

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 06-12

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING THE FOLLOWING SECTIONS THEREOF BY ADDING, AMENDING, DELETING, MODIFYING AND/OR REVISING CERTAIN PARAGRAPHS, PHRASES, PROVISIONS AND SUBSECTIONS CONTAINED IN SECTION 74-3, "DEFINITIONS," SECTION 82-33, "APPLICATION REQUIREMENTS," SECTION 82-37, "MINOR CHANGES," SECTION 82-74, "OFF-STREET PARKING AND LOADING SPACE REQUIREMENTS," SECTION 82-82, "QUEUEING REQUIREMENTS FOR DRIVE-THROUGH FACILITIES," SECTION 82-161, "CLEAR VISIBILITY STANDARDS," SECTION 82-213, "APPROVING BODIES," SECTION 82-214, "LANDSCAPE PLAN," SECTION 82-272, "OUTDOOR STORAGE AREAS," SECTION 82-274, "LOADING AND SERVICE BAYS," SECTION 82-302, "COMPATIBILITY BUFFER," SECTION 90-2, "CREATION OF BUILDING SITE," SECTION 90-52, "DISTRIBUTION OF DEVELOPMENT PLANS," SECTION 90-54, "COMMENTS; WRITTEN REPORT," SECTION 90-311(D), "STREET DESIGN STANDARDS," SECTION 90-320, "PROCEDURE TO BE FOLLOWED BY PERSONS SEEKING STREET NAME CHANGE OF AN EXISTING STREET," SECTION 90-423, "UNDERGROUND UTILITIES," SECTION 98-543, "SPECIFIC USES," SECTION 98-542, "PERMITTED USES," SECTION 98-543, "SPECIFIC USES," SECTION 98-602, "PERMITTED USES," SECTION 98-633, "SPECIFIC USES," SECTION 98-663, "SPECIFIC USES," SECTION 98-693, "SPECIFIC USES," SECTION 98-723, "SPECIFIC USES," SECTION 98-817, "PERMITTED USES," SECTION 98-873, "SPECIFIC USES," SECTION 98-952, "USE CLASSIFICATION," SECTION 98-990, "RECYCLING DROPOFF CENTER," SECTION 98-996, "SWIMMING POOL, PRIVATE," SECTION 98-1142, "FRONT YARD FENCE HEIGHT AND VISIBILITY," AND SECTION 98-1143, "PERIMETER AND OPEN SPACE WALLS AND FENCES" AS MORE PARTICULARLY DESCRIBED AND SET FORTH HEREIN BELOW; BY ADDING A NEW SECTION 82-137, "RESIDENTIAL DRIVEWAY SPACING FROM AN INTERSECTION," A NEW SECTION 82-246, "OUTDOOR PATIOS AND SEATING AREAS," AND A NEW SECTION 82-278, "EXPOSED CONCRETE AND RETAINING WALLS"; BY RENUMBERING SECTION 90-186, "SPECIFIC USE PERMITS," AS SECTION 98-953, "SPECIFIC USE PERMITS," AND THEREAFTER DELETING PREVIOUSLY EXISTING SECTION 90-186; AND BY DELETING SECTION 90-318, "THOROUGHFARE BUFFERS" IN ITS ENTIRETY; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the Town of Flower Mound, Texas, has recommended amending the Code of Ordinances of the Town of Flower Mound, by amending Sections 74-3, 82-33, 82-37, 82-74, 82-82, 82-161, 82-213, 82-214, 82-272, 82-274, 82-302, 90-2, 90-52, 90-54, 90-311(d), 90-320, 90-423, 98-543, 98-542, 98-543, 98-602, 98-603, 98-633, 98-663, 98-693, 98-723, 98-817, 98-873, 98-952, 98-990, 98-996, 98-1142 and 98-1143, by adding new Sections 82-137 and 82-278, by renumbering Section 90-186 as Section 98-953 and thereafter deleting previously existing Section 90-186, and by deleting Section 90-318 in its entirety all as more particularly described and set forth herein below; and

WHEREAS, all legal requirements, conditions, and prerequisites have been complied with prior to this case coming before the Town Council of the Town of Flower Mound; and

WHEREAS, the Town Council of the Town of Flower Mound, after public notice and public hearing as required by law and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission of the Town of Flower Mound and of all testimony and information submitted during said public hearings, has determined that, in the public's best interest and in support of the health, safety, morals, and general welfare of the citizens of the Town to amend the Town Code of Ordinances as set forth herein.

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

SECTION 1

All of the above premises are found to be true and correct legislative and factual determinations of the Town of Flower Mound and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

From and after the effective date of this Ordinance, Section 74-3 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Definitions" is hereby amended by replacing the definitions for the phrases "Roadway, country," "Roadway, principal," "Roadway, scenic," "Street, arterial (major)," and "Street, arterial (minor)" with new definitions for the phrases "Roadway, country," "Roadway, principal," "Roadway, scenic," "Street, arterial (major)," and "Street, arterial (minor)" to read as follows:

"Roadway, country, means the section of Flower Mound Road from Bruton-Orand Boulevard to FM 1171/ Cross Timbers Road, and the following road segments or sections:

- (1) Red Rock Lane;
- (2) The future connection between Red Rock Lane and Shiloh Road north of FM 1171/Cross Timbers Road;
- (3) Lusk Lane;
- (4) High Road;
- (5) Ridgecrest Drive;
- (6) Shiloh Road;
- (7) Scenic Drive; and
- (8) Skillern Road.

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

- (1) College Parkway;

- (2) Kirkpatrick Road;
- (3) Gerault Rd/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 from the eastern edge of Specific Plan Area 8 (SPA 8) to Bruton Orand Boulevard;

Street, arterial (major), means a street designated as a major or greenway arterial on the thoroughfare plan map. Major arterials are designed to carry traffic long distances and connect the town to the regional freeway system and other major regional activity centers. Major arterials serve the town traffic and traffic travelling through the town. They are the most heavily traveled roadways and require some degree of access control.

Street, arterial (minor), means an urban minor arterial or urban minor arterial undivided. Minor arterial streets are designed to serve traffic originating in or destined for locations within the town and are intended to serve traffic traveling through the town."

SECTION 3

From and after the effective date of this Ordinance, Section 74-3 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Definitions" is hereby amended by deleting the definition for the phrases "Street, arterial (minor, rural)" and "Street, arterial (minor, urban)" in their entirety.

SECTION 4

From and after the effective date of this Ordinance, Section 74-3 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Definitions" is hereby amended by adding definitions for the phrases "Street, arterial (greenway, rural)" and "Street, arterial (greenway, urban)" to read as follows, which definitions shall be inserted into the current list of definitions in alphabetical order:

"Street, arterial (greenway rural), means a street designated as a greenway rural arterial on the thoroughfare plan map. Greenway rural arterials are major arterials. Greenway rural arterials are designed with a grassy swale in the median that drains into an underground system which replaces the raised curb and gutter. This facility type reflects the community desire to maintain a rural character in the western portion of the Town.

Street, arterial (greenway urban), means a street designated as a greenway urban arterial on the thoroughfare plan map. Greenway urban arterials are major arterials. Greenway urban arterials are designed to provide a large landscaped median which

allows the Town flexibility to widen to six lanes, if needed, without taking additional ROW.”

SECTION 5

From and after the effective date of this Ordinance, Section 82-33 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Application requirements,” is hereby amended by deleting the phrase “or director of community development” from the first paragraph of Section 82-33 and further deleting subparagraph (14) in its entirety and re-numbering existing subparagraphs (15) through (19) as subparagraphs (14) through (18), respectively.

SECTION 6

From and after the effective date of this Ordinance, Section 82-37 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Minor changes,” is hereby amended by deleting subparagraph (10) in its entirety and re-numbering existing subparagraph (11) as subparagraph (10).

SECTION 7

From and after the effective date of this Ordinance, Section 82-74 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Off-street parking and loading space requirements” is hereby amended by inserting off-street parking requirements at a rate of 1 space per 250 square feet for the use type of “Medical office uses” under the heading of “Educational, institutional and special uses” in alphabetical order immediately following the use type identified as “Institution, drug or psychiatric treatment,” to read as follows:

TABLE INSET:

Use Type	Parking
Medical office	1 space per 250 square feet

SECTION 8

From and after the effective date of this Ordinance, Section 82-82 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Queuing requirements for drive-through facilities,” is hereby amended by amending subparagraph (2) of Section 82-82 to read as follows:

“(2)Design. Each queue lane shall be clearly defined and designed so as not to conflict or interfere with other traffic using the site. A bypass lane a minimum of 12 feet wide may be necessary if a one-way traffic flow is used in the parking lot. If utilized, the bypass lane shall be clearly designated and distinct from the queuing area.”

SECTION 9

From and after the effective date of this Ordinance, Chapter 82, "Development Standards," of the Code of Ordinances of the Town of Flower Mound, Texas, is hereby amended by adding a new Section 82-137 entitled "Residential driveway spacing from an intersection" to read as follows:

"Sec. 82-137. Residential driveway spacing from an intersection.

No residential driveway shall be closer than 35 feet from any intersection. All drive spacing measurements shall be measured from the edge of pavement to the start of the driveway radius."

SECTION 10

From and after the effective date of this Ordinance, Section 82-161 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Clear visibility standards" is hereby amended by replacing the first paragraph of Section 82-161 with a new paragraph to read as follows:

"Sec. 82-161. Clear visibility standards.

No walls, buildings, fences or other obstructions to view in excess of two feet in height shall be placed within the following triangular areas at the intersections of streets, driveways and alleys, except trees pruned higher than 7 feet to permit unobstructed vision to automobile drivers:"

Section 82-161, "Clear visibility standards," is hereby further amended by adding a new subparagraph (4) to Section 82-161 to read as follows:

"(4)If the sight triangle formed using the stopping sight distance based on the latest edition of "A Policy on Geometric Design of Highways and Streets" by the American Association of State Highway Transportation Officials (AASHTO) is greater than the visibility clips described above, the AASHTO visibility clip shall be used."

SECTION 11

From and after the effective date of this Ordinance, Section 82-213 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Approving bodies" is hereby amended by deleting such section in its entirety and replacing it with a new Section 82-213 also entitled "Approving bodies" to read as follows:

"Sec. 82-213. Approving bodies.

Non-residential developments shall submit a landscape plan in conjunction with any site plan or SUP application and be approved in conjunction with the site plan or SUP approval. For residential developments, landscape plans shall be submitted in conjunction with a Development Plan and Record plat application and approved in conjunction with those applications.”

SECTION 12

From and after the effective date of this Ordinance, Section 82-214 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Landscape plan” is hereby amended by deleting such section in its entirety and replacing it with a new Section 82-214 also entitled “Landscape plan” to read as follows:

“Sec. 82-214. Landscape Plan.

Any proposed building or use shall be shown on a landscape plan indicating the location of existing and proposed buildings, parking areas, street improvements, locations and types of landscaped areas, walls, and screening devices. The appropriate number of copies of the landscape plan, as outlined in the application packet, shall be submitted to the Town at the time any application for a development plan, record plat, Specific Use Permit, or site plan is submitted. The approval of a landscape plan shall be considered a part of the respective application approval process.”

SECTION 13

From and after the effective date of this Ordinance, Chapter 82, “Development Standards,” of the Code of Ordinances of the Town of Flower Mound, Texas, is hereby amended by adding a new Section 82-246 entitled “Outdoor patios and seating area” to read as follows:

“Sec. 82-246. Outdoor patios and seating areas.

Outdoor patios and seating areas associated with non-residential uses shall be shown on a site plan and/or 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. Outdoor patios and seating area for restaurants that serve alcoholic beverages shall be required to physically define the space by using one of the options listed herein above.

- (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) The area shall not impede pedestrian circulation or encroach into a designated parking area or fire lane.”

SECTION 14

From and after the effective date of this Ordinance, Section 82-272 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Outdoor storage areas” is hereby amended by deleting such section in its entirety and replacing it with a new Section 82-272 also entitled “Outdoor storage areas” to read as follows:

“Section 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.

1. Wood fencing or screening is prohibited.
2. Smaller items measuring three feet in height or less may be screened by either plant material or a wall constructed of or finished with materials that match the main building of the site.
3. Dumpster enclosures, and screening walls four feet in height or greater shall be subject to the following conditions:
 - a. Primary screening shall consist of a wall constructed of or finished with materials that match the main building of the site.
 - b. Landscaping shall be added adjacent to and along and about the outer perimeter of dumpster enclosures and larger screening walls to soften their appearance except where dumpsters and their enclosures are

located behind a building and are not visible from a public street.

- c. Dumpster enclosures should be located at least 50 feet off of and away from adjacent roadways so as not to be visible from said roadways.
- d. Enhanced landscaping is required for any dumpster that is located within 50 feet of a public roadway. Enhanced landscaping should include aesthetically designed perimeter shrubs, natural grasses, and canopy and ornamental trees as appropriate to soften and screen the dumpster enclosure.
- e. Enclosure gates shall be constructed of sheet metal with steel frame and painted to complement the building."

SECTION 15

From and after the effective date of this Ordinance, Section 82-274 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Loading and service bays" is hereby amended by deleting the word "either" and the phrase "a wood" from the second sentence thereof such that hereafter the second sentence of Section 82-274 shall be and read as follows:

"Such screening device shall consist of plant material, brick, masonry wall with stucco or mortar wash, or compatible alternatives approved by the planning and zoning commission, provided that only plant material shall be used for screening such bays from scenic or country roadways."

Section 82-274, "Loading and service bays," is hereby further amended by inserting a new sentence immediately following the second sentence of Section 82-274, as amended herein-above, to read as follows:

"Materials used for screening shall be of sufficient height at installation to screen the areas intended for screening and maintained at such height in perpetuity."

SECTION 16

From and after the effective date of this Ordinance, Chapter 82, "Development Standards," of the Code of Ordinances of the Town of Flower Mound, Texas, is hereby amended by adding a new Section 82-278 entitled "Exposed concrete and retaining walls" to read as follows:

"Sec. 82-278. Exposed concrete and retaining walls

All exposed concrete, including but not limited to retaining/detaining walls, turn-down curbs, and tree retaining walls, shall be clad in a material to match the materials on the main building on the site.”

SECTION 17

From and after the effective date of this Ordinance, Section 82-302 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Compatibility buffer” is hereby amended by replacing the phrase “Section 94-242” with the phrase “Section 94-66” throughout this Section 82-302.

SECTION 18

From and after the effective date of this Ordinance, Section 90-2 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Creation of building site” is hereby amended by deleting such section in its entirety and replacing it with a new Section 90-2 also entitled “Creation of building site” to read as follows:

“Sec. 90-2. Creation of building site.

No permit for the construction of a building 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:

- (1) The lot or tract is part of a plat of record, properly approved by the planning and zoning commission of the town and all documentation has been submitted to the town for filing the plat.
- (2) The plot, tract or lot is an unplatted lot of record with frontage upon a dedicated public or private street or right-of-way.
- (3) The plot, tract or lot is a portion of an unplatted lot of record, conveyed without the approval of a record plat after January 9, 1975, zoned A agricultural district, with frontage upon a dedicated public or private street or right-of-way (having a minimum area of one acre) and not served by a public or private sanitary sewer system or an on-site sewerage facility, for the construction of barns or other related accessory buildings for housing and maintenance of livestock or agricultural purposes, provided that such barns or accessory buildings shall comply with the minimum 50-foot setback from any property line.”

SECTION 19

From and after the effective date of this Ordinance, Section 90-52 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Distribution of development plans" is hereby amended by replacing the word and punctuation "following:" with the phrase and punctuation "Development Review Committee." and deleting subparagraphs (1) through (10) in their entirety such that Section 90-52, "Distribution of development plans," will hereafter read as follows:

"Sec. 90-52. Distribution of development plans.

The following notice shall be stamped on the face of each development plan: "Development plan - for inspection purposes only; not an official document approved for record purposes." The Town Manager shall distribute the development plans immediately upon receipt to the Development Review Committee."

SECTION 20

From and after the effective date of this Ordinance, Section 90-54 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Comments; written report" is hereby amended by deleting such section in its entirety and replacing it with a new Section 90-54 also entitled "Comments; written report" to read as follows:

"Sec. 90-54. Comments; written report.

Based on the Development Review Committee's review, a written report and analysis shall be prepared and submitted to the planning and zoning commission relative to the proposed subdivision's compliance to the regulations of this article, the comprehensive master plan and other master plans such as utility plans."

SECTION 21

From and after the effective date of this Ordinance, Chapter 90, "Subdivisions," and Chapter 98, "Zoning" of the Code of Ordinances of the Town of Flower Mound, Texas, are hereby amended by renumbering Section 90-186 entitled "Specific use permits" as Section 98-953 also entitled "Specific use permits," and thereafter deleting Section 90-186 in its entirety, such that Section 98-953 shall hereafter be and read as follows:

"Sec. 98-953. Specific use permits.

(a) Applicability. No building permit shall be issued in any zoning district for any use for which a specific use permit is required under this subpart B until a specific use permit has been approved according to the requirements of this section.

(b) Submittal requirements. Any person having a proprietary interest in any property within the corporate limits of the town requesting approval of a specific use permit shall file an application with the Town. The completed application shall include the following information:

- (1) A clear description of the proposed use.
- (2) A drawing, at a scale of not less than one inch to 200 feet, indicating the following:
 - a. Existing zoning district classifications;
 - b. Proposed zoning district classifications in a format that identifies boundaries between different zoning districts;
 - c. Comprehensive master plan features, whether on-site or proposed, from any and all of the following elements: land use plan, urban design plan, parks and open space plan, trail network, and/or thoroughfare plan;
 - d. The location of high voltage electrical lines, transmission pipelines and associated easements.
- (3) A vicinity map indicating the general location of the subject property.
- (4) A metes and bounds description of the subject property typewritten on an 8 1/2-inch by 11-inch sheet of paper.
- (5) An 8 1/2-inch by 11-inch photomatte (PMT) reduction of the above drawings.
- (6) A filing fee shall be submitted with every application in accordance with the fee schedule found in appendix A of this Code. In addition, a site plan review fee shall be submitted with every application requesting a specific use permit that requires a site plan in accordance with the fee schedule found in appendix A of this Code.
- (7) A site plan drawing meeting the requirements identified in section 82-33. Such site plan shall be attached as an exhibit to the specific use permit. Development of the site shall be in accordance with the approved site plan.

- (c) Issuance. The town council, after public hearing and proper notice to all parties affected and after public hearing and recommendation by the planning and zoning commission, may authorize the issuance of specific use permits for the uses indicated in the use regulations of the zoning district of the property for which the specific use permit is requested.
- (d) Plans, information, operating data and evaluation. The planning and zoning commission, in considering and determining its recommendations to the town council on any request for a specific use permit, may require from the applicant plans, information, operating data and expert evaluation concerning the location, function and characteristics of any building or use proposed.
- (e) Imposition of development standards and safeguards. The town council may, in the interest of the public welfare and to ensure compliance with this section, establish conditions of operation, location, arrangement and construction of any use for which a permit is authorized. In authorizing the location of any use listed as requiring a specific use permit, the town council may impose such development standards and safeguards as the conditions and location indicate important to the welfare and protection of adjacent property from noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view or other undesirable or hazardous conditions.
- (f) Reference of permit to zoning district map. All specific use permits approved in accordance with the provisions of this article shall be referenced on the zoning district map and a file containing all documents relevant to the application and disposition of such specific use permit shall be maintained by the Town."

SECTION 22

From and after the effective date of this Ordinance, Section 90-311 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Street design standards" is hereby amended by deleting the last sentence of subparagraph (d) of Section 90-311.

SECTION 23

From and after the effective date of this Ordinance, Section 90-318 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Thoroughfare buffers" is hereby deleted in its entirety.

SECTION 24

From and after the effective date of this Ordinance, Chapter 90, "Subdivisions," of the Code of Ordinances of the Town of Flower Mound, Texas, is hereby amended by adding a new Section 90-320 entitled "Procedure to be followed by persons seeking street name change of an existing street." to read as follows:

"Sec. 90-320. Procedure to be followed by persons seeking street name change of an existing street.

- (a) Any person may request a street name change by filing a request for a street name change with the Planning Department. The request shall identify the street proposed to be renamed by its current name and the block numbers thereof, state the reason for the requested street name change, and state the proposed name for such roadway segment.
- (b) The proposed name change will be considered by various Town departments interested in the naming of streets and roadways within the Town's corporate limits possibly including, but not limited to, Engineering, Public Works, the Police Department and the Fire Department. Following such consideration the Town Manager or designee may, but is not required to, schedule consideration of the proposed street name change on the next available agenda for the Transportation Commission.
- (c) Following receipt of the Transportation Commission's recommendation regarding the proposed street name change, the Town may schedule consideration of the proposed street name change on the next available agenda for the Town Council.
- (d) The Town will notify each owner of property adjacent to, abutting and/or having an address on the street that is the subject of the requested name change regarding the proposed street name change and the time, date and location of the Town Council meeting at which the proposed street name change will be considered. Said notification will be sent by regular U.S. mail, postage prepaid, to the owners of real property adjacent to, abutting, and/or having an address on the subject street as their names and addresses appear on the most recently approved Town of Flower Mound Tax Roll."

SECTION 25

From and after the effective date of this Ordinance, Section 98-542 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Permitted uses" of Division 12 entitled "O, Office District" is hereby amended by deleting the following use from the list of uses that are permitted by right in the O Office District:

Health Club or Athletic Club.

SECTION 26

From and after the effective date of this Ordinance, Section 98-543 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Specific uses" of Division 12 entitled "O, Office District" is hereby amended by deleting the following uses from the list of uses that are permitted in the O Office District only upon approval of a specific use permit:

Art supply store;
Optical sales;
Parking lot or structure, commercial; and
Personal improvement services.

SECTION 27

From and after the effective date of this Ordinance, Section 98-573 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Specific uses" of Division 13 entitled "R-1, Retail District-1" is hereby amended by deleting the following uses from the list of uses that are permitted in the R-1 Retail District-1 only upon approval of a specific use permit:

Optical Sales; and
Personal improvement services.

SECTION 28

From and after the effective date of this Ordinance, Section 98-602 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Permitted uses" of Division 14 entitled "R-2, Retail District-2" is hereby amended by deleting the following use from the list of uses that are permitted by right in the R-2 Retail District-2: :

Retail, single tenant (25,000 square feet but less than 50,000 square feet).

SECTION 29

From and after the effective date of this Ordinance, Section 98-633 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Specific uses" of Division 15 entitled "C-1, Commercial District-1" is hereby amended by deleting the following use from the list of

uses that are permitted in the C-1 Commercial District-1 only upon approval of a specific use permit:

School, business.

SECTION 30

From and after the effective date of this Ordinance, Section 98-663 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Specific uses" of Division 16 entitled "C-2, Commercial District-2" is hereby amended by deleting the following uses from the list of uses that are permitted in the C-2 Commercial District-2 only upon approval of a specific use permit:

Kennel, subject to section 98-986; and
Laboratory, scientific and research.

SECTION 31

From and after the effective date of this Ordinance, Section 98-693 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Specific uses" of Division 17 entitled "I-1, Industrial District-1" is hereby amended by deleting the following use from the list of uses that are permitted in the I-1 Industrial District-1 only upon approval of a specific use permit:

Laboratory, scientific and research.

SECTION 32

From and after the effective date of this Ordinance, Section 98-723 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Specific uses" of Division 17 entitled "I-2, Industrial District-2" is hereby amended by deleting the following use from the list of uses that are permitted in the I-2 Industrial District-2 only upon approval of a specific use permit:

Laboratory, scientific and research.

SECTION 33

From and after the effective date of this Ordinance, Section 98-817 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Permitted uses" of Division 21 entitled "PD, Planned Development District" is hereby amended by deleting the following use from the list of uses that are permitted by right in the PD Planned Development District:

Accessory dwelling, subject to section 98-983.

SECTION 34

From and after the effective date of this Ordinance, Section 98-873 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Specific uses" of Division 23 entitled

“CI, Campus Industrial” is hereby amended by replacing the use “Retail, single tenant” with the use “Retail, single tenant (over 100,000 square feet)” as being permitted in the CI Campus Industrial District only upon approval of a specific use permit.

SECTION 35

From and after the effective date of this Ordinance, Section 98-952 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Use classification” is hereby amended through the amendment of subparagraph (c)(2) of Section 98-952, “Use classification,” by replacing the phrase “section 90-186” with the phrase “section 98-953.”

SECTION 36

From and after the effective date of this Ordinance, Section 98-990 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Recycling dropoff center” is hereby amended by inserting the phrase “Section 82-272 Outdoor storage areas and” between the phrases “subject to” and “the following conditions” in the first paragraph of said section.

SECTION 37

From and after the effective date of this Ordinance, Section 98-996 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Swimming pool, private” is hereby amended by replacing the phrase “building code” in the last sentence of Section 98-996 with the phrase “Town’s building codes.”

SECTION 38

From and after the effective date of this Ordinance, Section 98-1142 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Front yard fence height” is hereby amended by dividing said Section 98-1142, “Front yard fence height,” into two sections identified as Section 98-1142, entitled “Front yard fence height and visibility,” and Section 98-1143, entitled “Perimeter and open space walls and fences,” to read as follows, and thereafter deleting the original section 98-1142 that was amended hereby:

“Sec. 98-1142. Front yard fence height and visibility.

- (a) Except in A, Agricultural District no fence or wall within a required front yard shall exceed four feet in height above the adjacent grade.
- (b) In the A, Agricultural District no solid fence or wall within a required front yard shall exceed four feet in height above the adjacent grade; however, notwithstanding the foregoing, barbed wire or metal/wire livestock fencing not exceeding five feet in height above the adjacent grade shall be permitted within a required front yard.

- (c) No fence or wall erected within a required side or rear yard shall exceed eight feet in height above the adjacent grade.
- (d) Fences and walls shall be erected in accordance with the requirements of section 82-161 of this Code, corner visibility.

Sec. 98-1143. Perimeter and open space walls and fences.

- (a) 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, 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.
- (b) 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."

SECTION 39

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 40

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

SECTION 41

Any person, firm or corporation who violates any provision of this Ordinance or of the final site plan as adopted by the Planning and Zoning Commission 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 42

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.

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 20th DAY OF FEBRUARY, 2012.

APPROVED:

Melissa D. Northern, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, TOWN ATTORNEY