

## **TOWN OF FLOWER MOUND**

### **TEXAS ORDINANCE NO. 51-22**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 74, "GENERAL PROVISIONS;" CHAPTER 82, "DEVELOPMENT STANDARDS;" CHAPTER 94, "TREES;" AND CHAPTER 98, "ZONING," OF THE TOWN OF FLOWER MOUND CODE OF ORDINANCES, TO AMEND AND PROPOSE NEW LANDSCAPING STANDARDS AND TO CLARIFY AND UPDATE CERTAIN SECTIONS; 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 ("Town Council") previously adopted Chapter 74, "General provisions," of Subpart B, "Land Development Regulations," of the Town of Flower Mound Code of Ordinances, as amended; and,

**WHEREAS**, the Town Council previously adopted Chapter 82, "Development standards," of Subpart B, "Land Development Regulations," of the Town of Flower Mound Code of Ordinances, as amended; and,

**WHEREAS**, the Town Council previously adopted Chapter 94, "Trees," of Subpart B, "Land Development Regulations," of the Town of Flower Mound Code of Ordinances, as amended; and,

**WHEREAS**, the Town Council previously adopted Chapter 98, "Zoning," 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 to amend various development standards related to landscaping for the purpose of clarifying certain sections, and establishing new sections relevant to the Town's Master Plan vision; and,

**WHEREAS**, the Planning and Zoning Commission of the Town of Flower Mound, Texas, held a public hearing on October 10, 2022, and the Town Council held a public hearing on October 17, 2022 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

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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 74, 82, 94, and 98, 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 74-3, "Definitions," of Chapter 74, "General provisions," of the Code of Ordinances, Town of Flower Mound, Texas, are hereby amended to read as follows:

**"Sec. 74-3. – Definitions.**

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*Roadway, country*, means all existing, proposed, and portions of rural collector roadways located within or adjacent to the Cross Timbers Conservation Development District.

*Roadway, principal*, means all existing and proposed arterial streets included in the thoroughfare plan that are hereby designated as principal roadways, excluding portions of such streets that are classified as country roadways or scenic roadways, and excluding the following roadways:

- (1) College Parkway;
- (2) Kirkpatrick Lane;
- (3) Gerault Road/Morriss Road;
- (4) Dixon Lane/Valley Ridge Boulevard; and
- (5) FM 407/Justin Road.

*Roadway, scenic*, means the section of FM 1171/Cross Timbers Road located within the Cross Timbers Conservation Development District.

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### **SECTION 2**

Section 82-73, "Computing parking and loading requirements," of Article III, "Off-street parking and loading," of Chapter 82, "Development standards," of Subpart B, "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by adding subsection (11) to read as follows:

**“Secs. 82-73. Computing parking and loading requirements.**

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- (11) *Mitigation.* The purpose of mitigation is to reduce adverse effects caused by the excessive use of concrete, which includes but is not limited to: heat island effect, increased water runoff, and surface pollution. In addition to complying with sections 82-243, 82-271, and 94-63, mitigation must be achieved by incorporating at least one of the following methods.
- a. *Primary mitigation option.* At least one of the following options must be used.
    - i. *Increased tree planting requirement.* In addition to section 94-63, provide one tree for every ten parking spaces that exceed the maximum allowable deviation.
    - ii. *Increased stormwater treatment.* A stormwater or curb inlet treatment system may be used to mitigate the effects of increased stormwater runoff and surface pollutants, as approved by the Town Manager or their designee.
    - iii. *Alternative paving.* Alternative paving may be approved by the Town Manager or their designee. The alternative paving must improve performance measures such as reducing the heat island effect and demonstrate durability over time.
  - b. *Secondary mitigation option.* In the event a primary mitigation option is not possible due to site restrictions, the following option must be used.
    - i. *Increased landscaping.* All parking area screening required for the site must include two rows of vegetation including shrubs, ornamental grasses, and ground cover.”

**SECTION 3**

Portions of Division 1, “Generally,” of Article V, “Landscaping and screening,” of Chapter 82, “Development standards,” of Subpart B, “Land Development Regulations,” of the Code of Ordinances, Town of Flower Mound, Texas, are hereby amended to read as follows:

**“Sec. 82-211. – Purpose.**

This article is designed to provide standards for the installation and maintenance of landscaping, walls, and screening devices so as to promote the general welfare of the community. This is accomplished by encouraging the creation of an attractive appearance along public streets and by screening uses that may be unattractive to the public eye. Landscaping materials, including ground covers, shrubs, and trees, further facilitate the control of erosion, reduce glare and dust, and visually soften building masses. Walls and screening devices allow for the separation of incongruous uses and for the buffering of intensive activities. Landscaping, walls, screening devices, and the

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combination thereof, help to effectuate privacy, logical development, and the enhancement of property values.

### **Sec. 82-212. – Applicability of article provisions.**

This article shall apply to the following:

- (1) *Nonresidential*. New nonresidential development in all districts shall be subject to all provisions of this article, provided that a one-time expansion of the floor area of buildings on a lot or building tract not exceeding 15 percent of the existing floor area shall not be subject to the requirements of this article.
- (2) *Residential subdivisions and multifamily*. New residential development, excluding the construction of single-family detached, single-family attached, or duplex dwellings on lots of record, or unless otherwise provided.
- (3) *Residential lots*. The development of single-family, duplex, and multifamily uses shall be subject to the standards of section 94-67, tree planting requirements, residential lots.

### **Sec. 82-213. – Approving bodies.**

The approval of a landscape plan shall be considered a part of the respective application's approval process.

- (1) *Nonresidential developments*. A landscape plan must be submitted and considered in conjunction with any site plan, planned development, or specific use permit application.
- (2) *Residential developments*. A landscape plan must be submitted and considered in conjunction with any development plan or planned development containing more than four (4) lots.

### **Sec. 82-214. – Landscape plan.**

- (a) *Landscape Plan Required*. Any proposed building or use shall be shown on a landscape plan and shall include the location of buildings to remain, proposed buildings, parking areas, street improvements, locations and types of landscaped areas, walls, and screening devices. The appropriate method of submitting the landscape plan to the Town for a development plan, record plat, planned development, specific use permit, or site plan is outlined on the Town's website.
- (b) *Licensed Landscape Architect*. All landscape plans accompanying a site plan must be signed and sealed by a licensed landscape architect.

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### **Secs. 82-216. – Installation.**

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Landscaping, irrigation, trees, walls, and screening structures shall be installed in accordance with the approved final landscape and site plan prior to the issuance of a final certificate of occupancy for the building or use. Per section 90-222, if extenuating circumstances exist, the Town may allow the developer/owner to delay installation and provide a cash escrow. Failure to comply with the requirements of this article shall be considered a misdemeanor, punishable as such by a fine in accordance with section 74-06.

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**Secs. 82-218 – 82-238. Reserved.”**

### **SECTION 4**

Division 2, “Landscaping,” of Article V, “Landscaping and screening,” of Chapter 82, “Development standards,” of Subpart B, “Land Development Regulations,” of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to establish Section 82-239, “Applicability,” and Section 82-240, “Foundational plantings,” to read as follows:

#### **“Sec. 82-239. – Applicability.**

This division is not applicable to proposed residential subdivisions with four or less lots that do not require or have a homeowner’s association or an X-lot.

#### **Sec. 82-240. – Foundational planting.**

- (1) This section shall only be required for the following use types from Sec. 98-952:
  - a. Educational, institutional, civic uses;
  - b. Bank or savings and loan;
  - c. Restaurant, fast food;
  - d. Restaurant, general; and/or
  - e. Office, general business and professional.
- (2) Nonresidential buildings of 15,000 square feet or less must install foundation planting areas along the front and side foundation lines where not impeded by building entrances, loading areas, parking spaces, or sidewalks. Foundation planting areas may also be required at the rear of the building if visible from streets, other buildings, or open spaces.
- (3) The minimum width for foundation planting areas is five (5) feet.
- (4) Foundation planting areas must include a combination of ground covers, shrubs, and ornamental trees.
- (5) Foundation plant material may be installed at grade, in raised planters, or in

decorative plant containers.”

## **SECTION 5**

Portions of Division 2, “Landscaping,” of Article V, “Landscaping and screening,” of Chapter 82, “Development standards,” of Subpart B, “Land Development Regulations,” of the Code of Ordinances, Town of Flower Mound, Texas, are hereby amended to rename Section 82-244, “Irrigation” to “Large vehicle parking area,” to renumber proceeding sections accordingly, and to read as follows:

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### **Sec. 82-241. – Street yard landscaping.**

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- (3) Landscaping required to satisfy other provisions of this article and lying within the street yard may be used to satisfy the requirements of this section.
- (4) *Trees*. Street yard landscaping must comply with section 94-61.

### **Sec. 82-242. – Street buffer landscaping.**

- (1) *Generally*. Street buffer landscaping shall count toward the street yard landscaping requirement and is located adjacent to the street right-of-way line.
  - a. *Principal streets*. The minimum width of the street buffer landscaping shall be 25 feet for all residential and nonresidential development.
- (2) *Residential subdivisions*.
  - a. *Streets*. The minimum width of the street buffer landscaping area is 15 feet. Streets located within a residential subdivision, not considered a principal, collector, scenic, or country roadway, are exempt from this requirement.
  - b. *X-lots*. Street buffer landscaping areas must be placed within an X-lot and must be maintained by a homeowners’ association.
  - c. *Subdivision entry*. Access into a residential subdivision may be located within a street buffer landscaping area; private residential driveways may not.
- (3) *Nonresidential development*. Nonresidential development includes multifamily for landscaping purposes.
  - a. *Streets*. The minimum width of the street buffer landscaping area is 15 feet.
  - b. *Necessary driveways*. Necessary driveways may be located within a street buffer landscaping area.
- (4) *Cross Timbers Conservation Development District (“CTCDD”)*.
  - a. *Cross Timbers Road (FM 1171)*. The minimum width of the street buffer landscaping area is 50 feet, which shall count toward satisfying scenic

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buffer requirements.

- b. *Rural Collectors*. The minimum width of the street buffer landscaping area is 25 feet, which shall count toward satisfying scenic buffer requirements.

(5) *Trees*. Street buffer landscaping areas must comply with section 94-62.

### **Sec. 82-243. – Parking area landscaping.**

The required amount of parking area landscaping is subject to the following standards:

- (1) *Applicability*. Paved surfaces intended for the parking, storage, or display of vehicles must comply with the following requirements:
  - a. *Generally*. Landscaped areas shall be provided within off-street parking areas at a minimum ratio of 90 square feet per 12 parking spaces.
  - b. *Scenic roadway*. Landscaped areas shall be provided within off-street parking areas at a minimum ratio of 170 square feet per 12 parking spaces.
  - c. *Religious assembly/institution or rectory and/or schools*. Landscaped areas shall be provided within off-street parking areas at a minimum ratio of 45 square feet per 12 parking spaces.
  - d. Landscaped areas within parking lots shall count toward satisfying section 82-241 related to street buffer landscaping.
  - e. *Trees*. Parking areas must comply with section 94-63.

### **Sec. 82-244. – Large vehicle parking area.**

The required amount of large vehicle parking area landscaping is subject to the following standards:

- (1) *Applicability*. Paved surfaces including spaces intended for vehicles not commonly associated with a 9-foot by 18-foot parking space. Additionally, this section shall only apply to spaces adjacent to the site's property line, compatibility buffer, or street buffer. Spaces adjacent to primary structures or internal to the parking lot are not required to meet this section.
- (2) *Large landscape island*. Applicable parking spaces must be within 75 feet of a large landscape island measured from the landscape island's back of curb. The landscape island must have a minimum radius of 29 feet and be at least 55 feet in length or the length of the large vehicle parking space, whichever is less.
- (3) *Trees*. Large vehicle parking areas must comply with section 94-64.

### **Sec. 82-245. – Irrigation.**

All required landscaped areas shall include an irrigation system to ensure the health

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and growth of the landscape. Medians, rights-of-way, visibility clips, and other common areas that are landscaped shall be irrigated. Irrigation plans for such landscaped areas must be approved by the Town prior to the acceptance of public improvements for the development.

### **Sec. 82-246. – Maintenance.**

- (1) Landscaped areas shall be reasonably maintained by the owner or the lessee of the property, including pruning, trimming, watering, and other requirements necessary to create an attractive appearance for the development.
- (2) Any plant material not surviving shall be replaced within 30 days of its demise. Variances, because of seasonal requirements, can be granted by the Town Manager or designated representative.
- (3) Lack of maintenance of required landscaping material shall be considered a misdemeanor, punishable as such by a fine in accordance with section 74-06.

### **Sec. 82-247. – Outdoor patios and seating areas.**

Outdoor patios and seating areas associated with nonresidential uses shall be shown on the site plan and landscape plan. These regulations do not apply to sidewalks or other pedestrian spaces. An elevation drawing may be required to determine compliance with this section. In addition, outdoor patios and seating areas are subject to the following standards:

- (1) The area must be clearly defined as part of the plan. The area must be clearly defined through the use of ornamental fencing or similar fencing that is consistent and complementary to the building or development in which it is located.
- (2) Additional elements such as roofs, arbors, trellises, tables, chairs, umbrellas, and awnings shall be consistent and complementary in material, design, and color to the building or development in which it is located.
- (3) Outdoor patios must not impede pedestrian circulation or encroach into a designated parking area or fire lane.

### **Sec. 82-248. – Aggregate or inorganic materials.**

Aggregate or inorganic materials (AIM) may be used to satisfy the landscape requirements of this article if such materials do not predominate over organic material. For the purpose of this requirement, the following more particularly describes the criteria applicable for the use of AIM as a soil cover:

- (1) The use of AIM shall be restricted by the following requirements:

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- d. Synthetic turf is restricted only to outdoor recreation and play areas. Town council may approve additional locations and coverage amounts for properties located in areas master planned for campus industrial uses within the lakeside business district. All synthetic turf applications must meet the criteria for synthetic turf installation as maintained by the Town Manager or their designee.

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**Secs. 82-249–82-270. – Reserved.”**

## **SECTION 6**

Portions of Division 3, “Screening,” of Article V, “Landscaping and screening,” of Chapter 82, “Development standards,” of Subpart B, “Land Development Regulations,” of the Code of Ordinances, Town of Flower Mound, Texas, are hereby amended to clarify certain sections and reorganize the screening plan section list to read as follows:

### **“Sec. 82-271. Parking areas.**

Parking areas shall be screened from street view to a minimum height of three feet (3') above the highest finished grade adjacent to the street or curb line of the parking area. Such screening may be accomplished by the use of plants, earth berms, walls or fences, or natural topography, provided that walls or fences shall not be used for screening parking areas from principal, country, or scenic roadways. However, notwithstanding the foregoing, schools shall be exempt from the requirements of this division.

- (1) *Parking mitigation requirement.* Developments approved for excess parking must comply with section 82-73.

### **Sec. 82-272. Outdoor storage areas.**

All outdoor storage areas for materials, trash, mechanical equipment (to include ground-based satellite dishes), vehicles, and fountain equipment (retention ponds) or other similar items shall be screened by a screening device of sufficient height, and subject to the following conditions.

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- (2) Smaller items measuring less than four feet (4') in height may be screened by either plant material or a wall constructed of or finished with materials that match the main building of the site.

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### Sec. 82-275. Outdoor lighting.

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- (b) Luminaires or lighting standards installed for the purpose of illuminating a private outdoor recreational activity shall be subject to the following standards:

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- (3) When permanent or temporary luminaires or lighting standards are installed for the purpose of illuminating private outdoor recreational activities and do not comply with subsection (b)(2), a waiver will be required, as set forth herein, prior to installation.

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- ii. A waiver is permissible as to the requirements set forth in subsection (b)(2) only where application by the property owner or their designee has been submitted to the Town. Upon recommendation by the planning and zoning commission, the Town Council may grant a waiver if the Town Council determines that the permanent or temporary luminaires or lighting standards would not:

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### Sec. 82-277. Screening plant selection list.

- (1) When the Code requires a contiguous dense six-foot screen, the following plants may be used:

Cherry Laurel (*Prunus caroliniana*)  
Glossy Abelia (*Abelia x grandiflora*)  
Hollies (*Ilex* sp.)  
    Nellie R. Stevens Holly  
    Oakland Holly  
    Mary Nell Holly  
    Willow Leaf Holly  
Junipers (*Juniperus* sp.)  
Pittosporum (*Pittosporum tobira*)  
Sweet Viburnum (*Viburnum* sp.)

- (2) In no instance shall the following plants be used to satisfy the requirement of a contiguous dense six-foot screen.

Arborvitae (*Arborvitae* sp.)  
Azaleas (*Rhododendron* sp.)  
Indian Hawthorn (*Raphiolepis indica*)  
Oleander (*Nerium oleander*)

Pampas grass (*Cortaderia selloana*)  
Photinia (*Photinia fraseri*)  
Pyracantha (*Pyracantha* sp.)  
Texas Purple Sage (*Leucophyllum frutescens*)  
Wax Myrtle (*Morella cerifera*)

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## **SECTION 7**

Portions of Section 82-302, "Compatibility buffer," of Division 4, "Screening," of Article V, "Landscaping and screening," of Chapter 82, "Development standards," of Subpart B, "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, are hereby amended to rename the instances of "church" to "religious institutions," and to update cited section to read as follows:

### **"Sec. 82-302. Compatibility buffer.**

A landscaped buffer shall be located on the site of the nonresidential or multifamily use along all property lines adjacent to the existing or proposed residential uses, subject to the following standards:

- (1) A brick wall or masonry wall with stucco or mortar wash finish, both exterior finishes being the same, shall be constructed along the property line. Such walls shall have no vehicular access point into or from an alley and shall be a minimum of six feet (6') in height, except that the first 25 feet in from the street line may be stepped down to a minimum height of four feet (4'). However, notwithstanding the foregoing, religious institutions and/or schools shall be exempt from the requirements of this division.
- (2) For nonresidential development, except those provided below, the landscaped setback shall consist of a minimum 25-foot landscaped buffer. Understory plants of species included in section 82-277, "Screening plant selection list," shall be provided in order to achieve a continuous dense six-foot screen. Native shade trees, a minimum of three-inch caliper and of species included in section 94-68 of this Code, "Approved tree lists," shall be provided at a ratio of one tree per 400 square feet of buffer area.

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- (4) For religious institutions, the landscape setback shall consist of a minimum 25-foot landscape buffer, with native shade trees, a minimum three-inch caliper and of species included in section 94-66 of this Code, "Approved tree lists," provided at a ratio of one tree per 500 square feet of buffer area. Additionally, religious institutions shall be exempt from the requirements of subsection (1) of this section, requiring the construction of a brick wall or masonry wall with stucco or mortar

wash finish.

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## **SECTION 8**

Section 94-13, "Landscape nursery, or replacement trees," of Article II, "Measurement," of Chapter 94, "Trees," of Subpart B, "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to read as follows:

### **"Sec. 94-13. Landscape nursery, or replacement trees.**

Unless specified otherwise, tree caliper (diameter) or circumference shall be measured at a height of six inches (6") above ground level. The caliper of multi-trunk trees shall be measured by determining the diameter or circumference of the largest trunk at full caliper added to one-half of the diameter or circumference of each remaining trunk, measured at a height of six inches (6") above ground level."

## **SECTION 9**

A portion of Section 94-22, "Protected trees," of Article III, "Preservation," of Chapter 94, "Trees," of Subpart B, "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to add "Eve's necklace," scientifically known as, "Styphnolobium affine," to the list of trees that are protected and to read as follows:

### **"Sec. 94-22. Protected trees.**

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- (1) Lists of trees that are protected. Unless otherwise specified in this chapter, only those tree species found on the following lists shall be subject to the preservation, protection, and replanting requirements of this section.

#### *Small Tree List*

Common Name	Scientific Name
Carolina buckthorn	(Rhamnus caroliniana)
Yaupon holly	(Ilex vomitoria)
Possum haw	(Ilex deciduas)
Redbud	(Cercis species)
Texas buckeye	(Aesculus glabra variety arguta)
Chickasaw plum	(Prunus agustifolia)
Mexican plum	(Prunus mexicana)
Eve's necklace	(Styphnolobium affine)

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## **SECTION 10**

Portions of Article VI, "Tree planting requirement and planting lists," of Chapter 94, "Trees," of Subpart B, "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, are hereby amended to clarify certain standards; rename section 94-64, "Median and right-of-way trees," to "Large vehicle parking area trees;" rename section 94-65, "Residential lots," to "Detention, retention, and water impoundment areas;" renumber proceeding sections; and include new standards to read as follows:

### **"Sec. 94-61. Street yard trees.**

Trees shall be planted or existing trees preserved within the street yard of a nonresidential lot or building tract according to the following provisions:

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- (6) When calculating the number of required street yard trees results in fractions, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall be rounded upward to the next highest full number.

### **Sec. 94-62. Street buffer trees.**

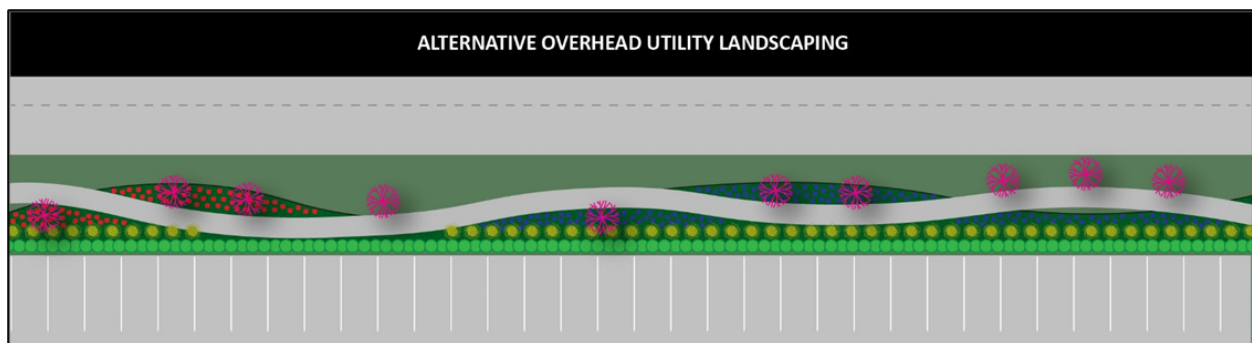
Trees shall be planted or existing trees preserved within the street buffer landscaping area required by Section 82-242 of this Code, "Street buffer landscaping," according to the following provisions:

- (1) *Generally*. Street buffer trees shall be provided at a ratio of one (1) tree for every 30 feet of linear frontage excluding any necessary driveways, unless otherwise provided.
- (2) *Cross Timbers Conservation Development District (CTCDD)*.
  - a. *Cross Timbers Road (FM 1171)*. Street buffer trees shall be provided at a ratio of one (1) tree for every 25 feet of linear frontage and contain native species only.
    - i. *Groves or drifts*. Random groves, which are a grouping of trees comprised of the same species, or drifts, which are a grouping of trees consisting of several species of not less than three (3) trees, should be spaced every 100 to 350 feet.
    - ii. *Ornamental trees*. Trees from subsection 94-68(2) may make up thirty percent (30%) of the required trees and be incorporated within

the groves or drifts.

- b. *Rural Collectors*. Street buffer trees shall be provided at a ratio of one (1) tree for every 30 feet of linear frontage and must contain native species only. Trees are to be randomly spaced in odd numbered groves or drifts of no less than three (3) trees every 100 to 150 feet.
- (3) All street buffer trees shall be a minimum of three-inch caliper at the time of installation.
- (4) All street buffer trees shall have a minimum spacing of 20 feet on center.
- (5) *Utility easements and overhead utilities*.
  - a. *Generally*. Trees planted in utility easements, where required, must use trees from section 94-68(4) and be planted at a ratio of three (3) ornamental trees for each tree required.
  - b. *Alternative*. Trees planted in utility easements may use trees from section 94-68(4) and be planted at a ratio of one (1) ornamental tree for each tree otherwise required within the easement with one (1) additional tree from section 94-68(1) planted elsewhere on the site. A landscaped area with a mixture of groundcover, native grasses, and shrubs incorporated into a curvilinear design must be included. The landscaped area must span the length of the utility easement within the street buffer, and be at least five (5) feet in width. In no instance shall parking area screening count toward meeting the required minimum width. However, parking area screening and sidewalks are encouraged to be incorporated into the design.
- (6) When calculating the number of required street buffer trees results in fractions, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall be rounded upward to the next highest full number.

(7) *Illustration*.

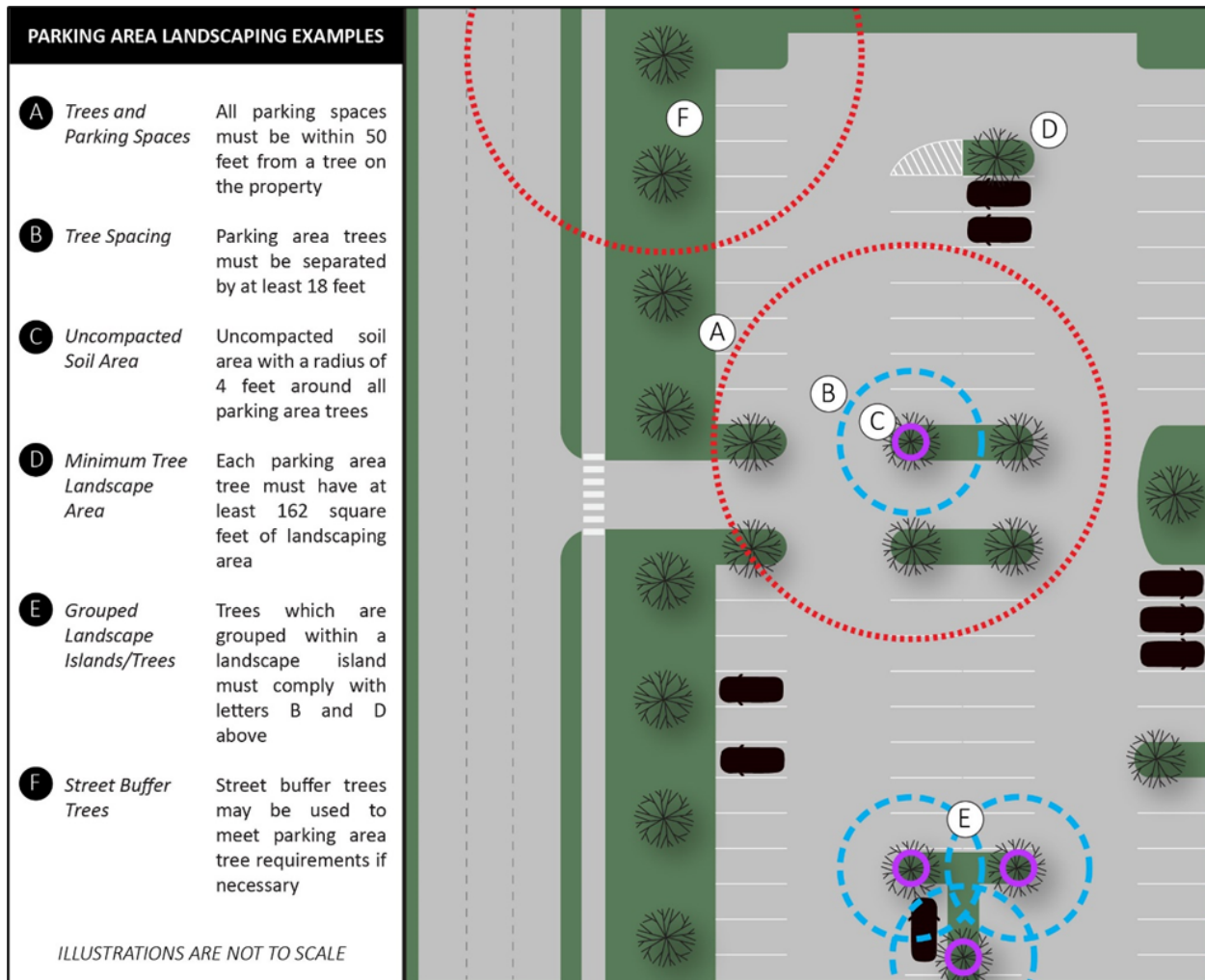


**Sec. 94-63. Parking area trees.**

Trees must be planted, or existing trees preserved, within off-street parking areas according to the following provisions:

- (1) One (1) tree shall be provided for each ten (10) parking spaces on the site; provided, however, that religious institutions and schools shall be required to provide one (1) tree for each 20 parking spaces on the site, at a minimum.
- (2) Parking area trees must be a minimum of three-inch (3") caliper, except as provided in subsection 4, when planted.
- (3) All parking spaces must be located within 50 feet of a tree on the site, measured from the trunk of the tree; provided, however, all parking spaces for religious institutions and schools must be located within 100 feet of a tree on the site, measured from the trunk of the tree.
  - a. *Exception.* An exception to this requirement may be approved by the Town Council for any redevelopment or restriping of parking lots located within the campus commercial, campus industrial, industrial district-1, or industrial district-2 zoning district. Requests for an exception must be mitigated by increasing landscaping comparable to the new parking area tree requirement.
    - i. *Fees in lieu.* In the event an applicant can demonstrate there is inadequate space to allow for planting of a comparable number of trees, fees in lieu of planting must be paid to the Town's tree preservation fund.
- (4) A maximum of 30 percent of the trees used to satisfy the requirements of this section may come from subsection 94-66(2), "Approved median and right-of-way planting list."
- (5) A landscaped area not less than 162 square feet must be provided for each parking area tree and be surrounded by uncompacted soil with a radius not less than four feet (4') on center, measured from the trunk of the tree. In instances where a contiguous landscape island is used, trees shall be spaced 18 feet on center.

(6) *Illustration.*



**Sec. 94-64. Large vehicle parking area trees.**

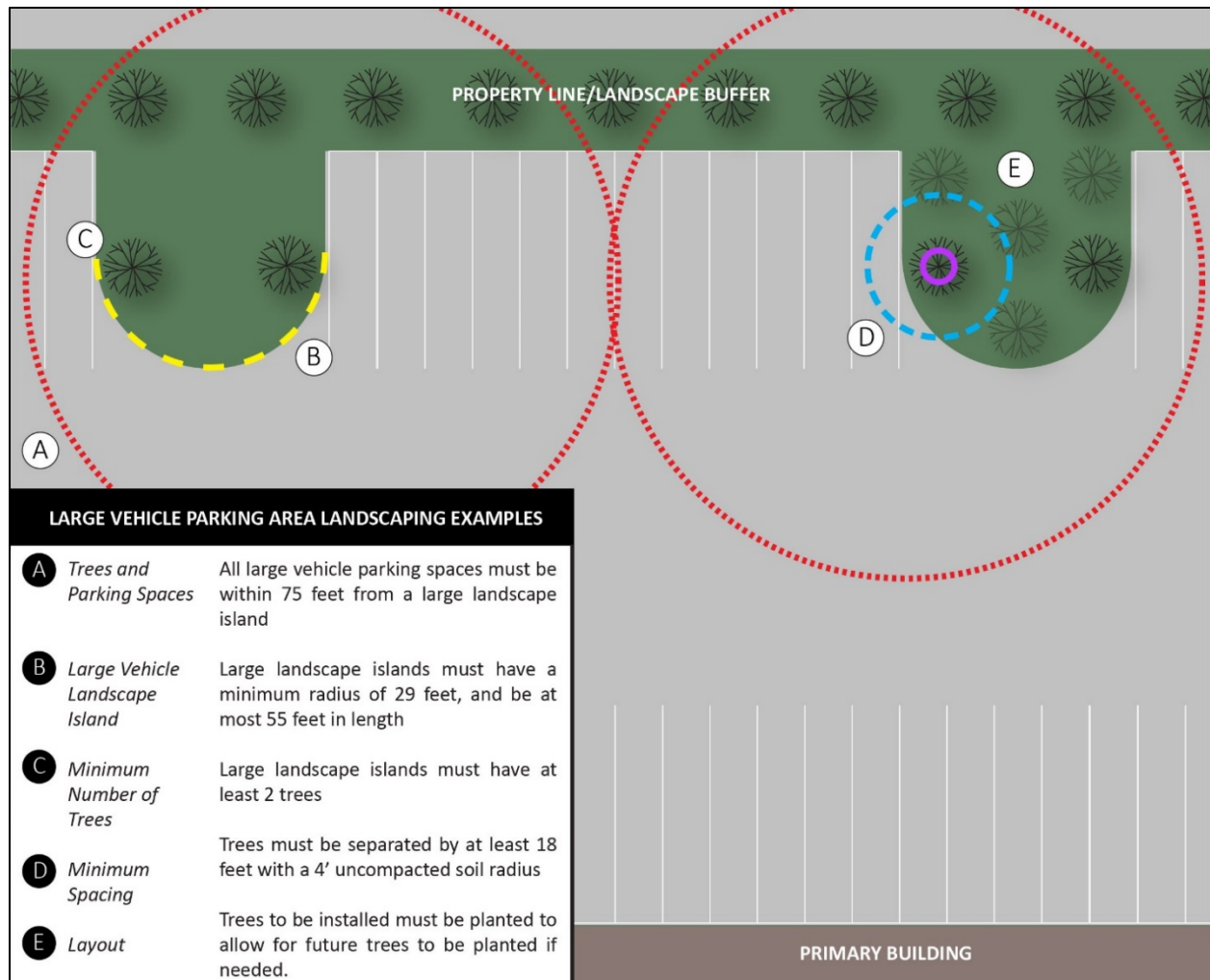
Trees must be planted or existing trees preserved according to the following provisions:

(1) *Trees.* Two (2) trees must be provided within the landscape island from section 94-68. Trees must have an uncompacted soil radius of four feet (4') and be spaced 18 feet on center from other trees.

(2) *Layout.* New trees must be installed in such a way to allow for future trees to be planted within the landscape island if desired.

(3) *Illustration.*





## Sec. 94-65. Detention, retention, and water impoundment areas.

All detention, retention, and water impoundment areas must comply with the following landscaping requirements.

- (1) *Purpose.* The purpose of this section is to beautify detention ponds, retention ponds, and water impoundments. Required landscaping is intended to amenitize ponds, and is not intended to screen from public view.
- (2) *Placement.* Trees should be placed to provide a natural design and provide access for necessary maintenance equipment.
- (3) *Perimeter trees.* Perimeter trees must be provided based on the following surface areas:
  - a. *Surface area.* For the purpose of this section, “surface area” shall be

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defined as the 100-year flood event capacity of the retention pond, detention pond, or water impoundment.

- b. For retention or detention surface areas less than 10,000 square feet, one (1) tree shall be provided for each 500 square feet of surface area, or fraction thereof, with a minimum of one (1) tree.
  - c. For retention or detention surface areas between 10,000 and less than 20,000 square feet, 20 trees must be provided for the first 10,000 square feet, plus one (1) additional tree for each 700 square feet of remaining retention or detention surface area, or fraction thereof.
  - d. For retention or detention surface areas between 20,000 and less than 35,000 square feet, 34 trees must be provided for the first 20,000 square feet, plus one (1) additional tree for each 1,000 square feet of remaining retention or detention surface area, or fraction thereof.
  - e. For retention or detention surface areas greater than 35,000 square feet, 49 trees must be provided for the first 35,000 square feet, plus one (1) additional tree for each 1,400 square feet of remaining retention or detention surface area, or fraction thereof.
- (4) *Alternative trees.* Trees from section 94-66(4) may be used and must not account for more than 15 percent of the required trees.
- (5) *Location.* All required perimeter trees must be located within 50 feet of the detention or retention pond surface area.
- (6) Trees required to satisfy other provisions of this article and lying within 50 feet of the detention or retention pond's surface area may be used to satisfy the requirements of this section.
- (7) When calculating the number of required street buffer trees results in fractions, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall be rounded upward to the next highest full number.

### **Sec. 94-66. Median and right-of-way trees.**

Trees may be planted in medians and rights-of-way only with the approval of the Town, provided that such trees are selected from subsection 94-68(2), "Approved median and right-of-way planting list."

### **Sec. 94-67. Residential lots.**

The following tree planting requirements shall be satisfied prior to the issuance of a certificate of occupancy for a single-family, duplex, or multi-family use:

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- (1) A minimum of three (3) trees, with a minimum caliper width of two and one-half inches to three inches, and at least eight feet in height, shall be provided on each 10,000 square foot and greater single-family and duplex lot prior to the issuance of a certificate of occupancy. A minimum of two (2) trees, with a minimum caliper width of two and one-half inches to three inches, and at least eight feet in height, shall be provided on each single-family and duplex lot between 5,000 and 10,000 square feet prior to the issuance of a certificate of occupancy. At least one (1) of the required trees shall be located within the front yard area of the lot.

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### **Sec. 94-68. Approved tree planting lists.**

Unless otherwise specified in this chapter, only those tree species included in this section shall satisfy the tree planting requirements of this article.

- (1) *Generally.* The tree species lists contained in this section has been developed and will be periodically updated by the Town's Environmental Conservation Commission and shall be maintained and distributed to the public by the tree preservation and enforcement officer or authorized designee as a guide for the identification and selection of tree species that meet the various standards and requirements of this article. Trees included on these tree species lists were selected on the basis of one or more of the following criteria or factors: hardiness, resistance to disease, suitability relative to local climate and soil conditions, adaptability for transplantation, longevity, adaptability to various landscape conditions, resistance to drought, aesthetic qualities, shade provision, windbreak provision, and screening qualities. To promote biodiversity, there shall be no more than 20 percent of a tree species, and no more than 50 percent of any tree genus permitted to satisfy the planting requirements on all new developments.
- (2) *Approved tree planting list.* Only those tree species found on the following approved tree planting list shall satisfy the tree planting standards and requirements of this article.

\*Denotes trees not appropriate within the CTCDD.

#### *Approved Tree Planting List*

Common Name	Scientific Name
Southern live oak	(Quercus virginiana)
Escarpment live oak	(Quercus fusiformis)
Shumard oak	(Quercus shumardi)
Chinkapin oak	(Quercus muehlenbergii)
Monterrey oak	(Quercus polymorpha)
Bur oak	(Quercus macrocarpa)
Texas red oak	(Quercus texana)

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Water oak	(Quercus nigra)
American elm	(Ulmus americana)
Cedar elm	(Ulmus crassifolia)
Winged elm	(Ulmus alata)
Lacebark elm*	(Ulmus parvifolia)
Bald cypress	(Taxodium distichum)
Pecans and hickories	(Carya species)
Juniper tree	(Juniperus species)
White ash*	(Fraxinus americana)
Green ash*	(Fraxinus pennsylvanica)
Texas ash*	(Fraxinus texensis)
Western soapberry	(Sapindus drummondii)
Sweet gum	(Liquidambar styraciflua)
Eastern red cedar	(Juniperus virginiana)
Pines	(Pinus species)
Leyland cypress	(Cypressocyparis leylandi)
Black walnut	(Juglans nigra)
Magnolia*	(Magnolia grandiflora)

- (3) *Approved median and right-of-way tree planting list.* The following tree species shall be allowed to be planted in medians and rights-of-way when approved by the Town. Additional tree species with non-aggressive root systems/deep root systems may be authorized for planting in such areas by the town manager or their designee.

\*Denotes trees appropriate within the CTCDD.

*Approved Median and ROW Tree  
Planting List*

Common Name	Scientific Name
Sweet gum	(Liquidambar styraciflua)
Crepe myrtle	(Lagerstroemia indica)
Wax myrtle	(Myrica cerifera)
Plum*	(Prunus species)
Holly	(Ilex species)
Possum haw*	(Ilex decidua)
Native pecan	(Carya species)
Redbuds/whitebuds*	(Cercis species)
Fruitless crabapples	(Malus species)
Southern live oak	(Quercus virginiana)
Escarpment live oak	(Quercus fusiformis)
Texas red oak	(Quercus texana)
Shumard oak	(Quercus shumardi)

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Chinkapin oak	(Quercus muehlenbergii)
Bur oak	(Quercus macrocarpa)
Water oak	(Quercus nigra)
Winged elm	(Ulmus alata)
Cedar elm	(Ulmus crassifolia)
Lacebark elm	(Ulmus parvifolia)
Slippery elm	(Ulmus rubra)
Bald cypress	(Taxodium distichum)
Hickories	(Carya species)
Pines	(Pinus species)
Juniper tree	(Juniperus species)
Texas buckeye	(Aesculus glabra variety arguta)
Common persimmon	(Diospyros virginiana)
Texas ash	(Fraxinus texensis)
White ash	(Fraxinus Americana)
Green ash	(Fraxinus pennsylvanica)
Western soapberry	(Sapindus drummondii)
Black walnut	(Juglans nigra)
Magnolia	(Magnolia grandiflora)
Yaupon holly *	(Ilex vomitoria)
Carolina buckthorn *	(Rhamnus caroliniana)
Thornless honey locust	(Gleditsia triacanthos variety inermis)
Eve's Necklace*	(Styphnolobium affine)

- (4) *Approved mitigation and replacement tree planting list.* The following list of tree species shall be allowed to be planted to satisfy mitigation and replacement standards for trees removed from the buildable area on sites, trees removed with approved tree removal permits, and/or trees removed without authorization.

*Approved Mitigation and Replacement  
Tree Planting List*

Common Name	Scientific Name
Native pecan	(Carya species)
Texas red oak	(Quercus texana)
Shumard oak	(Quercus shumardi)
Bur oak	(Quercus macrocarpa)
Water oak	(Quercus nigra)
Winged elm	(Ulmus alata)
Slippery elm	(Ulmus rubra)
Post oak	(Quercus stellata)
Cedar elm	(Ulmus crassifolia)

- (5) *Approved overhead utility easement tree planting list.* The following list of tree

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species shall be allowed to be planted in overhead utility easements where required. These species were selected due to their relatively small mature size and growth characteristics.

### *Approved Overhead Utility Easement Tree Planting List*

Common Name	Scientific Name
Yaupon holly	(Ilex vomitoria)
Carolina buckthorn	(Rhamnus caroliniana)
Possum haw	(Ilex decidua)
Plum	(Prunus species)
Redbuds/whitebuds	(Cercis species)
Wax myrtle	(Myrica cerifera)
Crepe myrtle	(Lagerstroemia indica)

### **Sec. 94-69. Limits on credit for preservation of existing or established trees.**

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### **Secs. 94-70—94-80. Reserved.”**

## **SECTION 11**

Section 94-83, “Informational assistance,” of Article VII, “Miscellaneous,” of Chapter 94, “Trees,” of Subpart B, “Land Development Regulations,” of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to read as follows:

### **“Sec. 94-83. – Informational assistance.**

\*\*\*

- (3) A current edition of the American Standard for Nursery Stock for Type 1 and Type 2 trees, as applicable to the tree species on the Town's protected tree list and approved tree planting and replacement list, shall be maintained by the Town Manager or their designee and made available to applicants for building permits, tree removal permits, or tree replanting permits and to the general public, as only those trees meeting and planted or replanted in accordance with the applicable American Standard for Nursery Stock for Type 1 and Type 2 trees shall satisfy the tree planting, replanting, and/or replacement standards and requirements contained in this chapter.”

## **SECTION 12**

Portions of Article III, “District regulations,” of Chapter 98, “Zoning,” of Subpart B, “Land Development Regulations,” of the Code of Ordinances, Town of Flower

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Mound, Texas, are hereby amended to remove Sections 98-846, "Landscaping standards;" 98-847, "Tree planting standards;" 98-876, "Landscaping standards;" and 98-877, "Tree plantings standards;" and to renumber proceeding sections accordingly to read as follows:

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**Sec. 98-46. – Compliance with area plan components.**

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**Sections. 98-847–98-870. – Reserved.**

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**Sec. 98-876. – Compliance with area plan components.**

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**Secs. 98-877 – 98-889. – Reserved.**

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**Sec. 98-903. – Performance and design standards.**

\*\*\*

(h) *Landscaping standards.*

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(3) Proposed landscaping shall meet the following standards:

\*\*\*

f. Meet the standards for maintenance in section 82-246.

\*\*\*\*

### **SECTION 13**

Section 98-977, "Communication tower, commercial," of Division 2, "Uses," of Article IV, "Supplementary district regulations," of Chapter 98, "Zoning," of Subpart B, "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to read as follows:

**"Sec. 98-977. Communication tower, commercial.**

A commercial communication tower shall comply with the following standards:

\*\*\*

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- (6) *Fencing*. A solid fence or wall of brick, stone, or approved masonry construction not less than eight feet (8') in height from finished grade for the purpose of concealing grounded mechanical equipment shall be constructed around each commercial communication tower and around each guy anchor, if used. Access to the tower shall be through a locked gate. Barbed wire shall be used along the top of the fence or wall if it is necessary to preclude unauthorized access to the tower.

\*\*\*

- (8) *Landscaping and screening*. Commercial communication towers shall comply with the screening requirements of section 82-301 of this Code, "Residential compatibility standards," for the purpose of concealing grounded mechanical equipment subject to the following provisions:

- a. The landscape screen or wall shall be placed around the perimeter of the tower and any accessory structures, including guy anchors, provided that the screening requirement shall be waived when the base of the tower is not visible from adjacent lots or rights-of-way. Landscaping shall be placed on the outside of fences.
- b. The requirements of section 82-303 of this Code, "Compatibility setback," shall not apply to commercial communication towers.

\*\*\*"

### **SECTION 14**

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 15**

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 16**

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 17**

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 that 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 18**

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 19**

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 4 TO 0, ON THIS THE 17TH DAY OF OCTOBER, 2022.**

**APPROVED:**

\_\_\_\_\_  
Derek France, **MAYOR**

**ATTEST:**

\_\_\_\_\_  
Theresa Scott, **TOWN SECRETARY**