, or factory coated decorative metal if the wall height of the building does not exceed fourteen (14) feet and if three (3) of the following six (6) conditions are met:

1. A minimum three (3) foot high wainscoting is provided on all sides, excluding windows and doors,
2. Divided light windows are provided on at least two (2) sides of the building,
3. A minimum roof pitch of four (4) in twelve (12) is provided,
4. A cupola is provided,
5. One (1) tree, a minimum size of two (2) caliper inches, is planted every twenty-five (25) feet, or portion thereof, along the longest two (2) sides of the building, or
6. A minimum twenty (20) foot side yard setback is provided

C. An accessory building or structure that is 160 square feet or less in size may use metal or wood as an exterior construction material in an SF or 2F District.

D. Fiber cement board may be used to fulfill masonry requirements for structures accessory to an existing main building or structure when the main building or structure is constructed entirely of wood or vinyl siding.

E. In no instance shall the height of an accessory building or detached garage exceed the height of the primary dwelling.

F. Accessory buildings in excess of 160 square feet shall be located behind the primary structure at a point no closer than ten (10) feet from the rear wall line of the primary structure.

G. A Specific Use Permit is required for either of the following instances:

1. An accessory building that is greater in size than the primary dwelling. For the purpose of this subsection, the total size of the primary dwelling includes the size of an attached private garage,
2. the size of the accessory building is greater than seven percent (7%) of the size of the lot area, or
3. the size of the accessory structure is greater than 4,000 square feet.

## 7.7 CARPORT DESIGN STANDARDS *(Ord. 15-55; 09-22-15)*

The support structures of a carport shall be of the same material as the main structure. The roof shall have a minimum roof pitch of 6:12 and be of similar material and architectural design as the main structure.

# SECTION 8
# NON-RESIDENTIAL DESIGN AND DEVELOPMENT (Z07-19)

## 8.1 APPLICABILITY

The regulations provided in Sections 8.2 – 8.6 shall apply to all office, retail, restaurant, service, automobile, and commercial uses. The regulations provided in sections 8.7 – 8.10 shall apply to all industrial, wholesale, and institutional uses. Where the regulations of this Section conflict with other Sections of this Ordinance, the regulations of this Section shall apply.

## OFFICE, RETAIL, RESTAURANT, SERVICE, AUTOMOBILE, AND COMMERCIAL DEVELOPMENT STANDARDS

## 8.2 EXTERIOR APPEARANCE OF BUILDINGS AND STRUCTURES

A. All exterior facades of an office, retail, restaurant, and commercial building or structure, excluding glass windows and doors, shall be constructed using the permitted buildings materials in Chapter 4, Section 8.2 (B. & C).

B. Permitted primary exterior materials are clay fired brick, natural, precast, and manufactured stone, granite, marble, architectural concrete block, split face concrete masonry unit, and architecturally finished concrete tilt wall.

C. Secondary materials used on the façade of a building are those that comprise a total of ten (10) percent or less of an elevation area. Permitted secondary materials are all primary materials, aluminum or other metal, cedar or similar quality decorative wood, stucco, and high impact exterior insulation and finish systems (EIFS). Stucco and EIFS are only permitted a minimum of nine (9) feet above grade.

D. No single material shall exceed eighty (80) percent of an elevation area. A minimum of twenty (20) percent of the front façade and all facades facing public right-of-way shall be natural or manufactured stone. A minimum of ten (10) percent of all other facades shall be natural or manufactured stone.

E. All buildings with a footprint of less than ten thousand (10,000) square feet and located 100 feet or less from a residential zoning district shall incorporate a pitched, gabled, mansard, hipped, or otherwise sloped roof. All sloped roofs shall have a six (6) in twelve (12) inch minimum slope. All buildings with a footprint of less than ten thousand (10,000) square feet and located 100 feet or greater from a residential zoning district shall incorporate a pitched, gabled, mansard, hipped, or otherwise sloped roof, or a flat roof with an articulated parapet wall or cornice. Wood shingles are prohibited. Composition shingles are allowed provided they have architectural detail and a minimum 30 year life.

F. All buildings with a footprint of ten thousand (10,000) square feet and greater shall incorporate sloped roof elements including, but not limited to pitched roofs on towers or arcades, sloped awnings, sloped parapets. Flat roofs are permitted with an articulated parapet wall or cornice in place of the required sloped roof elements. The sloped elements shall be provided along a minimum of sixty (60) percent of each wall's length. All sloped roof elements shall have a six (6) in twelve (12) inch minimum slope. Wood shingles are prohibited. Composition shingles are allowed provided they have architectural detail and a minimum 30 year life.

G. In the DTR and DTC Districts, an articulated parapet wall or cornice may be used in place of the sloped roof as required in Section 8.2(E) and (F) above.

H. All buildings shall be designed to incorporate a form of architectural articulation every thirty (30) feet, both horizontally along each wall's length and vertically along each wall's height. Acceptable articulation may include the following:

- Canopies, awnings, or porticos;

- Recesses/projections;
- Arcades;
- Arches;
- Display windows, including a minimum sill height of thirty (30) inches;
- Architectural details (such as tile work and moldings) integrated into the building facade;
- Articulated ground floor levels or base;
- Articulated cornice line;
- Integrated planters or wing walls that incorporate landscape and sitting areas;
- Offsets, reveals or projecting rib used to express architectural or structural bays; or
- Varied roof heights;

I. In the DTR and DTC Districts, all windows shall include a minimum sill height of eighteen (18) inches.

J. All buildings shall be architecturally finished on all four (4) sides with same materials, detailing, and features except the rear if two (2) rows of trees are planted on the perimeter behind the building. In this case, the architectural finish must match the remainder of the building in color only. A double row of trees on offset fifty (50) foot centers in a fifteen (15) foot landscape edge, where fifty (50) percent of the trees are canopy evergreen trees. This is for facades that are not visible from public streets and apply to anchor buildings and attached in line spaces only. This provision does not apply to “out” buildings or pad sites.

K. Windows shall have a maximum exterior visible reflectivity of ten (10) percent. The intent of this provision is to prevent the safety hazard of light reflecting from the windows on to adjacent roadways.

L. All retail/commercial buildings with facades greater than two hundred (200) feet in length shall incorporate wall plane projections or recesses that are at least six (6) feet deep. Projections/recesses must be at least twenty five (25) percent of the length of the facade. No uninterrupted length of facade may exceed one hundred (100) feet in length. This requirement does not apply to building developed and occupied entirely for office uses.

M. All buildings within a common development, as shown on a Preliminary Site Plan, shall have similar architectural styles, materials, and colors.

1. Conceptual facade plans and sample boards shall be submitted with the Preliminary Site Plan application for all non-residential uses. The purpose of the conceptual facade plan is to ensure consistency and compatibility for all buildings within a single development. Facade plans will be used only to ensure minimum standards are met.

2. A final facade plan and sample boards shall be submitted with the Final Site Plan application for all non-residential uses. Facade plans will be used only to ensure minimum standards are met. Façade plans shall be reviewed and approved by the Director of Development Services or his/her designee. The applicant may appeal the decision to the Planning & Zoning Commission and Town Council using the appeal procedure in Chapter 4, Section 1 of this Ordinance.

N. All primary and secondary exterior building materials (exclusive of glass) shall be of natural texture and shall be neutrals, creams, or other similar, non-reflective earth tone colors. Bright, reflective, pure tone primary or secondary colors, such as red, orange, yellow, blue, violet, or green are not permitted.

O. Corporate identities that conflict with the building design criteria shall be reviewed on a case-by-case basis and approved by the Director of Development Services or his/her designee. The applicant may appeal the decision to the Planning & Zoning Commission and Town Council using the appeal procedure in Chapter 4,

Section 1 of this Ordinance.

P. Exposed conduit, ladders, utility boxes, and drain spouts shall be painted to match the color of the building or an accent color. Natural metal finishes (patina) are an acceptable alternative to paint.

## 8.3 BIG BOX REQUIREMENTS

A. Big Box uses are permitted by right with appropriate zoning and within retail/commercial centers adjacent to University Drive (U.S. 380), Dallas Parkway, or Preston Road.

B. Big Box uses are permitted by Specific Use Permit (SUP) in other areas where zoning is appropriate.

## 8.4 CIRCULATION AND PARKING REQUIREMENTS

A. Internal drive aisles shall be designed to incorporate ninety (90) degree intersections. A five (5) degree variance is allowable.

B. All parking spaces for a building must be located within three hundred and fifty (350) feet of walking distance from the building's public entrance. Big Box uses are excluded from this provision.

C. Parking spaces that face and are adjacent to a building shall utilize curbs, wheel stops, and/or bollards.

D. Speed bumps are not permitted within a fire lane.

E. Drive aisles in front of buildings cannot be longer than three hundred (300) feet continuous without an offset equal to the width of the drive aisle, traffic circle, or other acceptable traffic-calming feature approved by the Director of Development Services or his/her designee.

F. Restaurants shall receive a fifty percent (50%) reduction to the required parking for areas designated as outdoor dining. The reduction in parking only applies to parking spaces that are required due to the square footage of the outdoor dining area.

G. All paved areas, which includes, but is not limited to, parking areas, fire lanes, drive aisles, driveways, turn-arounds, and loading areas, shall be paved with concrete or a comparable surface (masonry pavers, stone, brick, etc.), constructed to standards approved by the Director of Development Services or his/her designee. Pervious concrete or other alternative permeable paving surfaces may be used if approved by the Town Council. The use of asphalt, gravel, and crushed rock are strictly prohibited, unless approved as a temporary paving surface by the Director of Development Services or his/her designee. (Z10-0007)

## 8.5 LANDSCAPING AND OPEN SPACE REQUIREMENTS

A. Required parking lot trees may be consolidated into groups under the following conditions:

1. The number of required trees is one (1) per ten (10) parking spaces.
2. Consolidated tree islands require one hundred and eighty (180) square feet per tree.
3. The maximum run of parking spaces is increased from fifteen (15) to thirty (30).
4. This consolidation does not include the tree islands at the end of a row of parking or along perimeter parking rows that face a drive aisle or street.
5. A consolidated tree island shall not be located closer than five (5) parking spaces from an end of row tree island.

B. All uses containing a drive-in or drive-thru shall be subject to the following standards:

1. A minimum ten (10) foot wide landscape island shall be constructed around the outer edge of the drive-thru lane for a minimum distance to equal the length of stacking required for the drive-thru facility.
2. The landscape island shall contain minimum three (3) inch caliper evergreen or deciduous trees planted fifteen (15) feet on-center with minimum five (5) gallon shrubs planted three (3) feet on center.

Ornamental trees evenly interspersed between the evergreen or deciduous trees may be substituted for the shrubs. If the landscape island is located on the perimeter of the property, perimeter landscaping requirements may be applied towards this requirement.

C. A final open space plan shall be submitted with the Final Site Plan application for all non-residential uses. Open space plans will be used only to ensure minimum standards are met. Open space plans shall be reviewed and approved by the Director of Development Services or his/her designee. The applicant may appeal the decision to the Planning & Zoning Commission. For nonresidential development, seven (7) percent of the net lot area is required to be provided as open space. The open space may consist of any element that is not one of the following:

1. Vehicular paving.
2. Required parking lot landscape islands.
3. Building footprint.
4. Utility yards.
5. Required landscape setbacks.
6. Sidewalks, unless the sidewalk is designated as an outdoor dining area on the approved site plan.
7. Detention ponds. Detention ponds that are located between the building and street and contain a constant water level, are landscaped, or otherwise treated as an amenity for the development, as determined by the Director of Development Services or his/her designee, may be calculated toward the required open space.

## 8.6 ACCESS REQUIREMENTS

A. All retail/commercial driveways served by a median opening shall be divided.

B. All retail/commercial properties shall have access to a median opening either directly, or through cross access.

C. All non-residential lots shall provide cross access drive aisles to adjacent non-residential properties.

1. If used as a fire lane, the cross access drive aisle shall meet all the criteria for a fire lane.
2. A shared driveway located along a common property line is encouraged and satisfies the requirement for cross access.

# INDUSTRIAL, WHOLESALE, AND INSTITUTIONAL DEVELOPMENT STANDARDS

## 8.7 EXTERIOR APPEARANCE OF BUILDINGS AND STRUCTURES

A. All exterior facades of a industrial, wholesale, or institutional building or structure, excluding glass windows and doors, shall be constructed using the permitted buildings materials in Chapter 4, Section 8.2 (B. & C).

B. Permitted primary exterior materials are clay fired brick, natural, precast, and manufactured stone, granite, marble, architectural concrete block, split face concrete masonry unit, and architecturally finished concrete tilt wall.

C. Secondary materials used on the façade of a building are those that comprise a total of ten (10) percent or less of an elevation area. Permitted secondary materials are all primary materials, aluminum or other metal, cedar or similar quality decorative wood, stucco, and high impact exterior insulation and finish systems (EIFS). Stucco and EIFS are only permitted a minimum of nine (9) feet above grade.

D. No single material shall exceed eighty (80) percent of an elevation area. A minimum of twenty (20) percent of the front façade and all facades facing public right-of-way shall be clay fired brick or natural, precast, or

manufactured stone. The clay fired brick or natural, precast, or manufactured stone shall be located at the main entry points of the building.

E. The front façade, all facades facing public right-of-way, and all facades facing property that is zoned or designated on the Future Land Use Plan for residential uses shall be architecturally finished with same materials, detailing, and features. The architectural finish of all other facades must match the remainder of the building in color only.

F. All buildings with a front façade or a facade facing public right-of-way which are greater than two hundred (200) feet in length shall incorporate projections or recesses that are at least six (6) feet deep. Projections/recesses must be at least twenty (20) percent of the length of the façade.

G. Windows shall have a maximum exterior visible reflectivity of ten (10) percent. The intent of this provision is to prevent the safety hazard of light reflecting from the windows on to adjacent roadways.

H. All buildings within a common development, as shown on a Preliminary Site Plan, shall have similar architectural styles, materials, and colors.

1. Conceptual facade plans and sample boards shall be submitted with the Preliminary Site Plan application for all non-residential uses. The purpose of the conceptual facade plan is to ensure consistency and compatibility for all buildings within a single development. Facade plans will be used only to ensure minimum standards are met.

2. A final facade plan and sample boards shall be submitted with the Final Site Plan application for all non-residential uses. Facade plans will be used only to ensure minimum standards are met. Façade plans shall be reviewed and approved by the Director of Development Services or his/her designee. The applicant may appeal the decision to the Planning & Zoning Commission and Town Council using the appeal procedure in Chapter 4, Section 1 of this Ordinance.

I. All primary and secondary exterior building materials (exclusive of glass) shall be of natural texture and shall be neutrals, creams, or other similar, non-reflective earth tone colors. Bright, reflective, pure tone primary or secondary colors, such as red, orange, yellow, blue, violet, or green are not permitted.

J. Corporate identities that conflict with the building design criteria shall be reviewed on a case-by-case basis and approved by the Director of Development Services or his/her designee. The applicant may appeal the decision to the Planning & Zoning Commission and Town Council using the appeal procedure in Chapter 4, Section 1 of this Ordinance.

K. Exposed conduit, ladders, utility boxes, and drain spouts shall be painted to match the color of the building or an accent color. Natural metal finishes (patina) are an acceptable alternative to paint.

## 8.8 CIRCULATION AND PARKING REQUIREMENTS

A. Internal drive aisles shall be designed to incorporate ninety (90) degree intersections. A five (5) degree variance is allowable.

B. Parking spaces that face and are adjacent to a building shall utilize curbs, wheel stops, and/or bollards.

C. Speed bumps are not permitted within a fire lane.

D. No more than ten (10) percent of the required parking can be located in the service/loading area of a building except for buildings located on the street.

E. All paved areas, which includes, but is not limited to, parking areas, fire lanes, drive aisles, driveways, turn-arounds, and loading areas, shall be paved with concrete or a comparable surface (masonry pavers, stone, brick, etc.), constructed to standards approved by the Director of Development Services or his/her designee. Pervious concrete or other alternative permeable paving surfaces may be used if approved by the Town Council. The use of asphalt, gravel, and crushed rock are strictly prohibited, unless approved as

a temporary paving surface by the Director of Development Services or his/her designee. (Z10-0007)

## 8.9 LANDSCAPING AND OPEN SPACE REQUIREMENTS

A. Required parking lot trees may be consolidated into groups under the following conditions:

1. The number of required trees is one (1) per ten (10) parking spaces.
2. Consolidated tree islands require one hundred and eighty (180) square feet per tree.
3. The maximum run of parking spaces is increased from fifteen (15) to thirty (30).
4. This consolidation does not include the tree islands at the end of a row of parking or along perimeter parking rows that face a drive aisle or street.
5. A consolidated tree island shall not be located closer than five (5) parking spaces from an end of row tree island.

B. All uses containing a drive-in or drive-thru shall be subject to the following standards:

1. A minimum ten (10) foot wide landscape island shall be constructed around the outer edge of the drive-thru lane for a minimum distance to equal the length of stacking required for the drive-thru facility.
2. The landscape island shall contain minimum three (3) inch caliper evergreen or deciduous trees planted fifteen (15) feet on-center with minimum five (5) gallon shrubs planted three (3) feet on center. Ornamental trees evenly interspersed between the evergreen or deciduous trees may be substituted for the shrubs. If the landscape island is located on the perimeter of the property, perimeter landscaping requirements may be applied towards this requirement.

C. A final open space plan shall be submitted with the Final Site Plan application for all non-residential uses. Open space plans will be used only to ensure minimum standards are met. Open space plans shall be reviewed and approved by the Director of Development Services or his/her designee. The applicant may appeal the decision to the Planning & Zoning Commission. For nonresidential development, seven (7) percent of the net lot area is required to be provided as open space. The open space may consist of any element that is not one of the following:

1. Vehicular paving.
2. Required parking lot landscape islands.
3. Building footprint.
4. Utility yards.
5. Required landscape setbacks.
6. Sidewalks, unless the sidewalk is designated as an outdoor dining area on the approved site plan.
7. Detention ponds. Detention ponds that are located between the building and street and contain a constant water level, are landscaped, or otherwise treated as an amenity for the development, as determined by the Director of Development Services or his/her designee, may be calculated toward the required open space.

## 8.10 ACCESS REQUIREMENTS

A. All non-residential lots shall provide cross access drive aisles to adjacent non-residential properties.

1. If used as a fire lane, the cross access drive aisle shall meet all the criteria for a fire lane.
2. A shared driveway located along a common property line is encouraged and satisfies the requirement.

# SECTION 9
# ADDITIONAL AND SUPPLEMENTAL

## 9.1 LOT REGULATIONS:

A. The minimum lot area for the various Zoning Districts shall be in accordance with the individual Districts except that a lot having less area than herein required which was an official "lot of record" prior to the adoption of this Ordinance, may be used for a single-family dwelling and no lot existing at the time of passage of this Ordinance shall be reduced in area below the minimum requirements set forth in the respective District.

B. Location of Dwellings and Buildings - Only one main building for single family and two-family use, with permitted accessory buildings, may be located upon a lot or unplatted tract.

C. Every means of access shall have a minimum lot width of twenty-five (25) feet at the property line.

D. Whenever two or more main buildings, or portions thereof, are placed upon a single lot or tract and such buildings do not face upon a public street, the same may be permitted when the site plan for such development is approved by the Planning & Zoning Commission so as to comply with the Town Subdivision Regulations' requirements for platting.

E. No parking area, storage area, or required open space for one building shall be computed as being the open space, yard, or area requirements for any other dwelling or other use.

F. Residential Density Calculations:

The maximum permitted residential densities for the TH and MF Districts shall be calculated using the net acreage of the site to be developed. Net acreage shall not include the following:

- Right-of-way dedicated for major thoroughfares.
- Required parkland dedication.
- Detention.
- Land used for non-residential purposes.

Net acreage may include the following:

- Non-reclaimed floodplain.
- Private open space.
- Park dedication in excess of minimum park dedication requirements.
- Detention ponds that contain a constant water level, are landscaped, or otherwise treated as an amenity for the development, as determined by the Director of Planning or his/her designee.

## 9.2 MINIMUM DWELLING UNIT AREA:

The minimum dwelling unit area of a residential unit shall be as specified in each residential Zoning District in Chapter 2 of this Ordinance. Dwelling unit area is defined as that area devoted to the living area in a residence or dwelling unit and is exclusive of porches, enclosed or open breezeways, storage area or closets, garages, or other non-living space. The minimum dwelling unit area will generally be that space which is air-conditioned.

## 9.3 FRONT YARD:

A. On corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless shown specifically otherwise on a final plat.

B. Where the frontage on one (1) side of a street between two (2) intersecting streets is divided by two (2) or more Zoning Districts, the front yard shall comply with the requirements of the most restrictive Zoning District for the entire frontage.

C. Where a building line has been established by a plat approved by the Town of Prosper or by ordinance

prior to the adoption of this Ordinance, and such line required is a greater or lesser front yard setback than prescribed by this Ordinance for the Zoning District in which the building line is located, the required front yard shall comply with the building line so established by such Ordinance or plat provided no such building line shall be set back less than twenty (20) feet.

D. The front yard shall be measured from the property line to the front face of the building, covered porch, covered terrace or attached accessory building. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed three (3) feet, and subsurface structures, platforms or slabs may not project into the front yard to a height greater than thirty (30) inches above the average grade of the ground under the structure (See Chapter 5, Section 2.3, Illustration I).

E. Where a lot fronts and backs to two (2) different streets, a required front yard shall be provided on both streets unless a building line for accessory buildings has been established along one frontage on the plat or by ordinance, in which event only one required front yard need be observed (See Chapter 5, Section 2.3, Illustration J).

F. In all Single Family and 2F Districts, the minimum front yard setbacks for all lots fronting onto the same street along a block shall be staggered such that one third (1/3) of the lots have a front yard setback that is reduced by five (5) feet, one third (1/3) of the lots have a front yard setback as defined in Chapter 2, and one third (1/3) of the lots have a front yard setback that is increased by five (5) feet. Not more than two lots in a row may incorporate the same front yard setback. The average setback along the block shall equal the required setback for the particular Zoning District. The lots with an increased front building line may also decrease the rear building line by five (5) feet to maintain the necessary building pad depth. The purpose of this requirement is to produce a variety of front yard setbacks along a street, creating a more pleasing street presence and appearance of houses in the subdivision. In no case shall the front yard setback be less than twenty (20) feet. The front setbacks for each lot shall be designated on the final plat. (See Chapter 5, Section 2.3, Illustration K)

G. Visual clearance shall be provided in all Zoning Districts so that no fence, wall, architectural screen, earth mounding or landscaping thirty (30) inches or higher above the street center line obstructs the vision of a motor vehicle driver approaching any street, alley, or driveway intersection.

1. At a street intersection where one or both of the streets is a major thoroughfare, clear vision must be maintained for a minimum of twenty-five (25) feet across any lot measured from the corner of the property line in both directions. (See Chapter 5, Section 2.3, Illustration L)

2. At an intersection of two neighborhood streets, this clearance must be maintained for ten (10) feet. (See Chapter 5, Section 2.3, Illustration M)

3. At an intersection of a neighborhood street and an alley, this clearance must be maintained for five (5) feet down the alley and fifteen (15) feet down the street. (See Chapter 5, Section 2.3, Illustration N)

4. Fences, walls, and thirty (30) inches in height, as measured from the centerline of the street, or less may be located in the visual clearance areas of all Districts.

H. Gasoline, or other hydrocarbon fuel, service station pump islands including their associated unenclosed canopies shall meet the front yard setback requirements established in Chapter 2 of this Ordinance when located adjacent to a public street.

I. Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front or side yard shall be measured from the future right-of-way line.

J. The minimum front yard in single-family and two-family Zoning Districts may be reduced by ten (10) feet in the following circumstances. In no case shall the reduction cause the minimum front yard to be less than fifteen (15) feet.

1. For an outside swing-in garage provided the wall of the garage that faces the street contains a glass pane window with a minimum size of three (3) feet by five (5) feet and the height of the garage does not exceed one (1) story; or
2. For a non-enclosed porch, stoop, or balcony, or an architectural feature, such as bay window without floor area or chimney; or
3. For a non-enclosed porch and the main structure provided:
   a. the height of the main structure does not exceed one (1) story;
   b. the porch has a minimum dimension of seven (7) feet in depth measured from stud to the front edge of the porch floor and a minimum width of twenty (20) feet; and
   c. the minimum front yard for a front entry garage is increased one (1) foot for every one (1) foot the minimum front yard for the main structure is reduced.

## 9.4 SIDE AND REAR YARDS:

A. On a Key Lot used for one or two-family dwellings, both street exposures shall be treated as front yards (See Chapter 5, Section 2.3 Illustration O) on all key lots except where one street exposure is designated as a side yard and separated from the adjacent lot by an alley (See Chapter 5, Section 2.3 Illustration P). In such case, a building line shall be designated on the plat approved by the Town of Prosper containing a side yard of fifteen (15) feet or more. On lots that were official lots of record prior to the effective date of this Ordinance, the minimum side yard adjacent to a side street shall comply with the minimum required side yard for the Zoning District.

B. Every part of a required side yard shall be open and unobstructed from the ground upward except for accessory buildings as permitted herein and the ordinary projections of window sills, belt courses, cornices, and other architectural features not to exceed twelve (12) inches into the required side yard, and roof eaves projecting not to exceed thirty-six (36) inches into the required side yard. Air conditioning compressors and similar appurtenances are permitted in the side yard.

C. Side yard setbacks in the R, C, and CC Districts may be waived for a building when attached to an adjacent building and is shown on a site plan approved by the Planning & Zoning Commission. (Z07-8)

D. The face (meaning garage door) of a garage that faces a side yard (a swing-in garage) must be setback twenty-four feet (24') from the side property line. (Z10-0013)

E. Non-residential uses that are permitted within a single family Zoning District (such as a day care, school, or church) shall maintain a forty (40) foot side and rear building setback when adjacent to a property that is zoned or designated on the Future Land Use Plan for residential uses.

## 9.5 SPECIAL HEIGHT REGULATIONS

Water stand pipes and tanks (excluding Town owned and/or operated water tanks), church steeples, domes, spires, school buildings, and institutional buildings may be erected to exceed three (3) stories in height, provided that one (1) additional foot shall be added to the width and depth of front, side, and rear yards for each foot that such structures exceed three (3) stories.

Ornamental features in all non-residential Zoning Districts may exceed the maximum building height provided that the ornamental feature does not contain floor area and provided the required setbacks for the ornamental feature are increased by two (2) feet for every one (1) foot that the ornamental feature exceeds the maximum height. Ornamental features include, but are not limited to towers, spires, steeples, and cupolas.

## 9.6 MEASUREMENTS:

All measurements of setback requirements shall be made according to Chapter 5, Section 2.3, Illustrations Q-U.

## 9.7 MODULAR HOMES:

A Modular Home may be permitted in the A, SF, DTSF, 2F, TH, MH, or MF Districts providing that the following requirements are met:

A. The dwelling shall meet or exceed all building code requirements that apply to other dwelling units concerning on-site construction.

B. Conforms to all applicable zoning standards for the respective Zoning District.

C. Is affixed to an approved permanent foundation system.

D. The building official is so notified in writing for the purpose of establishing procedures for the inspection, issuing of building permits, and compliance with the Texas Manufactured Housing Standards Act (Article 1221f V.T.C.S.).

E. The Modular Home is placed on an approved platted lot of the Town.

## 9.8 EXTERIOR CONSTRUCTION OF MAIN BUILDINGS *(Ord. 15-55; 09-22-15; Ord. 16-29; 04-26-16)*

A. The exterior facades of a main building or structure, excluding glass windows and doors, in the A, SF, DTSF, DTO, 2F, and TH Districts shall comply with the following requirements:

1. The exterior facades shall be constructed of one hundred (100) percent masonry, unless otherwise specified in this Ordinance.

2. Cementatious fiber board is considered masonry, but may only constitute fifty (50) percent of stories other than the first story.

3. Cementatious fiber board may not be used as a façade cladding material for portions of upper stories that are in the same vertical plane as the first story.

4. Unless an alternate material is approved by the Town Council, any portion of an upper story, excluding windows, that faces a street, public or private open space, public or private parks, or hike and bike trails, shall be 100% masonry and shall not be comprised of cementatious fiber board.

5. Unless an alternate material is approved by the Town Council, the exterior cladding of chimneys shall be brick, natural or manufactured stone, or stucco.

6. In the DTSF and the DTO District, cementatious fiber board may be used on up to ninety (90) percent of a structure.

7. Cementatious fiber board may be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, or other architectural features approved by the Building Official.

B. The roof pitches of a main building or structure, including garages, in the A, SF, DTSF, DTO, 2F, and TH Districts shall meet the following roof pitch standards:

1. A minimum of sixty-five percent (65%) of the surface area of composition roofs shall maintain a minimum roof pitch of 8:12.

2. A minimum of seventy-five percent (75%) of the surface area of clay tile, cement tile, slate or slate products, or metal roofs shall maintain a minimum roof pitch of 3:12.

3. Wood roof shingles are prohibited.

C. All exterior facades for a main building or structure, excluding glass windows and doors, in the MF, O, DTR, NS, R, DTC, C, CC, and I Districts shall be constructed of one hundred (100%) percent masonry as defined in Chapter 3, Section 2. The use of stucco and EIFS are only permitted as secondary or accent materials.

1. The Town Council, after recommendation by the Planning & Zoning Commission, may grant an exception to the foregoing exterior façade requirements, based upon consideration of the criteria listed in subpart 2, below.
2. In considering an exception to the exterior façade requirements, the Planning & Zoning Commission and Town Council may consider whether a proposed alternate material:
   a. is a unique architectural expression;
   b. includes unique building styles and materials;
   c. is consistent with high quality development;
   d. is or would be visually harmonious with existing or proposed nearby buildings;
   e. has obvious merit based upon the quality and durability of the materials; and
   f. represents an exterior building material that is in keeping with the intent of this chapter to balance the abovementioned objectives.
3. Any exterior façade exception shall be considered in conjunction with a preliminary site plan or site plan application.

D. Metal buildings are permitted in the I District upon review by the Planning & Zoning Commission and approval by the Town Council subject to:
   1. The maximum height of metal buildings is thirty six (36) feet;
   2. The lot on which the building is constructed must have frontage only on streets with eighty (80) feet of right-of-way or greater;
   3. The lot containing a metal building shall be five hundred (500) feet from all Zoning Districts other than the C, CC, and I Districts;
   4. The wall of the building facing the street must be one hundred (100) percent masonry; and
   5. Other walls of the building visible from a street must have trees planted on thirty (30) foot centers within twenty (20) feet of the building.

E. Exterior construction of maintenance buildings for golf courses, public or parochial schools, churches, of the Town of Prosper may be metal upon issuance of a Specific Use Permit. Exterior construction of buildings used for agricultural purposes in conjunction with a school may be metal upon issuance of a Specific Use Permit.

   If an expansion or an addition to an existing metal building is not greater than ten (10) percent or seven thousand (7,000) square feet, whichever is greater, the masonry requirement shall not apply to the expansion or addition to the existing metal building.

F. The Town Council may approve materials which are equivalent to, or exceed, the standards set forth in Chapter 4, Section 9.8 (A & C), above.

## 9.9 HANDICAP ACCESSIBILITY

If applicable all nonresidential buildings and parking areas shall conform to the Americans with Disabilities Act (ADA) of 1991, as may be amended, accessibility guidelines, the Uniform Federal Accessibility Standards, and Texas Accessibility Standards (TAS).

## 9.10 SELF-STORAGE AND MINI-WAREHOUSE FACILITIES

The side building lines of a self-storage or mini-warehouse facility may be reduced by approval of the Planning & Zoning Commission at the time of the preliminary site plan approval. The configuration of the

storage units shall be with the doors facing into the site with the rear walls of the units serving as the outer boundary.

Self-storage or mini-warehouse facilities must comply with Chapter 4, Section 9.8 of this Ordinance, and its amendments, relating to the construction material used for exterior buildings. Notwithstanding any other provisions to the contrary, a self-storage or mini-warehouse facility constructed adjacent to a residential area, whether separated by a dedicated street or not, shall exclusively use clay fired brick or stone as the exterior construction material.

## 9.11 ADJACENCY OF CERTAIN USES TO RESIDENTIAL ZONING

A. All buildings, gasoline pump islands, vacuums, outdoor speakers, gasoline or fuel storage tanks, air and water dispensers, and other structures in conjunction with any automotive use shall be located a minimum of two hundred (200) feet from any residential Zoning District. No service bay shall face a residential Zoning District. An automotive use shall be defined as the sales, leasing, renting, servicing, repair, or washing of automobiles, boats, motorcycles, trucks, or any other motor vehicle.

B. All buildings, structures, and outdoor speakers used in conjunction with any drive-thru or drive-in restaurant shall be located a minimum of two hundred (200) feet from any residential Zoning District. Buildings and outdoor speakers may be located closer than two hundred (200) feet from a residential Zoning District provided that the building is located between the speaker box and adjacent residentially zoned property.

C. Any lot containing a drive-thru restaurant, drive-in restaurant, and/or an automotive use as defined in Chapter 4, Section 9.11(A) and that is adjacent to a residential Zoning District shall comply with the following requirements:

1. One (1) large tree, three (3) inch caliper minimum shall be planted on twenty (20) foot centers within the fifteen (15) foot landscape area, required by Chapter 4, Section 2.6(C). Of the trees required within the fifteen (15) foot landscape area, a minimum of fifty (50) percent of the trees shall be of an evergreen variety that will reach a minimum of fifteen (15) feet in height.

2. The screening wall, required by Chapter 4, Section 5.2, shall be eight (8) feet in height.

3. All screening materials, both wall and landscape materials, shall be maintained in a manner to provide the intended screening.

D. The requirements listed in Chapter 4, Section 9.11(A) and 9.11(B) shall not apply to a drive-thru restaurant, drive-in restaurant, and/or an automotive use within two hundred (200) feet of a residential Zoning District that is separated from the residential area by an existing or future major thoroughfare identified on the Town's Thoroughfare Plan.

## 9.12 DAY CARE CENTERS, PRIVATE SCHOOLS, AND SIMILAR FACILITIES

A. All day care centers shall provide outdoor play space at a rate of sixty-five (65) square feet per child. This requirement shall be based on the maximum licensed capacity of the facility. The outdoor play space shall have no dimension of less than thirty (30) feet. If the facility provides care to all children for less than four hours per day, this requirement may be waived by the Town Council.

B. Outdoor play space is defined as the area used for outside recreational purposes for children. The outdoor play area must be enclosed by a fence of at least four (4) feet in height with at least two emergency exits. One exit may be an entrance to the building. The adequacy of the emergency exits shall be determined by the Fire Chief or his/her designee.

## 9.13 RESIDENTIAL DEVELOPMENT ADJACENT TO RAILWAYS

A. Minimum Building Setback, Screening, and Landscaping Requirements.

When a boundary of a residential subdivision is adjacent to a railroad right-of-way, one of the two following

screening options shall be installed within three (3) months from the date of Town acceptance of public improvements:

1. Option One
   a. A minimum building setback of fifty (50) feet shall be required from the railroad right-of-way; and
   b. A one hundred (100) percent clay fired brick or stone wall with a minimum height of six (6) feet shall be constructed on the railroad right-of-way line; and
   c. One (1) three (3) inch caliper large tree shall be planted a minimum of thirty (30) linear feet on center adjacent to the residential side of the wall. A minimum of fifty (50) percent of the trees shall be of the evergreen variety. The landscaped area shall be mechanically irrigated. The lot owner shall be responsible for the replacement of required plant materials.
2. Option Two
   a. A minimum building setback of eighty (80) feet shall be provided from the railroad right-of-way; and
   b. A six (6) foot high earthen berm with a maximum slope of 3:1 shall be constructed adjacent to the railroad right-of-way line.
   c. One (1) three (3) inch caliper large tree shall be planted a minimum of thirty (20) linear feet on center along the top or on the residential side of the berm. A minimum of fifty (50%) percent of the trees shall be of the evergreen variety. The landscaped area shall be mechanically irrigated. The lot owner shall be responsible for the replacement of required plant materials.

B. Platting Requirements:
   1. The setback area shall be designated on the plat as follows: "This setback area is reserved for screening purposes. The placement of structures on this land or the removal of healthy screening plant materials is prohibited."
   2. Should the setback area be part of a single-family lot, the setback area shall also be recorded on the plat as a building line.

C. This section shall not apply to any residential development with an approved Concept Plan, Preliminary Plat, and/or Final Plat prior to adoption of this Ordinance.

## 9.14 NONRESIDENTIAL AND MULTIFAMILY DEVELOPMENT ADJACENT TO A MAJOR CREEK

A. Major Creeks within the Town of Prosper shall be defined as:

- Button Branch
- Doe Branch
- Gentle Creek
- Rutherford Branch
- Wilson Creek

Each Major Creek begins at its headwater (as determined by the Federal Emergency Management Agency and/or the U.S. Army Corps of Engineers) as is generally depicted on Flood Insurance Rate Maps (FIRM) as provided by the Federal Emergency Management Agency.

B. All nonresidential and multifamily lots developing adjacent to the 100-year floodplain of a major creek shall comply with the requirements listed below. Multifamily-zoned property that develops as single-family is not subject to these requirements, but shall comply with Section 14 of the Subdivision Ordinance, as it exists or may be amended.
   1. Retaining walls, where provided, shall be constructed of clay-fired brick, stone, patterned concrete,

modular concrete block, or split faced concrete masonry units. This requirement does not apply to walls constructed within the channel of the creek to control water flow.

2. Three (3) inch caliper trees planted on thirty (30) foot centers and three (3) gallon shrubs planted on five (5) foot centers shall be provided between parking and the flood plain when parking is located directly adjacent to the flood plain. The trees and shrubs are not required to be planted in a single row; they may be planted in groups. Existing trees in healthy growing condition and of a species from the list of Recommended Plant Materials in Chapter 4, Section 2 of this Ordinance, as it exists or may be amended, may be counted toward this requirement.

3. Maintenance access, as required by the Town Engineer, or his/her designee, shall be provided to the flood plain, hike and bike trail, and creek.

4. The development shall incorporate a connection to a hike and bike trail along the major creek by way of a sidewalk, stairs, and/or ramps. The connection shall comply with ADA and TAS accessibility requirements. The Director of Planning or his/her designee may waive this requirement if he/she determines that a connection is not needed due to the property size, configuration and constraints, or land use.

5. Open space areas adjacent to the floodplain that have been improved with patios, courtyards, or additional landscaping listed in Section 9.14(C)(1) and Section 9.14(C)(6) below may be used to meet minimum open space requirements.

6. Loading areas located adjacent to the major creek shall be screened from the flood plain by a solid living screen to reach a minimum of fourteen (14) feet tall within two (2) years. Existing trees in healthy growing condition and of an evergreen species from the list of Recommended Plant Materials in Chapter 4, Section 2 of this Ordinance, as it exists or may be amended, may be counted toward this requirement. For Industrial development, this requirement may be waived by the Planning & Zoning Commission upon site plan approval if the adjacent property on the opposite side of the creek is zoned Industrial or designated on the Future Land Use Plan as Industrial, unless zoned other than Industrial.

C. Multifamily, except those multifamily properties that are developed as single-family, and office development adjacent to a major creek shall provide four (4) of the amenities listed below. Retail and commercial development adjacent to a major creek shall provide three (3) of the amenities listed below. Industrial development adjacent to a major creek shall provide two (2) of the amenities listed below. Amenity selection is subject to approval by the Planning & Zoning Commission upon preliminary site plan or site plan approval.

1. A thirty (30) foot landscape edge adjacent to the floodplain of the major creek with a double row of three (3) inch caliper trees planted on thirty (30) foot centers. Existing trees in healthy growing condition and of a species from the list of Recommended Plant Materials in Chapter 4, Section 2 of this Ordinance, as it exists or may be amended, may be counted toward this requirement.

2. A minimum of twenty five (25) percent of the surface area of walls that face the major creek to be provided as windows.

3. Construction of a hike and bike trail along the creek.

4. A visibility corridor of at least one hundred (100) feet shall be required between and/or adjacent to buildings adjacent to the flood plain. This visibility corridor can include parking, landscape medians or areas, amenities, and drive aisles.

5. Trail Head Park. A trailhead park shall have minimum dimensions of fifty (50) feet and be located adjacent to the hike and bike trail. Park benches shall be provided. Trailhead parks are subject to review and approval by the Director of Parks & Recreation or his/her designee.

6. A common patio, balcony, courtyard, or terrace a minimum of 750 square feet located between the

building and the major creek.

7. Building orientation such that the entire side of the building adjacent to the flood plain is not the back of the building.
8. Building to have the same building materials and architectural elements on all four sides.
9. Creek restoration (plan shall be designed and implemented according to USACOE standards and approved by Army Corps of Engineers).
10. Other amenities not listed may be approved by the Planning & Zoning Commission in conjunction with a preliminary site plan if they determine that the proposed amenity meets the intent of these requirements.

D. The Planning & Zoning Commission may grant variances to the requirements of this section, as it exists or may be amended, upon preliminary site plan or site plan approval only if they determine that conforming to these requirements is not possible due to the property size, configuration, topography, constraints, or land use and that no other alternative is available. The decision by the Planning & Zoning Commission may be appealed to the Town Council using the site plan appeal process described in Chapter 4, Section 1, as it exists or may be amended.

## 9.15 TRAFFIC IMPACT ANALYSIS

A. Purpose: The purpose of a traffic impact analysis is to assess the effects of specific development activity on the existing and planned roadway system. A Traffic Impact Analysis (TIA) is intended to adequately assess the traffic-related impacts of a zoning proposal on the existing and planned thoroughfare system. The TIA is to determine the traffic loading that the proposed zoning will impose on the existing and planned thoroughfare system and to determine that the thoroughfare system, as planned, can handle the traffic loading at Level of Service D or better in the peak hour. Conclusions drawn from the analysis, along with other land use and service factors, shall be taken into consideration by the Planning & Zoning Commission and the Town Council in approval or disapproval of zoning changes.

Prior to the commencement of a TIA, a pre-submission meeting with the Town staff is required to establish a base of communication between the Town and the applicant. This meeting will define the requirements and scope relative to conducting a TIA and ensure that any questions by the applicant are addressed.

B. Definitions:

1. Accident Analysis – A summary of the accident history on adjacent roadways during a specified time period. Such analyses typically include measures to mitigate the impact of site traffic on safety based on accident history and associated information.
2. Capacity – The maximum number of vehicles which can pass a given point during one hour under prevailing roadway and traffic conditions.
3. Level of Service (LOS) – A qualitative measure of traffic operating conditions based on such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. Level of Service analyses conducted as part of a TIA shall be determined using procedures of the latest edition of the *Highway Capacity Manual*.
4. Special Report 209 – published by the Transportation Research Board (TRB).
5. Modal Split – The percentage of people using a certain means of transport; auto, transit, walk.
6. Queuing Analysis – an analysis of vehicle stacking and required lane storage necessary to mitigate excessive vehicle queues. Typically performed for drive-through facilities, drop-off zones to schools and daycare facilities, entrance gates, turn lanes and median breaks.
7. Sight Distance Survey – a survey of the available horizontal and vertical sight distance at access points to a site, intersection or roadway section. Such study must include measures to eliminate any resulting safety hazard.
8. Signal Cycle – the time period required for one complete sequence of traffic signal indications.
9. Signal Phase – a part of the signal cycle allocated to a traffic movement or any combination of traffic movements.
10. TIA Analysis Periods – time periods for traffic assessment as part of a TIA submittal.
11. Traffic Control Device – Any sign, signal, marking, or device placed or erected for the purpose of regulating, warning, or guiding vehicular traffic and/or pedestrians.
12. Traffic Impact Analysis – A study that provides information to: 1) determine the traffic loading that the proposed zoning will impose on the existing and planned thoroughfare system; 2) determine that the thoroughfare system, as planned, can handle the traffic loading at Level of Service D or better in the peak hour; and 3) evaluate the appropriate traffic mitigation measures if the thoroughfare system cannot accommodate the impact.
13. Traffic Simulation – The use of a computer model to provide detailed analysis of the interaction

between traffic, roadway geometry, and traffic control devices.

14. Trip Generation – The number of one-way traffic movements associated with such variables as building size, type of dwelling unit, employees, land area, etc… Chapter 5, Section 2.3, Illustration V lists generalized trip generation rates for various land uses.

15. Turn Lane Analysis – an analysis of storage requirements for driveways or nearby intersections based on existing and future roadway volumes.

16. Vehicle Trip – A one-way movement of a vehicle between two points.

17. Volume/Capacity Ratio (V/C) – the ratio of an actual volume to the capacity of a roadway.

C. Applicability:

A TIA shall be required under the following two conditions:

1. A zoning request for multifamily or nonresidential, as defined herein, that generates at least 5,000 trips per day and that does not comply with the Future Land Use Plan, unless the proposed zoning results in a net trip reduction compared to existing zoning.

2. A zoning request for residential, as defined herein, that generates a residential density greater than that recommended for the property by the Future Land Use Plan, unless the proposed zoning results in a net trip reduction compared to existing zoning.

All traffic impact analyses shall be performed by a consultant qualified to perform such studies. Special circumstances that do not meet the daily trip generation threshold may also require a TIA. Such circumstances, as determined by the Director of Planning or designated representative may include, but are not limited to; impacts to residential neighborhoods from non-residential development, inadequate site accessibility, the implementation of the surrounding Thoroughfare Plan is not anticipated during the estimated time period of a proposed development, the proposed land use differs significantly from that contemplated in the Future Land Use Plan, and the internal street or access is not anticipated to accommodate the expected traffic generation.

The Director of Planning or designated representative, based upon the results and recommendation from a pre-submission meeting with the applicant, shall determine the need for a TIA. It shall be the responsibility of the applicant to demonstrate that a TIA should not be required.

D. TIA Standards and Methodology:

The TIA must evaluate the impact of the proposed development on both existing traffic conditions and future traffic conditions for five (5) years after initial phase opening and ten (10) years after final opening with full build out. The study area shall be based on the total daily estimated trip generation. The study area shall be a one-mile radius for less than 10,000 trips per day. A larger radius shall be considered for more than 10,000 trips per day. The TIA shall include the following:

1. Site Location/Study Area – a brief description of the size, general features, and location of the site, including a map of the site in relation to the study area and surrounding vicinity;

2. Existing Zoning – a description of the existing zoning for the site and adjacent property, including land area by zoning classification and density by FAR, square footage, number of hotel rooms, and dwelling units (as appropriate);

3. Existing Development – a description of any existing development on the site and adjacent to the site and how it would be affected by the development proposal;

4. Proposed Zoning – a description of the proposed zoning for the site, including land area by zoning classification and density by FAR, square footage, number of hotel rooms, and dwelling units (as appropriate); identify other adjacent land uses that have similar peaking characteristics as the

proposed land use; identify recently approved or pending land uses within the area;

5. Thoroughfare System – a description and map of existing planned or proposed thoroughfares and traffic signals for horizon year(s) within the study area;
6. Existing Traffic Volumes – recent traffic counts for existing thoroughfares and major intersections within the study area;
7. Projected Traffic Volumes – horizon year(s) background traffic projections for the planned thoroughfare system within the study area;
8. Existing Site Trip Generation – a table displaying trip generation rates and total trips generated by land use category for the AM and PM peak hours and on a daily basis, assuming full development and occupancy based on existing zoning (if applicable), and including all appropriate trip reductions (as approved by Staff);
9. Proposed Site Trip Generation – a table displaying trip generation rates and total trips generated by land use category for the AM and PM peak hours and on a daily basis, assuming full development and occupancy for the proposed development, and including all appropriate trip reductions (as approved by Staff);
10. Net Change in Trip Generation (zoning) – proposed trip generation minus existing trip generation (if applicable); the net increase in trips to be added to base volumes for the design year;
11. Trip Distribution and Traffic Assignment – tables and figures of trips generated by the proposed development (or net change in trips, if applicable) added to the existing and projected volumes, as appropriate, with distribution and assignment assumptions, unless computer modeling has been performed;
12. Level of Service Evaluations – capacity analyses for weekday AM and PM peak hours of the roadway and peak hour of the site, if different from the roadway, for both existing conditions and horizon year projections for intersections, thoroughfare links, median openings and turn lanes associated with the site, as applicable. The minimum acceptable level of service (LOS) within the Town shall be defined as LOS "D" in the peak hour for all critical movements and links. All development impacts on both thoroughfare and intersection operations must be measured against this standard;
13. Traffic Signal Evaluations – the need for new signals based on warrants, the impact on transportation system performance;
14. Evaluation of Proposed/Necessary Mitigation – capacity analyses for weekday AM and PM peak hours of the roadway and peak hour of the site, if different from the roadway, for intersections, thoroughfare links, median openings and turn lanes associated with the site under proposed/necessary traffic mitigation measures;
15. Conclusions – identification of all thoroughfares, driveways, intersections, and individual movements that exceed LOS D, degrade by one or more LOS, the percentage of roadway volume change produced by the proposed development, and any operational problems likely to occur;
16. Recommendations – proposed impact mitigation measures; and
17. Other information required for proper review – as requested by the Director of Planning or designated representative.

E. <u>Format</u>:

The TIA report must be prepared on 8½" x 11" sheets of paper. However, it may contain figures on larger sheets, provided they are folded to this size. All text and map products shall be computer-based and provided in both a computerized and published format compatible with Word and ArcView. In addition, all

electronic files used as part of the traffic analysis (i.e., Synchro, HCS, Passer II/III, Corsim, etc.) shall be provided. The various sections of the report should be categorized according to the subject areas below:

Executive Summary
I. Introduction
   A. Purpose
   B. Methodology
II. Existing And Proposed Land Use
   A. Site Location/Study Area
   B. Existing Zoning
   C. Existing Development
   D. Proposed Zoning (if applicable)
III. Existing And Proposed Transportation System
   A. Thoroughfare System
   B. Existing Traffic Volumes
   C. Projected Traffic Volumes
IV. Site Traffic Characteristics
   A. Existing Site Trip Generation (if applicable)
   B. Proposed Site Trip Generation
   C. Net Change in Trip Generation (if applicable)
   D. Trip Distribution and Traffic Assignment
V. Traffic Analysis
   A. Level of Service Evaluations
   B. Traffic Signal Evaluations
VI. Traffic Mitigation
VII. Conclusions
VIII. Recommendations
APPENDICES

F. Administration:

Based on the results of the TIA and actions recommended by the Town Engineer, Director of Planning, and/or the Planning & Zoning Commission, the Town Council shall take one or more of the following actions:

1. Approve the zoning request, if the request has been determined to have no significant impact;
2. Approve the zoning request subject to inclusion of a traffic mitigation plan where the significant impacts of the requested zoning can be adequately mitigated through phasing, construction of improvements, or any other necessary means;
3. Approve the zoning request, subject to inclusion of a phasing plan;
4. Deny the zoning request, where the impacts cannot be adequately mitigated.

G. TIA Review:

The Town shall utilize a third party engineering firm qualified to review such studies for the TIA review. Payment of the review by the third party engineering firm shall be the responsibility of the applicant. The review fees shall be paid prior to the associated zoning case being scheduled for a public hearing before the Planning & Zoning Commission.

## 9.16 RESIDENTIAL OPEN SPACE

A. Two Family (Duplex) and Townhome Open Space. Each parcel of land developed under the 2F or TH standards shall provide usable open space totaling ten (10) percent for 2F and twenty (20) percent for TH

of the area being developed. The open space shall be computed on the percentage of total platted area in the subdivision, excluding right-of-way dedicated major thoroughfares. This open space shall be owned and maintained by a homeowners' association. Areas provided as usable open space shall meet the following criteria:

1. All residential lots must be located within fourteen hundred (1,400) feet of a usable open space area as measured along a street. In order to preserve existing trees or should a property have unique topography, size, or configuration, this distance may be increased by the Planning & Zoning Commission with approval of the plat.
2. All open space areas shall be minimum of twenty thousand (20,000) square feet with no slope greater than ten (10) percent and no width less than fifty (50) feet. The Planning & Zoning Commission may give full or partial credit with approval of the plat for open areas that exceed the maximum slope or that are otherwise unusable, if it is determined that such areas are environmentally or aesthetically significant.
3. Open space areas must be easily viewed from adjacent streets and homes. Open space areas must abut a street on a minimum of forty (40) percent of the perimeter of the open space. However, the perimeter street requirement may be reduced to thirty (30) percent with Planning & Zoning Commission approval of the preliminary plat when:
   a. preserving existing trees;
   b. preserving natural geographic features; or
   c. physical constraints such as overall property size, configuration, or topography exist.
4. Landscaping, sidewalks, and amenities such as tennis courts and swimming or wading pools may be located within usable open space areas. Detention ponds that contain a constant water level, are landscaped, or otherwise treated as an amenity for the development, as determined by the Director of Planning or his/her designee, may be calculated toward the required open space.
5. Open space shall contain one (1) minimum three (3) inch caliper large tree for every one thousand (1,000) square feet of required open space. The tress shall be maintained in a healthy and growing condition, and must be replaced with trees of similar variety and size if damaged, destroyed, or removed. A landscape plan must be approved prior to approval of the final plat.

B. Multifamily Open Space. Each parcel of land developed under the MF standards shall provide usable open space totaling thirty (30) percent of the area being developed. The open space shall be computed on the percentage of total platted area in the subdivision, excluding right-of-way dedicated major thoroughfares. Areas provided as usable open space shall meet the following criteria:

1. The open space shall have a maximum slope not exceeding ten (10) percent.
2. The open space shall have a minimum dimension of not less than thirty (30) feet.
3. Of the required open space, fifteen (15) percent or twenty thousand (20,000) square feet, whichever is greater, shall be arranged or located in a contiguous mass. Flood plain used for open space may receive full credit for that portion that is maintained in its natural state. Floodplain that is reclaimed and used for open space shall receive a fifty (50) percent credit toward open space.
4. At the time of preliminary site plan approval, the Planning & Zoning Commission may give full or partial credit for open areas that exceed the maximum slope, that are otherwise unusable, or that are less than the fifteen (15) percent or twenty thousand (20,000) square feet required in Chapter 4, Section 9.16(B)(3). These areas must be determined to be environmentally or aesthetically significant and/or an enhancement to the development or the area.
5. Landscaping, sidewalks, and amenities such as tennis courts, swimming or wading pools, and

clubhouses may be located within usable open space areas. Detention ponds that contain a constant water level, are landscaped, or otherwise treated as an amenity for the development, as determined by the Director of Planning or his/her designee, may be calculated toward the required open space.

6. Open space shall contain one (1) minimum three (3) inch caliper large tree for every one thousand (1,000) square feet of required open space. The tress shall be maintained in a healthy and growing condition, and must be replaced with trees of similar variety and size if damaged, destroyed, or removed. A landscape plan must be approved prior to approval of the final plat.

## 9.17 MULTIFAMILY SITE DESIGN

A. Parking is only allowed between the building and a public street when located at or beyond the required landscape setback and screened with a headlight screen of earthen berms and/or a row of shrubs. Buildings with enclosed garages, when adjacent to a public street, must face garage doors internally to the development. Garage doors may not face a public street. No detached garages may be located between residential buildings and a public street. Enclosed garage parking spaces shall be a minimum of ten by twenty (10 x 20) feet.

B. Structure Separation – Multifamily structures on the same parcel shall have the following minimum distance between structures:

1. From main structure to main structure with walls that have openings for doors or windows on facades facing each other.

   a. Face to Face: fifty (50) feet
   b. Face to End: thirty (30) feet
   c. Corner to Face or End: thirty (30) feet
   d. End to End: thirty (30) feet

2. From main structure to main structure with walls that do not have openings, the minimum distance between structures is twenty (20) feet for one- and two-story buildings and thirty (30) feet for three-story buildings.

3. From main structure to accessory buildings or pools, the minimum distance between structures is twenty (20) feet.

4. From main structure to free standing garage building, the minimum distance between structures is thirty (30) feet.

C. Access to a public street in a Single-Family neighborhood will be limited access and will not function as a primary access point for the complex. Access to Single-Family alleys is prohibited. Direct or indirect access to a median opening where located on divided thoroughfare is required.

D. Drive aisles within multifamily developments cannot be longer than five hundred (500) feet continuous without an offset equal to the width of the drive aisle, traffic circle, or other acceptable traffic-calming feature approved by the Director of Planning or his/her designee.

E. All multifamily buildings shall be designed to incorporate a form of architectural articulation every thirty (30) feet, both horizontally along each wall's length and vertically along each wall's height. Acceptable articulation may include the following:

- Canopies, awnings, or porticos;
- Recesses/projections;
- Arcades;
- Arches;
- Architectural details (such as tile work and moldings) integrated into the building facade;
- Articulated ground floor levels or base;

- Articulated cornice line;
- Integrated planters or wing walls that incorporate landscape and sitting areas;
- Offsets, reveals or projecting rib used to express architectural or structural bays;
- Accent materials (minimum 15% of exterior facade);
- Varied roof heights;
- Or other architectural features approved by the Director of Planning or his/her designee

F. All multifamily buildings shall incorporate a pitched, gabled, mansard, hipped, or otherwise sloped roof. All sloped roofs shall have a three (3) in twelve (12) inch minimum slope. Wood shingles are prohibited.

## 9.18 MAILBOXES (Z09-5)

Mailboxes shall be consistent throughout a subdivision and should be constructed of masonry or ornamental metal, unless otherwise required by the United States Postal Service.

## 9.19 ALTERNATING SINGLE FAMILY PLAN ELEVATIONS *(Ord. 15-55; 09-22-15)*

A. In the SF Districts, a minimum of four (4) distinctly different home elevations shall be built on the same side of the street. Similar elevations shall not face each other. The same elevation shall not be within three homes of each other on the same side of the street.

B. Different exterior elevations can be met by meeting at least two of the following criteria:

1. Different roof forms/profiles
2. Different facades consisting of different window and door style and placement
3. Different entry treatment such as porches and columns
4. Different number of stories

## 9.20 RESIDENTIAL GARAGE STANDARDS *(Ord. 15-55; 09-22-15)*

A. In the SF and DTSF Districts, garages shall meet the following requirements:

1. In no instance shall a garage door directly facing a street be less than 25 feet from the property line.
2. Garage doors directly facing a street shall not occupy more than fifty percent (50%) of the width of the front façade of the house.
3. Where a home has three (3) or more garage/enclosed parking spaces, no more than two (2) single garage doors or one (1) double garage door shall face the street, unless the garage door(s) are located behind the main structure.

# Chapter 5

## Savings/Repealing, Penalty, Severability, Estoppel, Effective Date/Publication, and Appendices

# SECTION 1
# SAVINGS/REPEALING, PENALTY, SEVERABILITY, ESTOPPEL/WAIVER, AND EFFECTIVE DATE/PUBLICATION

## 1.1 SAVINGS/REPEALING

By the passage of this Ordinance, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a Zoning District where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. Should any part of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. All provisions of any ordinance in conflict with this Ordinance are hereby repealed; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance.

## 1.2 PENALTY

Any person, firm, corporation, or business entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding two thousand dollars ($2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state, and federal law.

## 1.3 SEVERABILITY

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

## 1.4 ESTOPPEL/WAIVER

The failure of the Town of Prosper to enforce any term or condition of this Ordinance shall not constitute a waiver or estoppel or any subsequent violation of this Ordinance.

## 1.5 EFFECTIVE DATE/PUBLICATION

This Ordinance shall become effective after its passage and publication as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS on this 10th day of May, 2005.

APPROVED AS TO FORM:

_____
Charles Niswanger, Mayor

ATTESTED TO AND CORRECTLY RECORDED BY:

_____
Shanae Jennings, Town Secretary

# SECTION 2
# APPENDICES

## 2.1 PLANNED DEVELOPMENTS

Contact the Development Services Department for a current list of approved Planned Development Ordinances.

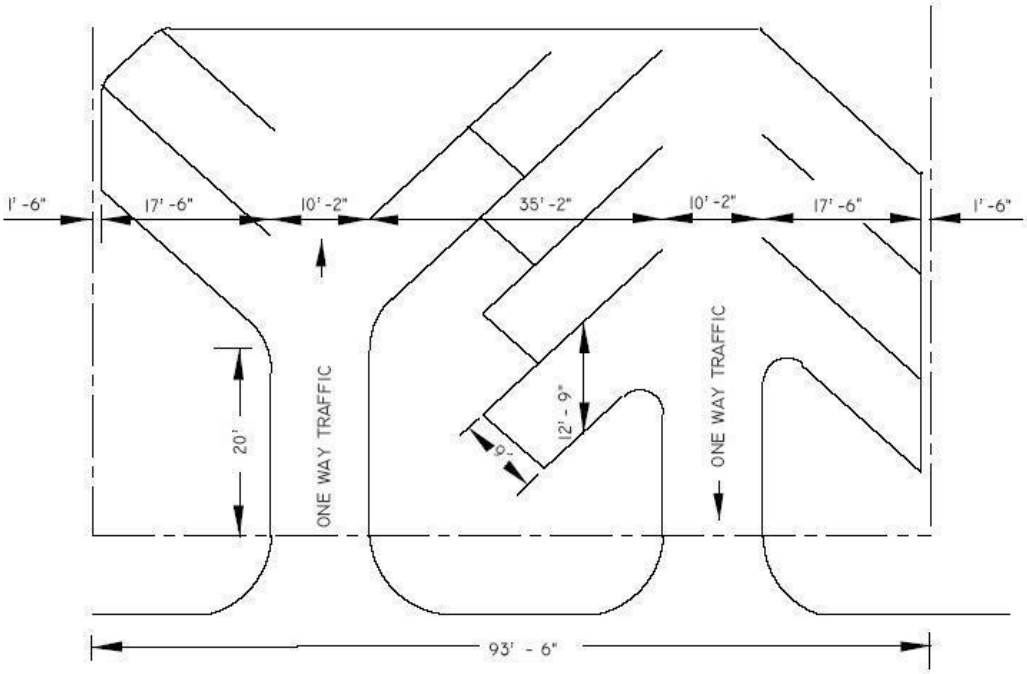
## 2.2 SPECIFIC USE PERMIT

Contact the Development Services Department for a current list of approved Specific Use Permit Ordinances.

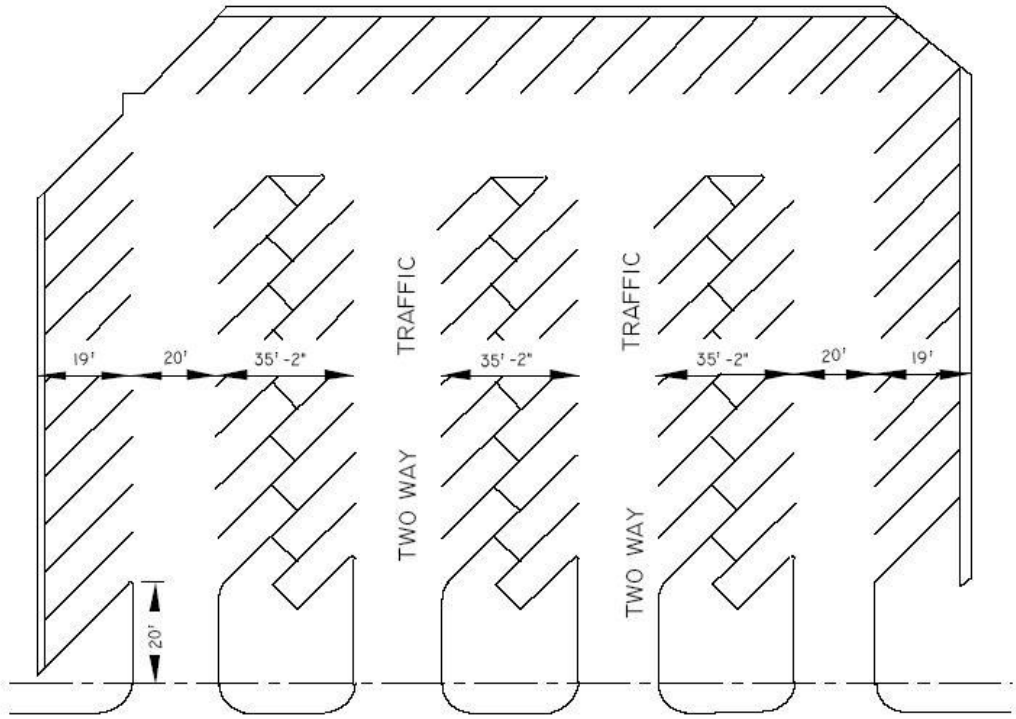
SECTION 2
APPENDICES (CONTINUED)

## 2.3 ILLUSTRATIONS

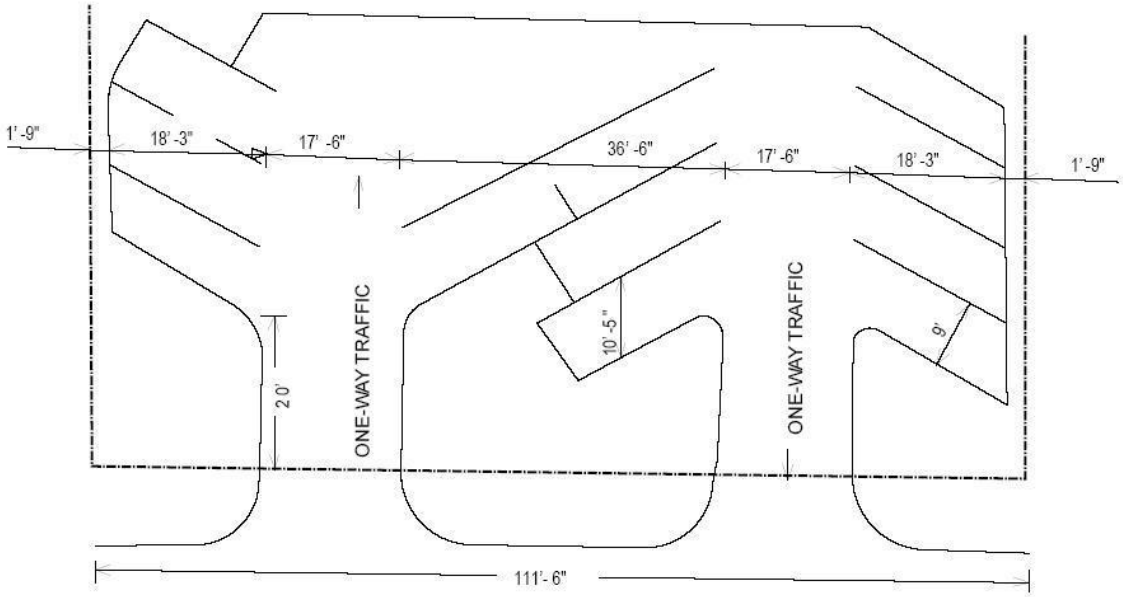
A. Parking Lot Dimensions: 45° one-way



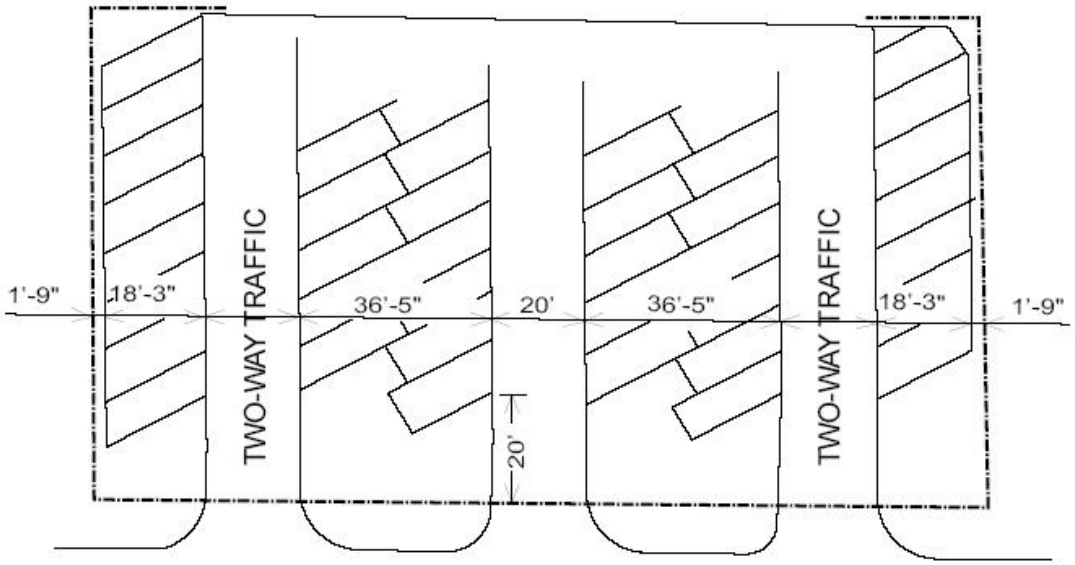

B. Parking Lot Dimensions: 45° two-way



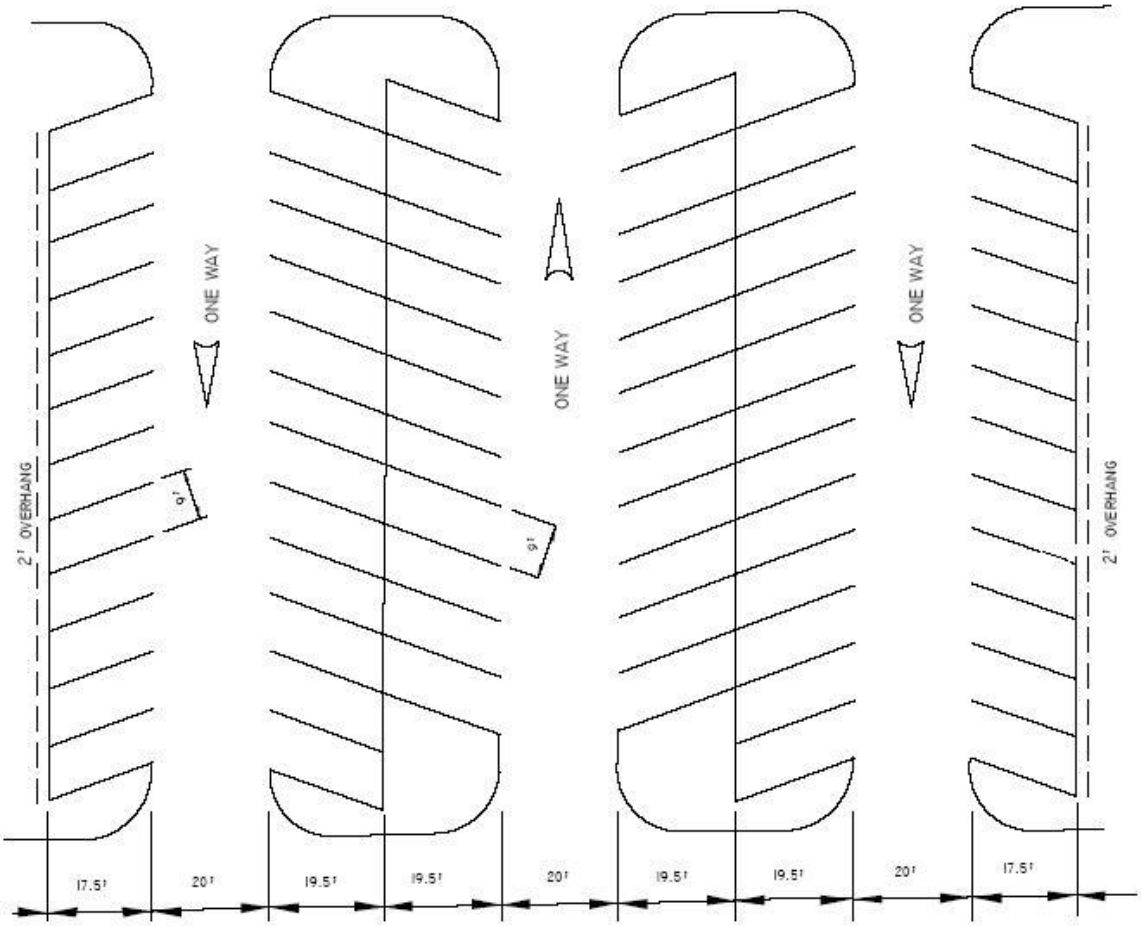
C. Parking Lot Dimensions: 60° one-way



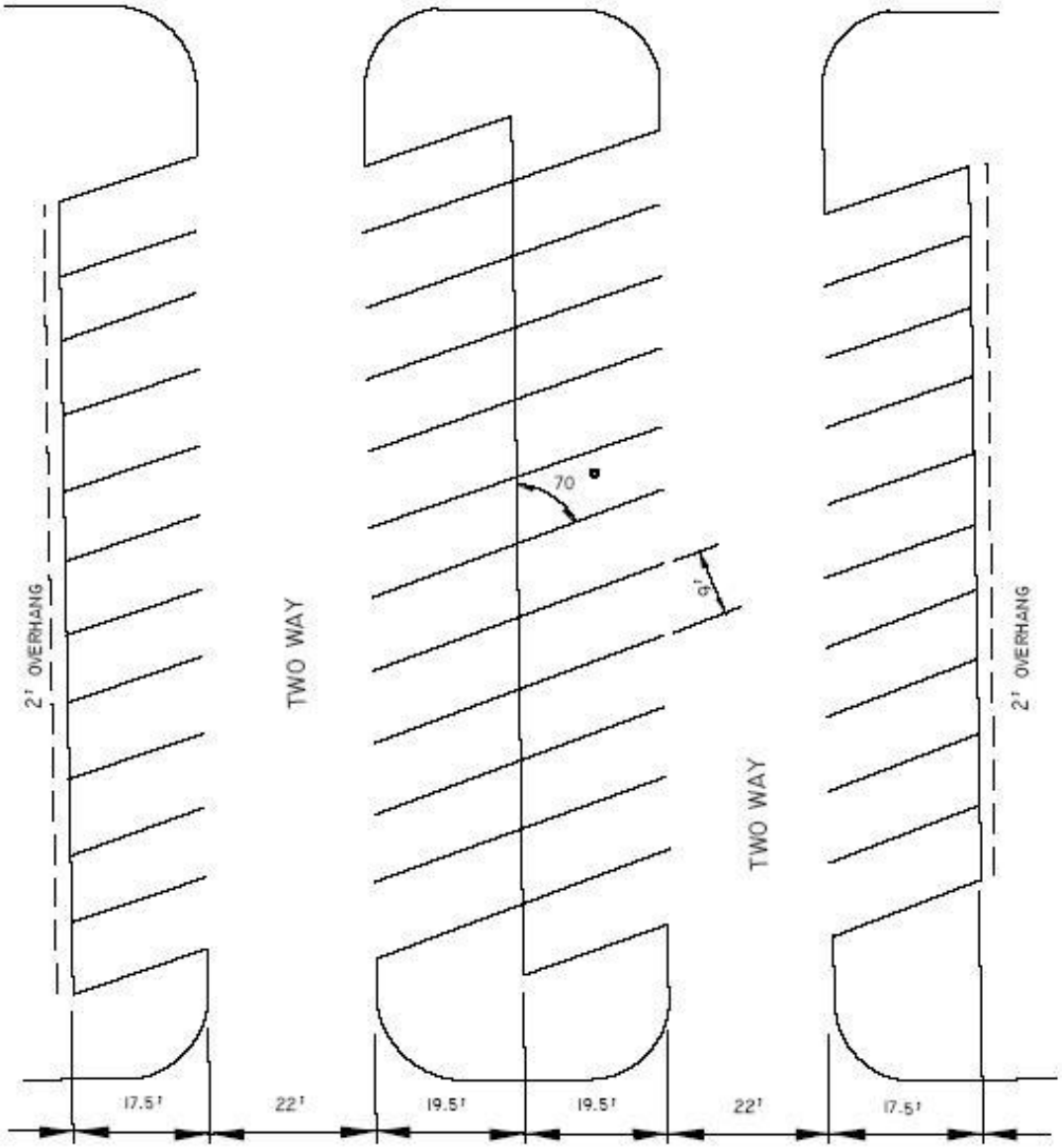

D. Parking Lot Dimensions: 60° two-way



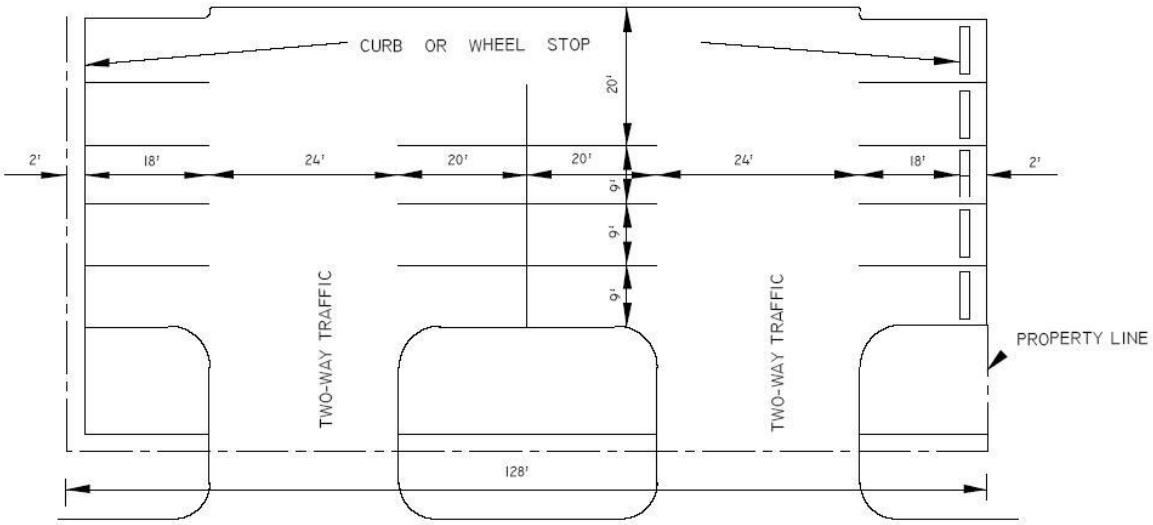
E. Parking Lot Dimensions: 70° one-way



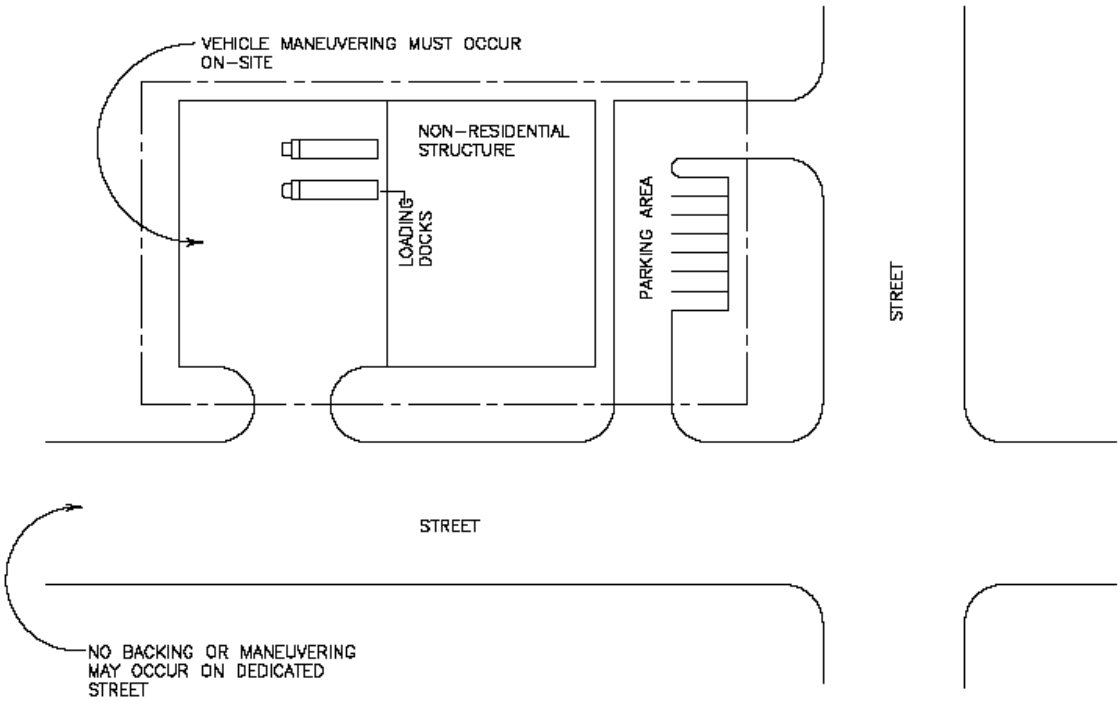
F. Parking Lot Dimensions: 70° two-way



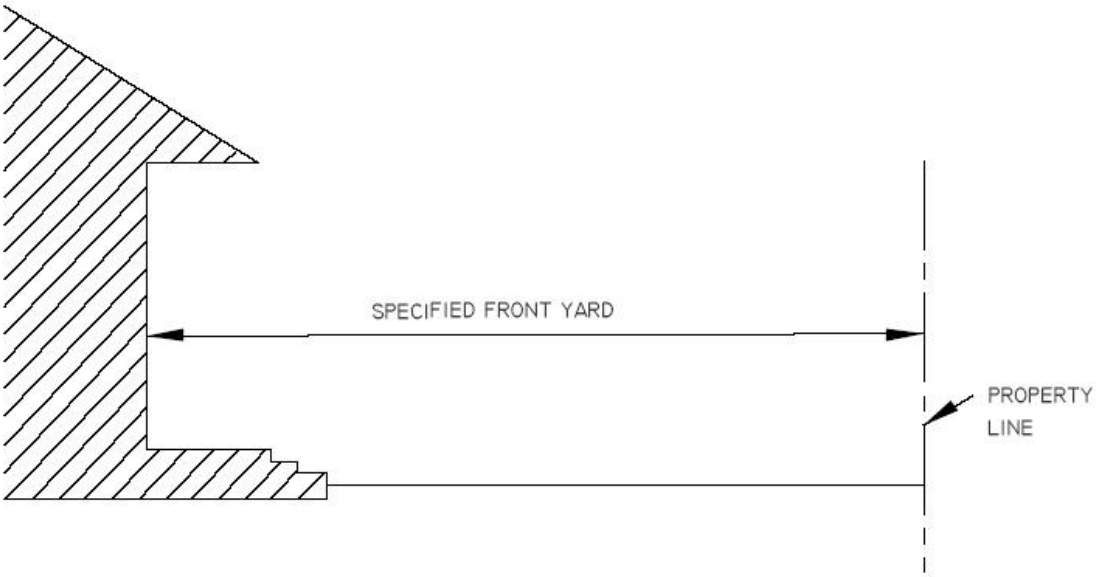
G. Parking Lot Dimensions: 90° two-way



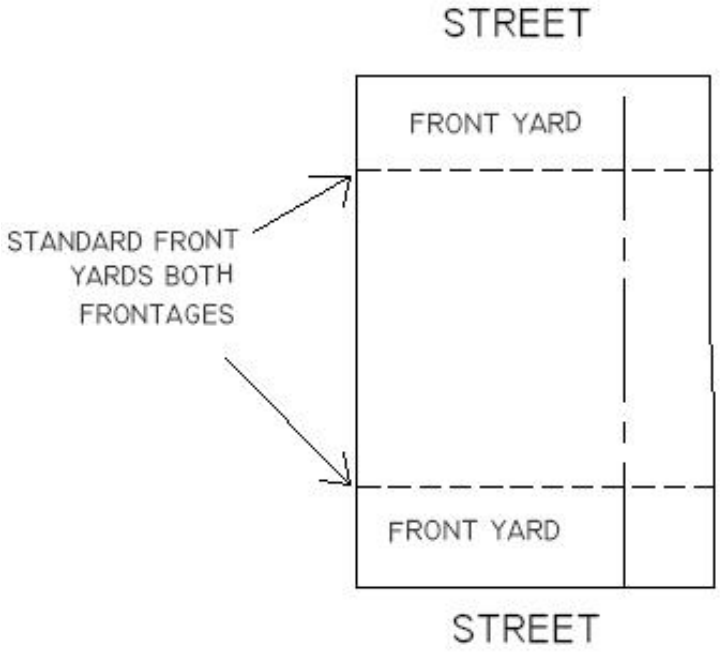

H. On-Site Loading Spaces



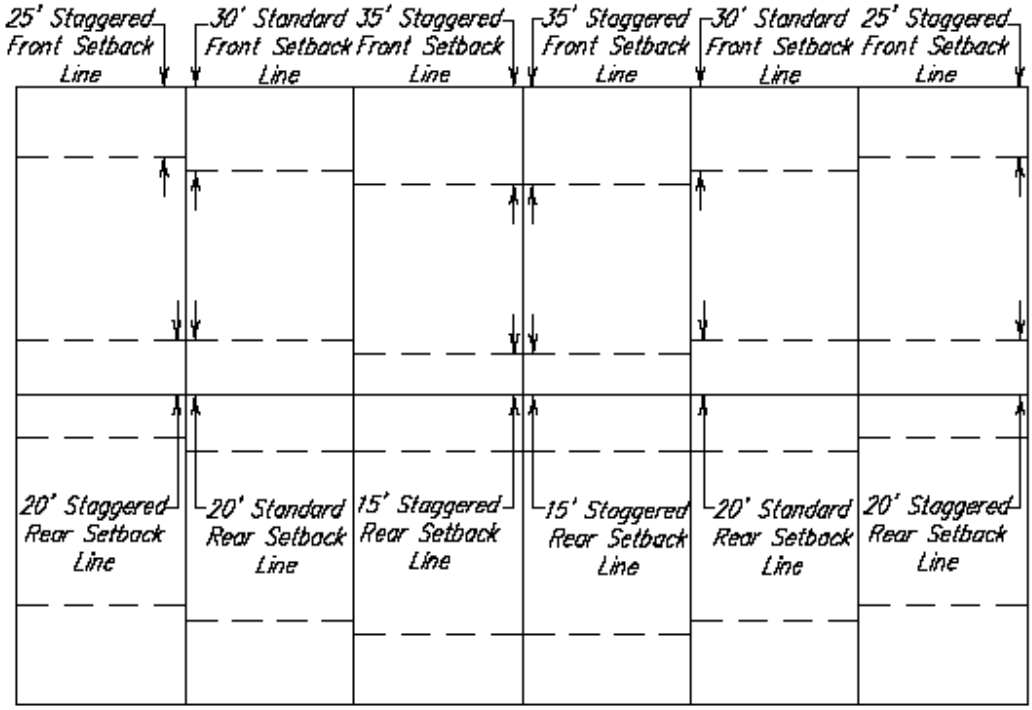
I. Front Yard Measurement



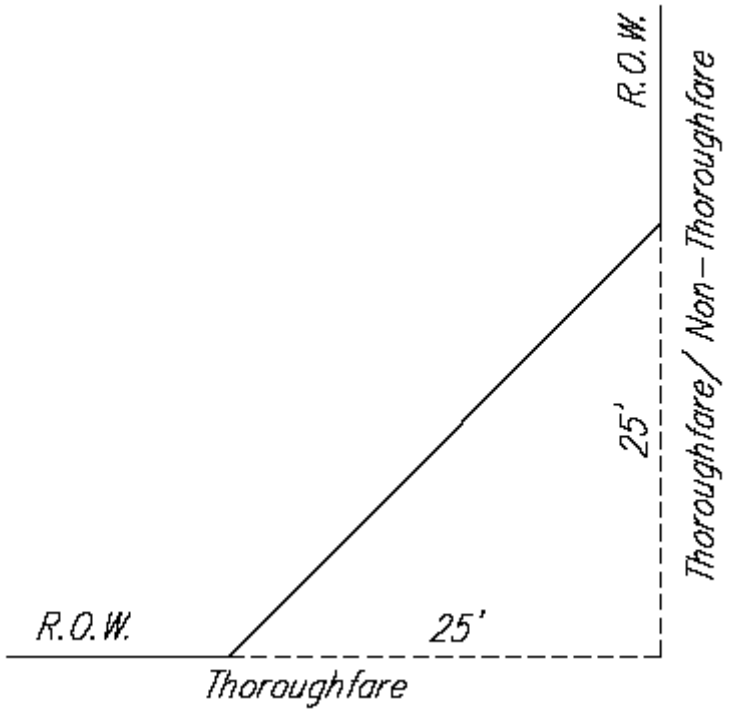

J. Double Front Yards



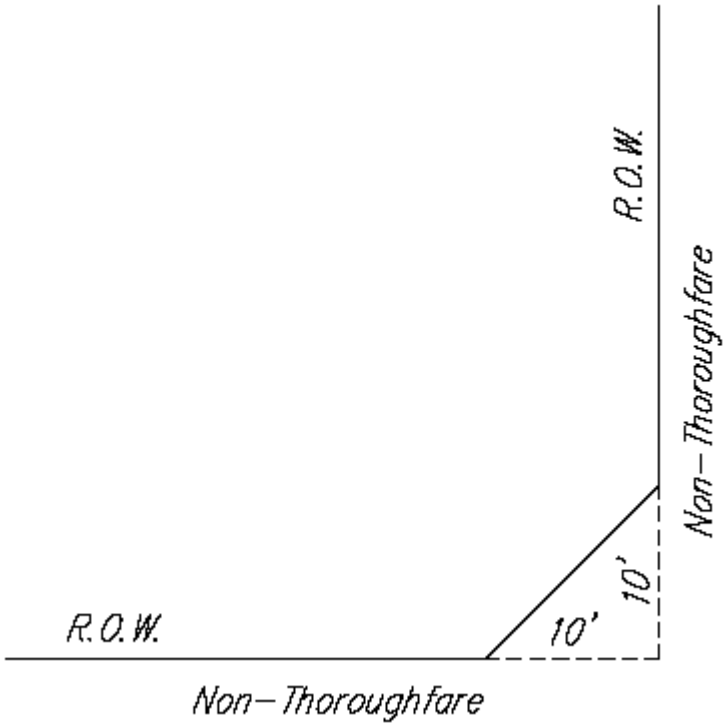
K. Staggered Front Yard Setbacks



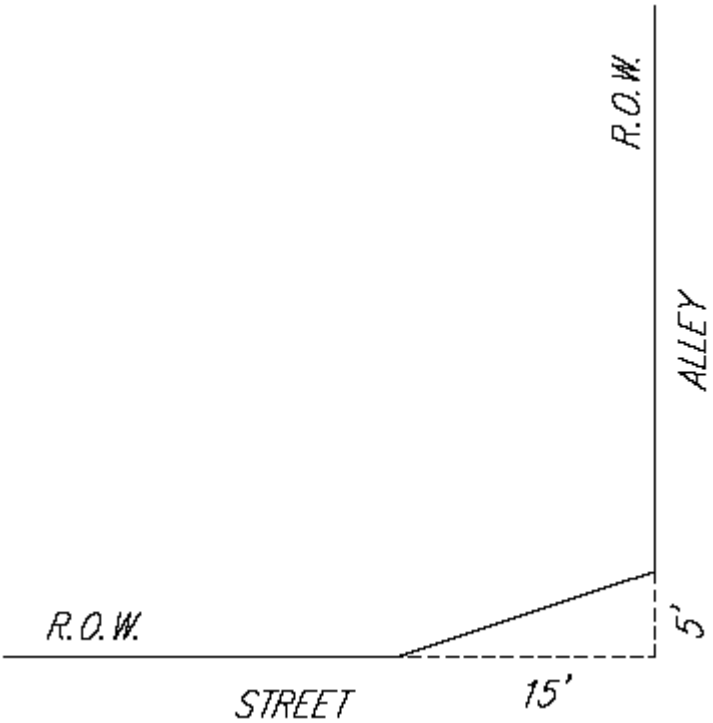

L. Corner Visual Clearance – Major Thoroughfares



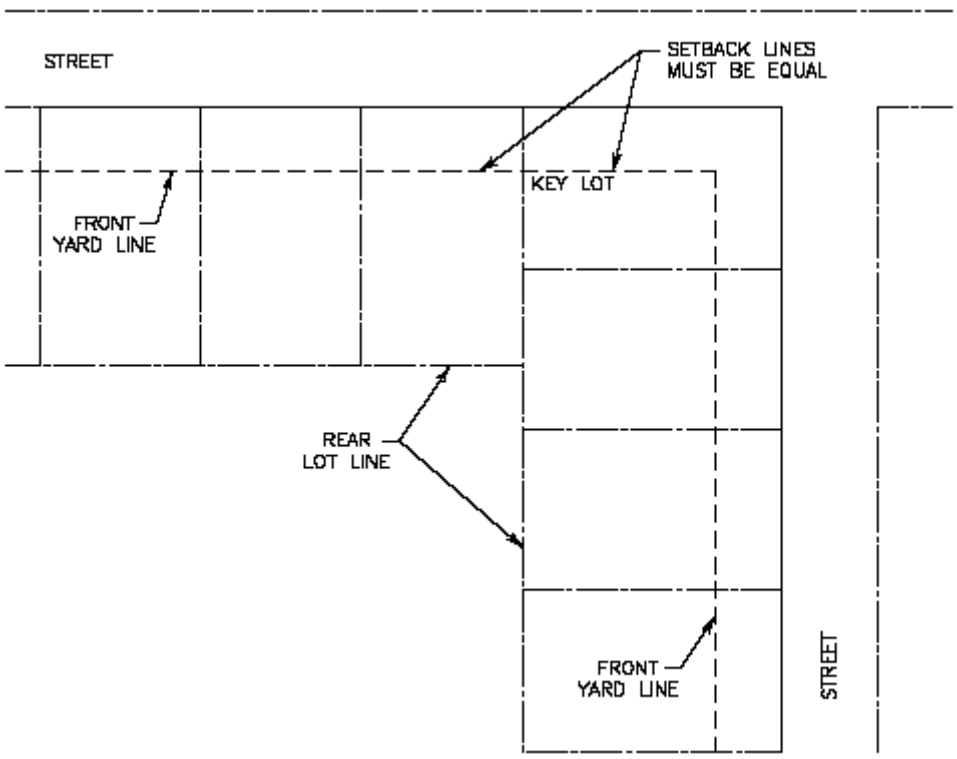
M. Corner Visual Clearance – Non-Major Thoroughfares



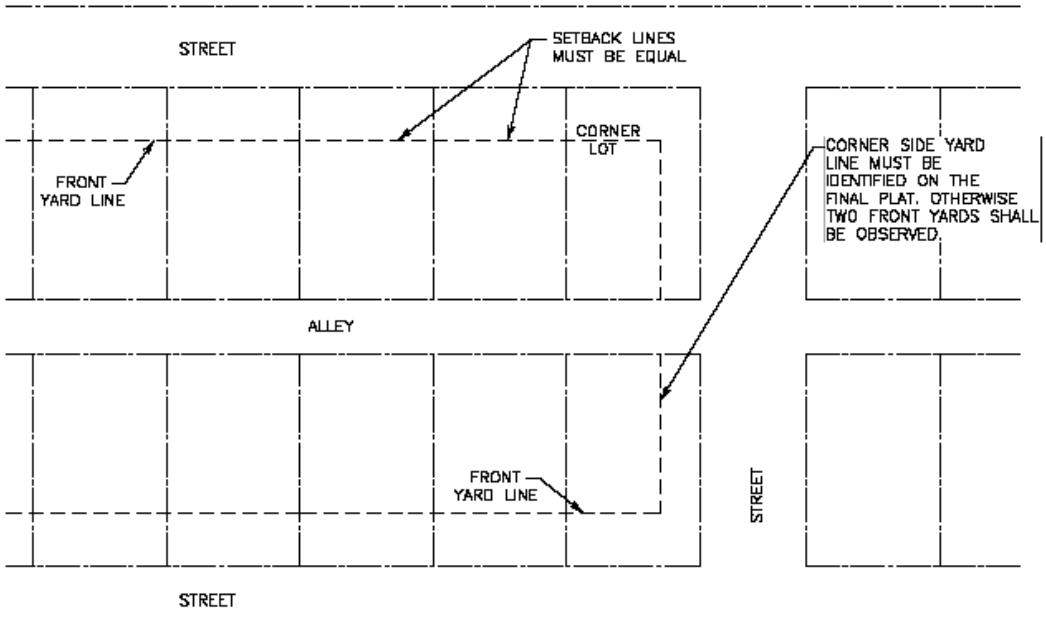

N. Corner Visual Clearance – Street and an Alley



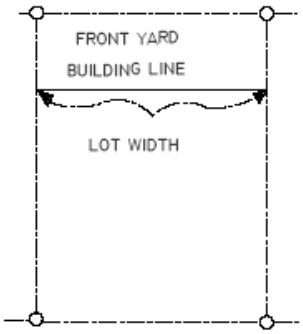
O. Key Lot Setbacks



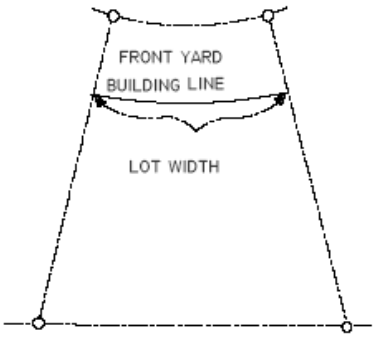

P. Corner Lot Setbacks



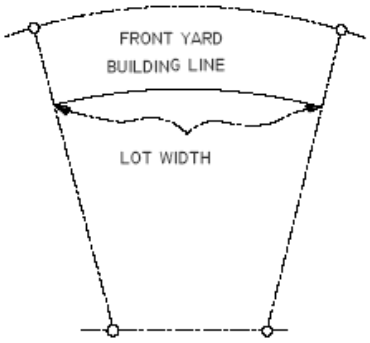
Q. Measurements – Lot Width



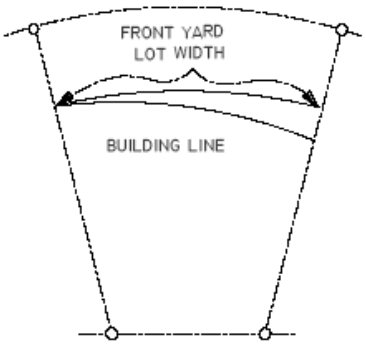

(A)



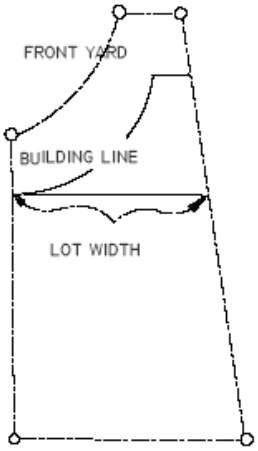

(B)




(C)

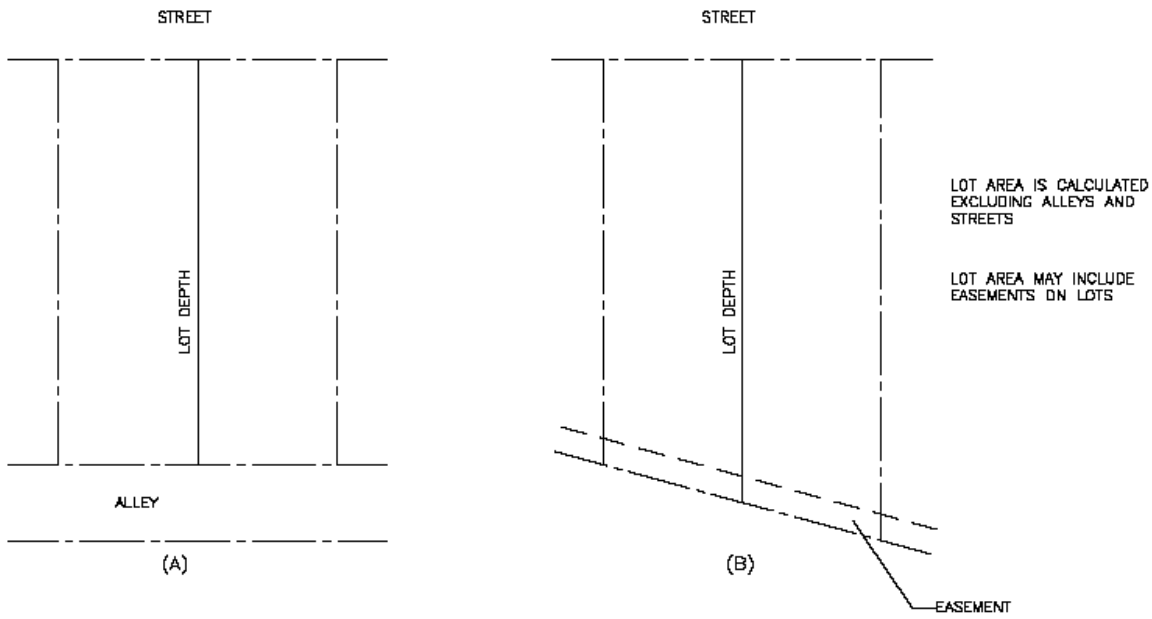



(D)

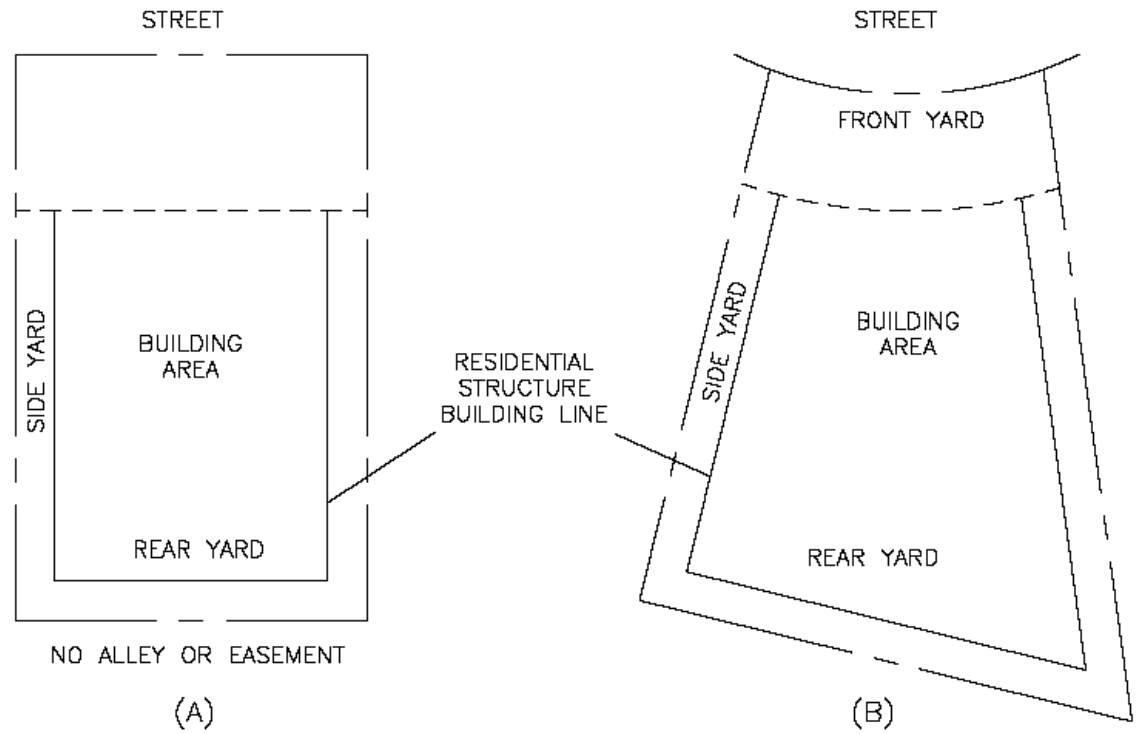



(E)

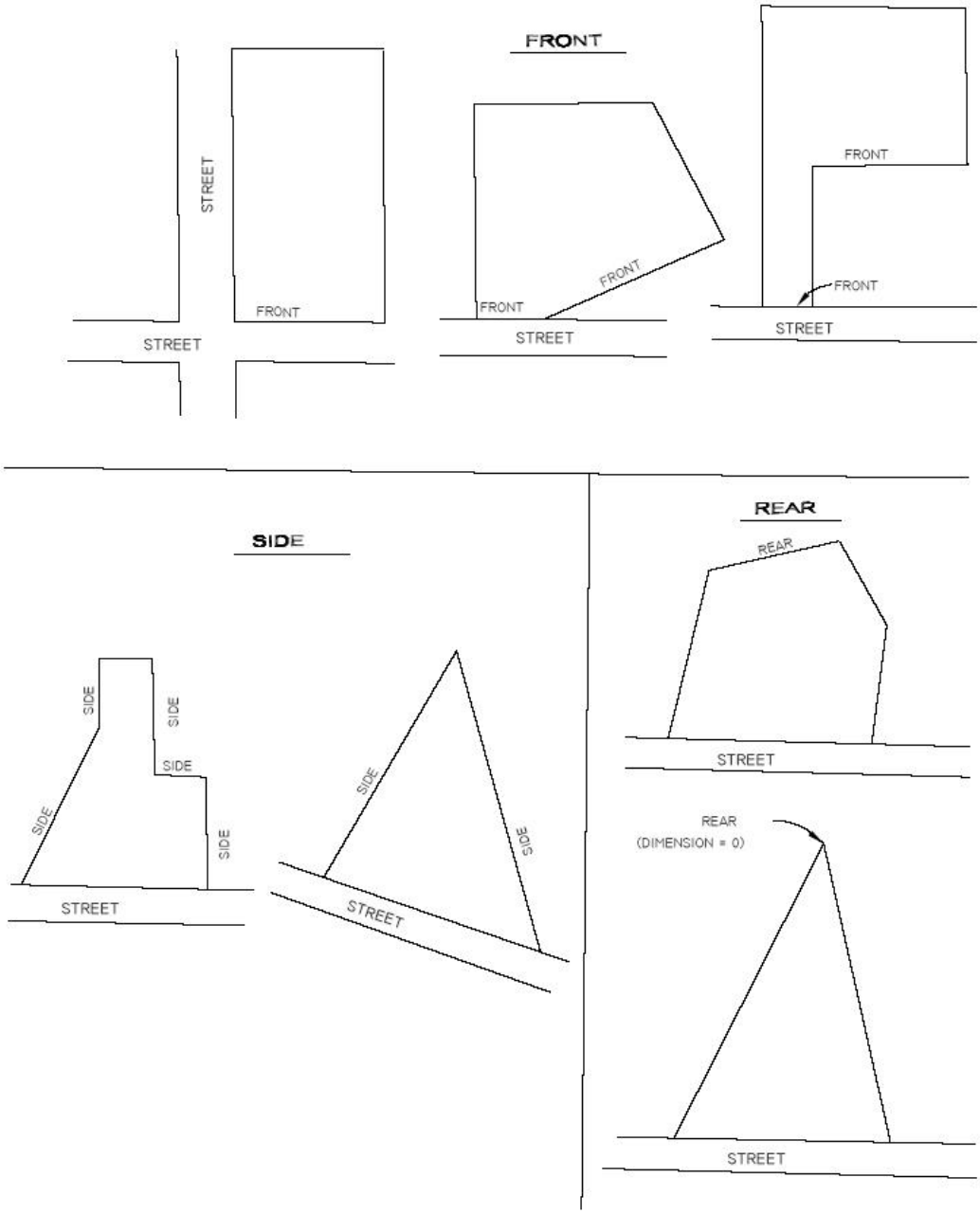
R. Measurements – Lot Depth and Area



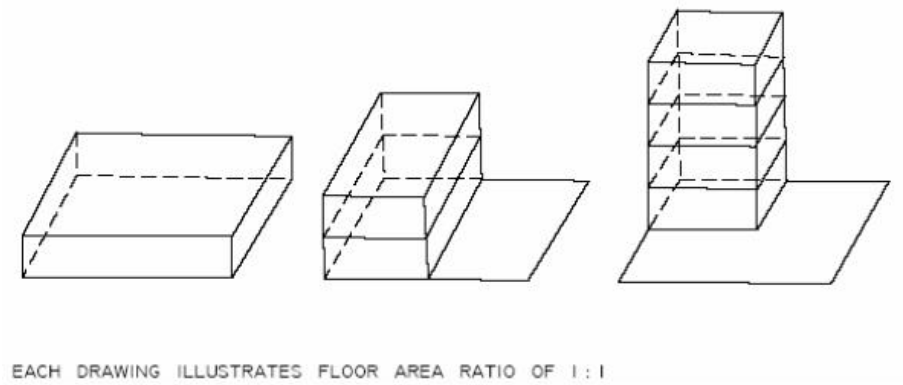

S. Measurements – Side and Rear Setbacks



T. Measurements – Yards



U. Measurements – Floor Area Ratio




V. Traffic Impact Analysis Trip Generation

Contact Engineering Services for trip generation information.