

## **TOWN OF FLOWER MOUND, TEXAS**

### **ORDINANCE NO. 43-21**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 78, "ADMINISTRATION," AND CHAPTER 90, "SUBDIVISIONS," OF THE TOWN'S CODE OF ORDINANCES, TO CREATE NEW VARIANCE CONSIDERATIONS FOR STRUCTURES, CONSTRUCTION SIGNAGE REQUIREMENTS, AND FUTURE THROUGH STREET SIGNAGE REQUIREMENTS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Flower Mound is a home rule municipality acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the Town Council of the Town of Flower Mound previously adopted Chapter 78, "Administration," of Subpart B, "Land Development Regulations," of the Town of Flower Mound Code of Ordinances, as amended; and

**WHEREAS**, the Town Council of the Town of Flower Mound previously adopted Chapter 90, "Subdivisions," of Subpart B, "Land Development Regulations," of the Town of Flower Mound Code of Ordinances, as amended; and

**WHEREAS**, the Town Council finds and determines that it is necessary adopt new variance considerations for structures to reflect recently adopted state law; and

**WHEREAS**, the Town Council finds and determines that variance and construction signage regulations should be updated to reflect Town practices and state law; and

**WHEREAS**, the Town Council finds and determines that temporary dead ends and stub-outs should be identified by signage as "future through streets" for the benefit of surrounding property owners and visitors; and

**WHEREAS**, the Planning and Zoning Commission of the Town of Flower Mound, Texas, held a public hearing on September 27, 2021, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on October 4, 2021, with respect to the amendments described herein; and

**WHEREAS**, the Town has complied with all requirements of Chapter 211 of the Texas Local Government Code, Chapter 78 of the Town's Land Development Regulations, and all other laws dealing with notice, publication, and procedural requirements for the approval of a Land Development Regulations Amendment; and

**WHEREAS**, the Town Council finds that the amendments to Chapters 78 and 90 as outlined herein are in the best interest of the Town of Flower Mound and will promote the health, safety, and general welfare of the citizens of the Town of Flower Mound and the general public.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:**

**SECTION 1**

Portions of Section 78-85, "Variances," Division 3, "Board of Adjustment," of Article II, "Boards, Committees, Commissions," of Chapter 78, "Administration," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to add subsection (c) to read as follows:

**"Sec. 78-85. - Variances.**

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- (c) *Structures.* In exercising its authority under subsection b, the Board may consider the following as grounds to determine whether compliance with the ordinance, as applied to a structure, would result in an unnecessary hardship regarding structures and buildings:
- (1) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the town.
  - (2) Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur.
  - (3) Compliance would result in the structure not being in compliance with a requirement of this Code, building code, or other requirement.
  - (4) Compliance would result in the unreasonable encroachment on an adjacent property or easement.
  - (5) The municipality considers the structure to be a nonconforming structure per section 78-236. "

**SECTION 2**

Sections 90-187–90-210, "Reserved," of Article IV, "Mandatory homeowners' association," of Chapter 90, "Subdivisions," of Subpart B, "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to rename the sections to read as follows:

**"Secs. 90-187–90-209. Reserved."**

**SECTION 3**

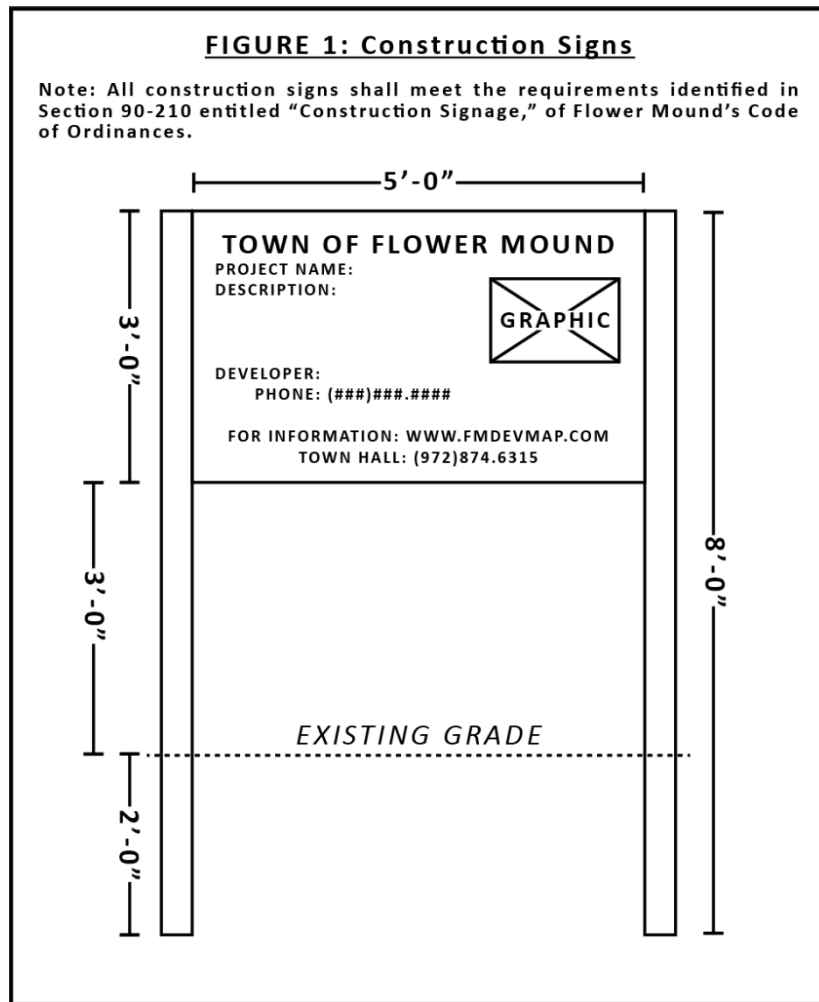
Section 90-210, "Construction signage," of Article V, "Improvements," of Chapter 90, "Subdivisions," of Subpart B, "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby established to read as follows:

**"Sec. 90-210. – Construction signage.**

The contractor shall install construction signs onsite, at the contractor's sole expense, in accordance with the standards below.

- (1) *Applicability.* This section shall apply to all residential and nonresidential developments obtaining a development permit.

- (2) *Permit.* No separate permit shall be required; however, Figure 1 of this section must be included as a detail within applicable development permits for the project. Signs must be approved by the town prior to installation and inspected prior to commencing construction.
- (3) *Number and location.* The number and locations of signs shall be determined by the town. The number of signs will be based on the development's size, construction entrance location(s), and final access points, with a preference toward locating signs in areas visible to adjacent, existing developments. Supporting posts shall be buried a minimum two (2) feet in the ground for stabilization as depicted in Figure 1 of this section. No signs shall be placed within clear visibility areas identified by Section 82-161.
- (4) *Size and material.* All signs must significantly comply with the design and layout of Figure 1 within this section and meet the following requirements:
  - a. Must be comprised of three-quarter inch exterior or marine grade plywood or an equivalent material approved by the town, be three feet by five feet in size, and painted with exterior white latex paint.
  - b. A graphic, no less than 11 inches by 17 inches, of the development shall be included as identified in Figure 1 of this section for the following:
    - i. *Non-residential and multifamily.* An approved color rendering of the project.
    - ii. *Residential.* An approved color rendering of the development, or town approved alternate graphic.
  - c. The board must be mounted on two vertical posts measuring 8 feet in height constructed of two-inch by four-inch board stock, painted with exterior white latex.
  - d. The project name, a brief description of the project, the developer's name, and the town webpage and phone number must be provided on the sign as identified in Figure 1 of this section.
  - e. Lettering shall be no less than 1.5 inches in height and generally comply with the location of text as identified in Figure 1 of this section.
- (5) *Maintenance.* All signs must be properly maintained through subdivision acceptance for residential projects, or approval of final inspection for non-residential and multifamily projects, including keeping the area around the sign clear of weeds and debris. Following written notification, missing or damaged signs must be replaced or repaired within two weeks.
- (6) *Removal.* The owner/developer/applicant must remove signs from the lot or tract of land within fourteen days after the date of subdivision acceptance for residential projects or approval of final inspection for non-residential and multifamily projects.
- (7) *Figure 1.*



Section 90-216, "Traffic signs," of Article V, "Improvements," of Chapter 90, "Subdivisions," of Subpart B, "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended in its entirety to read as follows:

**"Sec. 90-216. – Traffic signs.**

- 1) *Developer Obligation.* The developer shall pay the costs of purchasing and installing traffic signs required for the associated project. Traffic signs and posts shall be installed in accordance with the current town standards and the latest edition of the Texas Manual on Uniform Traffic Control Devices. The developer shall pay the cost for and install all signage for the subdivision in accordance with the approved signs and markings plan.
- 2) *Future road extension signage.* The developer must pay the costs of purchasing and installing "future through street" markers and related signage at all dead end and stub-out streets where the road is planned to extend into an adjacent undeveloped property or phase in accordance with the following standards:
  - a. *Location.* Signage must be located parallel to the dead end or stub-out's edge of pavement.

- b. *Permit*. No separate permit shall be required; however, the future road extension signage detail contained within the Town Engineering Design Criteria and Construction Standards Manual must be included within all applicable development permits for the associated subdivision.
  - c. *Installation*. Signage must be installed by the developer prior to the town's acceptance of the subdivision.
  - d. *Design and Materials*. Future road extension signs must comply with the detail contained within the Town Engineering Design Criteria and Construction Standards Manual.
  - e. *Maintenance*.
    - i) *Public street or alley*. After acceptance of the subdivision and right-of-way, the town shall be responsible for all required maintenance of future road extension signage.
    - ii) *Private street or alley*. The owner of the private street or alley shall be responsible for all required maintenance of future road extension signage. Following written notification, missing or damaged signs must be replaced or repaired within four weeks.
- 3) *Alternative sign poles*. Alternative sign poles and attached signage approved for a specific zoning district must be maintained by the responsible party designated in the authorizing zoning ordinance, or their successor in interest. To ensure public safety, the town is authorized to temporarily remedy maintenance situations related to alternative sign poles in accordance with the following:
- a. *Critical signs*. For the purpose of this section, signs necessary for public safety shall be considered critical signs, such as stop signs.
  - b. *Notification*. Upon having knowledge of a critical sign being knocked down, or otherwise hindering public safety, the town will notify the responsible party. Upon notification, the responsible party must address the situation within two (2) hours, no matter the time of day. For notification purposes, the responsible party shall provide a 24-hour contact.
  - c. *Non-fulfillment*. If the responsible party is not able to remedy the situation within the required window, and the town must replace the alternative pole(s) to ensure public safety, the responsible party may be issued invoices for resources, including but not limited to labor, and a \$500 mobilization fee. Additionally, a \$100 fee will be invoiced to the responsible party for each reinspection of an alternative sign pole not in compliance with the zoning district's standards."

## **SECTION 5**

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

## **SECTION 6**

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

**SECTION 7**

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

**SECTION 8**

All rights and remedies of the Town of Flower Mound are expressly saved as to any and all violations of the provisions of the Code of Ordinances as amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 9**

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

**SECTION 10**

This Ordinance shall be in full force and effect from and after the date of its passage.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 4TH DAY OF OCTOBER, 2021.**

**APPROVED:**

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Derek France, **MAYOR**

**ATTEST:**

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Theresa Scott, **TOWN SECRETARY**