

TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. 54-22

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 98, "ZONING," OF THE TOWN'S CODE OF ORDINANCES, TO AMEND CONSERVATION DEVELOPMENT STANDARDS RELATED TO THE CROSS TIMBERS CONSERVATION DEVELOPMENT DISTRICT; 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 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 conservation development after reviewing findings from the Cross Timbers Conservation Development District ("CTCDD") 2022 update effort initiated by Town Council at their January 18, 2022 regular meeting; 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 of the Town of Flower Mound, Texas, 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 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 Chapter 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 98-167, "Conservation development," of Subdivision G, "Community Character," of Division 4, "Criteria Categories and Applications," of Article II, "Smartgrowth Program," of Chapter 98, "Zoning," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to read as follows:

"Sec. 98-167. – Conservation development.

- (a) No development application or project shall be approved for a conservation development unless it complies with applicable requirements set forth in the land development code for a conservation development within an A agricultural district or SF-E single-family estate district.

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SECTION 2

Section 98-271, "Purpose and intent," of Division 3, "A agricultural district, conservation district, and rural development," of Article III, "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. 98-271. Purpose and intent.

The A agricultural district is designed primarily for agricultural uses and for single-family detached development. It is intended for areas designated as "rural residential" land use or within the "Cross Timbers Conservation Development District" area on the land use map of the comprehensive master plan, as amended. In addition to the use and area regulations of this division, development in the A agricultural district must be in compliance with all other applicable provisions of this chapter."

SECTION 3

Portions of Section 98-276, "Minimum dimensions," of Division 3, "A, agricultural district, conservation district, and rural development," of Article III, "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. 98-276. – Minimum dimensions.

- (a) *Minimum lot area per dwelling.* The minimum lot area per dwelling unit for residence uses in the A agricultural district shall be two acres or 87,120 square feet, unless otherwise provided by section 98-277.
- (b) *Minimum lot width.* The minimum lot width for residential uses in the A agricultural district shall be 200 feet, unless otherwise provided by section 98-277, subject to section 98-1024.

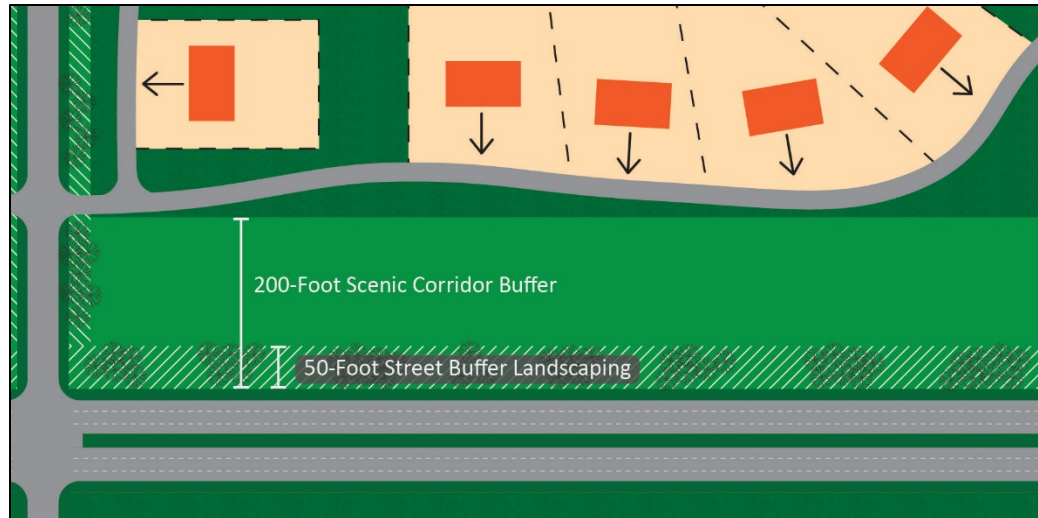
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SECTION 4

Section 98-277, "Conservation development option and standards," of Division 3, "A, agricultural district, conservation district, and rural development," of Article III, "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 in its entirety to read as follows:

"Sec. 98-277. – Conservation development options and standards.

- (a) *Purpose and definition.* The following standards and conditions shall apply to any proposed conservation development in the A agricultural district as part of a planned development application, and its associated uses. The term "conservation development" means a residential development project in which dwelling units are constructed on smaller lots than otherwise permitted by the A agricultural district, for the purpose of preserving open space or natural lands as an integral component of the development.
- (b) *Development standards.* This subsection describes standards related to lot size, lot width, and project density.
 - (1) *Project density.* The maximum allowable residential density for a conservation development project shall be one unit per two acres.
 - (2) *Minimum land area per dwelling unit.* The minimum land area per dwelling unit for residential uses shall be 0.75 acres or 32,670 square feet.
 - a. *Lot size variety.* No less than 25 percent of the proposed lots in a development must be at least one acre or 43,560 square feet in size.
 - (3) *Minimum lot width.* The minimum lot width for residential uses shall be 150 feet, subject to section 98-1024.
 - (4) *Street buffer yard.* Development must comply with sections 82-241 and 94-62.
 - a. *Trees.* The number of trees required must comply with section 82-242; the placement of trees must comply with section 94-62.
 - (5) *Scenic corridor buffer.* A 200-foot scenic corridor buffer is required along the scenic roadway. The required street buffer yard may be used to partially satisfy this requirement.
 - (6) *Illustration.*



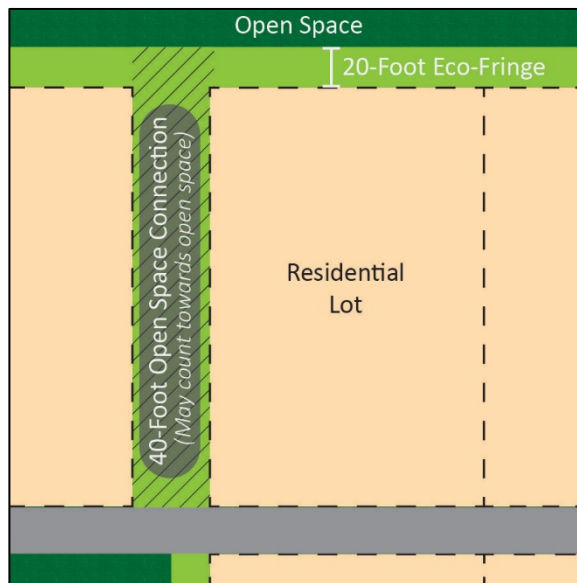
(c) *Open space standards.* This subsection describes standards for dedication of land for and improvement of public and private open space for conservation development projects.

(1) *Preservation of natural features.*

- a. Preservation of the following areas shall be prioritized and counted toward fulfillment of open space requirements.
 - i. Development must be designed and sited to preserve and protect the 100-year floodplain, consistent with applicable provisions of this chapter.
 - ii. Significant stands of native trees and any other areas of substantial vegetation should be preserved and protected from alteration or destruction. The establishment of new vegetative communities is encouraged.
 - iii. All other significant natural features should be preserved and, where necessary, protected by setbacks from development.
- b. *Minimum project open space.* Applications for a conservation development must propose an appropriate percentage of open space based on the character of natural features of the site. In no instance shall the percentage be less than 45 percent of the gross project area.
- c. *Open space dedication.* In meeting requirements for open space, the developer must dedicate land or convey open space using one of the following methods.
 - i. *Conservation easement.* Land must be held within a conservation easement by a qualified nonprofit entity or organization that manages open space, such as a land trust, or other qualified entity, pursuant to section 170(h) of the Internal Revenue Code, as amended.

- ii. *Homeowners' association.* Conserved land conveyed as open space must be platted into an x lot and be maintained by the homeowner's association.
 - iii. *Dedicated to governmental entity.* Land proposed to be used as parkland must be approved and accepted by the Town.
- d. *Open space design and improvements.* The design and improvements of open space shall be in accordance with the following standards. These standards may be supplemented by administrative guidelines.
 - i. For land to be considered open space, the following must be met.
 - 1. *Minimum area.* Must be equal to or greater than 15,000 square feet or one percent of the project's gross area, whichever is greater.
 - 2. *Minimum width.* Must not have a width or length less than 40 feet.
 - 3. *Utility easements.* Utility easements shall be counted toward open space if a trail and/or appropriate amenity is proposed, or if vegetation within the utility easement is native and not required to be manicured.
 - ii. Open spaces in a conservation development must be linked to any existing and planned public open space and conserved areas to provide an overall open space system within the Cross Timbers Conservation Development District.
 - 1. Eco-fringe buffers, required by subsection f below, meeting the minimum width standard used to satisfy this requirement may count toward meeting the open space requirement.
 - 2. Open spaces divided by necessary roadways, as determined by the Town Manager or their designee, shall be considered linked for the purpose of this subsection.
 - iii. Open spaces shall be arranged to maximize reasonable access, equity, and utilization for all residential lots within the proposed development.
- e. *Trees.* Trees planted within open space areas associated with a conservation development must only include trees denoted as appropriate from section 94-68 of this Code.
- f. *Parks.* Parks may be proposed and approved as part of a conservation development.

- i. *Active parks.* Such parks must be limited to an area no greater than the minimum parkland area required by section 90-443.
 - 1. *Permitted parks.* Examples of appropriate active parks include fishing piers and neighborhood playgrounds.
 - 2. *Restricted parks.* Playing fields, motorized vehicle trails, and campgrounds are not permitted.
 - ii. *Passive parks.* Passive parks such as walking, running, and equestrian trails shall be permitted as identified on the Town's master plan, and throughout the development as appropriate. Such trails should be planned to minimize disturbances to environmentally sensitive areas.
- g. *Eco-fringe buffer.* An eco-fringe buffer extending at least 20 feet from all exterior side and rear residential property lines adjacent to open spaces is required.
- i. The eco-fringe buffer shall not count toward meeting open space requirements, unless otherwise provided by subsection d. above.
 - ii. Maintenance for eco-fringe buffers must be documented within the required open space management plan, subject to subsection h. of this section below.
 - iii. Illustration.



(d) *Project design.*

- (1) The intent of the following regulations is to encourage outstanding project design for conservation development projects. The following standards will be used to evaluate project design:

- a. The arrangement of all uses and improvements should reflect the natural capabilities and limitations of the site, as well as the characteristics and limitations of adjacent property.
 - b. Development must be compatible with the immediate environment of the site and neighborhood relative to existing adjacent residential densities unless otherwise buffered in an acceptable manner; scale, bulk, and building height; historical character; and disposition and orientation of buildings on the lot.
 - c. Buildings, roadways, open space, and landscaping must be:
 - i. Designed and arranged to produce an efficient, functionally organized, and cohesive development;
 - ii. In favorable relationship to the existing natural topography, bodies of water, exposure to sunlight and wind, and view corridors; and
 - iii. Designed and arranged to maximize the opportunity for privacy by the residents of the project and surrounding areas.
 - d. Building sites must be located to minimize their impact on view corridors.
 - i. To protect the integrity of the view corridors and the scenic corridor buffer, homes closest to the scenic roadway or a country roadway should face toward either roadway so that the rear side of homes is not visible.
- (e) *Outdoor lighting.* New residential subdivisions with five or more buildable lots within the Cross Timbers Conservation Development District must comply with the following outdoor lighting standards.
- (1) *Applicability.* The following standards do not apply to lighting on residential lots.
 - (2) New public outdoor lighting, including street lighting, must make use of timers, dimmers, motion sensors, or other adaptive controls, and must be substantially dimmed or extinguished by 11:00 p.m., unless public safety concerns demand otherwise, as determined by Town Council.
 - (3) Lighting for public and private outdoor facilities must be shielded such that no light-emitting part of fixtures is visible from any other property.
 - (4) Outdoor lighting fixtures using lamps or bulbs, regardless of the number of bulbs and level of initial lamp lumens, must not exceed 3,000 kelvins and meet the following:
 - a. If the initial lamp lumens are equal to or greater than 1,500, the fixture must be fully shielded. No shielding is required for fixtures with an initial lamp lumens less than 1,500.

- b. Outdoor lighting fixtures must be sufficiently shielded and aimed such that spillage of light onto adjacent properties is minimized and glare from the light emitting and/or reflecting parts of a luminaire is not visible from an adjacent property.
 - c. Sag-lens, drop-lens, searchlights, beacons, laser sources, and mercury vapor fixtures are prohibited.
 - d. Outdoor uplighting is prohibited, except in cases where the fixture is shielded by a roof overhang or similar structural shield that will not cause light to extend beyond the structural shield.
- (f) *Subdivision entry and signage.* Applications for a conservation development must include design standards for subdivision entries and signage. The design should include elements of wood, stone or rock, and integrate fencing complying with section 98-1143(b).
 - (1) *Maximum height.* Subdivision entries shall not exceed 12 feet in height.
 - (2) *Maximum sign face.* Subdivision entry sign faces shall not exceed 60 square feet.
 - (3) *Exception.* The Town Council may grant an exception to the subdivision entry and signage standards contained in this subsection, provided that the proposed modification conforms with the vision of the CTCDD area plan.
- (g) *Scenic roadway and country roadway fencing.* Fencing along the scenic roadway and country roadways must comply with section 98-1143(b).
- (h) *Open space management plan.* An open space management plan must accompany all zoning applications for a conservation development and be reviewed yearly by the Environmental Conservation Commission. The plan must include the following:
 - (1) Conceptual landscaping associated with the applicant's zoning application that complies with the town's concept landscape plan requirements.
 - (2) Location, description, and size of all open spaces.
 - (3) Location and description of natural features listed in section 90-449(f) as well as any such features identified in the environmentally sensitive area survey required by the Town's SMARTGrowth program.
 - (4) Location and preliminary design details of all proposed open space amenities.
 - (5) A summary of the perpetual maintenance proposed for each open space area, which must be feasible and appropriate.
 - (6) Phasing and location of the open space associated with the overall development and the open space associated with, and integral to, specific bona fide agricultural buildings.
- (i) *Enhanced public notification.* The approval of a planned development application for a conservation development is required to complete the following:

- (1) An initial meeting must be coordinated by the property owner, or their designee, with all interested parties prior to submitting a planned development application.
 - a. The property owner or their designee must present plans to adjacent property owners, and homeowner associations of adjacent properties, for comment and input.
 - (2) A second meeting with interested parties must be held prior to the Planning and Zoning Commission public hearing to ensure the agenda item will reflect any consensus reached by the group.
- (j) *Alternative proposals and variation from requirements.* The performance standards for conservation development projects contained in this section are considered to be the minimum standards necessary for approval. It is recognized, however, that project size, location, and design may necessitate a different arrangement or distribution of open space or buffers than are envisioned in the regulations of this section, and that different amenities than those specified in this section may become valuable options. Consequently, an applicant for a conservation development project may submit an alternative proposal with corresponding variations in the standards applicable to such a development, which alternative shall be evaluated and action taken thereon in accordance with the procedures contained in this chapter; provided, however, that the following limitations apply:
- (1) No variations will be granted from the allowed residential densities for conservation development projects.
 - (2) The alternative proposal and variations requested shall achieve the same basic objectives as the particular standards that are to be varied.
 - (3) Where the proposal seeks to vary project size limitations, the alternative design shall be evaluated in accordance with standards applicable to larger projects.
- (k) *Conservation development incentives.* Conservation development will be considered for conservation incentives commensurate with the quality and character of the open or natural lands to be placed within a conservation easement or otherwise conserved and the extent to which the conserved land contributes to the preservation of the Cross Timbers Conservation Development District's country character, including its open, natural, scenic, and ecological values.
- (1) Incentives will be considered on a project-by-project basis and will be approved by the Town Council only after community input and public hearing. Such incentives may include, but are not limited to:
 - a. Permit fee waivers,
 - b. Up to and including 50 percent reduction in park land dedication requirements.

- (l) The purpose of this criterion is to protect the open lands, natural landscapes and ecological resources that create and define the Town's unique community character and that are essential to the accomplishment of community character, quality of life, and economic development objectives."

SECTION 5

Section 98-1143, "Perimeter and open space walls and fences," of Division 7, "Fences and walls," 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 in its entirety to read as follows:

"Sec. 98-277. – Conservation development options and standards.

- (a) *Generally.* The following standards shall apply to development not contained within the Cross Timbers Conservation Development District (CTCDD).

- (1) Subdivision perimeter fences and walls constructed adjacent and parallel to the rights-of-way of arterial and collector streets shall consist of masonry, stone, wrought-iron or tubular steel, or a combination of such materials. The fences and walls shall be a minimum of six feet in height and shall have masonry or stone columns measuring a minimum of 24 inches by 24 inches, with monolithic tops, and shall be placed a maximum of 40 feet apart on center. Vertical or horizontal spacing of members of wrought-iron or tubular steel fencing and their attachment to any column shall not allow passage of a four-inch sphere. Wrought-iron and tubular steel fencing shall be used in conjunction with, and further provide for, approved plantings from section 82-277 of this Code, "Screening plant selection list," placed three feet on center adjacent to all wrought-iron and tubular steel fencing. Such perimeter fencing shall be located within a three-foot wide fence easement dedicated to the mandatory homeowners' association for perpetual maintenance by such association. Parallel privacy fences of wood or other construction shall not be allowed between the perimeter fencing and parallel foundation lines on adjacent or contiguous lots. Notwithstanding the foregoing, wrought-iron or tubular steel fencing of a minimum of four feet in height may be allowed at the open end of cul-de-sacs and between parallel streets, provided that such fencing complies with all of the requirements contained in this section other than height.
 - (2) Fences constructed adjacent and parallel to dedicated park, trail, or open space areas shall consist of wrought-iron or tubular steel. Such fences shall be a minimum of four feet in height and shall be of consistent color throughout a development. Vertical or horizontal spacing of members of wrought-iron or tubular steel fencing shall not allow passage of a four-inch sphere. Parallel privacy screening of masonry construction, not exceeding 50 percent of the lot width, shall be allowed between the wrought-iron or tubular steel fencing and parallel foundation lines on abutting lots. Approved

plantings from section 82-277, screening plant selection list, shall be placed three feet on center along the entire length of that side of the masonry screening facing the wrought-iron or tubular steel fencing. Such masonry screening shall be located a minimum distance of ten feet from the wrought-iron or tubular steel fencing. Fences of wood shall not be allowed between such perimeter fencing and parallel foundation lines on adjacent or contiguous lots.

- (3) Property owners replacing existing masonry walls in neighborhoods where HOAs were not established and/or designated to provide ongoing fence/wall maintenance and that have no applicable planned development standards, shall either match original construction materials or meet the perimeter fence standards established in section 14-542 of the Town's Code of Ordinances.
- (b) *Scenic roadway and country roadway fencing.* New fencing along the scenic roadway and country roadways within the CTCDD must be multi-railed or pipe-styled and either white, black, dark green, or an earth-tone in color. Wood stockade and masonry perimeter fencing is prohibited. However, masonry columns may be used sparingly.

SECTION 6

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 7

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 8

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 9

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 10

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 11

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 1, ON THIS THE 7TH DAY OF NOVEMBER, 2022.

APPROVED:

Derek France, **MAYOR**

ATTEST:

Theresa Scott, **TOWN SECRETARY**