ZONING ORDINANCE
City of Forney, Texas
Ordinance No. 1085 Adopted and Effective August 19, 2003

Amended March 2, 2004 (Ordinance 1103)
Amended April 6, 2004 (Ordinance 1109)
Amended May 18, 2004 (Ordinance 1115)
Amended June 1, 2004 (Ordinance 1118)
Amended July 6, 2004 (Ordinance 1120)
Amended June 2, 2005 (Ordinance 1141)
Amended July 19, 2005 (Ordinance 1144)
Amended July 19, 2005 (Ordinance 1145)
Amended December 20, 2005 (Ordinance 1162)
Amended January 3, 2006 (Ordinance 1166)
Amended August 15, 2006 (Ordinance 1190)
Amended September 19, 2006 (Ordinance 1197)
Amended January 18, 2007 (Ordinance 1205)
Amended May 15, 2007 (Ordinance 1215)
Amended June 19, 2007 (Ordinance 1216)
Amended September 18, 2007 (Ordinance 1234)
Amended October 16, 2007 (Ordinance 1239)
Amended March 18, 2008 (Ordinance 1246)
Amended March 18, 2008 (Ordinance 1247)
Amended May 20, 2008 (Ordinance 08-1267)
Amended May 20, 2008 (Ordinance 08-1268)
Amended May 20, 2008 (Ordinance 08-1269)
Amended June 17, 2008 (Ordinance 08-1271)
Amended November 18, 2008 (Ordinance 08-1287)
Amended January 20, 2009 (Ordinance 09-01)
Amended March 17, 2009 (Ordinance 09-03)
Amended April 21, 2009 (Ordinance 09-08)
Amended April 21, 2009 (Ordinance 09-09)
Amended July 21, 2009 (Ordinance 09-14)
Amended August 18, 2009 (Ordinance 09-18)
Amended August 18, 2009 (Ordinance 09-19)
Amended September 1, 2009 (Ordinance 09-20)
Amended December 15, 2009 (Ordinance 09-27)
Amended April 20, 2010 (Ordinance 10-07)
Amended August 17, 2010 (Ordinance 10-20)
Amended December 7, 2010 (Ordinance 10-22)
Amended December 7, 2010 (Ordinance 10-23)
Amended March 22, 2011 (Ordinance 11-02)
Amended April 19, 2011 (Ordinance 11-03)
Amended April 19, 2011 (Ordinance 11-04)
Amended July 19, 2011 (Ordinance 11-13)
Amended September 6, 2011 (Ordinance 11-20)
Amended June 18, 2013 (Ordinance 13-10)
Amended December 17, 2013 (Ordinance 13-29)
Amended June 17, 2014 (Ordinance 14-14)
Amended January 20, 2015 (Ordinance 15-02)
Amended April 7, 2015 (Ordinance 15-15)
Amended April 7, 2015 (Ordinance 15-16)
Amended March 15, 2016 (Ordinance 16-04)
Amended March 15, 2016 (Ordinance 16-05)
Amended May 3, 2016 (Ordinance 16-10)
Amended August 16, 2016 (Ordinance 16-17)
Amended January 10, 2017
Amended February 21, 2017
Amended December 12, 2017
Amended January 16, 2018
Amended February 20, 2018 (Ordinance 18-06)
Amended August 21, 2018 (Ordinance 18-29)
Amended August 21, 2018 (Ordinance 18-30)
Amended November 22, 2018
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I. ENACTING PROVISIONS</strong></td>
<td></td>
</tr>
<tr>
<td>1 Enacting Clause</td>
<td>7</td>
</tr>
<tr>
<td>2 Title and Purpose</td>
<td>7</td>
</tr>
<tr>
<td>3 Zoning District Map</td>
<td>8</td>
</tr>
<tr>
<td>4 Zoning District Boundaries</td>
<td>9</td>
</tr>
<tr>
<td>5 Compliance Required and Application of Regulations</td>
<td>10</td>
</tr>
<tr>
<td>6 Zoning Upon Annexation</td>
<td>11</td>
</tr>
<tr>
<td><strong>II. ZONING PROCEDURES AND ADMINISTRATION</strong></td>
<td></td>
</tr>
<tr>
<td>7 Nonconforming Uses and Structures</td>
<td>13</td>
</tr>
<tr>
<td>8 Planning and Zoning Commission</td>
<td>16</td>
</tr>
<tr>
<td>9 Board of Adjustment (BOA)</td>
<td>19</td>
</tr>
<tr>
<td>10 Amendments to Zoning Ordinances and Districts, Administrative Procedures, and Enforcement</td>
<td>27</td>
</tr>
<tr>
<td>11 Building Permits; Certificates of Occupancy and Compliance</td>
<td>33</td>
</tr>
<tr>
<td>12 Concept Plan and Site Plan Review Processes</td>
<td>35</td>
</tr>
<tr>
<td><strong>III. ZONING DISTRICTS</strong></td>
<td></td>
</tr>
<tr>
<td>13 Zoning Districts Established</td>
<td>48</td>
</tr>
<tr>
<td>14 AG -- Agricultural District</td>
<td>49</td>
</tr>
<tr>
<td>15 <em>(reserved)</em></td>
<td>52</td>
</tr>
<tr>
<td>16 SF-20 -- Single-Family Residential-20 District</td>
<td>53</td>
</tr>
<tr>
<td>17 SF-15 -- Single-Family Residential-15 District</td>
<td>55</td>
</tr>
<tr>
<td>18 SF-11 -- Single-Family Residential-11 District</td>
<td>57</td>
</tr>
<tr>
<td>19 SF-8 -- Single-Family Residential-8 District</td>
<td>59</td>
</tr>
<tr>
<td>20 SF-6 -- Single-Family Residential-6 District</td>
<td>61</td>
</tr>
<tr>
<td>21 SF-PH -- Single-Family Residential-Patio Home District (Zero-Lot-Line Homes)</td>
<td>63</td>
</tr>
<tr>
<td>22 2F -- Two-Family Residential District (Duplex)</td>
<td>67</td>
</tr>
<tr>
<td>23 SFA -- Single-Family Attached Residential District (Town homes)</td>
<td>69</td>
</tr>
<tr>
<td>24 MF-15 -- Multi-Family Residential-15 District (Apartments)</td>
<td>73</td>
</tr>
<tr>
<td>25 <em>(reserved)</em></td>
<td>77</td>
</tr>
<tr>
<td>26 MH -- Manufactured Home District</td>
<td>78</td>
</tr>
</tbody>
</table>
## TABLE OF CONTENTS, Cont’d.

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>27</td>
<td>O -- Office District ....................................................... 83</td>
</tr>
<tr>
<td>28</td>
<td>NS -- Neighborhood Service District ........................................ 86</td>
</tr>
<tr>
<td>29</td>
<td>GR -- General Retail District ................................................ 89</td>
</tr>
<tr>
<td>30</td>
<td>CBD -- Central Business District ............................................. 94</td>
</tr>
<tr>
<td>31</td>
<td>C -- Commercial District ..................................................... 99</td>
</tr>
<tr>
<td>32</td>
<td>MU -- Mixed-Use District ........................................................ 102</td>
</tr>
<tr>
<td>33</td>
<td>LI -- Light Industrial District ................................................. 105</td>
</tr>
<tr>
<td>34</td>
<td>Overlay and Special Districts ................................................ 108</td>
</tr>
<tr>
<td>34a</td>
<td>PD -- Planned Development Overlay District .................................. 109</td>
</tr>
<tr>
<td>34b</td>
<td>CUP -- Conditional Use Provisions ............................................ 114</td>
</tr>
<tr>
<td>34c</td>
<td>CBT -- Central Business Transition Overlay District ...................... 118</td>
</tr>
<tr>
<td>34d</td>
<td>ENT -- Entertainment Overlay District ........................................ 122</td>
</tr>
<tr>
<td>34e</td>
<td>HOZ -- Historic Overlay Zone District ...................................... 125</td>
</tr>
<tr>
<td>34f</td>
<td>H -- Historic Landmark Designation .......................................... 161</td>
</tr>
<tr>
<td>35</td>
<td>Planned Commercial District ................................................... 166</td>
</tr>
<tr>
<td>36</td>
<td>(reserved) .................................................................................. 189</td>
</tr>
</tbody>
</table>

### IV. USE REGULATIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>37</td>
<td>Use Regulations (Charts) .......................................................... 190</td>
</tr>
</tbody>
</table>

### V. DEVELOPMENT STANDARDS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>38</td>
<td>Off-Street Parking and Loading Requirements .................................. 203</td>
</tr>
<tr>
<td>39</td>
<td>Landscape Requirements and Tree Preservation ................................ 217</td>
</tr>
<tr>
<td>39a</td>
<td>Tree Preservation ........................................................................ 222</td>
</tr>
<tr>
<td>40</td>
<td>Accessory Structure and Use Regulations ....................................... 227</td>
</tr>
<tr>
<td>41</td>
<td>Fencing, Walls and Screening Requirements .................................... 232</td>
</tr>
<tr>
<td>42</td>
<td>Exterior Construction and Design Requirements ................................ 234</td>
</tr>
<tr>
<td>43</td>
<td>Supplemental Regulations (Setbacks, Lot Configuration, Front Yard, Side and Rear Yards, Special Height Regulations, Communications Antennas and Support Structures/Towers, Minimum Dwelling Unit Area, Open Storage Areas, Sight Visibility, Nonresidential Structures in Residential Districts, Pad Sites, Access Standards for Nonresidential and Multi-Family Lots) ........................................ 243</td>
</tr>
<tr>
<td>44</td>
<td>Performance Standards .................................................................. 255</td>
</tr>
<tr>
<td>45</td>
<td>Lighting and Glare Standards .................................................... 259</td>
</tr>
<tr>
<td>46</td>
<td>Home Occupation Regulations ...................................................... 260</td>
</tr>
<tr>
<td>47</td>
<td>Special Regulations for Certain Types of Uses (Gasoline Sales Facilities, Swimming Pools, Extraction of Minerals, Sexually Oriented Businesses, Alcoholic Beverage Sales, Special Motor Vehicles) ................................................ 264</td>
</tr>
</tbody>
</table>
TABLE OF CONTENTS, Cont’d.

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>48</td>
<td>Signage</td>
</tr>
<tr>
<td>48a</td>
<td>Small Wind Energy Systems</td>
</tr>
<tr>
<td>49</td>
<td>Definitions</td>
</tr>
<tr>
<td>50</td>
<td>Approved Plant List</td>
</tr>
</tbody>
</table>

VI. PENALTIES AND NONCONFORMITIES

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>51</td>
<td>Effect of Interpretation; Repealer</td>
</tr>
<tr>
<td>52</td>
<td>Preserving Rights</td>
</tr>
<tr>
<td>53</td>
<td>Penalty for Violations</td>
</tr>
<tr>
<td>54</td>
<td>Validity</td>
</tr>
<tr>
<td>55</td>
<td>Effective Date</td>
</tr>
</tbody>
</table>

APPENDICES

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.1</td>
<td>Planned Development Districts</td>
</tr>
<tr>
<td>A.2</td>
<td>Conditional Use Permits</td>
</tr>
<tr>
<td>A.3</td>
<td>Summary of District Regulations</td>
</tr>
<tr>
<td>A.4</td>
<td>Schedule of Fees</td>
</tr>
<tr>
<td>A.5</td>
<td>Entertainment Overlay District</td>
</tr>
<tr>
<td>A.6</td>
<td>Design Guidelines for Commercial Planned Districts</td>
</tr>
</tbody>
</table>

ILLUSTRATIONS
I. ENACTING PROVISIONS

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF FORNEY, ORDINANCE NO. 832, ADOPTED ON THE 3rd DAY OF MARCH, 1987, TOGETHER WITH ALL AMENDMENTS THERETO; ESTABLISHING AND PROVIDING ZONING REGULATIONS; CREATING USE DISTRICTS IN ACCORDANCE WITH THE COMPREHENSIVE PLAN APPROVED BY THE CITY COUNCIL; REGULATING WITHIN SUCH DISTRICTS THE HEIGHT OF BUILDINGS AND STRUCTURES, THE SIZE OF YARDS COURTS AND OPEN SPACES, AND THE HEIGHT, BULK, EXTERIOR ELEVATIONS AND USE OF BUILDINGS AND LAND FOR NONRESIDENTIAL, RESIDENTIAL AND OTHER PURPOSES; PROVIDING FOR CONDITIONAL USE PROVISIONS; SPECIFYING MINIMUM REQUIREMENTS FOR OFF-STREET PARKING OF MOTOR VEHICLES AND OFF-STREET LOADING AREAS; PROVIDING MINIMUM REQUIRED FLOOR AREAS FOR DWELLING UNITS AND THE TYPE OF EXTERIOR CONSTRUCTION WITHIN CERTAIN ZONING DISTRICTS; REGULATING THE DENSITY OF DWELLINGS AND OTHER STRUCTURES AND THE PERCENTAGE OF EACH LOT THAT MAY BE OCCUPIED BY STRUCTURES; ADOPTING PERFORMANCE STANDARDS FOR NONRESIDENTIAL USES; ESTABLISHING THE BASIS FOR CREATING A BUILDING SITE; PROVIDING FOR CONCEPT AND SITE PLAN APPROVAL; PROVIDING FENCE AND WALL REGULATIONS; PROVIDING SPECIAL ACCESS STANDARDS; ADOPTING A ZONING DISTRICT MAP AND MAKING IT A PART OF THIS ORDINANCE, TOGETHER WITH ALL SYMBOLS, MARKINGS AND TABLES APPEARING ON SAID MAP AND WITHIN THE ORDINANCE; CREATING A ZONING BOARD OF ADJUSTMENT AND DEFINING ITS POWERS AND DUTIES; CREATING A PLANNING AND ZONING COMMISSION AND DEFINING ITS POWERS AND DUTIES; PROVIDING FOR NON-CONFORMING USES AND A METHOD OF DISCONTINUANCE THEREOF; DEFINING CERTAIN TERMS AS USED WITHIN THIS ORDINANCE; PROVIDING FOR A CERTIFICATE OF OCCUPANCY AND COMPLIANCE; AUTHORIZING PUBLICATION OF THE DESCRIPTIVE CAPTION AND PENALTY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS ($2,000.00) FOR EACH AND EVERY OFFENSE; PROVIDING A SAVINGS CLAUSE AND A REPEALER CLAUSE; AND PRESERVING RIGHTS IN PENDING LITIGATION REGARDING VIOLATIONS UNDER THE EXISTING ORDINANCE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS:

SECTION 1 ENACTING CLAUSE

THIS ORDINANCE IS HEREBY ENACTED AND ADOPTED AS THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF FORNEY, TEXAS. THE PREVIOUS ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 832, ADOPTED ON THE 3rd DAY OF MARCH, 1987, TOGETHER WITH ALL AMENDMENTS THERETO, IS HEREBY AMENDED, REPEALED AND REPLACED IN ITS ENTIRETY BY THIS ORDINANCE TO READ AS FOLLOWS:

SECTION 2 TITLE AND PURPOSE

This Ordinance shall be known and may be cited as the City of Forney’s “Comprehensive Zoning Ordinance” or “Zoning Ordinance”.
As authorized by Chapter 211 of the Texas Local Government Code, the zoning regulations and districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the public health, safety, morals and general welfare, and protecting and preserving places and areas of historical, cultural and/or architectural importance and significance within the City. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to ensure adequate light and air; to prevent the overcrowding of land and thus avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, wastewater treatment, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, for the character of each zoning district and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

SECTION 3 ZONING DISTRICT MAP

3.1 The City is hereby divided into zones, or districts, and the boundaries of zoning districts set out herein are delineated upon the Zoning District Map of the City, which may also be cited as the “Zoning Map”, said map being adopted as a part of this Ordinance as fully as if the same were set forth herein in detail.

3.2 One original of the Zoning District Map shall be filed in the office of the City Secretary and labeled as “Official Zoning Map of the City of Forney, Texas -- Ordinance No. 1085”. This copy shall be the official Zoning District Map and shall bear the signature of the Mayor, attested by the City Secretary, and shall bear the seal of the City under the following words: “This is to certify that this is the Official Zoning Map referred to in Section 3 of the Zoning Ordinance, Ordinance No. 1085 of the City of Forney, Texas, adopted on the 19th day of August, 2003”. This copy shall not be changed in any manner. In case of any question, this copy, together with amending ordinances, shall be controlling.

3.3 A copy of the official Zoning District Map shall be placed in the office of the City Manager, or his/her designee. The map copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments. Reproductions for informational purposes may only be made of the official Zoning District Map or this copy.

Any changes or amendments made to the zoning district boundaries shall be made on the map copy promptly after the amendment has been approved by the City Council, together with a descriptive entry on the map as follows:

“On the ___ the day of ____________, 20__, by official action of the City Council of Forney, Texas, the following change(s) was made on the City's official Zoning District Map: ___________________________(enter a brief description of the nature of the change), Ordinance No. _______, effective date __________, 20__.” Each descriptive entry for a Zoning Map amendment shall be signed by the Mayor and attested by the City Secretary.

3.4 In the event that the official Zoning Map becomes damaged, destroyed, lost or difficult to interpret due to age, exposure, or the nature or number of changes or additions, the City Council may adopt, by ordinance following a public hearing, a new official Zoning Map which shall replace and supersede the prior Zoning Map, but which shall not, in effect, amend or otherwise change the original official Zoning Map or any subsequent
amendment thereto. The new official Zoning Map shall bear the signature of the Mayor, attested by the City Secretary, and shall bear the seal of the City under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the original Official Zoning Map referred to in Section 3 of the Zoning Ordinance, Ordinance No. 1085 of the City of Forney, Texas, adopted on the 19th day of August, 2003”. Unless the prior official Zoning Map has been lost or has been totally destroyed, the prior Map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

SECTION 4 ZONING DISTRICT BOUNDARIES

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

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

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

C. Boundaries shown as approximately following City limits shall be construed as following such City limits.

D. Boundaries shown as following railroad lines shall be construed to be located along the centerline of the railroad right-of-way lines.

E. Boundaries shown as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline. Boundaries shown as approximately following the centerlines of streams, rivers, creeks, canals, bodies of water, or drainageways shall be construed to follow such centerlines, and in the event of change in any such centerlines shall be construed to move with such centerlines.

F. Boundaries shown as parallel to, or extensions of, features described in Subsections “A” through “E” above shall be so construed. Distances not specifically indicated on the Zoning District Map shall be determined by the scale of the Map.

G. Whenever any street, alley or other public way is vacated by official action of the City Council, or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley or other public way shall be automatically extended to the centerline of such vacated street, alley or public way (or to the new property ownership boundary line, if it is not determined to be at the former centerline) and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

H. The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street unless, as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street.
I. Where physical features on the ground are at variance with information shown on the Zoning District Map, or if there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of Subsections “A” through “H” above, then the Board of Adjustment shall interpret the zoning district boundaries.

J. If the zoning of property is invalidated by a judgment of a court of competent jurisdiction, the property shall be considered classified as “AG” (Agricultural district) in the same manner as provided for newly annexed territory.

K. Zoning changes which are still valid and which were made between the effective date of the previous Zoning Ordinance (Ordinance No. 832, as amended), adopted on March 3, 1987, and the effective date of this Ordinance are indicated in approximate locations on the Zoning District Map. For exact legal descriptions, refer to the adopting ordinances for each particular zoning change.

SECTION 5 COMPLIANCE REQUIRED AND APPLICATION OF REGULATIONS

5.1 All land, buildings, structures or appurtenances thereon located within the City of Forney, Texas which are hereafter occupied, used, constructed, erected, removed, placed, demolished, and/or converted shall be occupied, used, erected, altered, removed, placed, demolished and/or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located, as hereinafter provided, or such shall be subject to penalties as per Section 53 of this Ordinance. All of the standards and regulations prescribed herein shall be considered as the minimum requirement unless explicitly stated otherwise. The ownership or acquisition of property by the City of Forney, Texas for public purposes are hereby exempt from compliance with these zoning regulations.

5.2 No uses shall be allowed which are prohibited by State or Federal law or which operate in excess of State or Federal environmental, pollution or performance standards as determined by the U.S. Environmental Protection Agency (EPA), Texas Air Control Board (TACB), Texas State Department of Health (TSDH), Texas Natural Resource Conservation Commission (TNRCC), Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or any other applicable State or Federal agency, as the case may be.

5.3 No lot upon which a building has been erected shall later be so reduced in area that the setbacks, yards and/or open spaces shall be smaller than those required by this Ordinance, nor shall a part of a yard or other open space required by this Ordinance for any building/lot be included as a part of a yard or other open space similarly required for another building/lot.

5.4 Unless otherwise provided herein, no building shall hereafter be erected or altered:

1. To have more narrow or smaller front, side or rear yards than those required by this Ordinance;

2. To exceed the maximum height allowed by this Ordinance;
3. To occupy a greater percentage of lot area than allowed by this Ordinance; or

4. To accommodate or house a greater number of families than is specified within this Ordinance for the zoning district in which such building is located.

SECTION 6  ZONING UPON ANNEXATION

6.1 As soon as practical following annexation, but in no event more than one hundred and eighty (180) calendar days thereafter, the City Council shall, on its own motion or upon application by property owners of the annexed area, initiate proceedings to establish appropriate zoning on the newly annexed territory, thereupon the City Manager, or his/her designee, shall commence public notification and other standard procedures for zoning amendments as set forth in Section 10 of this Ordinance. Said proceedings to establish zoning may be undertaken concurrently with annexation procedures (i.e., notified at the same time, public hearings scheduled at the same time as annexation, etc.), however zoning approval and formal adoption of the ordinance establishing zoning must occur after annexation approval and adoption have occurred, and as a separate and distinct action by the City Council. For the period of time following official annexation by the City until a zoning action has been officially adopted to zone the land, the interim zoning of the land shall be considered to be Agricultural ("AG"), and all zoning and development regulations of the "AG" zoning district shall be adhered to with respect to development and use of the land that has been newly annexed. This interim "AG" zoning classification shall continue until the zoning of the property has been officially changed in accordance with Section 10 of this Ordinance.

6.2 The initial zoning of a land parcel, whether it is interim in nature, by initiation of the landowner or by initiation of the City, must meet the requirements for notification and public hearings as set forth in Section 10 of this Ordinance and all other applicable State laws.

6.3 The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of the petition for annexation, but no such annexation application may be made conditioned upon the approval of any particular zoning classification.

6.4 Within an area classified as "AG" (Agricultural):

A. No permit for the construction of a building or use of land shall be issued by the Building Official, or his/her designee, other than a permit which will allow the construction of a building or use permitted in the "AG" district, unless and until such territory has been classified in a zoning district other than the "AG" district by the City Council in the manner prescribed by Section 10, except as provided in Subsection "B" below.

B. If plans and preparations for developing a property for a use other than those specified in the "AG" district were already in progress prior to annexation of the property into the City of Forney, then the City Council may authorize construction of the project by a majority vote. Application of this subsection is contingent upon the following:
1. An application for a building permit for the proposed building or use must be made to the Building Official of the City of Forney (or his/her designee) within three (3) months (i.e., within 90 calendar days) after annexation of the property into the City; and

2. The applicant must be able to demonstrate that plans and other preparations for developing the property commenced prior to (i.e., were already in progress at the time of) annexation into the City.

In its deliberations concerning authorization to proceed with construction of a project which meets the above criteria, the City Council shall take into consideration the appropriate land use for the area as shown on the City's Future Land Use Plan. Upon approval by the City Council, the City Manager (or his/her designee) shall notify the Building Official (or his/her designee) of such approval.
II. ZONING PROCEDURES AND ADMINISTRATION

SECTION 7 NONCONFORMING USES AND STRUCTURES

7.1 INTENT OF PROVISIONS:

A. Within the districts established by this Ordinance or amendments thereto, there may exist lots, structures, uses of land and structures, and characteristics of use which were lawfully in existence and operating before this Ordinance was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not now conform to the regulations of the district in which they are located. It is the intent of this Ordinance to permit such nonconforming uses to continue, as long as the conditions within this Section and other applicable sections of the Ordinance are met.

B. It is further the intent of this Ordinance that nonconforming uses shall not be enlarged upon, expanded or extended, and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.

C. Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

7.2 NONCONFORMING STATUS:

A. Any use, platted lot or structure which does not conform with the regulations of this Zoning Ordinance on the effective date hereof or any amendment hereto, except as expressly provided in Subsection “C” below, shall be deemed a nonconforming use, platted lot or structure provided that:

1. Such use, platted lot or structure was in existence under and in compliance with the provisions of the immediately prior zoning ordinance; or

2. Such use, platted lot or structure was a lawful, nonconforming use, platted lot or structure under the immediately prior zoning ordinance; or

3. Such use, platted lot or structure was in existence at the time of annexation into the City, was a legal use of the land at such time, and has been in regular and continuous use since such time.

B. Any other use, platted lot or structure which does not conform with the regulations of the zoning district in which it is located on the effective date of this Ordinance or any amendment hereto, and except as provided in Subsection “C” below, shall be deemed to be in violation of this Ordinance, and the City shall be entitled to enforce fully the terms of this Ordinance with respect to such use, platted lot or structure.

C. The following types of platted lots shall be deemed in conformance with the provisions of this Ordinance, notwithstanding the fact that such lot does not meet the standards of this Ordinance in the district in which it is located:
1. Any vacant lot that conformed to the City’s zoning district regulations at the time that it was platted; or

2. Any lot occupied by a single-family dwelling authorized under the zoning district regulations in which the lot is located.

7.3 CONTINUING LAWFUL USE OF LAND AND STRUCTURES:

A. A nonconforming use or structure may continue to be used, operated or occupied in accordance with the terms of the zoning regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was created.

B. A nonconforming structure occupied by a nonconforming use may be re-occupied by a conforming use, following abandonment of the nonconforming use.

7.4 ABANDONMENT OF NONCONFORMING USES AND STRUCTURES, AND CESSATION OF USE OF STRUCTURE OR LAND:

A. If a nonconforming use or structure is abandoned, any future use of the premises shall be in conformity with the provisions of this Ordinance, as amended, and with any other applicable City codes or ordinances that are in effect at the time the use is resumed or the structure is re-occupied.

B. A nonconforming use or structure shall be deemed “abandoned” in the following circumstances:

1. The use ceases to operate for a continuous period of six (6) months (i.e., 180 calendar days);

2. The structure remains vacant for a continuous period of six (6) months (i.e., 180 calendar days); or

3. In the case of a temporary use, the use is moved from the premises for any length of time.

C. The use of a structure that has a replacement cost of one thousand dollars ($1,000.00) or less, which does not conform to the provisions of this Ordinance, or any amendment thereto, shall be discontinued and the structure removed within six (6) months (i.e., within 180 calendar days) following the effective date of this Ordinance, or amendment thereto.

D. If the use of any lot, tract or property that does not have a building on it and that is used for open/outside storage as of the effective date of this Ordinance (or amendment thereto) is made nonconforming by this Ordinance (or amendment thereto), then such storage use shall cease within six (6) months (i.e., 180 calendar days) following the effective date of this Ordinance (or amendment thereto). The lot, tract or property shall be cleaned up and all trash, debris, stored items and vehicles, and other materials shall be removed from the premises such that the property is not a physical or visual nuisance to the public or to surrounding property owners.
7.5 **CHANGING NONCONFORMING USES:**

A. A nonconforming use shall not be changed to another nonconforming use.

B. A nonconforming use may be changed to a conforming use provided that, once such change is made, the use shall not be changed back to a nonconforming use.

C. A conforming use located in a non-conforming structure may be changed to another conforming use, but shall not be changed to a nonconforming use.

7.6 **EXPANSION OF NONCONFORMING USES AND STRUCTURES:**

A. A nonconforming use may be extended throughout the structure in which it is located, provided that:

1. The structure or its premises shall not be enlarged or increased in height, in floor area or in land area to accommodate extension of the nonconforming use;

2. No alteration shall be made to the structure occupied by the nonconforming use, except those alterations that are required by law to preserve the integrity of the structure and alterations that would upgrade the quality, safety or aesthetic appeal of the structure; and

3. The number of dwelling units occupying the structure shall not exceed the number of dwelling units existing at the time the use became nonconforming.

B. A non-conforming use occupying a structure shall not be extended to occupy land outside the structure.

C. A nonconforming use or structure shall not be enlarged, increased or extended to occupy a greater area of land than was occupied at the time the use or structure became nonconforming, except to provide additional off-street parking or loading areas required by this Ordinance. A Special Exception may be granted under Section 9.6 (E) of this Ordinance.

7.7 **RECONSTRUCTION OR REPAIR OF NONCONFORMING STRUCTURE:**

A. If sixty percent (60%) or more of the total appraised value, as determined by the Kaufman County Appraisal District, of a nonconforming structure is destroyed by fire, the elements, or some other cause, then the structure may be rebuilt only in conformity with the standards of this Ordinance.

B. If less than sixty percent (60%) of the total appraised value, as determined by the Kaufman County Appraisal District, of a nonconforming structure is destroyed by fire, the elements, or some other cause, then the structure may be reconstructed as it was before the partial destruction but only to its original dimensions and floor area, and provided that such reconstruction is completed within one (1) year (i.e., 365 calendar days) following the event that caused the partial destruction. If reconstruction is delayed by contested insurance claims, litigation, or some other similar cause, then the one-year reconstruction period may be extended by the City Manager (or his/her designee).
C. If a nonconforming structure that is totally or partially destroyed was occupied by a nonconforming use at the time of such destruction, then the nonconforming use may be re-established subject to the limitations on expansion set forth in Subsection 7.6 above.

D. Any conforming structure that is totally or partially destroyed shall be reconstructed only in conformity with the standards of this Ordinance.

E. Nothing in this Ordinance shall be construed to prohibit the upgrading, strengthening, repair or maintenance of any part of any structure, conforming or nonconforming, that is declared unsafe or uninhabitable by the proper authority, unless such repairs or maintenance exceeds fifty percent (50%) of the structure’s appraised value, as determined by the Kaufman County Appraisal District.

7.8 MOVING OF NONCONFORMING STRUCTURE:

A. No nonconforming structure or building shall be moved in whole or in part to any other location on the lot, or to any other location or lot, unless every portion of such structure is in compliance with all the regulations of the zoning district wherein the structure is to be relocated. Such building relocation shall also require a structure relocation permit from the City, and may also require platting of the intended building site pursuant to the City’s Subdivision Ordinance as well as site plan approval per Section 12 of this Ordinance.

7.9 NONCONFORMING LOTS:

A. Nothing in this Ordinance shall be construed to prohibit the use of a lot that does not meet the minimum lot standards of the zoning district in which it is located, provided that the lot is zoned for the land use(s) intended and the lot was platted as a lot of record prior to the effective date of this Ordinance.

7.10 RIGHT TO PROCEED PRESERVED:

A. Nothing contained in this Section 7 is intended to alter any rights that may have accrued to proceed under prior regulations, pursuant to Texas Local Government Code Section 43.002, or Sections 245.001 to 245.006.

SECTION 8 PLANNING AND ZONING COMMISSION

8.1 GENERAL:

The Planning and Zoning Commission (also referred to as the “Commission”) shall function according to the following criteria which establish membership and operating procedures. The powers and duties of the Planning and Zoning Commission are further defined in Section 10 of this Ordinance and in the Code of Ordinances of the City of Forney.

8.2 CREATED; MEMBERSHIP; OFFICERS; RULES & BYLAWS:
A. There is created, in accordance with Chapter 211 of the Texas Local Government Code, the "Planning and Zoning Commission", hereafter sometimes referred to as the "Commission", which shall consist of seven (7) members who are resident citizens, taxpayers and qualified voters of the City of Forney.

B. Members shall be nominated for appointment by the Mayor or by a Council member of the City of Forney, and each person so nominated shall be approved by a simple majority vote of the full City Council before becoming a member of the Commission.

C. Commission members shall serve for a term of two (2) years, and expiration of terms shall be staggered so that an overlapping of terms occurs (for example, the terms of five members shall expire in the odd-numbered years, and the terms of four members shall expire in the even-numbered years – see Chapter 12, Section 1.A.(1) in the City Code of Ordinances). The City Council may remove or replace any Commission member after a public hearing and for cause assigned in writing by a simple majority vote of the full Council.

D. Any vacancy(s) on the Commission shall be filled via appointment by a simple majority vote of the full City Council.

E. Members of the Planning and Zoning Commission may be removed from office at any time by a simple majority vote of the full City Council either upon its own motion or upon recommendation of the Planning and Zoning Commission. Failure to attend three (3) consecutive regular meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control such as sickness of the member or someone within the member's immediate family.

F. The members of the Commission shall regularly attend meetings and public hearings of the Commission, shall serve without compensation, and shall not hold any other office or position with the City while serving on the Commission. The Commission shall meet a minimum of once per month on the first Thursday of each month.

G. The Planning & Zoning Commission shall appoint a Chairperson and a Vice-Chairperson from among its membership, and each officer shall hold office for two (2) years or until replaced by a simple majority vote of the full City Council. The City Manager's designee shall serve as Secretary to the Commission, and shall keep minutes of all meetings held by the Planning and Zoning Commission as well as the full record of all recommendations made by the Commission to the City Council.

H. The Commission shall have the power to make rules, regulations and bylaws for its own governance, which shall conform with those set forth by the City Council, and such rules, regulations and bylaws shall be subject to approval by the City Council. Such rules and bylaws shall include, among other items, provisions for:

1. Regular and special meetings, open to the public;

2. A record of its proceedings, to be open for inspection by the public;

3. Reporting to the governing body and the public, from time to time and annually; and
4. Rules of order and the holding of public hearings on its recommendations.

8.3 PARLIAMENTARY PROCEDURE; QUORUM; VOTING:

A. The Commission will follow the parliamentary procedure adopted by the City Council, and procedures shall not be in conflict with the laws applicable to the Commission on the following:

1. Quorum - A quorum shall consist of a majority of the membership of the Commission, and any issue to be voted upon shall be resolved by a majority of those members present.

2. Voting - All Commission members, including the presiding Chairperson, shall be entitled to one vote each upon any question, a quorum being present.

3. Conflict of Interest - If any member has a conflict of interest regarding any item on the Commission's agenda, he/she shall remove himself/herself from the room and shall refrain from voting only on the item for which a conflict exists.

8.4 MEETINGS; PUBLIC RECORD:

A. The Planning and Zoning Commission shall meet in the City Hall building or in some other specified location as may be designated by the presiding Chairperson, and at such intervals as may be necessary to orderly and properly transact the business of the Commission but not less than once each month.

B. Meetings shall be open to the public, and minutes shall be kept and shall be treated as public record.

8.5 ESTABLISHING EXTRATERRITORIAL JURISDICTION:

A. Statutes of the State of Texas authorizing and empowering cities to regulate the platting and recording of subdivisions or additions within the City’s corporate limits and to establish extraterritorial jurisdiction are hereby adopted, and the Commission, acting through its duly authorized officials, shall have all the rights, powers, privileges and authority authorized and granted by and through said statutes pertaining to regulation of subdivisions in the City’s limits and extraterritorial jurisdiction.

8.6 POWERS AND DUTIES:

A. The Commission shall have all the rights, powers, privileges and authority authorized and granted by and through the Statutes of the State of Texas authorizing and granting cities the power of zoning and subdivision regulation as found in Chapters 211 and 212 of the Texas Local Government Code, as amended.

B. The Planning and Zoning Commission shall be an advisory body and adjunct to the City Council, and shall make recommendations regarding amendments to the Comprehensive Plan, changes of zoning for real property, Zoning and Subdivision Ordinance amendments, zoning to be given to newly annexed areas, approval of plats of subdivisions, and other planning-related matters. The Planning and Zoning
Commission shall conduct an annual review of the City's Comprehensive Plan and shall be prepared to make recommendations to the City Council, as deemed necessary, to keep the City's Comprehensive Plan current with changing conditions and trends and with the planning needs of the City. The Planning and Zoning Commission shall also serve in an advisory capacity on any other planning-related matter(s) in the City.

8.7 PROCEDURE ON ZONING HEARINGS:

A. The procedure and process for zoning changes and Zoning Ordinance amendments shall be in accordance with Section 10 of this Ordinance.

8.8 JOINT MEETINGS WITH THE CITY COUNCIL:

A. Whenever the City Council and the Planning and Zoning Commission are required by the laws of the State of Texas to conduct public hearings in matters pertaining to planning, zoning or subdividing property, and at other times when it is in the best interest of the City to do so, the City Council and the Planning and Zoning Commission are hereby authorized, after published notice as required by law, to hold joint meetings and to conduct joint public hearings.

SECTION 9 BOARD OF ADJUSTMENT (BOA)

9.1 CREATION:

A. There is hereby created a Board of Adjustment (BOA), hereafter referred to as the "Board", for the purpose, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of this Ordinance that are consistent with the general purpose and intent of this Ordinance. The Board shall be composed of members who are resident citizens, taxpayers and qualified voters of the City of Forney.

9.2 MEMBERS; TERMS OF OFFICE:

A. The Board of Adjustments shall consist of five (5) regular members, who shall be appointed by a simple majority vote of the full City Council, and shall operate in accordance with Sections 211.008 through 211.011 of the Texas Local Government Code, as amended.

B. The City Council shall provide for the appointment of up to four (4) alternate members to serve in the absence of one or more of the regular Board members on an alternating basis such that all alternate members have equal opportunities to serve on the Board.

C. Regular Board members and alternate members shall serve for a term of two (2) years, and expiration of terms shall be staggered so that an overlapping of terms occurs (for example, the terms of three regular members and at least one alternate member shall expire in the odd-numbered years, and the terms of two regular members and at least one alternate member shall expire in the even-numbered years).
D. Any vacancy(s) on the Board (both regular and alternate members) shall be filled for the unexpired term(s) via appointment by a simple majority vote of the full City Council for the remainder of the term(s).

E. Members of the Board may be removed from office for cause on written charge, and after a public hearing, by a simple majority vote of the full City Council. Failure to attend three (3) consecutive scheduled meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member’s control such as sickness of the member or someone within the member’s immediate family.

F. The members of the Board (and alternate members, as needed) shall regularly attend meetings and public hearings of the Board, shall serve without compensation, and shall not hold any other office or position with the City while serving on the Board.

G. The Board of Adjustment shall elect a Chairperson and a Vice-Chairperson from among its membership, and each officer shall hold office for two (2) years or until replaced by a simple majority vote of the full Board. The City Manager’s designee shall serve as Secretary to the Board of Adjustment, and shall keep minutes of all meetings held by the Board. The Secretary shall also set up and maintain a separate file for each application for hearing by the Board, and shall record therein the names and addresses of all persons/entities to whom notices are mailed, including the date of mailing and the person by whom such notices were delivered to the Post Office. All records and files herein provided for shall be permanent and official records of the City of Forney. The Secretary shall also immediately notify in writing the City Council, Planning and Zoning Commission, and the City Building Official of each decision rendered by the Board in the conduct of its duties.

H. The Board of Adjustment shall have the power to make the rules, regulations and bylaws for its own government, which shall conform as nearly as possible with those governing the City Council, and the Board’s rules, regulations and bylaws shall be subject to approval by City Council.

9.3 MEETINGS:

A. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board may determine. All meetings of the Board shall be open to the public, and minutes shall be kept of all proceedings at Board meetings. Four (4) members of the Board shall constitute a quorum for the conduct of business. All cases to be heard by the Board of Adjustments shall always be heard by at least seventy-five percent (75%) of the members, which constitutes four (4) members.

9.4 AUTHORITY OF BOARD OF ADJUSTMENT:

A. The Board of Adjustment shall have the authority, subject to the standards established in Sections 211.008 through 211.011 of the Texas Local Government Code and those established herein, to exercise powers and to perform duties including the following:
1. Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance;

2. Authorize, in specific cases, a variance (see Section 9.6) from the terms of this Ordinance if the variance is not contrary to the public interest and if, due to special conditions, a literal enforcement of the Ordinance would result in unnecessary hardship, and so that the spirit of this Ordinance is observed and substantial justice is done; and

3. Make interpretations on zoning district boundaries shown on the Zoning Map where uncertainty exists because physical features on the ground differ from those on the Zoning Map or where the rules in Section 5 of this Ordinance (Zoning District Boundaries) do not apply or are ambiguous.

B. In exercising its authority under Subsection A.1 above, the Board of Adjustment may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the administrative official.

C. The concurring vote of at least seventy-five percent (75%), which shall be defined as four (4) members, of the full Board of Adjustment is necessary to:

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

2. Decide in favor of an applicant on a matter on which the Board is required to review under this Zoning Ordinance;

3. Authorize a variance from a provision of this Zoning Ordinance; or

4. Hear and decide special exceptions to a provision of this Zoning Ordinance (see Section 9.6E.).

9.5 LIMITATIONS ON AUTHORITY OF BOARD OF ADJUSTMENT:

A. The Board of Adjustment may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought, except as provided in Section 9.6.

B. The Board of Adjustment shall have no power to grant or modify Conditional Use Provisions authorized under Section 34b of these regulations.

C. The Board of Adjustment shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment by the Commission and the City Council.
D. The Board of Adjustment shall not grant a variance for any parcel of property or portion thereof upon which a site plan, preliminary plat or final plat, where required, is pending on the agenda of the Planning and Zoning Commission and, where applicable, by the City Council. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the Board of Adjustment.

9.6 VARIANCES AND SPECIAL EXCEPTIONS:

A. The Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. For example, if the subject property substantially differs from other similarly zoned land parcels by being of such restricted area, shape or slope that it cannot reasonably be developed in the same manner as other similarly zoned land parcels, then a variance of the building setback, lot width or depth, parking requirement, or other development standard may be warranted. In granting a variance, the Board shall prescribe only conditions that it deems necessary for, or desirable to, the public interest. In making the findings herein below required, the Board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work within the proposed use, and the probable effect such variance will have upon traffic conditions and upon the public health, safety, convenience and welfare of the community.

B. Conditions Required for Variance - No variance shall be granted without first having given public notice and having held a public hearing on the variance request in accordance with Section 9.8 of this Ordinance and unless the Board of Adjustment finds:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his/her land; and

2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

3. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and

4. That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Ordinance; and

5. That a finding of undue hardship exists (see Section 9.6C below).

Such findings of the Board of Adjustment, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Board of Adjustment meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and that substantial justice may be done.
C. **Findings of Undue Hardship** - In order to grant a variance, the Board of Adjustment must make written findings that an undue hardship exists, using the following criteria:

1. That literal enforcement of the controls will create an unnecessary hardship in the development of the affected property; and  
2. That the situation causing the hardship or difficulty is neither financial in nature, self-imposed nor generally affecting all or most properties in the same zoning district; and  
3. That the relief sought will not injure the permitted use of adjacent conforming property; and  
4. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.

D. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely upon economic gain or loss, nor shall it permit any person the privilege in developing a parcel of land not permitted by this Ordinance to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.

E. **Special Exceptions for Nonconforming Uses and Structures** - Upon written request of the property owner, the Board may grant special exceptions to the provisions of Section 7 of this Ordinance, limited to the following, and in accordance with the following standards:

1. Expansion of the land area of a nonconforming use, up to a maximum of ten (10) percent; or  
2. Expansion of the gross floor area of a nonconforming structure, up to a maximum of ten (10) percent, provided that such expansion does not decrease any existing setback and does not encroach onto adjacent property; or  
3. Change from one nonconforming use to another, re-construction of a nonconforming structure that has been totally destroyed, or resumption of a nonconforming use previously abandoned, only upon finding that the failure to grant the special exception deprives the property owner of substantially all use or economic value of the land.  
4. In granting special exceptions under this Subsection, the Board may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare, including but not limited to conditions specifying the period during which the nonconforming use may continue to operate or exist before being brought into conformance with the standards of the Zoning Ordinance.  
5. For existing single-family and duplex structures that were constructed prior to the effective date of this Ordinance, the Board of Adjustment may authorize a special exception for any structure that was constructed over a setback line established by this Ordinance.
6. The Board of Adjustment may authorize a special exception for the reconstruction and occupancy of a nonconforming structure, or a structure containing a nonconforming use and/or the restoration of a building site that is nonconforming as to development standards (including, but not limited to, parking arrangement, landscaping, etc.), when a structure has been damaged by fire or other cause to the extent of more than sixty percent (60%), but less than the total, of the appraised value of the structure, as determined from the records of the Kaufman County Appraisal District, as of the date of the damage. Such action by the Board of Adjustment shall have due regard for the property rights of the person or persons affected, and shall be considered in regard to the public welfare, character of the area surrounding such structure, and the conservation, preservation and protection of property.

7. The Board of Adjustment may authorize a special exception for the enlargement, expansion or repair of a nonconforming structure if such enlargement, expansion or repair will improve the condition of the structure, if it will bring the structure closer into compliance with this Ordinance, or if it will otherwise improve or enhance public health, safety or welfare.

8. Special Exceptions in the Downtown Area - Upon written request of the property owner, the Board of Adjustment may authorize a special exception to any provision in this Ordinance for any existing nonconforming property or structure within the City’s historic downtown area.

9. Special Exceptions for Residential Expansions – Upon written request of the property owner, the Board of Adjustment may authorize a special exception for an expansion greater than ten percent (10%) of the gross floor area of a nonconforming residential structure. In addition to the design guidelines included in the underlying Zoning Ordinance or Base Zoning District for the subject property, the Board of Adjustment shall consider the following in determining the appropriateness of architectural features and the granting, modification, or denial of a requested special exception:

1. The exterior architectural features which are subject to public view from a public street, way, or place;
2. The general design, arrangement, texture, material, color, and fenestration of the proposed building or structure and the relation of such factors to similar features of buildings or structures in the immediate vicinity of the structure in question;
3. The extent to which the building or structure would be harmonious, with or architecturally compatible with other buildings in the surrounding area;
4. The age of the building or structure should be considered in determining the necessity of a special exception;
5. The extent to which the building or structure will preserve or protect the historic and architectural integrity of the surrounding area; and
6. The use of materials that are original or comparable quality to the main structure and the surrounding area.
7. Requests for properties located within the Historic Overlay Zone shall be considered by the Architectural Review Board."
F. **Alternative Landscaping Plan** - The Board of Adjustment may approve an alternative landscaping plan that modifies the minimum requirements of Section 39.6 if it finds that the alternative landscaping proposed is sufficient to meet the spirit and intent of Section 39.6; the alternative landscaping proposed better serves a legitimate “public good” purpose (such as better screening or buffering between uses, increased opportunity to preserve valuable existing trees, etc.) or it grants relief for a property owner in unusual circumstances (such as reconstruction of a building that has been destroyed); and there will be no adverse effect on neighboring properties or inequity created for similarly zoned properties within the City.

9.7 **APPEALS TO THE BOARD OF ADJUSTMENT:**

A. **Authority** - In addition to the authorization of variances and special exceptions from the terms of this Ordinance, the Board of Adjustment shall have the authority to hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance. The Board of Adjustment may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose, the Board of Adjustment has the same authority as the administrative official. The Board of Adjustment may also hear and decide other matters authorized by the Subdivision Ordinance and other City ordinances regarding land use and development regulations.

B. **Who May Appeal** - Any of the following persons may appeal to the Board of Adjustment a decision made by an administrative official:

1. A person directly aggrieved by the decision; or
2. Any officer, department, board or office of the City affected by the decision.

C. **Procedure for Appeal** - The appellant must file with the Board of Adjustment and the official from whom the appeal is taken a written Notice of Appeal specifying the grounds for the appeal. The Notice of Appeal shall be filed within fifteen (15) calendar days after the decision has been rendered. Upon receiving the Notice, the official from whom the appeal is taken shall immediately transmit to the Board of Adjustment all papers constituting the record of action that is appealed. An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the Board of Adjustment facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the Board of Adjustment or a court of record on application, after notice to the official, if due cause is shown. The appellant party may appear at the appeal hearing in person or by agent or attorney. The Board shall decide the appeal within forty-five (45) calendar days after the written request (i.e., Notice of Appeal) was received. The Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.

D. A member of the City Council may not bring an appeal to the Board.
9.8 PROCEDURES:

A. Application and Fee - An application for a variance or a special exception to be heard by the Board of Adjustment, or for an appeal to the Board, shall be made in writing using forms prescribed by the City, and shall be accompanied by an application fee (as set forth in Ordinance No. 972), a site plan, and any other additional information as may be requested in order to properly review the application. Such information may include, but is not limited to, plat plans, site building plans, photographs, topographic contour maps, and other similar documents. All drawings must be to scale.

B. Review and Report by the City - The City Manager, or his/her designee, shall visit the site where the proposed variance or special exception will apply and the surrounding area, and shall report his/her findings to the Board of Adjustment.

C. Notice and Public Hearing - The Board of Adjustment shall hold a public hearing for consideration of the variance or special exception request no later than forty-five (45) calendar days after the date the application for action, or an appeal, is filed. Written notice of the public hearing for a variance or special exception shall be provided to all property owners, via U.S. mail, within two hundred feet (200') of the affected property at least ten (10) calendar days prior to the public hearing. Notice shall also be published in the official local newspaper before the fifteenth (15th) calendar day prior to the public hearing.

D. Action by the Board of Adjustment - The Board of Adjustment shall not grant a variance unless it finds, based upon compelling evidence provided by the applicant, that each of the conditions in Section 9.6 has been satisfied. The Board of Adjustment may impose such conditions, limitations and safeguards as it deems appropriate upon the granting of any variance or special exception as are necessary to protect the public health, safety, convenience and welfare. Violation of any such condition, limitation or safeguard shall constitute a violation of this Ordinance.

E. Burden of Proof - The applicant bears the burden of proof in establishing the facts that may justify a variance, a special exception, an appeal, or any other action in his/her favor by the Board.

F. Waiting Period - No appeal to the Board for the same or a related variance or special exception on the same piece of property shall be allowed for a waiting period of six (6) months (i.e., 180 calendar days) following an unfavorable ruling by the Board unless other property in the immediate vicinity has, within the six-month waiting period, been changed or acted upon by the Board or the City Council so as to alter the facts and conditions upon which the previous unfavorable Board action was based. Such changes of circumstances shall permit the re-hearing of a variance or special exception request by the Board, but such circumstances shall in no way have any force in law to compel the Board, after a hearing on the matter, to grant a subsequent variance or special exception request. Any subsequent variance or special exception request shall be considered entirely on its own merits and on the specific circumstances related to the subject property.
G. **Timeliness of Application for Building Permit or Certificate of Occupancy** – Upon a favorable Board action on a variance or special exception request, the applicant shall apply for a building permit or a certificate of occupancy, as applicable to his/her particular situation, within three (3) months (i.e., 90 calendar days) following the date of Board action, unless the Board specifies a longer time period in the minutes of its action. If the applicant fails to apply for a building permit or certificate of occupancy, as applicable, within the three-month time frame, then the variance or special exception shall be deemed to have been waived, and all rights there under shall be terminated. Such termination and waiver shall be without prejudice to a subsequent appeal, and such subsequent appeal shall be subject to the same regulations and requirements for hearing as herein specified for the original variance or special exception request.

9.9 **FINALITY OF DECISIONS; JUDICIAL REVIEW:**

A. All decisions of the Board of Adjustment are final and binding. However, any person aggrieved by a decision of the Board of Adjustment may present a verified petition to a court of record which states that the decision of the Board is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition must be presented within ten (10) calendar days after the date the Board’s decision is filed in the City Secretary’s office. Subject to the provisions of Chapter 211.011 of the Texas Local Government Code, only a court of record may reverse, affirm or modify a decision of the Board of Adjustment.

**SECTION 10 AMENDMENTS TO ZONING ORDINANCE AND DISTRICTS, ADMINISTRATIVE PROCEDURES, AND ENFORCEMENT**

10.1 **DECLARATION OF POLICY AND REVIEW CRITERIA:**

A. The City declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

1. To correct any error in the regulations or map;

2. To recognize changed or changing conditions or circumstances in a particular locality;

3. To recognize changes in technology, the style of living, or manner of conducting business; or

4. To change the property to uses in accordance with the City’s adopted Comprehensive Plan.

B. In making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council shall consider the following factors:
1. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the City as a whole;

2. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;

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

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

5. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved; and

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

10.2 AUTHORITY TO AMEND ORDINANCE:

A. The City Council may from time to time, after receiving a recommendation thereon by the Planning and Zoning Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning Map. Any amendment to the Zoning Ordinance text or to zoning district boundaries may be ordered for consideration by the City Council, may be initiated by the Planning and Zoning Commission, or may be requested by the owner of real property (or his/her authorized representative).

B. Consideration for a change in any zoning district boundary line or special zoning regulation may be initiated only by the property owner or his/her authorized agent (proof of such authorization must be submitted with the zoning application, per Section 10.3), or by the Planning and Zoning Commission or the City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown in City records are different, the applicant shall submit proof of ownership and verification that he/she is acting as an authorized agent for the property owner.

C. No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the City of Forney, and which are directly attributable to a piece of property requested for zoning shall be allowed to submit a zoning request until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof to the City of Forney shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, fees, etc. have been paid or that other arrangements satisfactory to the City have been made for payment of said taxes, fees, etc.
10.3 APPLICATION:

A. Each application for zoning, rezoning, Conditional Use Provision (CUP), or for a text amendment to a provision(s) of this Zoning Ordinance, shall be made in writing on an application form available in the City Secretary’s office. The application shall be delivered to the City at least thirty (30) calendar days prior to the date of the public hearing before the Planning and Zoning Commission, and shall be accompanied by payment of the appropriate fee as established in Ordinance No. 950. An accurate metes and bounds description of the subject property (or other suitable legal description), a survey (i.e., drawing) exhibit, and other appropriate exhibits (i.e., site plans, maps, architectural elevations, information about proposed uses, etc.) that are determined necessary by the City Manager, or his/her designee, shall also be submitted with the zoning application in order to ensure that the request is understood. A concept plan, as prescribed in Section 12 of this Ordinance, shall also be submitted along with any zoning request involving a Conditional Use Provision (CUP) request or the formation of a Planned Development (PD) district.

B. All zoning change requests involving real property (including PD and CUP requests) shall be accompanied by a notarized statement verifying land ownership and, if applicable, authorization of land owner’s agent to file the zoning change request.

C. Official Submission Date and Completeness of Application:

1. For the purpose of these regulations, the “official submission date” shall be the date upon which a complete application for a zoning change request (that contains all elements and information required by this Ordinance) is submitted to the City Manager (or his/her designee). No application shall be deemed officially submitted until the City Manager (or his/her designee) determines that the application is complete and a fee receipt is issued by the City. Failure by the City Manager (or his/her designee) to make a determination of incompleteness within ten (10) calendar days following the date on which the application was first received by the City, shall result in the application being deemed complete, and the “official submission date” shall become the 10th calendar day following initial receipt of the application by the City.

2. Zoning applications which do not include all required information and materials (as outlined above and per other City development review policies) will be considered incomplete, shall not be accepted for official submission by the City, and shall not be scheduled on a Planning and Zoning Commission agenda until the proper information is provided to City staff.

10.4 NOTICE OF PUBLIC HEARING:

A. For zoning and rezoning requests involving real property (including PD and CUP requests), the Planning and Zoning Commission shall hold at least one public hearing on each zoning application, as per applicable State law (Texas Local Government Code Chapter 211, as amended). For proposed changes to zoning district boundaries (including rezoning requests), notice of the public hearing to occur before the Planning and Zoning Commission shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the City before the fifteenth (15th) calendar day prior to the date of the public hearing. Written
notice of the public hearing shall also be sent to all owners of property, as indicated by the most recently approved City tax roll, that is located within the area of application and within two hundred feet (200') of any property affected thereby, said written notice to be sent before the tenth (10th) calendar day prior to the date such hearing is held. Such notice may be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, postage paid, in the United States mail.

B. For requests involving proposed changes to the text of the Zoning Ordinance, notice of the Planning and Zoning Commission hearing shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the City before the fifteenth (15th) calendar day prior to the date of the public hearing. Changes in the Ordinance text which do not change zoning district boundaries (i.e., which do not involve specific real property) do not require written notification to individual property owners.

C. The City Council may, at its option, establish additional rules and procedures for public notification of proposed zoning changes and development proposals (e.g., site plans, plats, etc.) which may include, but not be limited to, the posting of a sign(s) on any property that is proposed for a zoning change or development by the applicant or its agent(s). Knowledge of and adherence to such rules and procedures, if so established by the City Council, shall be the responsibility of the applicant and shall be required as part of a zoning change or development application.

10.5 FAILURE TO APPEAR:

A. Failure of the applicant or his/her authorized representative to appear before the Planning and Zoning Commission or the City Council for more than one (1) hearing shall constitute sufficient grounds for the Planning and Zoning Commission or the City Council, at that body’s option, to table or deny the application. Such tabling or denial shall not entitle the applicant to any refund of fees paid for consideration of his/her application, unless such refund is requested in writing and is expressly granted by the Commission or City Council at the time of tabling or denial of the application.

10.6 PLANNING AND ZONING COMMISSION CONSIDERATION AND RECOMMENDATION:

A. The Planning and Zoning Commission shall function in accordance with Section 8 of this Ordinance and with applicable provisions in Chapter 12, Section 1 of the City’s Code of Ordinances.

B. The Commission shall hold a public hearing on a zoning or rezoning request (including a PD or CUP request, and also including a proposed text amendment to the Zoning Ordinance). After all public input has been received and the public hearing closed, the Commission shall make its recommendations on the proposed zoning request and concept plan (if submitted) stating its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the City’s Comprehensive Plan. The Planning and Zoning Commission may, on its own motion or at the applicant’s request, defer its decision/recommendation (i.e., table the request) for not more than ninety (90) calendar days from the time the
public hearing was first opened, or until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the Commission elects to table the request, such tabling shall specifically state the time period of the tabling by citing the meeting date whereon the request will reappear on the Commission’s agenda, and further notice in the newspaper and to surrounding property owners shall not be required.

C. When the Commission is ready to act upon the zoning request, it may recommend approval of the request as it was submitted by the applicant, approval of the request subject to certain conditions (i.e., as in the case of a Planned Development district or a Conditional Use Provision), or disapproval of the request. If the Commission’s recommendation is to approve the request (either as submitted or with additional conditions), then the request will be automatically forwarded to the City Council for a second public hearing thereon (see Section 10.7).

D. If the Planning and Zoning Commission recommends denial of the zoning change request, it shall provide reasons to the applicant for the denial, if requested by the applicant. The Planning and Zoning Chairperson shall inform the applicant of the right to receive reasons for the denial.

10.7 CITY COUNCIL CONSIDERATION:

A. Applications Forwarded from the Planning and Zoning Commission to the City Council - Every zoning application which is recommended for approval (or approval with conditions) by the Planning and Zoning Commission shall be automatically forwarded (along with the Commission’s favorable recommendation) to the City Council for setting and holding of a second public hearing thereon following appropriate public hearing notification by publication as prescribed in Section 10.4B above. The City Council may then approve the request, approve it with conditions, or disapprove it (i.e., against the Commission’s recommendation) by a simple majority vote of the Council members present and voting. An application which is recommended by the Planning and Zoning Commission for denial shall not be forwarded to the City Council unless the applicant files a written appeal with the City Secretary within ten (10) calendar days after the Commission’s decision. Said appeal will, in that instance, be forwarded to the City Council along with the Commission’s reasons for denial of the request. The appeal shall be scheduled for the next possible City Council agenda, following appropriate public notification by publication as prescribed in Section 10.4B above. Ultimate approval of any zoning request which was recommended for denial by the Planning and Zoning Commission will require a three-fourths (3/4) majority vote of the full City Council. No zoning change, however, shall become effective until after the adoption of an ordinance by the City Council for same and publication of its descriptive caption as required by law.

B. City Council Action on Zoning, Rezoning or Text Amendment Requests - After a public hearing is held before the City Council regarding the zoning application, the City Council may approve the request in whole or in part, deny the request in whole or in part, table the application to a future meeting (and specifically citing the City Council meeting to which it is tabled), or it may refer the application back to the Planning and Zoning Commission for further study.
1. If the City Council approves the request, then Subsection 10.7.F will apply.

2. If the City Council denies the request, then no other zoning application may be filed for all or part of the subject tract of land (or for that portion of the Zoning Ordinance, in the case of a text amendment request submitted by a property owner or citizen) for a waiting period of one (1) year following the denial. In the instance that the request was initiated by the City and involved a proposed amendment to the text of the Zoning Ordinance, then there is no waiting period before the request can be reconsidered.

   a. The City Council may, at its option and upon receiving written request from the property owner, waive the one-year waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.

C. **Notice of the City Council Hearing for Zoning Changes** - Notice of the City Council public hearing for a zoning, rezoning or Zoning Ordinance text amendment request shall be given in the manner provided for in Subsection 10.4B pertaining to publication in the City's newspaper.

D. **Protests** – For zoning and rezoning requests involving real property (including PD and CUP requests), a favorable vote of three-fourths (3/4) of all members of the full City Council shall be required to approve any change in zoning when written objections are received by the City Secretary prior to or during the public hearing from the owners of at least twenty percent (20%) of the land area covered by the proposed change, or of the land area within two hundred feet (200') of the subject property, in accordance with the provisions of Section 211.006 of the Texas Local Government Code (commonly referred to as the “20% rule”).

E. **Joint Public Hearings** – The City Council may hold a joint public hearing on a zoning, rezoning or Zoning Ordinance text amendment request along with the Planning and Zoning Commission, but the City Council shall not take action on the request until it has received a final recommendation from the Commission. Notification for the City Council’s public hearing, whether held separately or jointly with the Commission, may be accomplished simultaneously with the public notification given for the public hearing to be held before the Planning and Zoning Commission (this is sometimes referred to as “double notification”).

F. **Final Approval and Ordinance Adoption** - Upon approval of the zoning request (and concept plan, in the case of a PD or CUP request) by the City Council, the applicant shall submit all related material with revisions, if necessary, to the City Manager (or his/her designee) for the preparation of the amending ordinance. The zoning request shall be deemed approved at the time the City Council makes a decision to approve the request as submitted or with certain conditions. However, the amending ordinance will not be prepared for adoption until a correct description and all required exhibits have been submitted to the City Manager, or his/her designee, and the amending ordinance shall not be formally adopted (i.e., effective)
10.8 ADMINISTRATION AND ENFORCEMENT:

A. The City Manager (or his/her designee, such as the City’s Building Official), shall be authorized by the City Council to administer and enforce the provisions of this Ordinance. If the City Manager (or his/her designee) finds upon his/her own personal observation, or upon receipt of a complaint, that the provisions of this Ordinance are being violated, he/she shall immediately investigate and, when necessary, give written notice to the person(s) responsible to cease or correct such violation(s) immediately. Notice may be delivered in person or by certified mail to the violator(s) or to any person owning or leasing a property where the violation is occurring. The City Manager (or his/her designee) shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this Ordinance.

B. Stop Work Orders – Whenever any building or construction work is being done contrary to the provisions of this Ordinance, the City Manager (or his/her designee) shall have the authority to order the work stopped by notice in writing served on the property owner or the contractor doing the work or causing such work to be done, and any such person shall forthwith stop such work until authorized in writing by the City to proceed with such work. Failure to immediately stop work as provided herein shall constitute a violation of this Ordinance, in accordance with Section 53 (Penalty for Violations), and may incur penalties for such violation.

10.9 SCHEDULE OF FEES, CHARGES AND EXPENSES:

A. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any zoning or development application or on any appeal.

B. The City Council, upon the recommendation of the Planning and Zoning Commission, shall determine and adopt a fee schedule for the purpose of recovering a portion of the administrative costs associated with processing zoning and development requests, including public hearings that are called for in this Ordinance (see Ordinance No. 950 for the City’s filing fee schedule). Such fees shall be paid by the applicant and shall not be designed to in any way restrict the applicant’s ability to seek and receive a hearing or to generate revenue for other than recovery of actual administrative costs incurred by the City in the review and processing of applications. Immediately upon receipt of a complete submission for a zoning change or other development plan approval (in accordance with Subsection 10.3C above), the City Secretary (or his/her designee) shall issue a fee receipt and shall create a case file as a permanent City record thereof.

SECTION 11 BUILDING PERMITS; CERTIFICATES OF OCCUPANCY AND COMPLIANCE

11.1 BUILDING PERMITS REQUIRED:
A. No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the City of Forney’s Building Official (or his/her designee). A building permit shall not be issued except in conformity with the provisions of this Ordinance, unless otherwise authorized by the Board of Adjustment in the form of a variance or special exception as provided in Subsection 9.6 of this Ordinance. A building permit shall not be issued until the property is properly zoned for the intended use, until the property is platted in accordance with the Subdivision Ordinance, nor until all appropriate plans have been approved by the City (including, but not limited to, a final plat, a detailed plot plan, a final site plan, landscaping and façade plans, building structural plans, etc.).

11.2 CANCELLATION OF BUILDING PERMIT:

A. Failure of an applicant or any of his/her agents, representatives or contractors to erect, construct, reconstruct, alter, use or maintain any building, structure or premises in conformance with the approved plans upon which a building permit was issued, when such failure constitutes a violation of any provision of this Ordinance, shall render such building permit void, and the Building Official (or his/her designee) is hereby authorized and directed to revoke any such permit by giving written notice to the applicant or his/her agent or representative, and all work upon such building, structure or premises shall be immediately discontinued until such building, structure or premises shall be brought into conformance with the approved plans and with all applicable provisions of this Ordinance.

11.3 CERTIFICATE OF OCCUPANCY:

A. A Certificate of Occupancy shall be required for any of the following:

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

2. Change in use of an existing building to a use of a different classification; and

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

B. No such use, or change of use, shall take place until a Certificate of Occupancy therefore shall have been issued by the Building Official, or his/her designee.

C. A record of all Certificates of Occupancy shall be kept on file in the City Secretary’s office (or his/her designee), and copies shall be furnished upon request to any person in accordance with State laws governing public records.

D. Procedure for New or Altered Buildings - Written application for a Certificate of Occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the building permit for such building. Said Certificate shall be issued after the Building Official, or his/her designee, orders the building or structure inspected and finds no violations of the provisions of this Ordinance or other regulations which are enforced by the Building Official, or his/her designee. Said Certificate shall be issued by the Building Official, or his/her designee, after the erection or alteration of such building or part thereof has been completed in conformity with all applicable provisions of this Ordinance.
E. **Procedure for Vacant Land or a Change in Building Use** - Written application for a Certificate of Occupancy for the use of vacant land, a change in the use of land or a change in the use of a building, or for a change from a nonconforming use to a conforming use, shall be made to the Building Official, or his/her designee. If the proposed use is a conforming use, as herein provided, written application shall be made to said Building Official, or his/her designee. If the proposed use is found to be in conformity with the provisions of this Ordinance, the Certificate of Occupancy shall be issued after the application for same has been made and all required inspections are completed and approved by the Building Official, or his/her designee.

F. **Contents of Certificate of Occupancy** - Every Certificate of Occupancy shall contain the following: 1) building permit number; 2) the address of the building; 3) the name and address of the owner; 4) a description of that portion of the building for which the Certificate is issued; 5) a statement that the described portion of the building has been inspected for compliance with the requirements of the City's Building Codes for the particular group and division of occupancy; 6) the name of the Building Official (or his/her designee); 7) use(s) allowed; 8) maximum number of persons/occupants; and 9) issue date of Certificate of Occupancy.

G. **Posting of Certificate of Occupancy** - The Certificate of Occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Building Official, or his/her designee.

H. **Revocation of Certificate of Occupancy** - The Building Official (or his/her designee) may, in writing, suspend or revoke a Certificate of Occupancy issued under the provisions of this Ordinance whenever the Certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provision of this Ordinance or the building code and other codes adopted by the City, and any amendments thereto.

11.4 **COMPLETION OF BUILDINGS IN PROGRESS:**

A. Nothing contained herein shall require any change in the plans, construction or designated use of a building, the foundation for which has been completely constructed as of the effective date of this Ordinance, and the remaining construction of which shall have been completed within one (1) year (i.e., 365 calendar days) following the effective date of this Ordinance. In addition, any nonresidential building or structure for which a building permit has been approved by the City not more than one (1) year (i.e., 365 calendar days) prior to the effective date of this Ordinance may be constructed according to the terms of that building permit.

SECTION 12 **CONCEPT PLAN AND SITE PLAN REVIEW PROCESSES**

12.1 **PURPOSE:**

A. This Section establishes a site plan review process for proposed nonresidential, mixed-use and higher density residential developments. The purpose of the review is to ensure efficient and safe land development, harmonious use of land, compliance with the Comprehensive Plan and other appropriate design standards, safe and efficient vehicular and pedestrian circulation, adequate parking and loading,
and adequate water supply, drainage and storm water management, sanitary facilities, coverage, and other utilities and services.

12.2 **APPLICABILITY:**

A. Site plan review and approval shall be required for all nonresidential (including churches, schools, etc. within residential areas), mixed-use, townhouse, single-family attached, and multi-family residential projects, and for any Planned Development district or Conditional Use Provision (public hearings may also be required, see Sections 30 (CBD district) 35, and 36).

B. No building permit shall be issued for any of the above developments until a site plan and all other required engineering/construction plans are first approved by the City. No certificate of occupancy shall be issued until all construction and development conforms to the site plan and engineering/construction plans, as approved by the City. The site plan review process shall include up to 4 steps:

1. Pre-application conference;

2. Concept plan review (voluntary, except for Planned Developments or Conditional Use Provisions);

3. Site plan review; and

4. Construction of project (after City approval of required site plan and other associated plans, including final plat and engineering plans).

12.3 **EXEMPTIONS AND EXCEPTIONS:**

A. Site plan review shall not be required for single-family (detached) or two-family residential developments, unless the proposed subdivision will include a private amenity or facility comprised of one or more buildings (such as a private recreation/swimming facility, clubhouse, etc.) or a golf course, or unless the proposed subdivision will have private (not public) streets. In these instances, site plan submission and approval (in accordance with this Section) will be required for the private amenity or facility, the golf course clubhouse/hospitality area, and the gated (restricted access) entrances (also see Subsection12.4.A.10 below).

12.4 **CONCEPT PLAN AND SITE PLAN SUBMISSION REQUIREMENTS:**

A. An application for concept plan (voluntary except for Planned Developments or Conditional Use Provisions) or site plan approval shall be comprised of the following (all required items/information must be received by the City Manager, or his/her designee, in order for a concept plan or site plan application to be considered complete (see Subsection 12.6 below) – incomplete submissions will not be reviewed until all deficient items and information have been received):

1. An application form (format provided by the City) with notarized signatures of the owner or his/her designated representative if the applicant is not the owner of the subject property;
2. Filing fee (as established by Ordinance No. 950);

3. Verification that all taxes and assessments on the subject property have been paid (see Subsection 12.5 below).

4. Copies of the concept plan or site plan (on 24" x 36" sheet, and drawn to a known engineering scale that is large enough to be clearly legible), and other required information, the quantity of which shall be determined by the City Manager or his/her designee.

5. General layout for the required public improvements (water, wastewater, grading/storm drainage, streets, water quality, alleys, fire lanes and hydrants, etc.), the quantity of which shall be determined by the City Manager, or his/her designee.

6. Reduced copies (11" x 17" or smaller) of the site plan as required by the City Manager, or his/her designee.

7. Landscaping and irrigation plans (with site plan; not required with concept plan), the quantity of which shall be determined by the City Manager, or his/her designee.

8. Building façade (elevation) plans (with site plan; not required with concept plan) drawn to scale, the quantity of which shall be determined by the City Manager, or his/her designee.

9. Any additional information/materials (such as plans, maps, exhibits, legal description of property, information about proposed uses, etc.) as deemed necessary by the City Manager, or his/her designee, in order to ensure that the development request is understood.

10. If the application is for a single-family subdivision, a preliminary plat may qualify as a site plan, notwithstanding other information contained herein that may still be deemed as required with the application.

12.5 PAYMENT OF ALL INDEBTEDNESS ATTRIBUTABLE TO SUBJECT PROPERTY:

A. No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the City of Forney, and which are directly attributable to a piece of property shall be allowed to submit an application for concept plan or site plan review until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof to the City of Forney shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, fees, etc. have been paid, or that other arrangements satisfactory to the City have been made for payment of said taxes, fees, etc.

12.6 OFFICIAL SUBMISSION DATE AND COMPLETENESS OF APPLICATION -
A. For the purpose of these regulations, the “official submission date” shall be the date upon which a complete application for approval of a concept plan or site plan (that contains all elements and information required by this Ordinance) is submitted to the City Manager (or designee). No application shall be deemed officially submitted until the City Manager (or designee) determines that the application is complete and a fee receipt is issued by the City. Failure by the City Manager (or designee) to make a determination of incompleteness within ten (10) calendar days following the date on which the application was first received by the City, shall result in the application being deemed complete, and the “official submission date” shall become the 10th calendar day following initial receipt of the application by the City.

B. Concept plan and site plan applications which do not include all required information and materials (as outlined below and per other City development review policies which may change from time to time) will be considered incomplete, shall not be accepted for official submission by the City, and shall not be scheduled on a Planning and Zoning Commission agenda until the proper information is provided to City staff.

12.7 SUPPLEMENTAL REQUIREMENTS:

A. The City’s staff may require other information and data for specific concept plans/site plans. This data may include but is not limited to geologic information, water yields, flood data and/or hydrological studies, environmental information, traffic impact analysis, road capacities, market information, economic data for the proposed development, hours of operation, elevations and perspective drawings, lighting, and similar information. Approval of a concept plan or site plan may establish conditions for construction based upon such information.

12.8. PRINCIPLES AND STANDARDS FOR CONCEPT PLAN AND SITE PLAN REVIEW AND EVALUATION:

A. The following criteria have been set forth as a guide for evaluating the adequacy of proposed development within the City of Forney, and to ensure that all developments are, to the best extent possible, constructed according to the City’s codes and ordinances.

The City Manager, or his/her designee, shall review the concept plan or site plan for compliance with all applicable City ordinances and with the Comprehensive Plan; for harmony with surrounding uses and with long-range plans for the future development of Forney; for the promotion of the health, safety, order, efficiency, and economy of the City; and for the maintenance of property values and the general welfare.

Concept plan or site plan review and evaluation by the City Manager, or his/her designee, shall be performed with respect to the following:

1. The plan’s compliance with all provisions of the Zoning Ordinance and other ordinances of the City of Forney.

2. The impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.
3. The relationship of the development to adjacent uses in terms of harmonious design, façade treatment, setbacks, building materials, maintenance of property values, and any possible negative impacts.

4. The provision of a safe and efficient vehicular and pedestrian circulation system.

5. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.

6. The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for fire fighting and emergency equipment to buildings.

7. The coordination of streets so as to arrange a convenient system consistent with the Thoroughfare Plan of the City of Forney, as amended.

8. The use of landscaping and screening to provide adequate buffers to shield lights, noise, movement, or activities from adjacent properties when necessary, and to complement and integrate the design and location of buildings into the overall site design.

9. Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties.

10. The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

11. Protection and conservation of soils from erosion by wind or water or from excavation or grading.

12. Protection and conservation of water courses and areas that are subject to flooding.

13. The adequacy of water, drainage, sewerage facilities, solid waste disposal, and other utilities necessary for essential services to residents and occupants.

14. Consistency with the Comprehensive Plan of the City of Forney, as amended.

12.9 APPROVAL PROCESS AND REVISIONS:

A. Pre-Application Conference - The applicant(s) shall avail themselves of the advice and assistance of the City officials, and shall consult early and informally with the City Manager, the Building Official, the City’s Planner, the City’s Engineer, and other applicable administrative officers before preparing a concept plan (a voluntary plan, except for Planned Developments or Conditional Use Provisions) or a site plan in order to save time, money and to avoid potential unnecessary delays.

Prior to formal application for approval of any concept plan or site plan, the applicant(s) shall request and attend a pre-application conference with the City
Manager (or designee), the City’s Planner, the City’s Engineer, the Building Official, and any other pertinent City official(s) in order to become familiar with the City’s development regulations and the development process. At the pre-application conference, the developer may be represented by his/her land planner, engineer and/or surveyor.

B. City Staff Review - Upon official submission of a complete application for concept plan or site plan approval, the City shall commence technical review of the development proposal by forwarding a copy of the application to development review team members (such as the City Manager, City Engineer, City Planner, Building Official, Fire Chief, etc.). Development review team members shall review the application and shall ascertain its compliance with these and other applicable City regulations. Following City staff review of the plan and supporting documents, and following discussions with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the applicant shall resubmit additional copies of the corrected plan to the City Manager (or designee) no later than ten (10) calendar days prior to the Planning and Zoning Commission meeting. Failure to resubmit corrected copies of the plan back to the City in time shall cause for the City Manager (or designee) to forward the plan application to the Commission as it was originally submitted rather than the corrected version (corrected copies of the plan resubmitted to the City less than ten days prior to the meeting date shall not be accepted or forwarded to the Commission). If, upon resubmission of the corrected plan to the City, the City Manager (or designee) determines that the application is still incomplete or not correct (i.e., not ripe for consideration), the plan application shall be subject to denial.

C. Action By the Planning and Zoning Commission and the City Council - All concept plan and site plan applications shall be reviewed by the Planning and Zoning Commission, and if in conformance with the provisions of this Ordinance and all other applicable regulations and codes of the City, they shall then be considered for approval by the City Council.

The City Manager, or his/her designee, shall schedule consideration of the concept plan or site plan on the regular agenda of the Planning and Zoning Commission within thirty (30) calendar days after the submission is received (or, in the case of an incomplete submission, after the submission is deemed complete). The Planning and Zoning Commission shall review the concept plan or site plan and shall recommend approval, approval subject to certain conditions, or disapproval of the concept plan or site plan. If the Planning and Zoning Commission recommends approval (with or without conditions) of the plan, then it will be forwarded to the City Council for consideration. If the Planning and Zoning Commission recommends disapproval of a plan application, the Commission shall state such disapproval and the reasons therefore. The applicant or property owner may appeal such decision to City Council by filing a written Notice of Appeal in the office of the City Manager (or designee) no later than ten (10) calendar days after the date upon which the Commission denied the application. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date upon which the Notice of Appeal was filed. The City Council may change the decision of the Commission by a three-quarters (3/4) vote of the full City Council. The City Council may also, where appropriate, remand the concept plan or site plan application back
to the Commission for reconsideration if it believes that there is a compelling reason to do so (such as the introduction of significant new facts or testimony, etc.). The City Council shall determine final approval or disapproval of all concept plan or site plan applications.

D. Revisions to the Approved Site Plan:

1. **Minor revisions/amendment** - It is recognized that final architectural and engineering design may necessitate minor changes in the approved site plan. In such cases, the City Manager, or his/her designee, shall have the authority to approve minor modifications to an approved site plan (which shall be submitted as an “amended site plan” which substantially conforms to the previously approved site plan), provided that such modifications do not significantly change traffic circulation, building location(s) on the site, proximity of building(s) to nearby residential areas, increase the size or height or bulk of building(s), or any other conditions specifically attached as part of the City Council’s approval of the site plan. Submission materials and requirements for approval of an amended site plan shall be as determined by the City Manager, or his/her designee.

2. **Major revisions** - In the event of revisions that are more extensive in nature (i.e., do not conform to the description for minor amendments above), a “revised site plan” must be resubmitted, reviewed by the City Manager (or his/her designee), and reconsidered by the Planning and Zoning Commission and the City Council in accordance with the procedures set forth in this Section.

12.10 LAPSE OF CONCEPT PLAN OR SITE PLAN APPROVAL:

A. The approval of a concept plan or site plan shall be effective for a period of six (6) months (i.e., 180 calendar days) beyond the date that the plan was approved by the City Council except as provided herein. By 12:01 a.m. on the 181st day following Council approval of the plan, the applicant must have completed a City-required “progress benchmark” as set forth below. If this is not accomplished, then the approved concept plan or site plan shall be deemed to have expired and shall become null and void. The series of “progress benchmarks” for a project, pursuant to the provisions of this paragraph, are as follows:

- **Approved Plan** ➔ **Next “Progress Benchmark”**

- **Concept Plan** ➔ Approval of the final site plan (per Zoning Ordinance), and approval of the final plat (per Subdivision Ordinance), and continued active engineering review of the engineering/construction plans (which were submitted along with the final plat and final site plan).

- **Site Plan** ➔ Engineering release and commencement of construction of public improvements, and application for a building permit for at least
one of the buildings on the approved site plan, within six months (180 calendar days) following approval of the site plan.

12.11 EXTENSION AND REINSTSTATEMENT PROCEDURE:

A. Prior to the lapse of approval for a concept plan or site plan, the applicant may petition the City (in writing) to extend the plan approval. Such petition shall be considered at a public meeting before the Planning and Zoning Commission and then City Council, and an extension may be granted by City Council at such meeting. If no petition for extension of concept plan or site plan approval is submitted, then the plan shall be deemed to have expired and shall become null and void. Any new request for concept plan or site plan approval shall be deemed a “new project”; shall be submitted with a new application form, with a new filing fee, and with new plans and materials in accordance with the procedures set forth in this Section; and shall be reviewed for compliance with the ordinances and regulations in effect at the time the new application is made.

B. In determining whether to grant a request for extension, the City Council shall take into account the reasons for the lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which development regulations would apply to the concept plan or site plan at that point in time. The Commission and City Council shall either extend the concept plan or site plan or deny the request, in which instance the originally approved plan shall be deemed null and void. The property owner must thereafter submit a new concept plan or site plan application for approval as a “new project”, and shall conform to the zoning and development regulations then in effect.

12.12 CONCEPT PLAN REQUIREMENTS:

A. Applicability - Submission and approval of a concept plan (a voluntary plan except for Planned Development or Conditional Use zoning requests) can be the first step in the approval process for a development project (either residential or nonresidential) if the applicant prefers to do so. City review and approval of a concept plan has many benefits for both the City and the applicant. The applicant benefits in that he/she gains preliminary review and scrutiny (as well as input and suggestions) on the overall conceptual layout of the proposed development from the City’s development review team. Approval of a concept plan may also offer the applicant some level of confidence that subsequent plan submissions will be favorably received and approved with few major changes to the project’s design and layout provided that the project complies with City regulations. For example, once the site plan and final plat (and corresponding engineering plans) are submitted for a nonresidential project, unforeseen changes in site layout can prove to be expensive in terms of design and engineering costs and time lost due to major plan revisions. The City benefits in that it is allowed to become familiar with and involved in the project early in the development process (which is particularly important for large-scale developments and subdivisions). This allows the City to plan for and closely coordinate the provision of public facilities and services, thereby potentially avoiding future problems such as undersized utility lines, inadequate roadway capacities, unanticipated shortfalls in public services, and fiscal inefficiencies resulting from lack of planning and coordination.
Submission and approval of a concept plan is mandatory for a zoning request for a Planned Development or Conditional Use Provision. Submission and approval of a concept plan is encouraged (but not required) in the following circumstances:

1. In conjunction with a zoning or rezoning request for a property that is intended for development;

2. Prior to submission of an application for a site plan (and final plat) for a property that is intended for development (particularly large land parcels); or

3. In conjunction with any project where a road is to be established or realigned.

B. **Purpose** - The purpose of a concept plan is to allow opportunity for the Planning and Zoning Commission and City Council to preview various development-related aspects of the project, including proposed major thoroughfare and collector street patterns; land use patterns and trends; environmental issues and constraints; building orientation and massing; conformance to the Comprehensive Plan, Zoning Ordinance (if the subject property is within the City’s corporate limits), Subdivision Ordinance, Future Land Use Plan, Thoroughfare Plan and other applicable plans and guidelines; and the property’s relationship to adjoining subdivisions or properties. Review of a concept plan would also assist the City in evaluating the possible impacts of the proposed development in terms of provision of essential public facilities and services, respecting and preserving important natural features and the environment, provision of open space and recreational opportunities, and protecting the general health, safety and welfare of the community.

C. **Extent of Area that Should be Included in a Concept Plan** - When the overall development project is to be developed in phases, the concept plan area shall include the entire zoned property from which the phases are being developed, as well as an approximate development schedule. Where significant natural or man-made features, such as thoroughfares or creeks, make inclusion of the entire property in the concept plan unnecessary to adequately review the items to be shown on a concept plan, the plan may include a smaller study area. Boundaries such as major thoroughfares (existing or proposed), creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller study area.

D. **Procedures and Submission Requirements For Concept Plan Approval** - Submission of an application for concept plan approval shall be preceded by a pre-application conference with the City (see Subsection 12.9.A). The concept plan shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals two hundred feet (1" = 200’) and on sheets twenty-four inches by thirty-six inches (24” x 36”), and it shall show the following:

1. A title block within the lower right hand corner of the concept plan with the proposed name of the project/subdivision, the name and address of the owner/developer and the land planner, engineer architect or surveyor responsible for the design or survey, the scale of the drawing (both written and graphic scale), the date the drawing was prepared, total site acreage, and the
location of the property according to the abstract and survey records of Kaufman County, Texas;

2. A vicinity or location map that shows the location of the proposed development within the City (or its ETJ) and in relationship to existing roadways;

3. The boundary survey limits of the tract and scale distances with north clearly indicated;

4. The names of adjacent subdivisions (or the name of the owners of record and recording information for adjacent parcels of unplatted land), including parcels on the other sides of roads, creeks, etc. The concept plan shall include a depiction of all contiguous holdings of the property owners, the existing/proposed uses of the subject property, a general arrangement of future land uses, including the approximate number of lots and any residential uses anticipated, and a generalized circulation plan for the subject property;

5. The existing zoning and existing/proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements (with recording information); existing buildings; railroad rights-of-way; topography (contours at five-foot intervals) with existing drainage channels or creeks (including the 100-year flood plain, if applicable); any other important natural features (such as rock outcroppings, caves, wildlife habitats, etc.); all substantial natural vegetation; and adjacent political subdivisions, corporate limits, and/or school district boundaries;

6. Proposed strategies for tree preservation (showing individual trees or tree masses that will preserved, and the techniques that will be used to protect them during construction);

7. The layout and width (right-of-way lines) of existing and proposed thoroughfares, collector streets and/or intersections, and a general configuration of proposed streets, lots and blocks, including proposed median openings and left turn lanes on future divided roadways (existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings);

8. A general arrangement of land uses and buildings, including but not limited to proposed nonresidential and residential densities; building heights, square footages, massing, orientation, loading/service areas, recycling containers, compactors and dumpster enclosures, pedestrian walkways, and parking areas; any proposed sites for parks, schools, public facilities, public or private open space; flood plains/drainageways; and other pertinent development related features; and

9. The phasing of development (the anticipated order of development for the overall property).

E. Effect of Review/Approval - The concept plan shall be used only as an aid to show the anticipated layout of the proposed development, and to assess the adequacy of
public facilities or services that will be needed to serve the proposed development. Any proposed use or development depicted on the concept plan shall not be deemed formal authorization or approval by the City until a final site plan is approved for the development (concept plan approval is to be thought of as a general acknowledgment by the City that the proposed layout generally conforms to the City’s zoning regulations, and that the proposed development can be adequately served by required public facilities or services). If the applicant chooses to construct only the initial phase(s) of a multi-phase project designated in the concept plan, a new concept plan may be required for site plan approval of subsequent phases, if the proposed development layout, character, or other conditions affecting the development substantially change from one phase to the next.

The approved concept plan shall be valid for a period of six (6) months (i.e., 180 calendar days) from the date of concept plan approval by City Council (see Section 12.10).

12.13 SITE PLAN REVIEW:

A. **Applicability and Purpose** - Submission and City approval of a site plan is required as stated in Subsection 12.2. The purpose of final site plan approval is to ensure that a development project is in compliance with all applicable City ordinances and guidelines prior to commencement of construction. Approval of the site plan, final plat, landscape plan, building façade plan, and engineering plans are required prior to site construction.

B. **Extent of Area That Should Be Included In A Site Plan** - When the overall development project is to be developed in phases, the site plan area shall include only the portion of the overall property that is to be developed/constructed.

C. **Procedures and Submission Requirements For Site Plan Approval** - Submission of an application for site plan approval shall be preceded by a pre-application conference with the City (see Subsection 12.9.A). The site plan shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals one hundred feet (1” = 100’) and on sheets twenty-four inches by thirty-six inches (24” x 36”), and it shall clearly show in detail how the site will be constructed (such as paving, buildings, landscaped areas, utilities, etc.). The site plan shall include, but not be limited to the following:

1. A title block within the lower right hand corner of the site plan with the proposed name of the project/subdivision, the name and address of the owner/developer and the land planner, engineer architect or surveyor responsible for the plan, the scale of the drawing (both written and graphic scale), the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of Kaufman County, Texas;

2. A vicinity or location map that shows the location of the proposed development within the City (or its ETJ) and in relationship to existing roadways;

3. The boundary survey limits of the tract (and each proposed lot) and scale distances with north clearly indicated;
4. The names of adjacent additions or subdivisions (or the name of the owners of record and recording information for adjacent parcels of unplatted land), including parcels on the other sides of roads, creeks, etc.;

5. The existing zoning and existing/proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements (with recording information); existing buildings; railroad rights-of-way; topography (contours at two-foot intervals) with existing drainage channels or creeks (including the 100-year flood plain, if applicable); any other important natural features (such as rock outcroppings, caves, wildlife habitats, etc.); and all substantial natural vegetation;

6. Proposed strategies for tree preservation (showing individual trees or tree masses that will preserved, and the techniques that will be used to protect them during construction);

7. The layout and width (right-of-way lines and curb lines) of existing and proposed thoroughfares, collector streets and/or intersections, and specific configuration of proposed streets, lots and blocks, proposed driveways (show driveway widths and distances between driveways), and proposed median openings and left turn lanes on future divided roadways (existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings);

8. Specific locations and footprints of buildings, including but not limited to proposed nonresidential and residential densities; building heights, square footages (for multi-tenant or multi-purpose buildings, show square footage for each intended use), massing, orientation, loading/service areas (including proposed screening), recycling containers, compactors and dumpster enclosures (including proposed screening), pedestrian walkways, and parking areas (including parking ratio calculations); any proposed sites for parks, schools, public facilities, public or private open space; flood plains/drainageways; all proposed and existing utilities and easements; drainage structures; retention/detention ponds with proposed aesthetic treatments; screening walls; fences; signage; fire lanes and fire hydrants; lighting; visibility easements; and other pertinent development related features; and

9. A landscape plan showing turf areas, tree types and sizes, screening walls, ornamental plantings, planting schedule (including species, planted height, spacing, container/caliper size, numbers of each plant material, etc.) any existing wooded areas, trees to be planted, and irrigation plans (if required).

10. Building façade (elevation) plans showing elevations with any attached (wall-mounted) signage to be used, as determined appropriate by the City Manager, or his/her designee.

Provision of the above items shall conform to the principles and standards of this Ordinance and the Comprehensive Plan. To ensure the submission of adequate information, the City is hereby empowered to maintain and distribute a separate list of specific requirements for site plan review applications. Upon periodic review, the
City Manager (or his/her designee) shall have the authority to update such requirements for site plan and development review applications. It is the applicant’s responsibility to be familiar with, and to comply with, these requirements.

D. **Effect of Review/Approval** - The site plan shall be considered authorization to proceed with construction of the site provided all other required City approvals are obtained (such as final plat, engineering plans, landscape plan, building façade plans, building permits, etc.). The approved site plan shall be valid for a period of six (6) months (i.e., 180 calendar days) from the date of approval by the City Council (also see Section 12.10).
III. ZONING DISTRICTS

SECTION 13 ZONING DISTRICTS ESTABLISHED

13.1 The City of Forney, Texas is hereby divided into the following zoning districts. The use, height, area regulations, and other standards, as set out herein apply to each district. The districts established herein shall be known as:

<table>
<thead>
<tr>
<th>Abbreviated Designation</th>
<th>Zoning District Name</th>
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<tbody>
<tr>
<td><strong>Base Districts</strong></td>
<td></td>
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<tr>
<td>AG</td>
<td>Agricultural</td>
</tr>
<tr>
<td>SF-20</td>
<td>Single-Family Residential-20 (minimum 20,000 square-foot lots)</td>
</tr>
<tr>
<td>SF-15</td>
<td>Single-Family Residential-15 (minimum 15,000 square-foot lots)</td>
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<td>SF-11</td>
<td>Single-Family Residential-11 (minimum 11,000 square-foot lots)</td>
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<td>SF-8</td>
<td>Single-Family Residential-8 (minimum 8,000 square-foot lots)</td>
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<tr>
<td>SF-6</td>
<td>Single-Family Residential-6 (minimum 6,000 square-foot lots)</td>
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<tr>
<td>SF-PH</td>
<td>Single-Family Residential-Patio Home (zero-lot-line homes)</td>
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<tr>
<td>2F</td>
<td>Two-Family Residential (duplex homes)</td>
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<tr>
<td>SFA</td>
<td>Single-Family Attached Residential (Townhomes)</td>
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<tr>
<td>MF-15</td>
<td>Multi-Family Residential-15 (apartments)</td>
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<tr>
<td>MH</td>
<td>Manufactured Home</td>
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<tr>
<td>O</td>
<td>Office</td>
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<td>NS</td>
<td>Neighborhood Service</td>
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<tr>
<td>GR</td>
<td>General Retail</td>
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<tr>
<td>CBD</td>
<td>Central Business District</td>
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<tr>
<td>C</td>
<td>Commercial</td>
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<tr>
<td>MU</td>
<td>Mixed-Use</td>
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<tr>
<td>LI</td>
<td>Light Industrial</td>
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</tbody>
</table>

| **Overlay Districts**   |                      |
| PD                      | Planned Development  |
| CUP                     | Conditional Use Provision |
| CBT                     | Central Business Transition Overlay District |
| ENT                     | Entertainment Overlay District |
| H                       | Historic Landmark Designation |

13.2 A summary of the area regulations for the following zoning districts is included within the Appendix (A-3).

13.3 Certain terms and definitions used within this Ordinance can be found in Section 49.
SECTION 14     AG - AGRICULTURAL DISTRICT

14.1  GENERAL PURPOSE AND DESCRIPTION:

The AG, Agricultural, district is designed to permit the use of land for the ranching, propagation and cultivation of crops and similar uses of vacant land. Single-family uses on large lots are also appropriate for this district. Territory that has been newly annexed into the City is initially zoned Agricultural until it is assigned another more permanent zoning district. It is anticipated that Agricultural zoned land will eventually be rezoned to another more permanent, suburban zoning classification in the future. The Agricultural district is also appropriate for areas where development is premature due to lack of utilities or City services; to preserve areas that are unsuitable for development due to problems that may present hazards such as flooding, in which case the AG zoning designation should be retained until such hazards are mitigated and the land is rezoned; and to provide permanent greenbelts or to preserve open space areas as buffers around uses that might otherwise be objectionable or pose environmental or health hazards.

14.2  PERMITTED USES:

A. Those uses listed for the AG-Agricultural district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

14.3  HEIGHT REGULATIONS:

A. Maximum Height:
   1. Three (3) stories, and not to exceed forty-five feet (45’), for the main building/house.
   2. Forty-five feet (45’) for agricultural structures (e.g., barns, silos, water towers, etc.), provided they are no closer than one hundred feet (100’) from any residential structure on the premises, and they are set back at least one hundred feet (100’) or three (3) times their height (whichever is greater) from any front, side or rear property line.
   3. Twenty-five feet (25’) for other accessory buildings, including detached garage, garden shed, accessory dwelling units, etc.
   4. Other requirements (see Section 43).

14.4  AREA REGULATIONS:

A. Size of Lots:
   1. Minimum Lot Area - One (1) acre (i.e., 43,560 square feet)
   2. Minimum Lot Width - One hundred feet (100’)
   3. Minimum Lot Depth - Two hundred feet (200’)

B. Size of Yards:
   1. Minimum Front Yard - Sixty feet (60’)
   2. Minimum Side Yard - Ten percent (10%) of the lot width, but need not exceed thirty feet (30’); twenty-five feet (25’) from a street right-of-way line for a corner lot
3. **Minimum Rear Yard** - Twenty-five feet (25’) for the main building and any accessory building(s); twelve feet (12’) from a main building to an accessory building

C. **Maximum Lot Coverage:** Thirty-five percent (35%) for main buildings and accessory buildings

D. **Parking Regulations**
   1. **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line on the same lot as the main structure, plus four (4) additional parking spaces on a paved driveway having a minimum length of twenty-five feet (25’) as measured from the street right-of-way line
   2. **Other** - See Section 38, Off-Street Parking and Loading Regulations

E. **Minimum Floor Area per Dwelling Unit** – Two thousand four hundred (2,400) square feet of air-conditioned floor area

F. **Minimum Exterior Construction Standards** – See Section 42.2.

G. **Garages** – Garage doors facing the street shall only be permitted if they are set back from the front of the main structure a minimum distance of 20 feet.

14.5 **SPECIAL REQUIREMENTS:**

A. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.

B. Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of three (3) or more acres.

C. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, farm equipment, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

D. Single-family homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25’) from the door face of the garage or carport to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be twenty-five feet (25’).

E. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

F. **Swimming pools** (see Subsection 47.2).

G. Site plan approval (see Section 12) shall be required for any non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the AG district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building
setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

H. **Other Regulations** - As established by Sections 38 through 50.
SECTION 15  (reserved)
SECTION 16   SF-20 - SINGLE-FAMILY RESIDENTIAL-20 DISTRICT

16.1 GENERAL PURPOSE AND DESCRIPTION:

The SF-20, Single-Family Residential-20, district is intended to provide for development of primarily very low-density detached, single-family residences on lots of not less than 20,000 square feet in size, churches, schools and public parks in logical neighborhood units. Areas zoned for the SF-20 district shall have, or shall make provision for, City of Forney water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from non-residential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

16.2 PERMITTED USES:

A. Those uses listed for the SF-20 district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

16.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Three (3) stories, and not to exceed forty-five feet (45’), for the main building/house.
   2. Deleted.
   3. Other requirements (see Section 43).

16.4 AREA REGULATIONS:

A. Size of Lots:
   1. Minimum Lot Area – Twenty thousand (20,000) square feet
   2. Minimum Lot Width - One hundred feet (100’)
   3. Minimum Lot Depth – One hundred fifty feet (150’)

B. Size of Yards:
   1. Minimum Front Yard - Forty feet (40’)
   2. Minimum Side Yard - Ten percent (10%) of the lot width, but need not exceed thirty feet (30’); twenty-five feet (25’) from a street right-of-way line for a corner lot
   3. Minimum Rear Yard - Twenty feet (20’) for the main building and any accessory building(s); twenty-five feet (25’) for rear garage entry; twelve feet (12’) from a main building to an accessory building

C. Maximum Lot Coverage: Thirty-five percent (35%) including main buildings and accessory buildings

D. Parking Regulations:
   1. Single-Family Dwelling Unit - A minimum of two (2) enclosed parking spaces behind the front building line on the same lot as the main structure, plus two (2)
additional parking spaces on a paved driveway having a minimum length of twenty-five feet (25’) as measured from the street right-of-way line

2. **Other** - See Section 38, Off-Street Parking and Loading Regulations

E. **Minimum Floor Area per Dwelling Unit** – Two thousand four hundred (2,400) square feet of air-conditioned floor area

F. **Minimum Exterior Construction Standards** – See Section 42.2.

G. **Garages** – Garage doors facing the street shall only be permitted if they are set back from the front of the main structure a minimum distance of 20 feet.

16.5 **SPECIAL REQUIREMENTS:**

A. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.

B. Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of three (3) or more acres.

C. Open storage is prohibited (except for materials for the resident’s personal use or consumption such as firewood, garden materials, farm equipment, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

D. Single-family homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25’) from the door face of the garage or carport to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be twenty-five feet (25’).

E. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

F. Swimming pools (see Subsection 47.2).

G. Site plan approval (see Section 12) shall be required for any non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the SF-20 district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

H. **Other Regulations** - As established by Sections 38 through 50.
SECTION 17   SF-15 - SINGLE-FAMILY RESIDENTIAL-15 DISTRICT

17.1 GENERAL PURPOSE AND DESCRIPTION:

The SF-15, Single-Family Residential-15, district is intended to provide for development of primarily low-density detached, single-family residences on lots of not less than 15,000 square feet in size, churches, schools and public parks in logical neighborhood units. Areas zoned for the SF-15 district shall have, or shall make provision for, City of Forney water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from non-residential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

17.2 PERMITTED USES:

A. Those uses listed for the SF-15 district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

17.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Two and one-half (2.5) stories, and not to exceed thirty-six feet (36’), for the main building/house.
   2. Deleted.
   3. Other requirements (see Section 43).

17.4 AREA REGULATIONS:

A. Size of Lots:
   1. Minimum Lot Area - Fifteen thousand (15,000) square feet; also, the average lot area shall be at least seventeen thousand five hundred (17,500) square feet in order to provide diversity in lot sizes within each SF-15 neighborhood
   2. Minimum Lot Width - Eighty feet (80’)
   3. Minimum Lot Depth - One hundred twenty feet (120’)

B. Size of Yards:
   1. Minimum Front Yard - Thirty feet (30’)
   2. Minimum Side Yard – Eight feet (8’) for interior side yard; fifteen feet (15’) for a corner lot on a residential or collector street; twenty feet (20’) for a corner lot on an arterial street
   3. Minimum Rear Yard - Twenty feet (20’) for the main building and any accessory building(s); twenty-five feet (25’) for rear garage entry; ten feet (10’) from a main building to an accessory building.

C. Maximum Lot Coverage: Thirty-five percent (35%) including main buildings and accessory buildings
D. **Parking Regulations:**
   1. **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line on the same lot as the main structure, plus two (2) additional parking spaces on a paved driveway having a minimum length of twenty-five feet (25’) as measured from the street right-of-way line.
   2. **Other** - See Section 38, Off-Street Parking and Loading Regulations.

E. **Minimum Floor Area per Dwelling Unit** – Two thousand two hundred (2,200) square feet of air-conditioned floor area.

F. **Minimum Exterior Construction Standards** – See Section 42.2.

G. **Garages** – Garage doors facing the street shall only be permitted if they are set back from the front of the main structure a minimum distance of 20 feet.

### 17.5 SPECIAL REQUIREMENTS:

A. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.

B. Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of three (3) or more acres.

C. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, farm equipment, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

D. Single-family homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25’) from the door face of the garage or carport to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be twenty-five feet (25’).

E. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

F. Swimming pools (see Subsection 47.2).

G. Site plan approval (see Section 12) shall be required for any non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the SF-15 district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

H. **Other Regulations** - As established by Sections 38 through 50.
SECTION 18  SF-11 - SINGLE-FAMILY RESIDENTIAL-11 DISTRICT

18.1 GENERAL PURPOSE AND DESCRIPTION:

The SF-11, Single-Family Residential-11, district is intended to provide for development of primarily low-density detached, single-family residences on lots of not less than 11,000 square feet in size, churches, schools and public parks in logical neighborhood units. Areas zoned for the SF-11 district shall have, or shall make provision for, City of Forney water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from non-residential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

18.2 PERMITTED USES:

A. Those uses listed for the SF-11 district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

18.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Two and one-half (2.5) stories, and not to exceed thirty-six feet (36’), for the main building/house.
   2. Deleted.
   3. Other requirements (see Section 43).

18.4 AREA REGULATIONS:

A. Size of Lots:
   1. Minimum Lot Area - Eleven thousand (11,000) square feet; also, the average lot area shall be at least twelve thousand five hundred (12,500) square feet in order to provide diversity in lot sizes within each SF-11 neighborhood
   2. Minimum Lot Width – Seventy-five feet (75’)
   3. Minimum Lot Depth - One hundred twenty feet (120’)

B. Size of Yards:
   1. Minimum Front Yard – Twenty-five feet (25’)
   2. Minimum Side Yard – Six feet (6’) for interior side yard; fifteen feet (15’) for a corner lot on a residential or collector street; twenty feet (20’) for a corner lot on an arterial street
   3. Minimum Rear Yard - Ten feet (10’) for the main building and any accessory building(s); twenty-five feet (25’) for rear garage entry; ten feet (10’) from a main building to an accessory building.

C. Maximum Lot Coverage: Thirty-five percent (35%) including main buildings and accessory buildings
D. **Parking Regulations:**
   1. **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line on the same lot as the main structure, plus two (2) additional parking spaces on a paved driveway having a minimum length of twenty-five feet (25’) as measured from the street right-of-way line
   2. **Other** - See Section 38, Off-Street Parking and Loading Regulations

E. **Minimum Floor Area per Dwelling Unit** – Two thousand (2,000) square feet of air-conditioned floor area

F. **Minimum Exterior Construction Standards** – See Section 42.2.

G. **Garages** – Garage doors facing the street shall only be permitted if they are set back from the front of the main structure a minimum distance of 20 feet.

18.5 **SPECIAL REQUIREMENTS:**

A. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.

B. Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of three (3) or more acres.

C. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

D. Single-family homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25’) from the door face of the garage or carport to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be twenty-five feet (25’).

E. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

F. Swimming pools (see Subsection 47.2).

G. Site plan approval (see Section 12) shall be required for any non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the SF-11 district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

H. **Other Regulations** - As established by Sections 38 through 50.
SECTION 19   SF-8 - SINGLE-FAMILY RESIDENTIAL-8 DISTRICT

19.1 GENERAL PURPOSE AND DESCRIPTION:

The SF-8, Single-Family Residential-8, district is intended to provide for development of primarily detached, single-family residences on smaller and more compact lots of not less than 8,800 square feet in size, churches, schools and public parks in logical neighborhood units. Areas zoned for the SF-8 district shall have, or shall make provision for, City of Forney water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from non-residential uses; and they shall be protected from pollution and undesirable environmental and noise impacts. Planned Development Districts are the preferred method for the creation of new residential zoned areas.

19.2 PERMITTED USES:

A. Those uses listed for the SF-8 district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

19.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Two and one-half (2.5) stories, and not to exceed thirty-six feet (36’), for the main building/house.
   2. Deleted.
   3. Other requirements (see Section 43).

19.4 AREA REGULATIONS:

A. Size of Lots:
   1. Minimum Lot Area - Eight thousand eight hundred (8,800) square feet; also, the average lot area shall be at least nine thousand five hundred (9,500) square feet in order to provide diversity in lot sizes within each SF-8 neighborhood.
   2. Minimum Lot Width - Seventy feet (70’)
   3. Minimum Lot Depth - One hundred ten feet (110’)

B. Size of Yards:
   1. Minimum Front Yard – Twenty-five feet (25’)
   2. Minimum Side Yard – Six feet (6’) for interior side yard; fifteen feet (15’) for a corner lot on a residential or collector street; twenty feet (20’) for a corner lot on an arterial street
   3. Minimum Rear Yard - Ten feet (10’) for the main building and any accessory building(s); twenty-five feet (25’) for rear garage entry; ten feet (10’) from a main building to an accessory building.

C. Maximum Lot Coverage: Forty percent (40%) by main buildings and accessory buildings
D. **Parking Regulations:**
   1. **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line on the same lot as the main structure, plus two (2) additional parking spaces on a paved driveway having a minimum length of twenty-five feet (25’) as measured from the street right-of-way line.
   2. **Other** - See Section 38, Off-Street Parking and Loading Regulations.

E. **Minimum Floor Area per Dwelling Unit** – One thousand eight hundred (1,800) square feet of air-conditioned floor area.

F. **Minimum Exterior Construction Standards** – See Section 42.2.

G. **Garages** – Garage doors facing the street shall only be permitted if they are set back from the front of the main structure a minimum distance of 20 feet.

19.5 **SPECIAL REQUIREMENTS:**

A. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes. See Section 38.2 for parking regulations of such vehicles.

B. Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of three (3) or more acres.

C. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

D. Single-family homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25’) from the door face of the garage or carport to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be twenty-five feet (25’).

E. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

F. Swimming pools (see Subsection 47.2).

G. Site plan approval (see Section 12) shall be required for any non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the SF-8 district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

H. **Other Regulations** - As established by Sections 38 through 50.
SECTION 20          SF-6 - SINGLE-FAMILY RESIDENTIAL-6 DISTRICT

20.1 GENERAL PURPOSE AND DESCRIPTION:

The SF-6, Single-Family Residential-6, district was originally intended to provide for development of primarily detached, single-family residences on small, compact lots of not less than 7,700 square feet in size, churches, schools and public parks in logical neighborhood units. **Areas that were already zoned and developed (i.e., platted of record) for the SF-6 district as of the effective date of this Ordinance shall remain designated SF-6 under this Ordinance, but the creation of new SF-6 zoned areas within the City of Forney is not anticipated nor desired. Planned Development Districts are the preferred method for the creation of new residential zoned areas.**

20.2 PERMITTED USES:

A. Those uses listed for the SF-6 district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

20.3 HEIGHT REGULATIONS:

A. Maximum Height:
1. Two and one-half (2.5) stories, and not to exceed thirty-six feet (36’), for the main building/house.
2. Deleted.
3. Other requirements (see Section 43).

20.4 AREA REGULATIONS:

A. Size of Lots:
1. **Minimum Lot Area** - Seven thousand seven hundred (7,700) square feet. Areas assigned a permanent zoning classification or an approved final plat as of the effective date of this Ordinance may maintain a minimum of six thousand (6,000) square feet and an average lot area of at least seven thousand two hundred (7,200) square feet.
2. **Minimum Lot Width** - Sixty feet (60’)
3. **Minimum Lot Depth** - One hundred feet (100’)

B. Size of Yards:
1. **Minimum Front Yard** – Twenty-five feet (25’)
2. **Minimum Side Yard** – Six feet (6’) for interior side yard; fifteen feet (15’) for a corner lot on a residential or collector street; twenty feet (20’) for a corner lot on an arterial street
3. **Minimum Rear Yard** - Ten feet (10’) for the main building and any accessory building(s); twenty-five feet (25’) for rear garage entry; ten feet (10’) from a main building to an accessory building.

C. **Maximum Lot Coverage**: Forty percent (40%) by main buildings and accessory buildings

D. **Parking Regulations**:
1. **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line on the same lot as the main structure, plus two (2) additional parking spaces on a paved driveway having a minimum length of twenty-five feet (25') as measured from the street right-of-way line.

2. **Other** - See Section 38, Off-Street Parking and Loading Regulations

E. **Minimum Floor Area per Dwelling Unit** – One thousand five hundred (1,500) square feet of air-conditioned floor area.

F. **Minimum Exterior Construction Standards** – See Section 42.2.

### 20.5 SPECIAL REQUIREMENTS:

A. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes. See Section 38.2 for parking regulations of such vehicles.

B. Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of three (3) or more acres.

C. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

D. Single-family homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25') from the door face of the garage or carport to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be twenty-five feet (25').

E. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

F. Swimming pools (see Subsection 47.2).

G. Site plan approval (see Section 12) shall be required for any non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the SF-6 district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

H. **Other Regulations** - As established by Sections 38 through 50.
SECTION 21 SF-PH - SINGLE-FAMILY RESIDENTIAL - PATIO HOME DISTRICT (Zero-Lot-Line Homes)

21.1 GENERAL PURPOSE AND DESCRIPTION:

The SF-PH, Single-Family Residential-Patio Home, district is designed to provide for development of primarily detached single-family residences on compact lots having one side yard reduced to zero feet (i.e., "zero-lot-line"), and having not less than four thousand five hundred (4,500) square feet. Patio home developments shall be arranged in a clustered lot pattern with a common usable open space system that is an integral part of the development. Areas zoned for the SF-PH district shall have, or shall make provision for, City of Forney water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from non-residential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

21.2 PERMITTED USES:

A. Those uses listed for the SF-PH district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

21.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Two and one-half (2.5) stories, and not to exceed thirty-six feet (36’), for the main building/house.
   2. Deleted.
   3. Other requirements (see Section 43).

21.4 AREA REGULATIONS:

A. Size of Lots:
   1. Minimum Lot Area - Four thousand five hundred (4,500) square feet; also, the average lot area shall be at least five thousand two hundred (5,200) square feet in order to provide diversity in lot sizes within each SF-PH neighborhood
   2. Maximum Project Size - The maximum size of a patio home development shall be forty (40) acres.
   3. Minimum Project Size - Five (5) acres
   4. Minimum Lot Width – Forty-five feet (45’)
   5. Minimum Lot Depth - One hundred feet (100’)

B. Size of Yards:
   1. Minimum Front Yard – Twenty feet (20’); twenty-five feet (25’) to the garage door face for front-entry homes
   2. Minimum Side Yard - One side yard reduced to zero feet (0’); other side yard a minimum of ten feet (10’) required with fifteen feet (15’) required on corner lots adjacent to a residential or collector street, and twenty feet (20’) required on corner lots adjacent to an arterial street
3. **Minimum Rear Yard** - Ten feet (10’) for the main building and any accessory building(s); twenty-five feet (25’) for rear garage entry; ten feet (10’) from a main building to an accessory building.

C. **Maximum Lot Coverage**: Fifty percent (50%) by main buildings and accessory buildings

D. **Parking Regulations**:
   1. **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line on the same lot as the main structure, plus two (2) additional parking spaces on a paved driveway having a minimum length of twenty-five feet (25’) as measured from the street right-of-way line
   2. **Visitor Parking** - One half (0.5) parking space per dwelling unit (off-street) which is located within six hundred feet (600’) of the dwelling unit
   3. **Other** - See Section 38, Off-Street Parking and Loading Requirements

E. **Minimum Floor Area per Dwelling Unit** – One thousand (1,000) square feet of air-conditioned floor area

F. **Minimum Exterior Construction Standards** – See Section 42.2.

21.5 **SPECIAL REQUIREMENTS**:

A. **Patio home developments** shall be developed as zero-lot-line homes. One side yard shall be reduced to zero feet, while the other side yard shall be a minimum of ten feet (10’; fifteen feet for a corner lot on the residential or collector street side, or twenty feet for a corner lot on an arterial street). A minimum five-foot (5’) wide maintenance easement shall be placed on the adjacent lot (i.e., the other side of the zero-lot-line) to enable the property owner to maintain that portion of his/her house which is on the zero-lot-line. Side yards and maintenance easements shall be shown on the subdivision plat. A minimum separation between patio homes of ten feet (10’) shall be provided. Roof overhangs will be allowed to project into the maintenance easement a maximum of twenty-four inches (24”), but the maintenance easement shall remain reasonably accessible to the adjacent homeowner to perform maintenance and repairs to all portions of the exterior of his/her home. No accessory building, pool (except decking), or stored materials (e.g., firewood, garden or construction materials, etc.) shall be located or stored within the maintenance easement.

B. **Maintenance Requirements for Common Areas** - A property owners association is required for continued maintenance of common land and facilities.

C. **Usable Open Space Requirements** - Except as provided below, any patio home subdivision shall provide usable open space which equals or exceeds ten percent (10%) of the gross platted area, excluding rights-of-way for collector and larger sized streets. Useable open space shall not be required for a patio home development if it contains twenty (20) or fewer lots, and if the property contiguous (i.e., abutting or separated only by a residential or collector size street) to the subdivision is either developed for use(s) other than patio homes or is restricted by zoning to not permit patio home development. Properties that are separated by thoroughfares larger than
a collector street and/or by drainage/utility easements in excess of sixty feet (60’) in width shall not be considered as contiguous.

D. **Specific Criteria for Usable Open Space** - Areas provided as usable open space shall meet the following criteria:

1. All residential lots must be located within six hundred feet (600’) of a usable open space area as measured along a street. The Planning and Zoning Commission may recommend, and City Council may allow, this distance to be increased to up to one thousand two hundred feet (1,200’) if the shape of the subdivision is irregular or if existing trees or other natural features on the site can be preserved by increasing the distance.

2. Individual usable open space areas shall be at least twenty thousand (20,000) square feet in size. Useable open space must be a minimum of fifty feet (50’) wide, and must have no slope greater than ten percent (10%). At the time of site plan and subdivision plat approval, the Planning and Zoning Commission may recommend, and the City Council may allow, full or partial credit for open areas that exceed the 10% maximum slope if it is determined that such areas are environmentally or aesthetically significant and that their existence enhances the development and the surrounding area.

3. Pools, tennis courts, walkways, patios and similar outdoor amenities may be located within areas designated as useable open space. Areas occupied by enclosed buildings (except for gazebos and pavilions), driveways, parking lots, overhead electrical transmission lines, drainage channels and antennas may not be included in calculating useable open space.

4. Within useable open space areas, there shall be at least one (1) large shade tree for every one thousand (1,000) square feet of space. New trees planted to meet this requirement shall be a minimum three-inch (3”) caliper, and at least twenty-five percent (25%) of the trees shall be non-deciduous (for qualifying tree species, see Section 50 for the City’s Approved Plant List).

5. A useable open space area must have street frontage on at least thirty-three percent (33%) of the area’s perimeter to ensure that the area is accessible to residents of the subdivision.

6. Useable open space areas must be easily viewed from adjacent streets and homes. Side or rear yard fences along common open space areas shall be of open, wrought iron design with masonry columns at forty-foot (40’) spacing on center, and shall not exceed four feet (4’) in height adjacent to the open space and for a distance of ten feet (10’) perpendicular or radial to the open space area.

E. **Credit for Off-Site Open Space** - At the time of site plan and subdivision plat approval, the Planning and Zoning Commission may recommend, and the City Council may allow, up to one-third (1/3) of the required open space to be credited for off-site dedicated open space (e.g., park land) that meets the development’s needs in terms of adjacency, accessibility, usability, and design integration. The granting of
any off-site credit for open space is a discretionary power of the City Council. The guidelines below may assist in considering if credit is appropriate:

1. **Adjacency** - Is at least fifteen percent (15%) of the patio home development's boundary adjacent to park land?

2. **Accessibility** - Are there defined pedestrian connections between the development and the park land?

3. **Usability** - Is the park land immediately adjacent to the development suitable for use and accessible by residents?

4. **Design Integration** - Does the design of the development provide a significant visual and pedestrian connection to the park or other open space land?

F. **Landscaped Areas** - Additional common open space and landscaped areas that do not qualify as usable open space may be provided, but shall not be counted toward the usable open space requirement.

G. Single-family lots and detached dwellings constructed in this district shall conform to the standards as set forth in the SF-8 zoning district.

H. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

I. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.

J. Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of three (3) or more acres.

K. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

L. Homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25') from the door face of the garage or carport to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be twenty-five feet (25').

M. Swimming pools (see Subsection 47.2).

N. Site plan approval (see Section 12) shall be required for any non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the SF-PH district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

O. **Other Regulations** - As established by Sections 38 through 50.
SECTION 22  2F–TWO-FAMILY RESIDENTIAL DISTRICT (Duplex Homes)

22.1 GENERAL PURPOSE AND DESCRIPTION:

The 2F, Two-Family Residential, district is intended to promote stable, quality multiple-occupancy residential development at slightly increased densities. Individual ownership of each of the two-family or duplex units is encouraged. This district is typically used as a "buffer" or transition district between lower density residential areas and higher density or non-residential areas or major thoroughfares. Areas zoned for the 2F district shall have, or shall make provision for, City of Forney water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from non-residential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

22.2 PERMITTED USES:

A. Those uses listed for the 2F district in Section 37 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

22.3 HEIGHT REGULATIONS:

A. Maximum Height
   1. Two and one-half (2.5) stories, and not to exceed thirty-six feet (36'), for the main building/house.
   2. Deleted.
   3. Other requirements (see Section 43).

22.4 AREA REGULATIONS:

A. Size of Lots for Two-Family/Duplex Homes:
   1. Minimum Lot Area - Ten thousand (10,000) square feet per duplex lot (i.e., five thousand [5,000] square feet of lot area per dwelling unit)
   2. Minimum Lot Width - Ninety feet (90') for each duplex lot (i.e., forty-five feet [45'] of lot width per dwelling unit)
   3. Minimum Lot Depth - One hundred feet (100')

B. Size of Yards for Two-Family/Duplex Homes:
   1. Minimum Front Yard – Twenty feet (20'); twenty-five feet (25') to the garage door face for front-entry homes
   2. Minimum Side Yard - One side yard reduced to zero feet (0') where the duplex units join; other side yard a minimum of six feet (6') required with fifteen feet (15') required on corner lots adjacent to a residential or collector street, and twenty feet (20') required on corner lots adjacent to an arterial street
   3. Minimum Rear Yard - Ten feet (10') for the main building and any accessory building(s); twenty-five feet (25') for rear garage entry; ten feet (10') from a main building to an accessory building

C. Maximum Lot Coverage for Two-Family/Duplex Homes - forty-five percent (45%) by main buildings and accessory buildings
D. **Parking Regulations:**
   1. A minimum of two (2) enclosed parking spaces for each dwelling unit behind the front building line and on the same lot as each dwelling unit, plus two (2) additional parking spaces on a paved driveway having a minimum length of twenty-five feet (25') as measured from the street right-of-way line.
   2. Also see Section 38, Off-Street Parking and Loading Regulations.

E. **Minimum Floor Area per Dwelling Unit for Two-Family/Duplex Homes** - One thousand eight hundred (1,800) square feet of air-conditioned floor area per pair of duplex units, with the smaller unit being no smaller than eight hundred (800) square feet of air-conditioned floor area.

F. **Minimum Exterior Construction Standards** – See Section 42.2.

22.5 **SPECIAL REQUIREMENTS:**

A. Single-family lots and detached dwellings constructed in this district shall conform to the standards as set forth in the SF-8 zoning district.

B. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

C. Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling purposes.

D. Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of three (3) or more acres.

E. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).

F. Single-family and two-family homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25') from the door face of the garage or carport to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be twenty-five feet (25').

G. Swimming pools (see Subsection 47.2).

H. Site plan approval (see Section 12) shall be required for any non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the 2F district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

I. **Other Regulations** - As established by Sections 38 through 50.
SECTION 23  SFA - SINGLE-FAMILY ATTACHED RESIDENTIAL DISTRICT
(Townhomes)

23.1 GENERAL PURPOSE AND DESCRIPTION:

The SFA, Single-Family Attached Residential, district is intended to promote stable, quality, attached-occupancy residential development on individual lots at higher residential densities. Individual ownership of each lot and dwelling unit is encouraged. This district may be included within certain areas of neighborhoods or, when in accordance with the intent of the Comprehensive Plan, may provide a "buffer" or transition district between lower density residential areas and multi-family or non-residential areas or major thoroughfares. Areas zoned for the SFA district shall have, or shall make provision for, City of Forney water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from non-residential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

23.2 PERMITTED USES:

A. Those uses listed for the SFA district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

23.3 HEIGHT REGULATIONS:

A. Maximum Height  
1. Two and one-half (2.5) stories, and not to exceed thirty-six feet (36’), for the main building/house; where a structure exceeds twenty-five feet (25’) in height, it shall be set back from the front property line one (1) additional foot beyond the required front yard setback for each foot above twenty-five feet (25’) in height.  
2. Deleted.  
3. Other requirements (see Section 43).

23.4 AREA REGULATIONS:

A. Size of Lots:  
1. Minimum Lot Area - Three thousand five hundred (3,500) square feet  
2. Maximum Density - Eight (8) units per gross acre of land area within the development  
3. Minimum Project Size - The minimum size of a single-family attached residential development shall be five (5) acres.  
4. Maximum Project Size - The maximum size of a single-family attached residential development shall be fifteen (15) acres.  
5. Minimum Lot Width - Thirty-five feet (35’)  
6. Minimum Lot Depth - One hundred feet (100’)
B. **Size of Yards:**

1. **Minimum Front Yard** - Fifteen feet (15'); front yard setback shall be staggered in at least four-foot (4') increments such that no more than two (2) units have the same front setback in a row, and such that at least 30% of the lots along any block face are set back at least twenty-three feet (23'), at least 30% of the lots are set back at least nineteen feet (19'), and no more than 40% of the lots use the minimum fifteen-foot (15') front setback; no front-entry garages permitted.

2. **Minimum Side Yard**
   a. Single-family attached dwellings shall not have an interior side yard; however, a minimum fifteen-foot (15') side yard is required for a corner lot adjacent to a residential or collector street, and a minimum twenty-foot (20') side yard is required for a corner lot adjacent to an arterial street. The ends of any two adjacent building complexes or rows of buildings shall be at least twenty feet (20') apart. The required side yards shall be designated upon a final plat approved by the City Council.
   b. A complex or continuous row of attached single-family dwellings shall have a minimum length of three (3) dwelling units (triplex), a maximum length of eight (8) dwelling units, and shall not exceed two hundred eighty feet (280') in length.

3. **Minimum Rear Yard** - Ten feet (10') for the main building and any accessory building(s); twenty-five feet (25') for rear garage entry; ten feet (10') from a main building to an accessory building.

C. **Maximum Lot Coverage**: Seventy percent (70%) by main and accessory buildings on each individual lot.

D. **Parking Regulations**:

1. A minimum of two (2) enclosed parking spaces for each dwelling unit, located behind, beside or incorporated into the dwelling unit, and accessed only from the rear via an alley, and located on the same lot as each dwelling unit (see Section 38, Off-Street Parking and Loading Requirements).

2. Designated visitor parking spaces shall be provided in off-street, common areas at a ratio of one (1) guest/visitor space per four (4) units.

3. Additional parking shall be required for any recreational uses, clubhouse, office, sales offices and other similar accessory structures and uses.

E. **Minimum Floor Area per Dwelling Unit** - Eight hundred (800) square feet of air-conditioned floor area.

F. **Minimum Exterior Construction Standards** – See Section 42.2.

23.5 **SPECIAL REQUIREMENTS:**

A. **Usable Open Space Requirements** – Except as provided below, any single-family attached subdivision shall provide useable open space which equals or exceeds twenty percent (20%) of the gross platted area, excluding rights-of-way for collector and larger sized streets. Useable open space shall not be required for a single-family attached development if it contains twenty (20) or fewer lots, and if the property contiguous (i.e., abutting or separated only by a residential or collector size street) to the subdivision is either developed for use(s) other than single-family attached homes or is restricted by zoning to not permit single-family attached
development. Properties that are separated by thoroughfares larger than a collector street and/or by drainage/utility easements in excess of sixty feet (60’) in width shall not be considered as contiguous. Usable open space areas shall be in conformance with Subsections 21.5D and 21.5E.

B. **Maintenance Requirements for Common Areas** - A property owners association is required for continued maintenance of common land and facilities.

C. **Alleys** - Each attached dwelling unit within the SFA district shall be rear-entry only from an alley that is constructed along with the rest of the subdivision (i.e., at the same time as the streets, utilities, etc.) and that is in conformance with the City’s design standards for alleys (see Section 3.2 of the Subdivision Ordinance).

D. **Refuse Facilities** - Every single-family attached dwelling unit shall be located within one hundred feet (100’) of a refuse facility, measured along the designated pedestrian and vehicular travel way. A refuse facility shall be a dumpster or other similar container designed for receiving garbage in bulk for more than one dwelling, and all refuse containers shall be maintained in accordance with local public health and sanitary regulations. Refuse containers shall be located no closer than thirty feet (30’) to any adjacent single-family property, shall be located so as to provide safe and convenient pickup by refuse collection agencies, and shall be screened in accordance with Subsection 41.2(G) of this Ordinance. (See Illustration 11 for refuse container enclosure diagrams).

E. All utilities shall be provided separately to each lot within an SFA district so that each unit is individually metered.

F. A swimming pool shall be provided in single-family attached developments of fifty (50) or more units. See Section 47.2 for additional pool requirements.

G. Single-family detached dwellings (and their respective lots) constructed within this district shall conform to the standards as set forth in the SF-8 district.

H. Each SFA lot shall contain a private yard with not less than four hundred (400) square feet of area (i.e., a back yard or large side yard). Private yards may include a patio cover, gazebo or other similar non-enclosed structure which does not cover more than twenty-five percent (25%) of the area of the private yard, and they may also include a swimming pool, swing set, play fort, or other private leisure amenity.

I. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

J. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.

K. Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of three (3) or more acres.

L. Open storage is prohibited (except for materials for the resident’s personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any
required setback and which shall be screened from view of public streets and neighboring properties).

M. Homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25') from the door face of the garage or carport to the side property line for maneuvering. The minimum setback from any garage door to a street or alley right-of-way line shall also be twenty-five feet (25').

N. Site plan approval (see Section 12) shall be required for any single-family attached or non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the SFA district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc. All buildings within a development shall be architecturally compatible with each other, in that they shall use similar exterior finish colors and materials to achieve an overall, visually compatible appearance when viewed from the road.

O. Gated/secured entrances shall be in accordance with the design standards for gated/secured entrances on private streets.

P. Other Regulations - As established by Sections 38 through 50.
SECTION 24  MF-15 – MULTI-FAMILY RESIDENTIAL-15 DISTRICT  
(Apartments)

24.1 GENERAL PURPOSE AND DESCRIPTION:

The MF-15, Multi-Family Residential-15, district is an attached residential district intended to provide the highest residential density of fifteen (15) dwelling units per acre. The principal permitted land uses will include low- and mid-rise multiple-family dwellings and garden apartments. Recreational, religious, health and educational uses normally located to service residential areas are also permitted in this district. This district should be located adjacent to a major thoroughfare and serve as a buffer between non-residential development or heavy automobile traffic and medium- or low-density residential development. Areas zoned for the MF-15 district shall have, or shall make provision for, City of Forney water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete drive aisles with logical and efficient vehicular circulation patterns; they shall be properly buffered from non-residential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

24.2 PERMITTED USES:

A. Those uses listed for the MF-15 district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

24.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Two and one-half (2.5) stories, and not to exceed thirty-six feet (36’), for the main building(s).
   2. Deleted.
   3. Other requirements (see Section 43).

24.4 AREA REGULATIONS:

A. Size of Lots:
   1. **Minimum Lot Area** - Two thousand (2,000) square feet per dwelling unit, not to exceed fifteen (15) dwelling units per acre (calculated on gross acreage). The minimum lot (i.e., project) size shall be ten (10) acres.
   2. **Minimum Lot Width** - One hundred feet (100')
   3. **Minimum Lot Depth** - One hundred fifty feet (150')
   4. **Special Exception** - If a property was platted or zoned for MF-15 prior to the effective date of this Ordinance, then it can remain its original size and configuration and does not have to meet the minimum project size, lot width or lot depth stated above. The property shall conform with all other MF-15 development standards herein, unless the building setbacks shown on a recorded plat vary from those contained herein, in which case the platted setbacks shall prevail unless a replat modifies same.
B. **Size of Yards:**

1. **Minimum Front Yard** - Thirty feet (30'). All areas adjacent to a street shall be deemed front yards. See Section __42 for additional setback requirements.

2. **Minimum Side and Rear Yard** - Fifteen feet (15'), unless adjacent to a single-family, duplex, patio home or single-family attached district then side and rear setbacks shall be according to the height of the multi-family building, as follows:
   a. One-story building – twenty-five feet (25')
   b. Two-story building – fifty feet (50')
   c. Over two-story building – seventy-five feet (75')

3. **Building Separation:**
   a. One-story buildings - Fifteen feet (15') for buildings without openings; twenty feet (20') for buildings with openings
   b. Two-story buildings (or a two-story building adjacent to a one-story building) - Twenty feet (20') for buildings without openings; twenty-five feet (25') for buildings with openings
   c. Over two-story buildings (or an over two-story building adjacent to a one- or two-story building) - Twenty-five feet (25') for buildings with or without openings
   d. Between a main building and an accessory building – ten feet (10')

C. **Minimum Floor Area per Dwelling Unit:**

1. Efficiency unit - Five hundred (500) square feet per unit.
2. One-bedroom unit - Seven hundred twenty-five (725) square feet per unit.
3. Two- or more bedroom unit - Eight hundred seventy-five (875) square feet for the first two bedrooms, plus an additional one hundred twenty-five (125) square feet for every bedroom over two (e.g., three-bedroom unit must have 1,000 square feet, etc.).
4. At least sixty percent (60%) of the total building area for dwelling units (i.e., not including clubhouses, laundry rooms, mail kiosks, etc.) shall be located on the first floor (i.e., maximum of 40% of dwelling unit square footage above the first story)

D. **Maximum Lot Coverage:** Forty-five percent (45%) total, including main and accessory buildings

E. **Parking Regulations:**

1. 1.5 spaces for each efficiency or one-bedroom unit
2. 2 spaces for each two-bedroom unit
3. 2.5 spaces for each three-bedroom unit
4. 3 spaces for each four- or more-bedroom unit
5. The average number of parking spaces for the total development shall be no less than two (2) spaces per dwelling unit, at least one (1) of which shall be enclosed (i.e., garage) for each dwelling unit.
6. No parking space may be located closer than six feet (6’) from any building, nor closer than two feet (2’) from any side or rear lot line.
7. All parking areas adjacent to public streets shall be screened from view. Screening may be in the form of live plant materials, berms, low masonry walls that match the exterior finish of main buildings, or any combination of the above.
8. See Section 38, Off-Street Parking and Loading Requirements, for additional requirements.
24.5 **SPECIAL REQUIREMENTS:**

A. **Usable Open Space Requirements** – Except as provided below, any multi-family development shall provide usable open space which equals or exceeds fifteen percent (15%) of the total lot area. Usable open space areas shall be in conformance with Subsections 21.5D and 21.5E.

B. **Landscape Area Requirements** – A minimum of twenty percent (20%) of the total lot area shall be devoted to a combination of landscaping (i.e., pervious surface area) and usable open space (see above). See Section 39 for landscaping requirements.

C. **Refuse Facilities** - Every multi-family dwelling unit shall be located within two hundred feet (200') of a refuse facility, measured along the designated pedestrian travel way. A refuse facility shall be a dumpster or other similar container designed for receiving garbage in bulk for more than one dwelling, and all refuse containers shall be maintained in accordance with local public health and sanitary regulations. Refuse containers shall be located no closer than thirty feet (30') to any adjacent single-family property, shall be located so as to provide safe and convenient pickup by refuse collection agencies, and shall be screened in accordance with Subsection 41.2(G) of this Ordinance. (See Illustration 11 for refuse container enclosure diagrams).

D. **Screening Requirements** – See Section 41 for screening requirements.

E. A swimming pool shall be provided in multi-family developments of fifty (50) or more units. See Section 47.2 for additional pool requirements.

F. One playground area containing at least five (5) pieces of play equipment shall be provided for every one hundred (100) dwelling units, or fraction thereof. The playground equipment shall be of heavy duty construction, such as is normally used in public parks or on public school playgrounds.

G. Single-family, duplex, patio home, or townhouse residential units constructed in this district shall conform to SF-8, 2F, SF-PH or SFA district standards, respectively.

H. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.

I. Open storage is prohibited.

J. All points on the exterior facades of all buildings shall be within one hundred fifty feet (150') of a dedicated fire lane easement (as measured by an unobstructed pathway, or route, for fire hoses).

K. A four-foot (4') wide paved walkway shall connect the front door of each ground floor unit to a parking area. The minimum width of any sidewalk adjacent to head-in parking spaces shall be six feet (6') to accommodate a two-foot (2') bumper overhang for vehicles.
L. Buildings shall not exceed two hundred feet (200') in length.

M. Boats, campers, trailers and other recreational vehicles shall be prohibited unless oversize parking areas are provided as part of the approved site plan. This parking area shall not be used to meet the minimum parking requirements and shall not be visible from a public street.

N. All buildings containing residential units shall provide signage which clearly identifies the numbers (i.e., addresses) of the units within each building. Signage shall be visible from entrances into the complex and/or from vehicular drive aisles within the complex such that each individual unit is easy to locate by visitors, delivery persons, and/or emergency personnel.

O. All parking areas shall have appropriate lighting and shall be positioned such that no light adversely impacts adjacent residential areas.

P. Site plan approval (see Section 12) shall be required for any multi-family or non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the MF-15 district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc. All buildings within a development shall be architecturally compatible with each other, in that they shall use similar exterior finish colors and materials to achieve an overall, visually compatible appearance when viewed from the road.

Q. Gated/secured entrances shall be in accordance with the design standards for gated/secured entrances on private streets.

R. **Other Regulations** - As established by Sections 38 through 50.
SECTION 25    (reserved)
SECTION 26  MH – MANUFACTURED HOME DISTRICT

26.1 GENERAL PURPOSE AND DESCRIPTION:

The MH, Manufactured Home, district is a detached residential district establishing standards for the development of HUD-code manufactured home parks and subdivisions. HUD-Code manufactured home subdivisions include individually platted lots for sale within the subdivision, for the placement of manufactured home units. A manufactured home park offers spaces for the placement of manufactured home units on a lease or rental basis. The Manufactured Home district establishes area and design requirements for parks and subdivisions, as well as yard requirements for individual lots. Both parks and subdivisions provide open space and recreational areas appropriate for the acreage and number of units contained. Areas zoned for the MH district shall have, or shall make provision for, City of Forney water and sewer services. They shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from non-residential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

26.2 PERMITTED USES:

A. Those uses listed for the MH district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

26.3 AREA REGULATIONS:

A. Size of Yards (for each space within manufactured home park or subdivision):
   1. Minimum Front Yard - Twenty-five feet (25’) from a dedicated street; fifteen feet (15’) from any private street or drive. See Section __.42 for additional setback requirements.
   2. Minimum Side Yard - Ten feet (10’); twenty feet (20’) between units; twenty feet (20’) from zoning district boundary line; fifteen feet (15’) for a corner lot on a residential or collector street, and twenty feet (20’) for a corner lot on an arterial street
   3. Minimum Rear Yard - Ten feet (10’); twenty feet (20’) from any zoning district boundary line
   4. If a garage is provided, the entry (i.e., door) side of the garage shall have a twenty-five-foot (25’) setback as measured from any property or street right-of-way line

B. Size of Space (for each space within a manufactured home park):
   1. Minimum Lot Area - Three thousand five hundred (3,500) square feet per unit
   2. Minimum Lot Width – Forty feet (40’)
   3. Minimum Lot Depth – Eighty feet (80’)

C. Minimum Floor Area per Dwelling Unit: Eight hundred (800) square feet.

D. Maximum Lot Coverage: Fifty percent (50%) for main building/unit plus any accessory buildings.
E. **Parking Regulations**: Two (2) spaces per unit located on the same lot as the unit served (see Section 38, Off-Street Parking and Loading)

F. **Minimum Lot Area for a Manufactured Home Subdivision** (Manufactured Homes on undeveloped lots) - Twenty thousand (20,000) square feet per lot

G. **Area for Manufactured Home Park** – Minimum project area three (3) acres; maximum project area thirty-five (35) acres

H. **Maximum Height Limit**:
   1. Two and one-half (2.5) stories, and not to exceed thirty-six feet (36’), for the main building/house.
   2. One story for other accessory buildings, including detached garages, carports, management office, clubhouse, gazebo, mail kiosks, etc.
   3. Other requirements (see Section 43).

I. **Minimum Exterior Construction Standards** – None (manufactured homes only – all other structures shall conform with Section 42.2).

### 26.4 SPECIAL REQUIREMENTS FOR MANUFACTURED HOME PARKS:

A. **Tenant Parking** - Each parking space shall be an approved all-weather surface, in accordance with City standards, and shall be located to eliminate interference with access to parking areas provided for other manufactured homes and for public parking in the park (see Section 38, Off-Street Parking and Loading Requirements).

B. **Visitor and Supplemental Parking** - In addition to parking spaces required for each manufactured home unit, there shall be paved parking provided for the manufactured home community in general (see Section 38, Off-Street Parking and Loading Requirements):

   1. Two (2) visitor parking space for every three (3) manufactured home spaces.

   2. One (1) supplemental parking or vehicle storage space for the parking or storage of boats, campers and similar vehicles or equipment for every four (4) manufactured home spaces.

   3. Supplemental spaces may be located anywhere within the manufactured home community provided that no manufactured home space shall be situated further than one hundred fifty feet (150’) from a visitor space.

   4. Each parking space will be not less than nine feet by twenty feet (9’ x 20’), which is not to be included in the lot size.

C. **Access** - Each manufactured home community shall have direct access from an improved public street in accordance with the Subdivision Ordinance. Where an internal private street provides access to individual lots or dwelling units, the same shall be paved in accordance with City standards, and it shall be dedicated to the public as an emergency access or fire lane easement to allow for the rapid and safe movement of vehicles used in providing emergency health or public safety services.
Each emergency access/fire lane easement shall have a clear unobstructed width of twenty-four feet (24’), shall connect to a dedicated public street, and shall have a turning area and radii of a minimum of fifty feet (50’) to permit free movement of emergency vehicles. Dead end streets are not allowed. Cul-de-sac streets shall not exceed four hundred feet (400’) in length. Fire lane easements shall be maintained by the manufactured home park.

Gated/secured entrances shall be in accordance with the design standards for gated/secured entrances on private streets.

D. **Walkways** - Designated concrete walkways four feet (4’) in width will be provided on both sides of roadways or streets.

E. **Street Names and Signs** - Within each manufactured home park, all streets shall be named, and manufactured homes numbered in a logical and orderly fashion. Street signs shall be of a color and size contrasting with those on public streets and roadways so that there is no confusion regarding which are private and which are public streets. These signs and numbers shall be of standard size and placement to facilitate location by emergency vehicles. Street names shall be submitted to the City Manager, or his/her designee, along with the preliminary plat application, reviewed by the appropriate City staff with respect to street naming procedures set forth within the Subdivision Ordinance and/or the City’s Code of Ordinances, and approved by the Planning and Zoning Commission and the City Council on the preliminary plat for the subdivision. The street names shall be set with preliminary plat approval, and shall not be changed on the final plat without City approval. All dwelling unit numbering (i.e., addressing) shall be assigned by the City Manager, or his/her designee.

F. **Other Signs** - Along all sections of emergency access easements, the owner or agent shall erect metal signs prohibiting parking. The sign type, size, height and location shall be in accordance with the Manual of Uniform Traffic Control Devices and approved by the City.

G. **Intersections** - Internal streets shall intersect adjoining public streets at approximately ninety degrees (90°) and at locations which will eliminate or minimize interference with traffic on those public streets.

H. **Street Lighting** - Street lighting within the manufactured home park shall be provided in accordance with the Subdivision Regulations, and shall be maintained by the owners of the manufactured home park.

I. **Electric and Telephone Service** - All electrical distribution lines and all telephone lines shall be underground except the primary service lines to the park.

J. **Drainage and Soil Protection** - The ground surface in all parts of the park shall be graded and equipped to drain all surface water in a safe, efficient manner. Each manufactured home space shall provide adequate drainage for the placement of a manufactured home. Exposed ground surfaces in all parts of every manufactured home park shall be paved and/or covered with stone, brick paving, or other similar solid material, or protected with a vegetative growth (such as grass) capable of preventing soil erosion and eliminating dust.
K. Fire Fighting:

1. Approaches to all manufactured homes shall be kept clear for fire fighting.

2. The owner or agent of a manufactured home park shall be responsible for the instruction of any staff in the use of the park fire protection equipment and in their specific duties in the event of a fire. Owner shall supply standard City fire hydrants located within three hundred feet (300’) of all manufactured home spaces, measured along the drive or street.

3. The owner or agent of a manufactured home park shall be responsible for maintaining the entire area of the park free of dry brush, leaves and weeds in excess of six inches (6”) in height.

L. Refuse Facilities - Every manufactured home dwelling unit shall be located within one hundred fifty feet (150’) of a refuse facility, measured along the designated pedestrian travel way. A refuse facility shall be a dumpster or other similar container designed for receiving garbage in bulk for more than one dwelling, and all refuse containers shall be maintained in accordance with local public health and sanitary regulations. Refuse containers shall be located no closer than thirty feet (30’) to any adjacent single-family property, shall be located so as to provide safe and convenient pickup by refuse collection agencies, and shall be screened in accordance with Subsection 41.2(G) of this Ordinance. (See Illustration 11 for refuse container enclosure diagrams).

M. Anchorage of Manufactured Homes - To insure against natural hazards such as tornados, high winds and electrical storms, anchorage for each manufactured home shall be provided according to the Building Code and State law.

N. Skirting:

1. All manufactured home units not attached to a permanent foundation shall provide skirting from the top of the unit’s frame to grade. Skirting shall totally enclose and secure from view the unit’s axles and all required anchors, footings, and piers.

2. All required skirting shall be masonry, and shall be of a color similar to the materials used in the construction of the manufactured home unit such that it blends with the overall appearance of the unit.

26.5 SPECIAL REQUIREMENTS:

A. Single-family, duplex, patio home, or townhouse residential units constructed in this district shall conform to SF-8, 2F, SF-PH or SFA district standards, respectively.

B. Open storage is prohibited.

C. Usable Open Space Requirements – Except as provided below, any manufactured home development shall provide useable open space which equals or exceeds
fifteen percent (15%) of the total land area within the development. Usable open space areas shall be in conformance with Subsections 21.5D and 21.5E.

D. A swimming pool shall be provided in manufactured home developments of fifty (50) or more units. See Section 47.2 for additional pool requirements.

E. One playground area containing at least five (5) pieces of play equipment shall be provided for every one hundred (100) dwelling units, or fraction thereof. The playground equipment shall be of heavy duty construction, such as is normally used in public parks or on public school playgrounds.

F. Site plan approval (see Section 12) shall be required for any manufactured home park or non-residential use (e.g., school, church, child care center, private recreation facility, etc.) in the MH district. Any nonresidential land use which may be permitted in this district shall conform to the “NS”-Neighborhood Service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

G. **Other Regulations** - As established by Sections 38 through 50.
SECTION 27  O – OFFICE DISTRICT

27.1 GENERAL PURPOSE AND DESCRIPTION:

The O, Office, district is established to create an appropriate setting for low intensity office and professional uses. The district can be used as a transition district between residential uses and more intense uses, and with appropriate buffers and landscaping, this district may be located in close proximity to residential districts. Permitted uses should be compatible with adjacent residential areas by limiting heights to one (1) or two (2) stories, and shall not include uses that create excessive amounts of traffic, noise, trash or late-night business operations. Traffic generated by uses in this district shall not be encouraged to travel through residential areas. Adaptive reuse of existing structures is encouraged. Buildings in this district should be compatible and similar in scale with residential uses and adjacent property.

27.2 PERMITTED USES:

A. Those uses listed for the O district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

27.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Two (2) stories, and not to exceed thirty-five feet (35’), for the main building(s).
   2. One (1) story for accessory buildings.
   3. Other (see Section 43.4).

27.4 AREA REGULATIONS:

A. Size of Lots:
   1. Minimum Lot Area - Six thousand (6,000) square feet
   2. Minimum Lot Width - Sixty feet (60’), except one hundred and twenty feet (120’) along U.S. Highway 80 or Interstate Highway 20 frontage
   3. Minimum Lot Depth - One hundred feet (100’)
   4. Maximum Lot Depth – Three (3) times the lot width, unless otherwise excepted and approved on the site plan by the City Council (to be allowed only due to some unusual characteristic that is intrinsic to the land itself, to existing tract/parcel boundaries that were in existence prior to the effective date of the Subdivision Ordinance on July 20, 2000, or to some other proven hardship other than just diminished profit or mere inconvenience of the property’s owner/developer)

B. Size of Yards:
   1. Minimum Front Yard - Twenty-five feet (25’) from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see Section __42 for additional setback requirements)
   2. Minimum Side and Rear Yard - Fifteen feet (15’) unless adjacent to a residentially zoned property (see below)
3. **Minimum Side or Rear Yard Adjacent to a Residential District** – Twenty feet (20') for one-story building, and an additional twenty feet (20') for every story (or fraction thereof) above one-story in height

C. **Maximum Lot Coverage** – Forty percent (40%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

D. **Maximum Floor-Area-Ratio (FAR)** – One to one (1:1)

E. **Parking Requirements** - As established by Section 38, Off-Street Parking and Loading Requirements.

F. **Minimum Exterior Construction Standards** – See Section 42.2; all structures shall consist of one hundred percent (100%) non-combustible materials. All façades of main buildings with frontage of 80 feet or more in length that face a public street or a residentially-zoned district (“Front Façade”) shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of four feet (4') in depth either protruding forward of or recessed back from the remaining plane of such Front Façade. Buildings having a frontage less than 80 feet in length shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of two feet (2') in depth either protruding forward or recessed back from the remaining plane of such Front Façade. In addition, on buildings of three stories or less, the horizontal line of a flat roof (or parapet wall) along any Front Façade (a façade facing a public street or residentially-zoned district) shall vary vertically by a minimum of two feet (2') up or down so that no more than sixty-six percent (66%) of the roofline is on the same elevation.

27.5 **SPECIAL DISTRICT REQUIREMENTS:**

A. **Driveway Spacing** (i.e., distance between driveways, measured edge-to-edge):
   1. Arterial street – One driveway per two hundred (200) linear feet of frontage
   2. Collector street – One driveway per one hundred (100) linear feet of frontage
   3. Local street – One driveway per fifty (50) linear feet of frontage
   4. Minimum distance from driveway to street corner – Fifty feet (50’), as measured from the street corner radius point of tangency

B. **Site Plan Review** - Review and approval of a site plan by the Planning and Zoning Commission and the City Council (in accordance with Section 12) shall be required for any tract/lot within the O district. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the City Council.

C. **Landscaping Requirements** – See Section 39.

D. **Screening Requirements** – See Section 41.

E. Open storage and outside display are prohibited.

F. Building facade (i.e., elevation) plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will
look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The City Manager (or his/her designee) may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the Site Plan review process. All buildings within a development (i.e., a retail center, office or business complex, etc. – including free-standing pad sites) shall be architecturally compatible with each other, in that they shall use similar exterior finish colors and materials to achieve an overall, visually compatible appearance when viewed from the road.

G. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.

H. **Other Regulations** - As established in the Development Standards, Sections 38 through 50.
SECTION 28  NS – NEIGHBORHOOD SERVICE DISTRICT

28.1 GENERAL PURPOSE AND DESCRIPTION:

The NS, Neighborhood Service district is established to provide areas for limited local neighborhood, low intensity retail and service facilities for the retail sales of goods and services. These shopping areas should utilize established landscape and buffering requirements. The NS district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes, but it can also act as a buffer against residential areas.

28.2 PERMITTED USES:

A. Those uses listed for the NS district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

28.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Two (2) stories, and not to exceed thirty-five feet (35’), for the main building(s).
   2. One (1) story for accessory buildings.
   3. Other (Section 43.4).

28.4 AREA REGULATIONS:

A. Size of Lot:
   1. Minimum Lot Area - Six thousand (6,000) square feet
   2. Minimum Lot Width - Sixty feet (60’), except one hundred and twenty feet (120’) along U.S. Highway 80 or Interstate Highway 20 frontage
   3. Minimum Lot Depth - One hundred feet (100’)
   4. Maximum Lot Depth – Three (3) times the lot width, unless otherwise excepted and approved on the site plan by the City Council (to be allowed only due to some unusual characteristic that is intrinsic to the land itself, to existing tract/parcel boundaries that were in existence prior to the effective date of the Subdivision Ordinance on July 20, 2000, or to some other proven hardship other than just diminished profit or mere inconvenience of the property’s owner/developer)

B. Size of Yards:
   1. Minimum Front Yard - Twenty-five feet (25’) from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see Section 43.2 for additional setback requirements)
   2. Minimum Side and Rear Yard - Fifteen feet (15’) unless adjacent to a residentially zoned property (see below)
   3. Interior Side Yards - When retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site (i.e., lots/lease spaces abutting one another), no side yard is required provided it complies with the City’s Building Code.
4. **Minimum Side or Rear Yard Adjacent to a Residential District** – Twenty feet (20’) for one-story building, and an additional twenty feet (20’) for every story (or fraction thereof) above one-story in height

C. **Maximum Lot Coverage** – Forty percent (40%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

D. **Maximum Floor-Area-Ratio (FAR)** – One to one (1:1)

E. **Maximum Building Size** - The maximum building foot print (first floor) area of a structure shall not exceed 15,000 square feet. A footprint of 20,000 square feet may be approved on the site provided that overall lot coverage does not exceed 40%.

F. **Parking Requirements** - As established by Section 38, Off-Street Parking and Loading Requirements.

G. **Minimum Exterior Construction Standards** – See Section 42.2; all structures shall consist of one hundred percent (100%) non-combustible materials. All façades of main buildings with frontage of 80 feet or more in length that face a public street or a residentially-zoned district (“Front Façade”) shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of four feet (4’) in depth either protruding forward of or recessed back from the remaining plane of such Front Façade. Buildings having a frontage less than 80 feet in length shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of two feet (2’) in depth either protruding forward or recessed back from the remaining plane of such Front Façade. In addition, on buildings of three stories or less, the horizontal line of a flat roof (or parapet wall) along any Front Façade (a façade facing a public street or residentially-zoned district) shall vary vertically by a minimum of two feet (2’) up or down so that no more than sixty-six percent (66%) of the roofline is on the same elevation.

**28.5 SPECIAL REQUIREMENTS:**

A. **Driveway Spacing** (i.e., distance between driveways, measured edge-to-edge):
   1. Arterial street – One driveway per two hundred (200) linear feet of frontage
   2. Collector street – One driveway per one hundred (100) linear feet of frontage
   3. Local street – One driveway per fifty (50) linear feet of frontage
   4. Minimum distance from driveway to street corner – Fifty feet (50’), as measured from the street corner radius point of tangency

B. **Site Plan Review** - Review and approval of a site plan by the Planning and Zoning Commission and the City Council (in accordance with Section 12) shall be required for any tract/lot within the NS district. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the City Council.

C. **Landscaping Requirements** – See Section 39.

D. **Screening Requirements** – See Section 41.
E. Temporary outdoor retail sales, which involves the outside display of merchandise and seasonal items, shall be limited to the following:

1. Shall not be placed/located more than thirty feet (30’) from the main building.

2. Shall not occupy any of the parking spaces that are required by this Ordinance for the primary use(s) of the property (except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year).

3. Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

4. Shall not extend into public right-of-way or onto adjacent property.

5. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

6. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

F. Open storage is prohibited.

G. Building facade (i.e., elevation) plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The City Manager (or his/her designee) may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the Site Plan review process. All buildings within a development (i.e., a retail center, office or business complex, etc. – including free-standing pad sites) shall be architecturally compatible with each other, in that they shall use similar exterior finish colors and materials to achieve an overall, visually compatible appearance when viewed from the road.

H. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.

I. Other Regulations - As established in the Development Standards, Sections 38 through 50.
SECTION 29  GR – GENERAL RETAIL DISTRICT

29.1 GENERAL PURPOSE AND DESCRIPTION:

The GR, General Retail, district is established to provide areas for local neighborhood shopping and service facilities for the retail sales of goods and services. These shopping areas should utilize established landscape and buffering requirements. The General Retail district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes.

29.2 PERMITTED USES:

A. Those uses listed for the GR district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

29.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Seventy feet (70’). Any structure above thirty-six feet (36’) in height shall require a Conditional Use Permit (CUP). The building height is measured as the vertical distance from grade plane to the average height of the highest roof surface.
   2. One (1) story for accessory buildings.
   3. Other (Section 43.4).

29.4 AREA REGULATIONS:

A. Size of Lot:
   1. Minimum Lot Area - Six thousand (6,000) square feet
   2. Minimum Lot Width - Sixty feet (60’), except one hundred and twenty feet (120’) along U.S. Highway 80 or Interstate Highway 20 frontage
   3. Minimum Lot Depth - One hundred feet (100’)
   4. Maximum Lot Depth – Three (3) times the lot width, unless otherwise excepted and approved on the site plan by the City Council (to be allowed only due to some unusual characteristic that is intrinsic to the land itself, to existing tract/parcel boundaries that were in existence prior to the effective date of the Subdivision Ordinance on July 20, 2000, or to some other proven hardship other than just diminished profit or mere inconvenience of the property’s owner/developer)

B. Size of Yards:
   1. Minimum Front Yard - Twenty-five feet (25’) from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see Section 43.2 for additional setback requirements)
   2. Minimum Side and Rear Yard - Fifteen feet (15’) unless adjacent to a residentially zoned property (see below)
   3. Interior Side Yards - When retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site (i.e., lots/lease spaces abutting one another), no side yard is required provided it complies with the City’s Building Code.
4. **Minimum Side or Rear Yard Adjacent to a Residential District** – Twenty feet (20') for one-story building, and an additional twenty feet (20') for every story (or fraction thereof) above one-story in height.

C. **Maximum Lot Coverage** – Fifty percent (50%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

D. **Maximum Floor-Area-Ratio (FAR)** – One to one (1:1)

E. **Maximum Building Size** - The maximum building footprint (first floor) area of a structure shall not exceed 35,000 square feet. A footprint of 50,000 square feet may be approved on the site provided that overall lot coverage does not exceed 50%.

F. **Parking Requirements** - As established by Section 38, Off-Street Parking and Loading Requirements.

G. **Minimum Exterior Construction Standards** – See Section 42.2; all structures shall consist of one hundred percent (100%) non-combustible materials. All façades of main buildings with frontage of 80 feet or more in length that face a public street or a residentially-zoned district (“Front Façade”) shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of four feet (4’) in depth either protruding forward or recessed back from the remaining plane of such Front Façade. Buildings having a frontage less than 80 feet in length shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of two feet (2’) in depth either protruding forward or recessed back from the remaining plane of such Front Façade. In addition, on buildings of three stories or less, the horizontal line of a flat roof (or parapet wall) along any Front Façade (a façade facing a public street or residentially-zoned district) shall vary vertically by a minimum of two feet (2’) up or down so that no more than sixty-six percent (66%) of the roofline is on the same elevation.

29.5 **SPECIAL REQUIREMENTS:**

A. **Driveway Spacing** (i.e., distance between driveways, measured edge-to-edge):
   1. Arterial street – One driveway per two hundred (200) linear feet of frontage
   2. Collector street – One driveway per one hundred (100) linear feet of frontage
   3. Local street – One driveway per fifty (50) linear feet of frontage
   4. Minimum distance from driveway to street corner – Fifty feet (50’), as measured from the street corner radius point of tangency

B. **Site Plan Review** - Review and approval of a site plan by the Planning and Zoning Commission and the City Council (in accordance with Section 12) shall be required for any tract/lot within the GR district. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the City Council.

C. **Landscaping Requirements**
   1. The owner, developer and/or operator of a non-residential use or multi-family use that is permitted in the GR district adjacent to or abutting a single-family or
two-family residential use in said district shall provide a landscaped area at least five feet (5’) wide along the length of the common property line.

a. Said landscaped area shall contain evergreen shrubs capable of growing to a height of at least four feet (4’) and planted close enough together to make up a living screen along the length of the common property line.

b. The evergreen shrubs making up the living screen must be a minimum of thirty inches (30") in height at the time of planting.

c. In addition one (1) canopy tree (minimum three-inch (3") caliper and seven feet (7’) in height at time of planting) shall be planted for each thirty (30) linear feet or portion thereof of adjacent exposure along the length of the common property line within the landscaped area. These trees may not be clustered.

d. Alternative equivalent landscaping may be approved through the site plan approval process, Section 12.

2. The foregoing requirements shall be in addition to all other landscaping requirements set out in Section 39 of this Zoning Ordinance.”

D. Screening Requirements

1. The owner, developer and/or operator of a non-residential use or multi-family use that is permitted in the GR district and backs up to a single-family or two-family residential use in said district shall erect a screening device comprised of:

   a. A solid brick/masonry screening wall of not less than six feet (6’), nor more than eight feet (8’), in height, constructed of masonry, reinforced concrete, or other similar suitable permanent materials, and without openings along the property line separating the uses to provide a visual and protective barrier between the properties; or,

   b. A combination of:

      (1) a landscaped earthen berm having side slopes not to exceed 3:1 (three feet of horizontal distance for each one foot of height) and containing necessary drainage provisions, as may be required by the city engineer; and

      (2) a living plant screen of an acceptable type and of a density that will not permit through-passage, the plant materials of which must be evergreen, acceptable for six-foot (6’) screening, and at least three feet (3’) in height immediately following planting and which exhibits the same year-round screening characteristics as a solid brick/masonry screening wall.

2. The owner, developer and/or operator of the non-residential use or multi-family use property shall be responsible for and shall build and maintain the required screening device on said owner’s, developer’s and/or operator’s side of the
property line dividing the non-residential use or multi-family use from the single-family or two-family residential use.

3. Alternative equivalent screening may be approved through the site plan approval process, Section 12.

4. All screening devices require permits.

5. The foregoing requirements shall be in addition to all other screening requirements set out in Section 41 of this Zoning Ordinance.”

E. Temporary outdoor retail sales, which involves the outside display of merchandise and seasonal items, shall be limited to the following:

1. Shall not be placed/located more than thirty feet (30’) from the main building.

2. Shall not occupy any of the parking spaces that are required by this Ordinance for the primary use(s) of the property (except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year).

3. Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

4. Shall not extend into public right-of-way or onto adjacent property.

5. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

6. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

F. Open storage is limited to a maximum of five percent (5%) of the total lot area, shall not be located in front of (i.e., on the street side of) or on top of the building, and must be screened in accordance with the provisions of Section 41.2(E) (i.e., cannot be visible from any public street or adjacent property). However, periodic temporary outdoor retail sales, which involves the outside display of seasonal items, is allowed during the appropriate time periods (see provisions in Subsection E above).

G. Building facade (i.e., elevation) plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The City Manager (or his/her designee) may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the Site Plan review process. All buildings within a development (i.e., a retail center, office or business complex, etc. – including free-standing pad sites) shall be architecturally compatible
with each other, in that they shall use similar exterior finish colors and materials to achieve an overall, visually compatible appearance when viewed from the road.

H. Recreational vehicles, travel trailers, motor homes or temporary buildings may not be used for on-site dwelling or permanent nonresidential purposes.

I. Other Regulations - As established in the Development Standards, Sections 38 through 50.
SECTION 30 CBD – CENTRAL BUSINESS DISTRICT

30.1 GENERAL PURPOSE AND DESCRIPTION:

The development standards in the CBD, Central Business District, are designed to maintain and encourage development and redevelopment within the central business section (old downtown) of the City in a “pedestrian friendly” environment that is conducive to special events such as sidewalk sales, street dances, festivals, and other similar events. Standards for the district are generally intended to regulate development such that new structures look similar to existing ones within this section of the City. They are also intended to preserve and enhance the community’s “small town” heritage and the unique character of the City’s original business district. The central business district of Forney is hereby established as the vicinity of Main Street, Bois d’Arc Street, Austin Street and Trinity Street, south of the railroad tracks.

30.2 PERMITTED USES:

A. Those uses listed for the CBD district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

30.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Two (2) stories, and not to exceed thirty-five feet (35’), for the main building(s).
   2. One (1) story for accessory buildings.
   3. Other (Section 43).

30.4 AREA REGULATIONS:

A. Size of Lot:
   1. Minimum Lot Area - none specified
   2. Minimum Lot Width - none specified
   3. Minimum Lot Depth - none specified

B. Size of Yards:
   1. Minimum Front Yard - none specified
   2. Minimum Side Yard - none specified
   3. Minimum Rear Yard - none specified

C. Maximum Lot Coverage – one hundred percent (100%) including main and accessory buildings

D. Maximum Floor-Area-Ratio (FAR) – three to one (3:1)

E. Parking Requirements:

1. For existing structures/uses (in existence prior to the effective date of this Ordinance) - Any existing parking, or lack of same, for any existing structure or use within the CBD district shall be considered a conforming parking arrangement. Additional parking, in accordance with Section 38, shall only be
required for additions to an existing building or for significant expansion of an existing use (as determined by the City Manager, or his/her designee). In the event of destruction of an existing structure within the CBD district, said structure may be rebuilt to its pre-destruction size with no requirements for additional parking provided that reconstruction commences (i.e., a building permit is applied for and issued) within one (1) year of the date of destruction. If reconstruction does not commence within the one-year time frame, or if the structure is rebuilt to exceed its pre-destruction size, then the structure’s nonconforming parking status is deemed to expire and any reconstruction of the structure must provide additional parking in accordance with this Ordinance.

2. **For new structures and uses** - One (1) space per two hundred and fifty (250) square feet of gross floor area, and each use shall provide a minimum of two (2) spaces. For any use which cannot provide off-street parking due to the size or location of the lot, such parking may be provided on other property not more than two hundred feet (200') from the site, in accordance with Section 38.8 of this Ordinance. In cases where the parking requirement cannot be achieved, up to seventy-five percent (75%) of the parking requirement may be waived by the City Council on the site plan.

30.5 **SPECIAL REQUIREMENTS:**

A. **Site Plan Review** – Formal consideration and approval of a site plan by the Planning and Zoning Commission and the City Council (in accordance with Section 12) shall be required for site redevelopment or the construction of any new structure within the CBD district. No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the City Council.

B. For site redevelopment or new construction, building facade (i.e., elevation) plans shall be submitted for review and approval along with the site plan. Façade plans shall be reviewed by City staff, and the Planning & Zoning Commission, with City Council serving as the final approval authority. Facade plans shall clearly show how the building(s) will look, especially as viewed from the road(s) upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. Architectural style and scale of new/renovated buildings within the CBD district shall be compatible with the styles and scale of other adjacent buildings, and shall be historically accurate to the greatest extent possible in order to preserve the unique character of the downtown area.

The City Manager (or his/her designee) may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the site plan review process.

C. Formal consideration is required by the Planning and Zoning Commission, and formal approval of the City Council is required for all site plans and façade plans within the CBD district. Development standards for all uses in the CBD district shall be established on the site plan and all supporting information will be required at the time of approval.
D. Design Standards for the CBD District:

1. False fronts or parapets may be added to existing buildings in order to add character and detail to simple facades.

2. Predominant exterior finish colors shall be of fired brick, similar to that which is present on adjacent existing buildings (other masonry materials may also be considered during site plan review). Trim (i.e., lintels, sills, door jambs, cornices and other similar items) shall be brick, cast stone, stone, cast or wrought iron, or concrete, and colors shall be complementary to the predominant facade colors. Accent colors for friezes, doors and door frames, window frames and mullions, signage, awnings, moldings and other similar features shall be colors that are complementary to, and compatible with, the spirit and intent of the downtown streetscape (bright or fluorescent colors which were not typically used in early Texas downtowns shall not be used).

3. Reflective glass shall not be used for windows; detailing for windows, doors and other openings shall be of wood, glass or a metal material that is complementary to the period or building style.

4. Façade openings shall comprise at least forty percent (40%) of the building’s facade area.

5. Awnings/Canopies (All awning/canopy design must be considered by the Planning and Zoning Commission and the City Council with a site plan application):
   a. **Ratios** -- Awnings shall be at an appropriate scale to the building size and configuration. They shall not extend above the roof line of any single-story structure, or above the top of the second floor of any multi-story structure at the awnings’ highest points. Awnings shall not completely obstruct any windows on the building.
   b. **Projection** -- Since awnings must extend beyond the building face, a reasonable amount of projection shall be allowed. No awning shall extend more than ten feet (10’) outward from the building face/surface save and except that a projection of up to fifteen feet (15’) from the building face/surface may be approved by the City Council if the awning is for use by an approved food establishment for outdoor seating/dining areas. In no event shall any awning, regardless of use, encroach over the street pavement.
   c. **Colors and Materials** -- A mixture of colors is recommended, but no more than three different colors shall be used for awnings on a single building facade (excluding business logo, which may have more colors). Materials shall be of cloth or canvas, or another material which is complementary to the period or building style, e.g., standing seam metal, wide-rib panel decking, or a wood-framed metal roof (may corrugated steel) roof with a beaded wood ceiling. Any exposed metal framing must be covered with a wood trim painted to match the color scheme of the building.
   d. **Attachment to Building** -- For any material other than canvas, the rear edge of the awning/canopy shall rest on a horizontal brace (wood or iron) which is
attached across the front of the building just below the transoms and its front edge shall be suspended from bolts sunken in the masonry just below the parapet either by chains or by turn-buckle rods. If the original bolts still exist on the building, the awning/canopy must connect to them as described or give the illusion of being connected.

e. Movement -- Except for slight movements that are normal for fabric canopies (i.e., along fringe, etc.), no movement shall be allowed for awnings and canopy structures.

6. **Overhead Power Lines** - New utility lines to business establishments shall be placed underground or toward the rear of existing buildings.

7. **Pedestrian Streetscape** - Pedestrian spaces shall be treated with amenities that are selected based upon their ability to unify the streetscape with the area's historic past. It is important that elements such as construction materials, colors, textures and fixture design complement the area's historic qualities. These features shall be repeated throughout the streetscape so as to unify the district as a whole.

8. Planters, window boxes, street furniture and other streetscape furnishings shall be complementary to the historical time frame of the CBD area, and shall be located not more than five feet (5') from the building front/facade.

D. Open storage is prohibited in the CBD district.

E. Temporary outdoor retail sales, which involves the outside display of merchandise and/or seasonal items, shall be limited to the following:

1. Shall not be placed/located more than twelve feet (12') from the main building.

2. Shall not occupy any on-street or off-street parking spaces.

3. Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way (i.e., sidewalk sales cannot block the sidewalk or extend out into the street).

4. Shall only be located in front of the property/business which is selling the item(s).

5. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

6. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

F. **Architectural Design** – The architectural design of buildings and sites shall strive to achieve the following objectives:
1. Architectural compatibility;
2. Human scale design;
3. Integration of uses;
4. Encouragement of pedestrian activity;
5. Buildings that relate to, and are oriented toward, the pedestrian areas and surrounding buildings; and
6. Buildings that contain special architectural features to signify entrances;

All building materials shall be established on architectural elevations and supporting information.

G. Other Regulations - As established in the Development Standards, Sections 38 through 50.
SECTION 31 C – COMMERCIAL DISTRICT

31.1 GENERAL PURPOSE AND DESCRIPTION:

The C, Commercial, district is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractors shops, automotive repair services, upholstery shops, and other similar commercial uses. Uses in this district may utilize open storage areas that are screened from public view (see Section 41.2(E)). Some light manufacturing may also be allowed with certain conditions. The uses envisioned for the district will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration.

31.2 PERMITTED USES:

A. Those uses listed for the C district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

31.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Seventy feet (70’). Any structure above thirty-six feet (36’) in height shall require a Conditional Use Permit (CUP). The building height is measured as the vertical distance from grade plane to the average height of the highest roof surface.
   2. One (1) story for accessory buildings.
   3. Other (Section 43.4).

31.4 AREA REGULATIONS:

A. Size of Lot:
   1. Minimum Lot Area - Ten thousand (10,000) square feet, except one-half acre (21,780 square feet) for any site having frontage along U.S. Highway 80 or Interstate Highway 20
   2. Minimum Lot Width - Sixty feet (60’), except one hundred twenty feet (120’) for any site having frontage along U.S. Highway 80 or Interstate Highway 20
   3. Minimum Lot Depth – One hundred feet (100’), except one hundred fifty feet (150’) for any site having frontage along U.S. Highway 80 or Interstate Highway 20
   4. Maximum Lot Depth – Three (3) times the lot width, unless otherwise excepted and approved on the site plan by the City Council (to be allowed only due to some unusual characteristic that is intrinsic to the land itself, to existing tract/parcel boundaries that were in existence prior to the effective date of the Subdivision Ordinance on July 20, 2000, or to some other proven hardship other than just diminished profit or mere inconvenience of the property’s owner/developer)

B. Size of Yards:
1. **Minimum Front Yard** - Twenty-five feet (25') from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see Section 43.2 for additional setback requirements)

2. **Minimum Side and Rear Yard** - Fifteen feet (15') unless adjacent to a residentially zoned property (see below)

3. **Interior Side Yards** - When retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site (i.e., lots/lease spaces abutting one another), no side yard is required provided it complies with the City’s Building Code.

4. **Minimum Side or Rear Yard Adjacent to a Residential District** – Twenty feet (20’) for one-story building, and an additional twenty feet (20’) for every story (or fraction thereof) above one-story in height

C. **Maximum Lot Coverage** – Sixty percent (60%) including main and accessory buildings; maximum ninety percent (90%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

D. **Maximum Floor-Area-Ratio (FAR)** – Two to one (2:1)

E. **Parking Requirements** - As established by Section 38, Off-Street Parking and Loading Requirements.

F. **Minimum Exterior Construction Standards** – See Section 42.2; all structures shall consist of one hundred percent (100%) non-combustible materials. All façades of main buildings with frontage of 80 feet or more in length that face a public street or a residentially-zoned district (“Front Façade”) shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of four feet (4’) in depth either protruding forward of or recessed back from the remaining plane of such Front Façade. Buildings having a frontage less than 80 feet in length shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of two feet (2’) in depth either protruding forward or recessed back from the remaining plane of such Front Façade. In addition, on buildings of three stories or less, the horizontal line of a flat roof (or parapet wall) along any Front Façade (a façade facing a public street or residentially-zoned district) shall vary vertically by a minimum of two feet (2’) up or down so that no more than sixty-six percent (66%) of the roofline is on the same elevation.

31.5 **SPECIAL REQUIREMENTS:**

A. **Driveway Spacing** (i.e., distance between driveways, measured edge-to-edge):
   1. Arterial street – One driveway per two hundred (200) linear feet of frontage
   2. Collector street – One driveway per one hundred (100) linear feet of frontage
   3. Local street – One driveway per fifty (50) linear feet of frontage
   4. Minimum distance from driveway to street corner – Fifty feet (50’), as measured from the street corner radius point of tangency

B. **Site Plan Review** - Review and approval of a site plan by the Planning and Zoning Commission and the City Council (in accordance with Section 12) shall be required for any tract/lot within the C district. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the City Council.
C. **Landscaping Requirements** – See Section 39.

D. **Screening Requirements** – See Section 41.

E. Temporary outdoor retail sales, which involves the outside display of merchandise and seasonal items, shall be limited to the following:

1. Shall not be placed/located more than thirty feet (30') from the main building.

2. Shall not occupy any of the parking spaces that are required by this Ordinance for the primary use(s) of the property (except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year).

3. Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

4. Shall not extend into public right-of-way or onto adjacent property.

5. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

6. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

F. Open storage is limited to a maximum of five percent (5%) of the total lot area, shall not be located in front of (i.e., on the street side of) or on top of the building, and must be screened in accordance with the provisions of Section 41.2(E) (i.e., cannot be visible from any public street or adjacent property). However, periodic temporary outdoor retail sales, which involves the outside display of seasonal items, is allowed during the appropriate time periods (see Subsection E above).

G. Building facade (i.e., elevation) plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The City Manager (or his/her designee) may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the Site Plan review process. All buildings within a development (i.e., a retail center, office or business complex, etc. – including free-standing pad sites) shall be architecturally compatible with each other, in that they shall use similar exterior finish colors and materials to achieve an overall, visually compatible appearance when viewed from the road.

H. Recreational vehicles, travel trailers, motor homes or temporary buildings may not be used for on-site dwelling or permanent nonresidential purposes.

I. **Other Regulations** - As established in the Development Standards, Sections 38 through 50.
SECTION 32  MU – MIXED-USE DISTRICT

32.1 GENERAL PURPOSE AND DESCRIPTION:

The MU, Mixed Use, district is intended to provide a mixture of uses. Residential uses within the MU district should be either SFA, SF-PH or MF-15 uses. Uses should be arranged on the site such that they complement each other, although much flexibility is allowed on how each use is situated on the site. Non-residential uses should consist of office, neighborhood service, and retail uses. Design and development standards shall be established on the site plan.

32.2 PERMITTED USES:

A. 1. Those uses listed for the MU district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

32.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. Seventy feet (70’). Any structure above thirty-six feet (36’) in height shall require a Conditional Use Permit (CUP). The building height is measured as the vertical distance from grade plane to the average height of the highest roof surface.
   2. One (1) story for accessory buildings.
   3. Other (Section 43.4).

32.4 AREA REGULATIONS:

A. Size of Lot:
   1. Minimum Lot Area - Twenty thousand (20,000) square feet
   2. Minimum Lot Width - One hundred feet (100’)
   3. Minimum Lot Depth - One hundred feet (100’)
   4. Maximum Lot Depth – Three (3) times the lot width, unless otherwise excepted and approved on the site plan by the City Council (to be allowed only due to some unusual characteristic that is intrinsic to the land itself, to existing tract/parcel boundaries that were in existence prior to the effective date of the Subdivision Ordinance on July 20, 2000, or to some other proven hardship other than just diminished profit or mere inconvenience of the property’s owner/developer)

B. Size of Yards:
   1. Minimum Front Yard - Fifty feet (50’); all yards adjacent to a street shall be considered a front yard. See Section 43.2 for additional setback requirements.
   2. Minimum Side Yard - Twenty-five feet (25’)
   3. Interior Side Yards - None
   4. Minimum Rear Yard - Twenty-five feet (25’)
   5. Adjacent to a Residential District - The side or rear setback, whichever is adjacent to the residential zoning district, shall observe a sixty-foot (60’) setback for any building that is over one (1) story in height, a two hundred foot (200’) setback for buildings over two (2) stories or thirty-five feet (35’) in height.
C. **Maximum Lot Coverage** – Fifty percent (50%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

D. **Maximum Floor-Area-Ratio (FAR)** – Two to one (2:1)

E. **Parking Requirements** - As established by Section 38, Off-Street Parking and Loading Requirements.

F. **Minimum Exterior Construction Standards** – See Section 42.2; all structures shall consist of one hundred percent (100%) non-combustible materials. All façades of main buildings with frontage of 80 feet or more in length that face a public street or a residentially-zoned district (“Front Façade”) shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of four feet (4’) in depth either protruding forward of or recessed back from the remaining plane of such Front Façade. Buildings having a frontage less than 80 feet in length shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of two feet (2’) in depth either protruding forward or recessed back from the remaining plane of such Front Façade. In addition, on buildings of three stories or less, the horizontal line of a flat roof (or parapet wall) along any Front Façade (a façade facing a public street or residentially-zoned district) shall vary vertically by a minimum of two feet (2’) up or down so that no more than sixty-six percent (66%) of the roofline is on the same elevation.

32.5 **SPECIAL REQUIREMENTS:**

A. **Driveway Spacing** (i.e., distance between driveways, measured edge-to-edge):
   1. Arterial street – One driveway per two hundred (200) linear feet of frontage
   2. Collector street – One driveway per one hundred (100) linear feet of frontage
   3. Local street – One driveway per fifty (50) linear feet of frontage
   4. Minimum distance from driveway to street corner – Fifty feet (50’), as measured from the street corner radius point of tangency

B. **Site Plan Review** - Review and approval of a site plan by the Planning and Zoning Commission and the City Council (in accordance with Section 12) shall be required for any tract/lot within the MU district. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the City Council.

C. **Landscaping Requirements** – See Section 39.

D. **Screening Requirements** – See Section 41.

E. Temporary outdoor retail sales, which involves the outside display of merchandise and seasonal items, shall be limited to the following:
   1. Shall not be placed/located more than thirty feet (30’) from the main building.
   2. Shall not occupy any of the parking spaces that are required by this Ordinance for the primary use(s) of the property (except on a temporary basis only, which is
a maximum of 30 days per display and a maximum of two displays per calendar year).

3. Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

4. Shall not extend into public right-of-way or onto adjacent property.

5. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

6. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

F. Open storage is limited to a maximum of five percent (5%) of the total lot area, shall not be located in front of (i.e., on the street side of) or on top of the building, and must be screened in accordance with the provisions of Section 41.2(E) (i.e., cannot be visible from any public street or adjacent property). However, periodic temporary outdoor retail sales, which involves the outside display of seasonal items, is allowed during the appropriate time periods (see Subsection E above).

G. Building facade (i.e., elevation) plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The City Manager (or his/her designee) may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the Site Plan review process. All buildings within a development (i.e., a retail center, office or business complex, etc. – including free-standing pad sites) shall be architecturally compatible with each other, in that they shall use similar exterior finish colors and materials to achieve an overall, visually compatible appearance when viewed from the road.

H. Recreational vehicles, travel trailers, motor homes or temporary buildings may not be used for on-site dwelling or permanent nonresidential purposes.

I. **Other Regulations** - As established in the Development Standards, Sections 38 through 50.
SECTION 33 LI – LIGHT INDUSTRIAL DISTRICT

33.1 GENERAL PURPOSE AND DESCRIPTION:

The LI, Light Industrial, district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses do require accessibility to major thoroughfares, major highways, and/or other means of transportation such as the railroad.

33.2 PERMITTED USES:

A. 1. Those uses listed for the LI district in Section 37 as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 34b.

33.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. One-hundred twenty feet (120’). Any structure above thirty-six feet (36’) in height shall require a Conditional Use Permit (CUP). The building height is measured as the vertical distance from grade plane to the average height of the highest roof surface.
   2. Other (Section 43.4).

33.4 AREA REGULATIONS:

A. Size of Lot:
   1. Minimum Lot Area - Twenty thousand (20,000) square feet, except one acre (43,560 square feet) for any site having frontage along U.S. Highway 80 or Interstate Highway 20
   2. Minimum Lot Width – One hundred feet (100’), except two hundred feet (200’) for any site having frontage along U.S. Highway 80 or Interstate Highway 20
   3. Minimum Lot Depth – One hundred twenty-five feet (125’), except two hundred feet (200’) for any site having frontage along U.S. Highway 80 or Interstate Highway 20
   4. Maximum Lot Depth – Three (3) times the lot width, unless otherwise excepted and approved on the site plan by the City Council (to be allowed only due to some unusual characteristic that is intrinsic to the land itself, to existing tract/parcel boundaries that were in existence prior to the effective date of the Subdivision Ordinance on July 20, 2000, or to some other proven hardship other than just diminished profit or mere inconvenience of the property’s owner/developer)

B. Size of Yards:
   1. Minimum Front Yard - Fifty feet (50’) from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see Section 43.2 for additional setback requirements)
   2. Minimum Side and Rear Yard – Twenty-five feet (25’) unless adjacent to a residually zoned property (see below)
3. **Minimum Side or Rear Yard Adjacent to a Residential District** – Forty feet (40’) for one-story building, and an additional twenty feet (20’) for every story (or fraction thereof) above one-story in height

C. **Maximum Lot Coverage** – Sixty percent (60%) including main and accessory buildings; maximum ninety percent (90%) impervious coverage (including all buildings, parking areas, sidewalks, etc.)

D. **Maximum Floor-Area-Ratio (FAR)** – Two to one (2:1)

E. **Parking Requirements** - As established by Section 38, Off-Street Parking and Loading Requirements.

F. **Minimum Exterior Construction Standards** – See Section 42.2; all structures shall consist of one hundred percent (100%) non-combustible materials. All façades of main buildings with frontage of 80 feet or more in length that face a public street or a residentially-zoned district (“Front Façade”) shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of four feet (4’) in depth either protruding forward of or recessed back from the remaining plane of such Front Façade. Buildings having a frontage less than 80 feet in length shall have no less than 30 percent (30%) of the linear footage of each Front Façade offset a minimum of two feet (2’) in depth either protruding forward or recessed back from the remaining plane of such Front Façade. In addition, on buildings of three stories or less, the horizontal line of a flat roof (or parapet wall) along any Front Façade (a façade facing a public street or residentially-zoned district) shall vary vertically by a minimum of two feet (2’) up or down so that no more than sixty-six percent (66%) of the roofline is on the same elevation.

33.5 **SPECIAL REQUIREMENTS:**

A. **Driveway Spacing** (i.e., distance between driveways, measured edge-to-edge):
   1. Arterial street – One driveway per two hundred (200) linear feet of frontage
   2. Collector street – One driveway per one hundred (100) linear feet of frontage
   3. Local street – One driveway per fifty (50) linear feet of frontage
   4. Minimum distance from driveway to street corner – Fifty feet (50’), as measured from the street corner radius point of tangency

B. **Site Plan Review** - Review and approval of a site plan by the Planning and Zoning Commission and the City Council (in accordance with Section 12) shall be required for any tract/lot within the LI district. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the City Council.

C. **Landscaping Requirements** – See Section 39.

D. **Screening Requirements** – See Section 41.

E. Open storage is limited to a maximum of twenty percent (20%) of the total lot area, shall not be located in front of (i.e., on the street side of) or on top of the building, and must be screened in accordance with the provisions of Section 41.2(E) (i.e., cannot be visible from any public street or adjacent property).

F. Building facade (i.e., elevation) plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property
faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The City Manager (or his/her designee) may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the Site Plan review process.

G. Recreational vehicles, travel trailers, motor homes or temporary buildings may not be used for on-site dwelling or permanent nonresidential purposes.

H. **Other Regulations** - As established in the Development Standards, Sections 38 through 50.
SECTION 34  OVERLAY AND SPECIAL DISTRICTS

34.1  A. Overlay districts shall be used in conjunction with base zoning districts where it is appropriate to do so. In the use of the following overlay zoning classifications, the base district shall remain in effect as it is already in existence unless changed by zoning amendment and in accordance with the provisions of Section 10. New base districts or changes in existing base districts may be requested at the same time overlay or special prefix districts are requested.
SECTION 34a  PD – PLANNED DEVELOPMENT OVERLAY DISTRICT

34a.1 GENERAL PURPOSE AND DESCRIPTION:

A. The City Council of the City of Forney, Texas, after public hearing and proper notice to all parties affected and after recommendation from the Planning and Zoning Commission, may authorize the creation of a Planned Development (PD) overlay district.

B. The Planned Development (PD) district is a district which accommodates planned associations of uses developed as integral land use units such as office parks, retail/commercial or service centers, shopping centers, residential developments having a mixture of housing options (e.g., single-family, multi-family, duplex, etc.), or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. A Planned Development district may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this Ordinance, to ensure the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community by meeting one or more of the following purposes:

1. To provide for a superior design on lots or buildings;

2. To provide for increased recreation and open space opportunities for public use and enjoyment;

3. To provide amenities or features that would be of special benefit to the property users or to the overall community;

4. To protect or preserve natural amenities and environmental assets such as trees, creeks, ponds, floodplains, slopes, viewscapes, or wildlife habitats;

5. To protect or preserve existing historical buildings, structures, features or places;

6. To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services; and

7. To meet or exceed the standards of this Ordinance.

C. While greater flexibility is given to allow special conditions or restrictions that would not otherwise allow the development to occur, procedures are established herein to ensure against misuse of increased flexibility.

34a.2 PERMITTED USES:

A. An application for a PD district shall specify the base zoning district(s) upon which the PD is based, and the use or the combination of uses proposed (particularly if any of the proposed uses are not allowed by right in the base zoning district). PD designations shall not be attached to CUP requirements. Conditional Use Provisions allowed in a base zoning district(s) are allowed in a PD only if specifically identified
as allowable by CUP at the time of PD approval, and if specifically cited as an “additional use” (i.e., to those allowed by right in the PD) in the ordinance establishing the PD. Any use that is not specifically cited as permitted (by right or by CUP) in the applicable base zoning district(s) or the PD ordinance shall be prohibited unless the PD ordinance is amended using the procedures set forth in this Section and in Section 10 of this Ordinance.

B. **Adherence to the City’s Comprehensive Plan policies pertaining to housing densities and house sizes shall be a key factor in determining whether or not a proposed PD district is appropriate for a particular geographic area.**

34a.3 **PLANNED DEVELOPMENT REQUIREMENTS:**

A. Any development requirements for a particular PD district that deviate from those of the base zoning district(s) shall be set forth in the amending ordinance granting the PD district. These shall include, but may not be limited to: allowed or additional (i.e., CUP) uses, density, lot area, lot width, lot depth, yard depths and widths, building height and size, building exterior construction, lot coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, project phasing or scheduling, property management associations, and other requirements as the City Council and Planning and Zoning Commission may deem appropriate.

B. In the PD district, uses and development standards shall conform to the standards and regulations of the base zoning district(s) unless specifically stated otherwise in the PD ordinance. The base zoning district(s) shall be stated in the PD granting ordinance. All applications to the City shall list all requested deviations from the standard requirements set forth throughout this Ordinance as applicable to each base zoning district (applications without this list will be considered incomplete). The PD district shall conform to all other regulations of the applicable base zoning district(s), as well as all other sections of the Zoning Ordinance, unless specifically changed or excluded in the ordinance establishing the PD. A PD that is based upon more than one (1) base zoning district shall also include a legal (i.e., metes and bounds) description and graphic exhibit describing/showing the proposed boundaries of each respective area and its base zoning district (e.g., shown as “Proposed PD-SF-8”, “Proposed PD-NS”, etc.).

C. The ordinance granting a PD district shall include a statement as to the purpose and intent of the PD district granted therein, as well as a general statement citing the reason for the PD request.

D. The minimum acreage for a planned development request shall be five (5) acres.

34a.4 In establishing a Planned Development district in accordance with this Section, the City Council shall approve and file as part of the amending ordinance appropriate plans and standards for each PD district. To facilitate understanding of the request during the review and public hearing process, the concurrent submission of a concept plan for a proposed non-residential, multi-family or manufactured home project, or a land study for a proposed single- or two-family residential project, shall be required along with the PD zoning application. A preliminary plat may be submitted in lieu of the concept plan for a single- or two-family PD (see the Subdivision Ordinance for submission and other
requirements) if the applicant prefers to do so, and if the applicant wishes to expend the resources and funds necessary to prepare a complete preliminary plat submission.

A. Concept Plan or Land Study - This plan shall be submitted by the applicant at the time of the Planned Development request. The plan shall show the applicant's intent for the use of the land within the proposed PD district in a graphic manner and, as may be required, supported by written documentation of proposals and standards for development. The City may prepare application form(s) that further describe and explain the following requirements:

1. Residential PD Land Study - A land study plan shall be submitted with any residential PD zoning request for a development comprised of single-family or two-family (duplex) dwellings on individually platted lots, and shall show general uses, phasing of the development, access, thoroughfares, alleys (if proposed), preliminary lot arrangements, proposed densities, proposed screening, landscaped or private amenity areas, project scheduling, and other pertinent development data. (See the Subdivision Ordinance for application procedures and requirements for a land study submission.)

2. Nonresidential PD Concept Plan - A concept plan shall be submitted with any nonresidential, multi-family, single-family attached, or manufactured home PD zoning request, and shall clearly show all pertinent aspects of the type and nature of the proposed development. The concept plan shall show the types of use(s) proposed; access, topography and boundaries of the PD area; existing physical features of the site; existing and proposed streets, alleys, easements and lot lines; location of existing or proposed public facilities; building heights and locations; parking areas and ratios; fire lanes; screening and landscaped areas; project phasing and scheduling; and other pertinent development data to adequately describe the proposed development (see Section 12 of this Ordinance for concept plan requirements and procedures).

   a. For a single- or two-family PD (or portion of a PD) – A preliminary plat (see the Subdivision Ordinance) shall be submitted for approval within one (1) year from the approval date of the land study for all or some portion of the PD covered by the overall PD land study. If a preliminary plat is not submitted within one (1) year, then the PD land study may be subject to review by the Planning and Zoning Commission and the City Council to determine its continued validity. If the City determines that the PD land study is no longer valid or that the proposed development is no longer viable, then a new PD land study (along with a zoning application to amend the PD ordinance and its accompanying land study) must be submitted for review and approval prior to final plat review/approval (and any subsequent issuance of a building permit) for any single- or two-family portion of the PD district.

   b. For a nonresidential, multi-family, single-family attached, or manufactured home PD (or portion of a PD) – A detailed site plan shall be submitted for approval (in accordance with Subsection B below, and with Section 12 of this Ordinance) within one (1) year from the approval date of the concept plan for all or some portion of the PD covered by the overall PD concept plan. If a detailed site plan is not submitted within one (1) year, then the
PD concept plan may be subject to review by the Planning and Zoning Commission and the City Council to determine its continued validity. If the City determines that the PD concept plan is no longer valid or that the proposed development is no longer viable, then a new PD concept plan (along with a zoning application to amend the PD ordinance and its accompanying concept plan) must be submitted for review and approval prior to detailed site plan review/approval (and any subsequent issuance of a building permit) for any nonresidential, multi-family, single-family attached, or manufactured home portion of the PD district.

B. **PD Site Plan (detailed)** - Submission and approval of the detailed PD site plan shall be in accordance with Section 12 of this Ordinance, and shall accompany an application for a nonresidential, multi-family, single-family attached, or manufactured home Planned Development zoning if the applicant prefers to submit the detailed site plan in lieu of the required PD concept plan. The detailed PD site plan will establish the final plans for development of the Planned Development district (or any portion thereof), and it shall substantially conform to the site layout and development data approved on the PD concept plan (adopted along with the PD ordinance). If a PD concept plan was previously approved for the overall PD district, then a detailed PD site plan (along with the required engineering/architectural site construction plans and final plat) shall be submitted for only the sections or lots that are proposed for immediate development rather than for the entire PD. If no concept plan was approved with the ordinance establishing the PD, then a concept plan for the entire PD must be submitted and approved prior to approval of a detailed site plan (along with the required engineering/architectural site construction plans and final plat) for only the portion(s) of the PD that are proposed for immediate development.

For any single- or two-family residential PD district (AG, SF-20, SF-15, SF-11, SF-8, SF-6, SF-PH, or 2F), a final plat shall qualify as the site plan.

C. Lapse, Extension or Reinstatement of PD Concept Plan or PD Site Plan shall be in accordance with the provisions in Section 12 of this Ordinance.

34a.5 **APPROVAL PROCESS AND PROCEDURES:**

A. The procedure for establishing a Planned Development zoning district shall follow the procedures for zoning amendments as set forth in Section 12 of this Ordinance. This procedure shall be expanded to include concurrent consideration and approval (or denial) of the concept plan (or land study for a single- or two-family residential PD) that is submitted along with the PD zoning request application. The public hearings conducted for, and the subsequent actions taken upon, the PD zoning request shall also include the accompanying concept plan or land study (as applicable), and if the PD is approved then the concept plan or land study shall become a part of the ordinance establishing the PD district.

B. The ordinance establishing the Planned Development zoning district shall not be approved (or adopted) until the accompanying concept plan/land study is approved by the City Council, and until all other procedural requirements set forth in Section 12 are satisfied.
When a zoning request for a Planned Development district is being considered, a written report from the City Manager (or his/her designee) discussing the project's impact upon planning, engineering, water utilities, electric, sanitation, building inspection, tax, police, fire and traffic, as well as written comments from applicable public agencies (such as the School District and/or utility companies), may be submitted to the Planning and Zoning Commission prior to the Commission making any recommendations to the City Council. In the event written comments and advisement are not received prior to the Planning & Zoning Commission’s meeting at which the PD zoning request is to be considered, the Commission may, at its discretion, make a recommendation to the City Council without said comments or advisement.

All Planned Development zoning districts approved in accordance with the provisions of this Ordinance, as may be amended, shall be prefixed by a “PD” designation and assigned a unique identification number (e.g., PD-1, PD-2, PD-3, and so on), and shall also be referenced on the Zoning District Map. A list of such Planned Development districts, showing the uses permitted and any other special stipulations of each PD district, shall be maintained as part of this Ordinance.

Prior to adoption of this Ordinance, the City Council previously established certain Planned Development districts, some of which are to be continued in full force and effect. The ordinances or parts of ordinances approved prior to this Ordinance, specified in Appendix A-1, shall be carried forth in full force and effect and are the conditions, restrictions, regulations and requirements which apply to the respective Planned Development districts shown on the Zoning District Map as of the effective date of this Ordinance. Each prior PD ordinance is hereby assigned a unique identification number (e.g., PD-1, PD-2, PD-3, and so on) as shown in Appendix A-1, and subsequent PD ordinances adopted after the effective date of this Ordinance shall be similarly numbered for identification purposes.
SECTION 34b  CUP -- CONDITIONAL USE PROVISIONS

34b.1 PURPOSE AND INTENT:

A. **Nature of Conditional Use** - A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use provision applications.

B. **Permit Required** - No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within any zoning district until a conditional use provision (CUP) is issued in accordance with the provisions of this Section. An application for a conditional use provision shall be accompanied by a concept plan or a detailed site plan prepared in the manner described in Section 12. The concept plan or site plan shall illustrate the proposed use to be established, its relationship to adjoining properties, and how it meets the approval standards set forth in Section 34b.5.

34b.2 STATUS OF CONDITIONALLY PERMITTED USES:

The following general rules apply to all conditional uses:

A. The designation of a use in a zoning district as may be permitted by CUP in Section 37 (Use Charts) of this Ordinance does not constitute an authorization or assurance that such use will be approved.

B. Approval of a conditional use provision shall authorize only the particular use for which the CUP is issued.

C. No use authorized by a conditional use provision shall be enlarged, extended or relocated, nor may the number of dwelling units be increased, unless an application is made for approval of a new conditional use provision in accordance with the procedures set forth in this Section and Section 10 of this Ordinance.

D. Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by these zoning regulations, the City Code of Ordinances, and any permits that may be required by regional, State or Federal agencies.

34b.3 APPLICATION FOR CONDITIONAL USE PROVISION:

A. **Application Requirements** - An application for a conditional use provision may be submitted by the property owner or by the property owner’s designated representative to the City. The application shall be accompanied by a concept plan or site plan prepared in accordance with the requirements of Section 12. If a base zoning district amendment is required or requested, such rezoning application shall accompany the application for a conditional use provision.
B. **Subdivision Approval** - If the proposed use requires a division of land, an application for subdivision approval shall be submitted in conjunction with the application for a conditional use provision (see Subdivision Ordinance). Approval of the conditional use provision shall not become effective until final approval of the subdivision application provided that, if the land is to be divided and developed in phases, the approval of the conditional use provision shall take effect upon final plat approval of the phase of the subdivision containing the property on which the conditional use is to be located.

34b.4 **PROCEDURES FOR CONDITIONAL USE PERMITS:**

A. **Planning & Zoning Commission Recommendation** - Upon receipt of the recommendation from the City Manager, the Planning and Zoning Commission shall conduct a public hearing in order to formulate its recommendations to the City Council on the conditional use provision application. Following the public hearing, the Planning and Zoning Commission shall recommend approval, approval subject to modification, or denial of the proposal to the City Council in accordance with Section 10. If the appropriateness of the use cannot be assured at the location, the Planning and Zoning Commission shall recommend denial of the application as being incompatible with existing uses or with other uses permitted by right in the district.

B. **City Council Action** - The City Council shall be the final decision-maker on applications for conditional use provisions. Following a public hearing and in consideration of the Planning and Zoning Commission's recommendations, the City Council shall approve, modify or deny the proposal for a conditional use provision in accordance with Section 10. If the appropriateness of the use cannot be assured at the location, the application for conditional use provision shall be denied as being incompatible with existing uses or with other uses permitted by right in the district.

34b.5 **STANDARDS:**

A. **Factors for Consideration** - When considering applications for a conditional use provision, the Planning and Zoning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the concept plan/site plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning and Zoning Commission and the City Council shall specifically consider the extent to which:

1. The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;

2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in Article V of this Ordinance;

4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular
circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

a. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;

b. Off-street parking and loading areas;

c. Refuse and service areas;

d. Utilities with reference to location, availability, and compatibility;

e. Screening and buffering, features to minimize visual impacts, and/or setbacks from adjacent uses;

f. Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

g. Required yards and open space;

h. Height and bulk of structures;

i. Hours of operation;

j. Exterior construction material and building design; and

k. Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.

5. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

B. Conditions - In approving the application, the Planning and Zoning Commission may recommend, and the City Council may impose, such additional conditions (e.g., hours of operation, etc.) as are reasonably necessary to assure compliance with these standards and the purpose and intent of this Section, in accordance with the procedures in Section 10. Such additional conditions shall exceed the minimum standards contained herein or in any other applicable City code or ordinance, and they cannot, in effect, relax or grant relief from any of the City's minimum standards (see Subsection C below). Any conditions imposed shall be set forth in the ordinance approving the conditional use, and shall be incorporated into or noted on the concept plan or site plan for final approval. The City Manager (or his/her designee) shall verify that the plan incorporates all conditions set forth in the ordinance authorizing the conditional use, and shall sign the plan to indicate final approval. The City shall maintain a record of such approved conditional uses and the site plans and conditions attached thereto.
C. **Prohibition on Waivers and Variances** - The foregoing additional conditions (i.e., standards of development for the CUP) shall not be subject to variances that otherwise could be granted by the Board of Adjustments, nor may conditions imposed by the City Council subsequently be waived or varied by the BOA. In conformity with the authority of the City Council to authorize conditional uses, the City Council may waive or modify specific standards otherwise made applicable to the use by this Ordinance, to secure the general objectives of this section; provided, however, that the City Council shall not waive or modify any approval factor set forth in Subsection A of this Section.

34b.6 **EXPIRATION AND EXTENSION:**

A. A conditional use provision may be rescinded by the City Council, on its own motion and at its discretion, for failure to commence development or for failure to extend the time for performance for the concept plan or site plan approved along with the CUP ordinance (see Sections 10 and 12).

34b.7 **AMENDMENT:**

A. No proposed or existing building, premise or land use authorized as a conditional use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the conditional use provision, unless such amendment is authorized in accordance with the standards and procedures set forth in this section, and the conditional use provision and approved concept plan or site plan are amended accordingly.

34b.8 **OTHER REGULATIONS:**

A. The Board of Adjustments shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any conditional use provision.

34b.9 **USE REGULATIONS:**

A. Uses allowed by CUP are specified in Section 37 (Use Charts).
SECTION 34c CBT–CENTRAL BUSINESS TRANSITION OVERLAY DISTRICT

34c.1 GENERAL PURPOSE AND DESCRIPTION:

The CBT, Central Business Transition Overlay District, is designed to maintain and encourage development and aesthetically attractive redevelopment within the City’s original primary traffic corridor in such a manner that makes a positive visual contribution to the community’s core business area. Standards for the overlay district are generally those of the base zoning district, except for architectural standards which are intended to enhance the visual appeal of the area, and to augment the historic and aesthetic character of the adjacent downtown (CBD) area. Building design and appearance should be of high quality, and should reflect the design and character of certain existing ones within this section of the City. Building design and appearance should also make a positive contribution toward preserving and enhancing the community’s “small town” heritage, and should respect the unique character of the City’s original business district.

34c.2 PERMITTED USES:

A. Those uses allowed as “P” or “C” in the base zoning district (see Section 37). Conditional uses must be approved utilizing procedures set forth in Section 34b.

34c.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. As required in the base zoning district.

34c.4 AREA REGULATIONS:

A. Size of Lot:
   1. Minimum Lot Area - as required in the base zoning district
   2. Minimum Lot Width - as required in the base zoning district
   3. Minimum Lot Depth - as required in the base zoning district

B. Size of Yards:
   1. Minimum Front Yard - as required in the base zoning district
   2. Minimum Side Yard - as required in the base zoning district
   3. Minimum Rear Yard - as required in the base zoning district

C. Maximum Lot Coverage – as required in the base zoning district

D. Maximum Floor-Area-Ratio (FAR) – as required in the base zoning district

E. Parking Requirements:

   1. For existing structures/uses (in existence prior to the effective date of this Ordinance) - Any existing parking, or lack of same, for any existing structure or use within the CBT district shall be considered a conforming parking arrangement. Additional parking, in accordance with Section 38, shall only be required for additions to an existing building or for significant expansion of an existing use (as determined by the City Manager, or his/her designee). In the event of destruction of an existing structure within the CBT district, said structure
may be rebuilt to its pre-destruction size with no requirements for additional parking provided that reconstruction commences (i.e., a building permit is applied for and issued) within one (1) year of the date of destruction. If reconstruction does not commence within the one-year time frame, or if the structure is rebuilt to exceed its pre-destruction size, then the structure’s nonconforming parking status is deemed to expire and any reconstruction of the structure must provide additional parking in accordance with this Ordinance.

2. **For new structures and uses** - as required in the base zoning district

34c.5 **SPECIAL REQUIREMENTS:**

A. **Site Plan Review** – Formal consideration and approval of a site plan by the Planning and Zoning Commission and the City Council (in accordance with Section 12) shall be required for site redevelopment or the construction of any new structure within the CBT district. No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the City Council.

B. For site redevelopment, building expansion or new construction, detailed building facade (i.e., elevation) plans shall be submitted for review and approval along with the site plan. Façade plans shall be reviewed by City staff, the Planning & Zoning Commission, with City Council serving as the final approval authority. Facade plans shall clearly show how the building(s) will look, especially as viewed from the road(s) upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. Architectural style and scale of new/renovated/expanded buildings within the CBT district shall be compatible with the styles and scale of other adjacent buildings that make an aesthetically pleasing contribution to the quasi-historic character of the area.

The City Manager (or his/her designee) may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the site plan review process.

C. Formal consideration is required by the Planning and Zoning Commission, and formal approval of the City Council is required for all site plans and façade plans within the CBT district. Development standards for all uses in the CBT district shall be established on the site plan and all supporting information will be required at the time of approval.

D. **Design Standards for the CBT District:**

1. False fronts or parapets may be added to existing buildings in order to add character and detail to simple facades.

2. Predominant exterior finish colors shall be of fired brick, similar to that which is present on adjacent existing buildings (other masonry materials may also be considered during site plan review). Trim (i.e., lintels, sills, door jambs, cornices and other similar items) shall be brick, cast stone, stone, cast or wrought iron, or concrete, and colors shall be complementary to the predominant facade colors. Accent colors for friezes, doors and door frames, window frames and mullions, signage, awnings, moldings and other similar features shall be colors that are
complementary to, and compatible with, the spirit and intent of the downtown streetscape (bright or fluorescent colors which were not typically used in early Texas downtowns shall not be used).

3. Reflective glass shall not be used for windows; detailing for windows, doors and other openings shall be of wood, glass or a metal material that is complementary to the period or building style.

4. Façade openings shall comprise at least forty percent (40%) of the building's façade area.

5. Awnings/Canopies (All awning/canopy design must be considered by the Planning and Zoning Commission and the City Council with a site plan application):
   a. **Ratios** -- Awnings shall be at an appropriate scale to the building size and configuration. They shall not extend above the roof line of any single-story structure, or above the top of the second floor of any multi-story structure at the awnings' highest points. Awnings shall not completely obstruct any windows on the building.

   b. **Projection** -- Since awnings must extend beyond the building face, a reasonable amount of projection shall be allowed. No awning shall extend more than ten feet (10') outward from the building face/surface and/or encroach over the street pavement.

   e. **Colors and Materials** -- A mixture of colors is recommended, but no more than three different colors shall be used for awnings on a single building facade (excluding business logo, which may have more colors). Materials shall be of cloth or canvas, or another material which is complementary to the period or building style, e.g., standing seam metal, wide-rib panel decking, or a wood-framed metal roof (may corrugated steel) roof with a beaded wood ceiling. Any exposed metal framing must be covered with a wood trim painted to match the color scheme of the building.

   f. **Attachment to Building** -- For any material other than canvas, the rear edge of the awning/canopy shall rest on a horizontal brace (wood or iron) which is attached across the front of the building just below the transoms and its front edge shall be suspended from bolts sunken in the masonry just below the parapet either by chains or by turn-buckle rods. If the original bolts still exist on the building, the awning/canopy must connect to them as described or give the illusion of being connected.

   e. **Movement** -- Except for slight movements that are normal for fabric canopies (i.e., along fringe, etc.), no movement shall be allowed for awnings and canopy structures.

6. **Overhead Power Lines** - New utility lines to business establishments shall be placed underground or toward the rear of existing buildings.

7. **Pedestrian Streetscape** – If pedestrian spaces are utilized in the site design, then they shall be treated with amenities that are selected based upon their
ability to unify the streetscape with the downtown area’s historic past. It is important that elements such as construction materials, colors, textures and fixture design complement the area’s historic qualities.

8. Planters, window boxes, street furniture and other streetscape furnishings shall be complementary to the historical time frame of the downtown area.

D. Open storage is prohibited in the CBT district.

E. Temporary outdoor retail sales, per the CBD zoning district standards.

F. **Architectural Design** – The architectural design of buildings and sites shall strive to achieve the following objectives:

   1. Architectural compatibility;
   2. Human scale design;
   3. Integration of uses;
   4. Encouragement of pedestrian activity;
   5. Buildings that relate to, and are oriented toward, the pedestrian areas and surrounding buildings; and
   6. Buildings that contain special architectural features to signify entrances;

All building materials shall be established on architectural elevations and supporting information.

G. **Other Regulations** - As established in the Development Standards, Sections 38 through 50.
SECTION 34d  ENT – ENTERTAINMENT OVERLAY DISTRICT

34d.1 GENERAL PURPOSE AND DESCRIPTION:

The ENT, Entertainment Overlay District, is designed to encourage aesthetically attractive dining and entertainment developments within the City’s primary traffic corridors. Standards for the overlay district are generally those of the base zoning district. Building design and appearance should be of high quality, and should make a positive contribution toward making the City’s primary traffic corridors attractive to visitors and residents alike.

34d.2 PERMITTED USES:

A. Those uses allowed as “P” or “C” in the base zoning district (see Section 37). Conditional uses must be approved utilizing procedures set forth in Section 34b.

B. In the ENT district only, unlike in the base zoning district, the sale of alcoholic beverages for on-premise consumption shall be a permitted use provided that all special requirements in Section 34d.5 of this Ordinance, and in Chapter 4, Section 10 of the City’s Code of Ordinances, are satisfied.

34d.3 HEIGHT REGULATIONS:

A. Maximum Height:
   1. As required in the base zoning district.

34d.4 AREA REGULATIONS:

A. Size of Lot:
   1. Minimum Lot Area - as required in the base zoning district
   2. Minimum Lot Width - as required in the base zoning district
   3. Minimum Lot Depth - as required in the base zoning district

B. Size of Yards:
   1. Minimum Front Yard - as required in the base zoning district
   2. Minimum Side Yard - as required in the base zoning district
   3. Minimum Rear Yard - as required in the base zoning district

C. Maximum Lot Coverage – as required in the base zoning district

D. Maximum Floor-Area-Ratio (FAR) – as required in the base zoning district

E. Parking Requirements – as required in the base zoning district (or as provided in the CBT overlay or CBD district, if applicable), except for restaurant establishments which offer on-site consumption of alcoholic beverages which shall provide the amount of parking required in Section 38 for the primary use of the property (e.g., restaurant, etc.), plus one (1) additional parking space for every ten (10) square feet, or portion thereof, of floor area that is devoted to customer waiting areas (including outdoors) and to alcoholic beverage service areas such as a bar, lounge, dance hall, etc.
F. **Minimum Exterior Construction Standards** – as required in the base zoning district (or as provided in the CBT overlay district or CBD district, if applicable) – also see Section 42.2.

34d.5 **SPECIAL REQUIREMENTS:**

A. All special development requirements and standards (including, but not limited to, site plan and façade plan review requirements, driveway spacing, temporary outdoor retail sales, open storage, etc.) are as required in the base zoning district (or as provided in the CBT overlay district or CBD district, if applicable), unless otherwise provided for below.

B. The boundaries of the Entertainment Overlay District are defined as follows.

- Properties along US Highway 80 that abut and are within 500 feet of the right-of-way line and that are also zoned GR (General Retail) District or MU (Mixed Use) District.
- Properties along FM 460 and FM 548 that abut and are within 500 feet of the right-of-way line, that are within 1,000 feet of US Highway 80 and that are zoned in the GR or MU Districts.
- Properties within the CBT (Central Business Transition) Overlay that are zoned GR or MU.
- Properties that are within the CBD (Central Business) District.

C. For a Private Club that serves alcoholic beverages, the following additional requirements shall apply:

1. The Private Club must be located at least three hundred feet (300’) from any church, public or private school, child care center, or hospital (see Chapter 4, Article 4.1000 of the City’s Code of Ordinances); and

2. The Private Club must have at least one-third (1/3) of its total gross receipts in food sales (i.e., not alcoholic beverages) within any consecutive 12-month time period (see Section 4.1003 of the City’s Code of Ordinances).

D. **Other Regulations** - As established in the Development Standards, Sections 38 through 50.
RESERVED
SECTION 34e  HOZ – HISTORIC OVERLAY ZONE DISTRICT

34e.1 HISTORIC OVERLAY ZONE (HOZ) DISTRICT CREATED:

A. There is hereby created a HOZ - Historic Overlay Zone District. The HOZ District shall be as shown on the graphic labeled Exhibit A attached hereto and incorporated herein for all purposes allowed by law.

B. Owners of property adjacent to and abutting the defined HOZ District, or any amended district, may petition the City to rezone their property for inclusion into the HOZ District overlay area. Such petition shall be processed like any other requested zoning amendment except that the fee for such petition shall be limited to an amount not to exceed Fifty Dollars ($50.00).

C. Property that is a part of the original HOZ District, as shown on Exhibit A, may not be removed from the HOZ District overlay area. In addition, once any property is added to and included in the HOZ District overlay area it may not later be removed from said overlay district.

34e.2 HISTORIC OVERLAY ZONE ("HOZ") DISTRICT APPLICATION:

The HOZ District shall function as an overlay zoning district, whereby the standards identified in this district are superimposed and shall supersede the regulations of an approved standard zoning district where such district’s regulations are in conflict with the provisions of these sections. All regulations of the underlying Base Zoning District classification shall be in effect, except as identified in the HOZ District regulations set forth herein. The Zoning Map shall reflect the designation of a Historic Overlay Zone District by the letters "HOZ" as a prefix to the underlying Base Zoning District classification.

34e.3 PURPOSE AND INTENT:

A. The HOZ - Historic Overlay Zone District is intended to provide for the protection, preservation and enhancement of a geographic area that reflects the historic past and “small town” heritage and character of the City of Forney specifically including buildings, structures, sites and areas of architectural, historical, archaeological, cultural, economic, social, political or ethnic importance or value. Specifically, the HOZ District has the following expressed purposes:

1. To ensure that development, redevelopment and renovations are consistent with the existing historic, cultural, architectural and rural character of the HOZ District;

2. To stabilize and improve property values;

3. To encourage neighborhood conservation;

4. To foster civic pride in the beauty and accomplishments of the past;

5. To protect and enhance the City’s attraction to tourists and visitors;
6. To strengthen and help diversify the economy of the City; and

7. To promote the use of historical, cultural and architectural landmarks for the education, incultation, pleasure and welfare of the community.

B. The HOZ District is intended to provide a possible framework within which one or more historic districts might be created and recognized through the protection and preservation of contributing buildings, structures and spaces in addition to protecting and preserving individual Historic Buildings, Historic Structures and Historic Objects that may qualify for state or national recognition.

C. However, the HOZ District does not create such national or state designation and it remains the individual property owner’s decision whether to seek designation as a National Historic Landmark or Texas Historic Landmark.

D. The HOZ District is not intended to be unduly burdensome, force anyone from their property, mandate or require any alterations or changes to anyone’s building, structure or property, or create duplicity in the permitting process. It is intended in most instances that the usual permitting process will be all that is required and will suffice for and act as a Certificate of Approval.

E. The HOZ District relies upon the existing Base Zoning of property within the HOZ District to identify allowable uses and provide the basic standards for such allowed uses. The HOZ District does not change, replace or alter the underlying Base Zoning Designation on such property.

F. The HOZ District does not, and is not intended to, render any property or structure nonconforming or require the Owners of property and structures within its geographic limits to change, alter, improve or modify their property, buildings and/or structures merely because they are situated within the HOZ District.

G. The HOZ District is intended to require owners of property, buildings and/or structures within the HOZ District to respect the rights of neighboring property owners when alterations, modifications, renovations, remodels or repairs are made to the Exterior Architectural Features of a building or structure.

H. The HOZ District is also intended to preserve the character of the geographic area through restrictions on tear-downs and the construction of new buildings and/or structures that are out of proportion, scale and rhythm with nearby properties, buildings and structures within the HOZ District.

34e.4 DEFINITIONS:

For the purpose of this HOZ - Historic Overlay Zone District Ordinance, the following words, terms and phrases and their derivations shall have the meanings given herein, whether or not capitalized unless the context clearly requires another meaning, ascribed to them and the requirements and regulations set forth for each shall apply in the City of Forney and its extra-territorial jurisdiction (“ETJ’). The word “shall” is mandatory and not merely directory.
A. ARCHITECTURAL REVIEW BOARD OR ARB. The five-member board of residents, citizens, taxpayers and qualified voters appointed by the City Council to make recommendations and determinations regarding Certificates of Approval, Certificates of Demolition or Relocation and Omissions of Necessary Repairs.

B. BASE ZONING, OR BASE ZONING DISTRICT, OR BASE ZONING DESIGNATION. The zoning designation that establishes the minimum use and area regulations for the property subject to the overlay zoning classification. The base zoning district shall remain in effect as it is already in existence unless changed by zoning amendment and in accordance with Section 10.

C. BUILDING OFFICIAL OR CHIEF BUILDING OFFICIAL. This term includes any person designated by the Building Official to administer and enforce this Ordinance.

D. CERTIFICATE OF APPROVAL (also known as Building Permit). Authorization granted by the Director of Community Development or the ARB (or on appeal by the Planning and Zoning Commission or City Council) approving alteration(s) to the Exterior Architectural Features of a building or structure within the HOZ District.

E. CITY. The City of Forney.

F. CITY MANAGER. The City Manager of the City of Forney or his/her designee.

G. CITY OFFICIAL. An official within the City charged with the administration and enforcement of this section, including but not limited to the Director of the Community Development Department.

H. COMMUNITY DEVELOPMENT DEPARTMENT. The Community Development Department of the City of Forney or other designated authority, appointed by the City Manager, charged with the administration and enforcement of this Ordinance.

I. DIRECTOR OF COMMUNITY DEVELOPMENT. The Director of Community Development of the City or his/her designee.

J. EMERGENCY REPAIRS. Means and refers to maintenance and repairs made necessary by damage(s) caused by fire, explosion, civil unrest, vandalism and/or forces of nature such as wind storms, rain, hail, ice storms, tornados, flooding and other natural disasters.

K. EXTERIOR ARCHITECTURAL FEATURE. Means and includes, but is not limited to, the kind, color and basic texture of all exterior building materials and such features as windows, doors, lights, siding, cladding, signs, fencing and other exterior fixtures.

L. HISTORIC BUILDING. A building that is fifty (50) or more years old and created primarily to shelter human activity. Examples include a house, barn, hotel, church, jail, courthouse and similar construction.

M. HISTORIC OBJECT. Usually artistic in nature and of a smaller scale than buildings or structures. Objects may be movable but are generally associated with a particular site or location. Examples include a monument, sculpture or fountain.
N. **HISTORIC SITE.** The location of significant events that can be prehistoric or historic in nature and may represent activities or buildings (standing, ruined, or vanished). It is the location itself that is of historical interest. It possesses cultural or archaeological value regardless of the value of any structures that currently exist on the location. Examples of sites include Indian burial grounds, battlefields, campsites, natural features such as gardens and cultural landscapes, and rock shelters.

O. **HISTORIC STRUCTURE.** A functional construction that is fifty (50) or more years old and intended to be used for purposes other than sheltering human activity. Examples include a grain elevator, gazebo or bridge.

P. **HOZ DISTRICT.** This HOZ - Historic Overlay Zone District as created by this Ordinance.

Q. **MINOR WORK.** Means and refers to such ordinary maintenance and repairs or Emergency Repairs that use like materials and reflect the same style, color and appearance of the existing building and/or structure immediately prior to the event giving rise to the need for such maintenance and repairs, and which maintenance and repairs do not in any way change, alter or modify:

1. the principal color, trim color(s) and/or basic texture of the building or structure from the existing texture and color palette unless in the sole opinion of the Director of Community Development such alteration is consistent with the architectural and design components of the building or structure, the historic time period of the building or structure and other buildings and structures within the same neighborhood;

2. the color, style, type or composition of the structure's roofing materials unless in the sole opinion of the Director of Community Development such alteration is consistent with the architectural and design components of the building or structure, the historic time period of the building or structure and other buildings and structures within the same neighborhood;

3. any architectural or visual component of the building or structure;

4. the historical style or value of the building or structure; and/or

5. the general design of, structural arrangement of, or type of building materials used in the building or structure.

It is the type of repairs or maintenance performed and the visual and historic impact or effect of such repairs or maintenance on the exterior of the building or structure that determines whether the repairs or maintenance are Minor Work and NOT the simplicity, value or cost of such repairs or maintenance.

R. **TREE, SPECIMEN.** Any tree listed on the following small, medium, or large protected tree lists can be considered a specimen tree if it reaches the designated size for that list. For the small tree list, a specimen tree shall be any tree that measures thirteen inches (13") in caliper width up to the size of a medium tree. For the medium tree list, a specimen tree shall be any tree that measures nineteen
inches (19") in caliper width up to the size of a large tree. For the large tree list, a specimen tree shall be any tree that measures twenty-five inches (25") or more in caliper width.

1. **Measurements.** All measurements shall be taken in accordance with the measuring rules and procedures as outlined and maintained by the Texas Forest Service. This procedure is outlined herein as follows:

   a) **Caliper width or Circumference.** General Rule: Measure the smallest trunk caliper width or circumference between the diameter at breast height ("DBH") point (4.5 feet) and the ground, but below the lowest fork. Also record the height above the ground, in inches, where the measurement was taken.

   b) **Determining DBH Point.** Tree on Slope: Measure up 4.5 feet along the axis of the trunk on both the high and low sides of the trunk; DBH point is midway between these two planes.

      *Leaning Tree*: Measure 4.5 feet along both the top and undersides of the trunk; DBH point is midway between these two planes.

      *Low Branches*: When determining where on the trunk to measure circumference, ignore portions of the tree that do not form part of the tree's crown, such as dead branches or forks, and epicormic sprouts.

      *Obstruction at DBH*: If there is a bump, burl, branch, or other obstruction at the DBH point, measure the circumference of the trunk above and below the obstruction and record the smaller value. A buttress that forms between the trunk and root system as a natural feature of the species (e.g.—bald cypress, water tupelo) should not be considered an obstruction.

   c) **One Tree or Two (or More)** In practice, it must be determined whether a tree has a single trunk, or whether it represents two or more stems growing very close to one another. Trunks that have clear separation or included bark at or near the ground line should be considered separate trees; trunks of different species should also be considered separate stems, no matter how closely aligned. When following the measurement rules above, if the point below the lowest fork places the measurement at the ground line, the stems should be considered and measured as separate.

2. **Generally.** The tree species lists contained in this provision has been developed as guides for the identification and selection of tree species that meet the various standards and requirements of this definition. Trees included on this tree species list 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.
3. *Lists of trees that are protected.* Unless otherwise specified in this Ordinance, only those tree species found on the following lists shall be subject to the preservation, protection and replanting requirements of this Chapter.

### Small Tree List

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carolina buckthorn</td>
<td>(Rhamnus caroliniana)</td>
</tr>
<tr>
<td>Yaupon holly</td>
<td>(Ilex vomitoria)</td>
</tr>
<tr>
<td>Possum haw</td>
<td>(Ilex deciduas)</td>
</tr>
<tr>
<td>Redbud</td>
<td>(Cercis species)</td>
</tr>
<tr>
<td>Texas buckeye</td>
<td>(Aesculus glabra variety arguta)</td>
</tr>
<tr>
<td>Chickasaw plum</td>
<td>(Prunus agustifolia)</td>
</tr>
<tr>
<td>Mexican plum</td>
<td>(Prunus mexicana)</td>
</tr>
</tbody>
</table>

### Medium Tree List

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slippery elm</td>
<td>(Ulmus rubra)</td>
</tr>
<tr>
<td>Cedar elm</td>
<td>(Ulmus crassifolia)</td>
</tr>
<tr>
<td>Winged elm</td>
<td>(Ulmus alata)</td>
</tr>
<tr>
<td>Blackjack oak</td>
<td>(Quercus marilandica)</td>
</tr>
<tr>
<td>Persimmon species</td>
<td>(Diospyros species)</td>
</tr>
<tr>
<td>Chittamwood</td>
<td>(Bumelia languinosa)</td>
</tr>
<tr>
<td>Western soapberry</td>
<td>(Sapindus drummondii)</td>
</tr>
<tr>
<td>Sweetgum</td>
<td>(Luquidambar styraciflua)</td>
</tr>
</tbody>
</table>

### Large Tree List

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Post oak</td>
<td>(Quercus stellata)</td>
</tr>
<tr>
<td>Shumard red oak</td>
<td>(Quercus shumardi)</td>
</tr>
<tr>
<td>Texas red oak</td>
<td>(Quercus texana)</td>
</tr>
<tr>
<td>Southern live oak</td>
<td>(Quercus virginiana)</td>
</tr>
<tr>
<td>Water oak</td>
<td>(Quercus nigra)</td>
</tr>
<tr>
<td>Bur oak</td>
<td>(Quercus macrocarpa)</td>
</tr>
<tr>
<td>Chinquapin oak</td>
<td>(Quercus muehlenbergii)</td>
</tr>
<tr>
<td>American elm</td>
<td>(Ulmus Americana)</td>
</tr>
<tr>
<td>Pecans and Hickories</td>
<td>(Cayra species)</td>
</tr>
<tr>
<td>Magnolia</td>
<td>(Magnolia grandiflora)</td>
</tr>
<tr>
<td>Bald cypress</td>
<td>(Taxodium distichum)</td>
</tr>
<tr>
<td>Pine species</td>
<td>(Pinus species)</td>
</tr>
<tr>
<td>Ash species</td>
<td>(Fraxinus species)</td>
</tr>
<tr>
<td>Sycamore</td>
<td>(Plantanus occidentalis)</td>
</tr>
<tr>
<td>Black walnut</td>
<td>(Juglans nigra)</td>
</tr>
</tbody>
</table>
34e.5 **USE REGULATIONS:**

The permitted uses in the HOZ District shall be determined by the underlying Base Zoning on the property. Those uses allowed as “P” or “C” in the Base Zoning District may be allowed (see Section 37 of this Ordinance). Conditional uses must be approved utilizing procedures set forth in Section 34b of this Ordinance.

34e.6 **AREA AND HEIGHT REGULATIONS:**

The area and height regulations for property, lots, buildings and structures in the HOZ District shall be determined by the underlying Base Zoning District classification. More particularly, those regulations shall be as follows:

A. **Size of Lot:** Minimum Lot Area, Minimum Lot Width and Minimum Lot Depth dimensions shall meet the requirements of the Base Zoning District;

B. **Size of Yards:** Minimum Front Yard, Minimum Side Yard and Minimum Rear Yard setbacks shall meet the requirements of the Base Zoning District;

C. **Maximum Lot Coverage** shall meet the requirements of the Base Zoning District; and

D. **Maximum Floor-Area-Ratio (FAR)** shall meet the requirements of the Base Zoning District.

E. **Minimum Exterior Construction Standards** shall meet the requirements of the Base Zoning District or as provided in this Section 34e.

34e.7 **PARKING REGULATIONS:**

Parking shall, subject to the following exceptions, conform to the parking requirements of the underlying Base Zoning District as set forth in Section 38, Off-Street Parking and Loading Requirements, of this Ordinance.

A. **Exceptions:**

   (1) Any existing parking or lack of same for any existing structure or use within the HOZ District on the effective date of this Ordinance shall be considered a lawful nonconforming parking arrangement.

   (2) Minimum parking requirements do not apply to properties located in the HOZ District when:

      (a) A new use locates within an existing building or structure and does not require more than thirty percent (30%) expansion of said building or structure; and

      (b) The Planning and Zoning Commission determines that waiving or reducing the number of parking spaces required would:

          (i) be necessary to encourage or promote the purposes of the HOZ District;
(ii) not create an on-street parking problem; and

(iii) not constitute a threat to public safety.

(3) In the event of destruction of an existing building or structure within the HOZ District, said building or structure may be rebuilt to its pre-destruction size with no requirements for additional parking provided that reconstruction commences (i.e., a building permit is applied for and issued) within one (1) year of the date of destruction. If reconstruction does not commence within the one-year time frame, or if the building or structure is rebuilt to exceed its pre-destruction size, then the building or structure’s nonconforming parking status is deemed to expire and any reconstruction of the building or structure must provide additional parking in accordance with this Ordinance.

B. Additions; Reconstruction; New Construction

(1) For existing buildings/structures/uses that were in existence prior to the effective date of this Ordinance additional parking in accordance with Section 38 shall be required for additions to an existing building or structure or for expansion of an existing use (as determined by the Director of Community Development) save and except as provided in Section 34e.7(A)(2) of this Ordinance.

(2) If an existing building or structure within the HOZ District is destroyed and reconstruction does not commence within one (1) year thereafter, or if the building or structure is rebuilt to exceed its pre-destruction size, then the building or structure’s nonconforming parking status is deemed to expire and any reconstruction of the building or structure must provide additional parking in accordance with this Section 34e.7 and Section 38 of this Ordinance.

(3) All new buildings, structures and uses within the HOZ District, which uses do not qualify for an exception under this Section 34e.7, shall conform to the parking requirements of the underlying Base Zoning Designation as set forth in Section 38, Off-Street Parking and Loading Requirements, of this Ordinance.

34e.8 SPECIAL REQUIREMENTS:

A. All development requirements and standards including, but not limited to, site plan and facade plan review requirements, driveway and garage spacing, open storage, etc., are as required in the underlying Base Zoning District unless otherwise provided for in the sections below.

B. OTHER REGULATIONS: As established in the Development Standards, Sections 38 through 50 of this Ordinance, unless otherwise provided for herein.

34e.9 ARCHITECTURAL REVIEW BOARD (“ARB”)

A. GENERAL: The Architectural Review Board or “ARB” shall function according to the following criteria which establish membership and operating procedures in accordance with and as allowed by Section 8.01 of the City Charter.
B. CREATED; MEMBERSHIP; OFFICERS; RULES AND PROCEDURES:

(1) There is created the "Architectural Review Board", also referred to as the "ARB", which shall consist of five (5) regular members who are residents, citizens, taxpayers and qualified voters of the City who meet the requirements of the City Charter. At least three (3) regular members of the ARB shall be residents, citizens, taxpayers and qualified voters of the City who own an interest in property or reside on property situated in the HOZ District and who meet the requirements of the City Charter.

(2) In addition to the five (5) regular members of the ARB, there shall be two (2) alternate members of the ARB who are residents, citizens, taxpayers and qualified voters of the City who meet the requirements of the City Charter. At least one (1) of the alternate members of the ARB shall be a resident, citizen, taxpayer and qualified voter of the City who owns an interest in property in or resides on property situated in the HOZ District and who meets the requirements of the City Charter.

Alternate members will serve -- participate and vote on an item that comes before the ARB -- only in the absence of one or more regular members. In determining which of the two (2) alternate members shall serve in the absence of a regular member, the alternate member with the longest tenure shall so serve. If for any reason, the alternate member with the longest tenure is unavailable to serve, the second alternate member shall so serve. If for any reason more than one regular member is absent, more than one alternate member may serve consistent with the provisions of this section.

(3) Regular and alternate members of the ARB (referred to collectively as "Members") are appointed by and serve at the will and pleasure of the City Council and may be removed from office at any time by a simple majority vote of the City Council either upon its own motion or upon recommendation of the ARB.

(4) Members shall be nominated for appointment by the Mayor or by a Council member of the City, and any person so nominated shall be approved by a simple majority vote of the City Council before becoming a Member of the ARB.

(5) ARB Members shall be appointed to serve for a term of two (2) years, and expiration of terms shall be staggered so that an overlapping of terms occurs (for example, the terms of three (3) regular members and one (1) alternate member shall expire in the odd-numbered years, and the terms of two (2) regular members and one (1) alternate member shall expire in the even-numbered years – see Chapter 12, Section 1.A.(1) in the City Code of Ordinances). The City Council may remove or replace any ARB Member at any time with or without cause by a simple majority vote of the City Council.

(6) Any vacancy(s) on the ARB shall be filled via appointment by a simple majority vote of the City Council.

(7) Failure to attend three (3) consecutive regular meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the Member’s control such as sickness of the
Member or someone within the Member’s immediate family.

(8) The Members of the ARB shall regularly attend meetings and public hearings of the ARB, shall serve without compensation, and shall not hold any other office or position with the City while serving on the ARB. The ARB shall meet as necessary at the call of the Chairperson and/or the Director of Community Development.

(9) The ARB shall appoint a Chairperson and a Vice-Chairperson from among its membership, and each officer will hold office for a period of one (1) year, provided such officer remains a member of the ARB and until his successor is elected by a simple majority vote of the regular members of the ARB. Alternate members are not eligible to serve as the ARB Chairperson or Vice-Chairperson or to participate in the selection of said Chairperson or Vice-Chairperson. The Director of Community Development’s designee shall serve as Secretary to the ARB, and shall keep minutes of all meetings held by the ARB as well as the full record of all recommendations made by the ARB to the Planning and Zoning Commission and/or City Council.

(10) The ARB shall have the power to make rules and regulations for conducting business that comes before it, which rules and regulations shall conform to those set forth by the City Council, and which such rules and regulations shall be subject to approval by the City Council. These rules and regulations shall include, among other items, provisions for:

(a) The posting of regular and special meetings in accordance with the Texas Open Meetings Act, which meetings shall be open to the public as required by the Texas Open Meetings Act;

(b) A record of its meetings to be open for inspection by the public save and except those portions of meeting records that involve closed sessions or executive sessions as allowed by the Texas Open Meetings Act;

(c) Reporting to the Planning and Zoning Commission and/or the City Council from time to time and annually; and

(d) Rules of order and the holding of public hearings on applications brought before it for consideration.

C. PARLIAMENTARY PROCEDURE; QUORUM; VOTING

(1) The ARB will follow the parliamentary procedure adopted by the City Council, and procedures shall not be in conflict with the laws applicable to the ARB on the following:

(a) Quorum – Any matter that comes before the ARB shall be heard and voted on by no more than five (5) Members of the ARB. A quorum shall consist of three Members of the ARB, and any issue to be voted upon shall be resolved by a majority of the Members present and voting.

(b) Voting - The five (5) ARB Members hearing and voting on a particular
matter, including the chairman, shall be entitled to one (1) vote each upon
any question, a quorum being present.

(c) **Conflict of Interest** - If any Member has a conflict of interest regarding any
item on the ARB's agenda, he/she shall remove himself/herself from the room
and shall refrain from participating in any deliberation or discussion regarding
the item and abstain from voting on the item for which a conflict exists. Any
Member of the ARB who owns an interest in property or resides on property
situated in the HOZ District that is within two hundred feet (200') of the
property, building or structure that is the subject of a matter before the ARB
shall be deemed to have a legal disqualification and shall follow the conflict of
interest requirements in this paragraph.

D. **MEETINGS; PUBLIC RECORD:**

(1) The ARB shall meet in the City Hall building or in some other specified location
as may be designated by the presiding Chairperson and at such intervals as may
be necessary to orderly and properly transact the business of the ARB at the call
of the Chairperson and/or the Director of Community Development.

(2) Meetings shall be posted in accordance with the Texas Open Meetings Act and
shall be open to the public as required by the Texas Open Meetings Act, and
minutes shall be kept and shall be treated as public record save and except
those portions of meeting minutes that involve closed sessions or executive
sessions as allowed by the Texas Open Meetings Act.

E. **POWERS AND DUTIES:**

(1) The ARB shall thoroughly familiarize itself with the intent and specifics of the
provisions and specifications herein contained.

(2) The ARB shall thoroughly familiarize itself with the structures, buildings,
landmarks, land, areas, and historic districts within the HOZ District.

(3) The ARB shall review all proposals for remodeling, renovation, modification,
repairs, construction or exterior alteration involving a Historic Building, Historic
Structure, Historic Object or Historic Site and any other building, structure or
property situated within the HOZ District, save and except that work and repair
which is exempted from such process under Section 34e.10(A)(1), and shall
approve or deny the issuance of a Certificate of Approval as set forth herein
below.

(4) The ARB shall act as an advisory body to the Planning and Zoning Commission
and City Council in regard to any actions affecting the HOZ District. As an
advisory body, the ARB may research, formulate and recommend policies and
programs, including funding and legal restrictions or incentives, which will
encourage preservation.

(5) The ARB shall make recommendations and/or determinations regarding
Certificates of Approval, Certificates of Demolition or Relocation, and Omissions
of Necessary Repairs and other related matters for all properties and structures within the geographic area of the HOZ District.

(6) The ARB shall conduct an annual review of the City’s historic resources within the HOZ District and shall be prepared to make recommendations to the Planning and Zoning Commission, as deemed necessary, to preserve, protect, promote and enhance the historic past and “small town” heritage and character of that area of the City of Forney specifically including buildings, structures, sites and areas of architectural, historical, archaeological, cultural, economic, social, political or ethnic importance or value.

(7) The ARB shall serve in an advisory capacity on any other historic-related matter(s) in the City as directed by the City Council.

F. PROCEDURE ON HEARINGS:

The procedure and process for Certificates of Approval, Certificates of Demolition or Relocation, and Omissions of Necessary Repairs and other related matters for all properties and structures within the geographic area of the HOZ District shall be in accordance with Section 10 and Section 34e.10 of this Ordinance.

34e.10 SUPPLEMENTAL REGULATIONS:

Buildings, structures, sites and areas in the HOZ- Historic Overlay Zone District shall be subject to the following regulations:

A. CERTIFICATES OF APPROVAL: No person or entity, except as specifically provided otherwise herein below, shall construct, reconstruct, alter, change, modify, restore, remove, remodel, renovate, repair or demolish any Exterior Architectural Feature of a building or structure located in the HOZ District (collectively “Structure” in this provision) unless application has been made to the ARB for a Certificate of Approval in accordance with this Ordinance and approved by the ARB.

(1) Exemptions:

(a) Ordinary maintenance and repairs and Emergency Repairs that involve only Minor Work shall be allowed to be performed without a Certificate of Approval provided that:

(i) a completed permit application, if required for the Minor Work being performed, is submitted to the Community Development Department identifying and describing the planned maintenance or repairs together with the appropriate fee, if any, before the Minor Work is started;

(ii) the Director of Community Development determines the planned maintenance or repairs identified and described in the permit application is Minor Work; and

(iii) the Director of Community Development issues a permit for the performance of Minor Work.
(b) Any ordinary maintenance and repairs or Emergency Repairs for which the Director of Community Development refuses to issue a permit for Minor Work shall require compliance with the Certificate of Approval process unless the Director of Community Development’s determination is appealed as provided by the City Code.

(c) All ordinary maintenance and repairs or Emergency Repairs that do not fall within the definition of Minor Work regardless of the simplicity, value or cost of such work shall require compliance with the Certificate of Approval process.

(d) An existing Structure within the HOZ District that is destroyed by fire, explosion, civil unrest, vandalism and/or forces of nature such as wind storms, rain, hail, ice storms, tornadoes, flooding and other natural disasters may be rebuilt to its pre-destruction size without a Certificate of Approval provided that:

(i) The Structure is rebuilt in its original architectural style using like materials and reflecting the same style, color and appearance of the original Structure immediately prior to the event giving rise to the need for such reconstruction; and,

(ii) Reconstruction commences (i.e., a building permit is applied for and issued) within one (1) year of the date of destruction.

However, if such reconstruction does not commence within the one-year time frame, or if the plans for rebuilding the Structure propose rebuilding the Structure: with a larger square footage; in a different architectural style; using dissimilar materials; replacing, omitting or significantly altering any previously existing architectural or visual component(s); deviating from the historical style or value of the Structure; or otherwise altering the general design of, structural arrangement of, or type of building materials used in the Structure the Structure’s nonconforming status and exemption from the Certificate of Appropriateness process shall be deemed to have been rejected by the applicant or owner and any reconstruction of the Structure shall require compliance with the Certificate of Approval process for new construction in the HOZ District as set out herein-below in Section 34e.11 of this Ordinance.

(2) **Application:**

To apply for a Certificate of Approval for a building or structure within the HOZ District, the applicant shall forward five (5) copies of all plans, elevations, perspectives, specifications or other documents describing the proposed work, a completed application, and appropriate fee to the Community Development Department. Written descriptions shall be considered satisfactory in so far as they describe the proposed work adequately.
(3) **Notice and Meeting:**

Upon receipt of an application from a property owner or developer requesting a Certificate of Approval for a building or structure located in the HOZ District, the Community Development Department shall notify the Chairperson of the ARB of the request for a Certificate of Approval within five (5) business days of its receipt of a completed application. The Chairperson and/or the Director of Community Development will call a meeting of the ARB to be held within thirty (30) days after receipt of a completed application to consider such application.

(a) The date, time and place of the ARB meeting and a description of each topic to be discussed during such meeting shall be posted in accordance with the Texas Open Meetings Act.

(b) Notice of any request for a Certificate of Approval and the meeting at which the application therefore will be considered shall be given and a public hearing held as provided in Section 10 of this Ordinance.

(4) **Determination:**

Upon review of the application and consideration of all testimony presented during the public hearing, the ARB shall determine whether the proposed work is of a nature which will adversely affect:

(a) any historical, architectural, archaeological, or cultural feature of the building or structure; or

(b) the future preservation, maintenance and use of the HOZ District.

The ARB shall also determine whether such work is appropriate and consistent with the spirit and intent of this Ordinance and the designated ordinance.

(5) **Items Excluded from Consideration:**

In reviewing an application for construction, reconstruction, alteration, change, modification, restoration, removal, remodeling, renovation, repair or demolition of any Exterior Architectural Feature of a building or structure, the ARB shall not:

(a) consider interior arrangement, including detailed design features not subject to any public view; or

(b) make any requirements except for the purpose of preventing developments or construction, reconstruction, alteration, change, modification, restoration, removal, remodeling, renovation, repair or demolition of Exterior Architectural Features of a building or structure that are architecturally incompatible with the historic aspects of the HOZ District; or

(c) consider the use being made of, or proposed for, the building or structure.

(6) **Use of Certificate of Approval Guidelines:**
The Certificate of Approval Guidelines located in Subsection (7) herein below shall be used in conjunction with these provisions in Section 34e.10(A) to determine the appropriateness of any proposed exterior changes.

(7) **Certificate of Approval Guidelines:**

In addition to the design guidelines included in the underlying Zoning Ordinance or Base Zoning District for the subject property, the ARB shall consider the following in determining the appropriateness of architectural features and the granting, modification or denial of a requested Certificate of Approval:

- The Exterior Architectural Features which are subject to public view from a public street, way or place;

- The general design, arrangement, texture, material, color, and fenestration of the proposed building or structure and the relation of such factors to similar features of buildings or structures in the immediate vicinity of the structure in question;

- The extent to which the building or structure would be harmonious, with or architecturally compatible with other buildings in the HOZ District;

- The extent to which the building or structure will preserve or protect the historic and architectural integrity of the HOZ District;

- The extent to which the building or structure will promote the general welfare of the City and all citizens by the preservation and protection of the HOZ District; and

- The extent to which the building or structure seeks LEED certification and includes green materials and technology, it being recognized that historic preservation efforts are the ultimate in recycling and that reusing materials qualifies for points in the LEED certification process.

As it concerns individual design elements the ARB shall consider the following in determining the appropriateness of individual Exterior Architectural Features and the granting, modification or denial of a requested Certificate of Approval:

(a) **Facades:**

*Recommended*

Using the original material type, if available, or comparable materials as approved by the ARB when repairing or restoring the facade.

Using hardi-plank® or cementitious fiberboard as an acceptable alternative to drop siding and wood trim when repairing or restoring the facade.

*Not Recommended*

Creating false facades.
Painting brick that is historically unpainted.

Stripping and staining wood that is historically painted.

Vinyl and metal siding, tilt-wall, stucco, EIFS and other materials that were not used in the original construction of the facade, except those materials specifically approved by the ARB as being comparable.

(b) **Windows:**

*Recommended*

Using the old window as a guide for the window replacement when replacing an entire window.

Using the same construction material (if available) or comparable materials as approved by the ARB. If like material is not available, a compatible substitute material may be used (such as a window that is non-metallic in color) that is as similar as possible to the original window.

*Installing interior storm windows* with airtight gaskets, ventilating holes, and/or removable clips to insure proper maintenance and to avoid condensation damage to historic windows.

*Installing exterior storm windows* that do not damage or obscure the historic windows and frames.

*Not Recommended*

Changing the number, location, size or glazing pattern of windows.

Cutting new openings for windows or installing a replacement sash that does not fit the historic window opening.

Changing the historic appearance of windows through the use of designs, materials, finishes, or colors that radically change the sash, depth of reveal, and muntin (the cross pieces dividing the panes of glass) configuration; the reflectivity and color of the glazing; or the appearance of the frame.

Stripping windows of historic material(s).

Removing or blocking in a window; or replacing a window with one that does not convey the same visual appearance.

Installing new floors or lowering ceilings that cut across the glazed areas of the windows so that the exterior form and appearance of the windows are changed.

Removing or radically changing windows such that the overall historic character is diminished.
Obscuring windows with historic trim with metal solar screens or other material.

(c) **Porches and Entrances:**

*Recommended*

Using large sheets of clear glass, plastic plexiglass or other transparent materials that are recessed behind, and which do not obscure, the existing scrollwork, post and balustrades (a section of low "fencing" consisting of intermittent supporting posts and horizontal rails with balusters or crossbars in between) for porch enclosures.

Using the remaining feature(s) as a guide for replacement if the porch or entrance is destroyed or deteriorated beyond repair. It may also be restored based on historical, pictorial, and physical documentation or a new design that is compatible with the historic character of the building or structure using the same type materials if the original material type is not available.

Using the old exterior door, casing and transom as well as any related appurtenances thereto ("Entrance") as a guide for the Entrance replacement when replacing an entire Entrance.

Using the same construction material (if available) or comparable materials as approved by the ARB. If like material is not available, a compatible substitute material may be used (such as an Entrance that is non-metallic in color) that is as similar as possible to the original Entrance.

*Installing exterior storm doors* that do not damage or obscure the historic doors and frames.

*Not Recommended*

Enclosing the porch or entrance using wood or masonry.

Altering or removing stoops or hand-rails.*

Lowering the porch elevation to grade.

Removing porch railings or replacing railings using a different material type.*

Reconfiguring steps.*

Cutting new openings for the Entrance or installing an Entrance that does not fit the historic Entrance opening.

Changing the historic appearance of the Entrance through the use of designs, materials, finishes, or colors that radically change the exterior door, casing and transom as well as any related appurtenances thereto; the reflectivity and color of the glazing; or the appearance of the Entrance.
Stripping the Entrance of historic material(s).

Removing or blocking in an Entrance; or replacing an Entrance with one that does not convey the same visual appearance.

Installing new floors or lowering ceilings that cut across the Entrance so that the exterior form and appearance of the Entrance is changed.

Removing or radically changing the Entrance such that the overall historic character is diminished.

Obscuring the Entrance with metal solar screens or other material.

*Unless required by the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq. (“ADA”) or other applicable codes.

(d) **Building Site:**

**Recommended**

Retaining the historic relationship between buildings or structures, landscape features and open space including driveways, walkways, lighting, fencing, signs, benches, plants and trees, berms, and archeological features that are important in defining the history of the site.

Replacing features of the building or structure that are not repairable with a comparable material only if the original type is no longer available.

Leaving rafter tails (the ends of the roof support beams) exposed.

Using green materials and green technology to reduce the carbon footprint of a building or structure and to conserve the use of water and energy. Rain collection barrels, solar panels and cylindrical wind turbines may be utilized provided that they are not in direct view from the streets and sidewalks and/or are incorporated into the design of the building or structure in a manner that does not alter or detract from the architectural features of the building or structure.

**Not Recommended**

Replacing historic features with new features that do not convey the same architectural appearance or character.

Introducing site elements that are out of scale or otherwise inappropriate.

Locating a parking facility directly adjacent to a historic building or structure without physical and visual buffers where automobiles may cause damage or adverse effects to the building, structure or landscape features or be intrusive to the building or structure site, architectural appearance or character.
(e) **Additions:**

**Recommended**

Designing new additions in a manner consistent with the existing structure.

Locating the attached exterior addition at the rear or on an inconspicuous side of the building or structure. The setback should be a minimum of ten feet (10') from the primary facade and should not be more than fifty percent (50%) of the square footage of the existing footprint and fifty percent (50%) of the existing dimension of the primary facade.

Using green materials and green technology to reduce the carbon footprint of a building or structure and to conserve the use of water and energy. Rain collection barrels, solar panels and cylindrical wind turbines may be utilized provided that they are not in direct view from the streets and sidewalks and/or are incorporated into the design of the building or structure in a manner that does not alter or detract from the architectural features of the building or structure.

(f) **Accessory Buildings:**

**Recommended**

Locating the accessory building at the rear or on an inconspicuous side of the building or structure.

(g) **Pools:**

**Recommended**

Placing a swimming pool, spa, etc., at the rear of the building or structure so as not to be visible from the front (street-side) of the building or structure. Any swimming pool shall comply with and conform to Section 47.2 of this Ordinance as well as any other applicable provision of the City’s Code of Ordinances.

**Not Recommended**

Placing a swimming pool, spa, etc., at the side or front of a building or structure such that the addition can be seen from the street or adjacent sidewalks and pedestrian vantage points.

Displacing historic landscaping.

(h) **Historic Landscaping, Historic Sites and Historic Objects:**

**Recommended**

Protecting existing landscape materials including specimen and majestic trees as well as ornamental trees, shrubs, grasses, plantings, and gardens
“Landscape Materials” together with landscape design elements and
hardscapes that collectively are of historical, environmental, cultural or
ecological significance.

Protecting existing Landscape Materials together with landscape design
elements and hardscapes that: enhance the architectural integrity and visual
appeal of a structure framed thereby; create or contribute to the identity of a
building or structure and the property on which it is placed; or are
synonymous with the architecture and period of the building or structure.

Updating, replacing, repairing, grooming, trimming and manicuring damaged,
overgrown or diseased Landscape Materials and damaged or dangerous
hardscapes to make such visual elements preserve, set off and enhance the
architectural integrity and visual appeal of the building or structure framed
thereby.

Not Recommended

Removing existing Landscape Materials or landscape design elements and/or
hardscapes that have historical, environmental, cultural or ecological
significance.

Removing Landscape Materials and landscape design elements and
hardscapes that create or contribute to the identity of a building or structure
and the property on which it is situated.

Removing Landscaping Materials or landscape design elements and/or
hardscapes that enhance the architectural integrity and visual appeal of the
building or structure framed thereby.

Removing Specimen Trees, signature trees and ornamental landscaping for
which the property is known or which is synonymous with the architecture
and period of the building or structure.

Allowing Landscape Materials and hardscapes of historical, environmental,
cultural or ecological significance to become and remain damaged,
overgrown or diseased.

(i) Wrought Iron:

Not Recommended

Installing wrought iron security bars for doors and windows.

Installing posts and railing as a historical feature replacement on the building
or structure.

(This provision is not intended to prohibit the use of wrought iron or tubular
steel for perimeter fencing purposes, if and to the extent otherwise permitted
or allowed by the City’s Code of Ordinances.)
(j) **Roof:**

*Recommended*

Installing a roof that is comparable to the historical features of the building or structure, provided there is not undue financial burden and the roof materials meet current safety requirements.

Installing solar panels on those portions of the roof that are not visible from the street and/or sidewalks.

Installing lightning arrestors on the roof line.

(k) **Colors:**

*Recommended*

Using colors that reflect the historic character of the building or structure.

(l) **Storefronts:**

*Recommended*

Replacing the entire storefront using the deteriorated form as a guideline and using the same material type as the historical feature if the storefront is in disrepair.

Replacing a “modern-design” storefront or a storefront having little or no architectural detail, features or significance with a more historic feeling/looking storefront.

*Not Recommended*

Stripping or replacing historic materials such as wood, cast iron, terra cotta and brick.

Using substitute materials for the replacement parts that do not convey the same visual appearance as the remaining parts of the storefront.

Changing the number of windowpanes.

Changing the number, location, size, or glazing pattern of windows.

Removing or blocking in windows.

Installing new floors or ceilings that cut across the glazed areas of the windows.

Altering the size of the storefront.

Replacing the original storefront.
(m) **Signs:**

*Recommended*

Ground signs as defined in Section 48, Signage, of this Ordinance.

(8) **Changes:** No change shall be made in the plans on which a Certificate of Approval was issued without re-submittal to the ARB and approval thereof in the same manner as provided above for processing the original application.

(9) **Determination by ARB:** After thorough review of the requested Certificate of Approval, the ARB shall take one of the following actions:

(a) **Approval:**

   (i) Approved as requested.

   (ii) Approval with stipulations – which will further enhance the design's contribution to preservation.

   (iii) Approval with variance – from the strict application of the design guidelines. Prior to approval with variance, the ARB must make a finding that the strict application of the guidelines will create practical “difficulties” or particular hardship and a finding that the proposal, not in strict adherence to the guidelines, is in the spirit and intent of this Ordinance and the ordinances designating the landmark.

(b) **Denial:**

   (i) Denied in whole or in part.

   (ii) Tabled for further consideration.

(10) **Issuance of Certificate of Approval:** A Certificate of Approval and any related building permits will not be issued within ten (10) calendar days of the ARB’s final action or if an appeal is filed.

(11) **Enforcement.** The following enforcement action may be taken in addition to any other enforcement action allowed regarding this Ordinance:

   (a) Any person who does not comply with the Certificate of Approval process will be in violation of City of Forney Zoning Ordinance, Section 53.

   (b) In the event work is not being performed in accordance with an approved Certificate of Approval, a stop work order shall be issued by the Building Official and all work shall immediately cease.

   (c) No further work shall be undertaken on the project as long as a stop work order is in effect.
(d) The stop work order may be lifted by the Director of Community Development upon approval of a plan submitted by the responsible party for bringing the work into conformity with the Certificate of Approval or upon approval by the ARB of a Certificate of Approval or an amendment to the Certificate of Approval for such work.

(e) No certificate of occupancy shall be issued for any building, structure or use that is constructed, reconstructed, altered, changed, modified, restored, removed, remodeled, renovated, repaired or demolished without a Certificate of Approval.

B. CERTIFICATES OF DEMOLITION OR RELOCATION: No person or entity other than a state, city, county or federal government fee simple owner shall demolish or relocate any Historic Building or Historic Structure located in the HOZ District, unless application has been made to the ARB for a Certificate of Demolition or Relocation in accordance with this Ordinance and such a Certificate shall have been finally approved by the ARB.

(1) To apply for a Certificate of Demolition or Relocation for a Historic Building or Historic Structure within the HOZ District, the applicant shall forward five (5) copies of all plans, elevations, perspectives, specification or other documents describing the proposed work to the Community Development Department. Written descriptions shall be considered satisfactory in so far as they describe the proposed work adequately.

(2) Upon receipt of an application from a property owner or developer requesting a Certificate of Demolition or Relocation for a Historic Building or Historic Structure located in the HOZ District, the Community Development Department shall notify the Chairperson of the ARB of the request for a Certificate of Demolition or Relocation within five (5) business days of its receipt of a completed application. The Chairperson and/or the Director of Community Development will call a meeting of the ARB to be held within thirty (30) days after receipt of a completed application to consider such application.

(a) The date, time and place of the ARB meeting and a description of each topic to be discussed during such meeting shall be posted in accordance with the Texas Open Meetings Act.

(b) Notice of any request for a Certificate of Demolition or Relocation and the meeting at which the application therefore will be considered shall be given and a public hearing held as provided in Section 10 of this Ordinance.

(3) Upon review of the application and consideration of all testimony presented during the public hearing, the ARB shall determine whether the proposed demolition or relocation of the Historic Building or Historic Structure is of a nature which will adversely affect:

(a) a significant historical, architectural, archaeological, or cultural feature of the HOZ District; or

(b) the future preservation, maintenance and use of the HOZ District.
The ARB shall also determine whether such demolition or relocation is appropriate and consistent with the spirit and intent of this Ordinance and the designated ordinance.

(4) In reviewing an application for demolition or relocation of a Historic Building or Historic Structure, the ARB shall consider the state of repair of the Historic Building or Historic Structure, the reasonableness of the cost of restoration or repair, the purpose of preserving the Historic Building or Historic Structure, the character of the neighborhood and all other factors which it finds appropriate.

(5) In addition to the other guidelines set out in this Ordinance, the ARB shall determine whether the proposed work is of a nature that will adversely affect the future preservation, maintenance and use of the HOZ District. The Certificate of Demolition or Relocation Guidelines located in Subsection (6) herein below shall be used to determine the appropriateness of any proposed demolition or relocation in conjunction with and in addition to the guidelines set out in this Section 34e.10(B), and the granting, modification or denial of a requested Certificate of Demolition and Relocation:

(a) the architectural, cultural, or historical significance of the Historic Building or Historic Structure;

(b) the age of the Historic Building or Historic Structure;

(c) the state of repair of the Historic Building or Historic Structure in question, and the reasonableness of the cost of restoration and repair;

(d) additions, alterations, changes, modifications and updates to the Exterior Architectural Features of the Historic Building or Historic Structure that would disqualify it from consideration for registration on the National Register of Historic Places;

(e) the impact, if any, that delaying the demolition or relocation of the Historic Building or Historic Structure will have;

(f) the contribution, if any, the Historic Building or Historic Structure makes to a previously designated and recognized, or potentially qualifying, historic district and the owner’s or any predecessor owner’s involvement in the formation or creation of such a district;

(g) the willingness of the applicant to donate or sell the Historic Building or Historic Structure to a third party;

(h) the potential usefulness or adaptive reuse of the Historic Building or Historic Structure, including economic usefulness;

(i) the potential market or demand for such a Historic Building or Historic Structure in its current condition and location;
(j) the results of all required asbestos and/or lead-based paint inspections, surveys or analysis and the potential cost of clean-up and/or remediation;

(k) the purpose that would be served in preserving the Historic Building or Historic Structure; and

(l) all other factors it finds necessary and appropriate to carry out the intent of this Ordinance.

If, based upon such considerations, the ARB determines that the Historic Building or Historic Structure should not be demolished the ARB’s decision shall be forwarded to the Planning and Zoning Commission for review and final decision. If the ARB takes no action within thirty (30) days of the hearing on a completed application, a Certificate of Demolition or Relocation shall be deemed issued.

(6) **Conditions for Approval:** In granting a Certificate of Demolition or Relocation, the ARB or the Planning and Zoning Commission must find that the interests of preserving historical values and the purposes and intent of this Ordinance will not be adversely affected by the requested demolition or removal, or that such interests will be best served by removal or relocation to another specified location. The issuance of a Certificate of Demolition or Relocation does not relieve the applicant from compliance with all other local, state and federal rules and regulations including but not limited to those rules and regulations promulgated and/or enforced by the City, the Texas State Department of Health, the Texas Commission on Environmental Quality and the United States Environmental Protection Agency.

(7) **Enforcement:** The following enforcement action may be taken in addition to any other enforcement action allowed regarding this Ordinance:

(a) Any person who does not comply with the Certificate of Demolition or Removal process will be in violation of City of Forney Zoning Ordinance, Section 53.

(b) In the event work is not being performed in accordance with an approved Certificate of Demolition or Removal, a stop work order shall be issued by the Building Official and all work shall immediately cease.

(c) No further work shall be undertaken on the project as long as a stop work order is in effect.

(d) The stop work order may be lifted upon approval by the ARB of a Certificate of Demolition or Relocation or an amendment to the Certificate of Demolition or Relocation for such work.

(e) No application for plat approval, site plan approval, zoning amendment or certificate of occupancy shall be accepted, processed or issued for any property on which any person has demolished or relocated a Historic Building, Historic Structure, Historic Object or Historic Site without first
obtaining, or in violation of, a Certificate of Demolition or Relocation during the preceding five (5) years.

C. **OMISSION OF NECESSARY REPAIRS:** Historic Buildings and Historic Structures located in the HOZ District shall be maintained so as to ensure the exterior and interior structural soundness and integrity of the Historic Building or Historic Structure and its Exterior Architectural Features.

(1) **Determination of Omission:** If the ARB determines that there are reasonable grounds to believe that a Historic Building or Historic Structure or an Exterior Architectural Feature thereof is structurally unsound, the ARB shall notify the owner of record of the property and hold a public hearing to determine compliance with the provisions of this Ordinance.

(2) **Mandated Repairs:** If at the conclusion of the public hearing, the ARB finds that the Historic Building or Historic Structure or its Exterior Architectural Features are structurally unsound or are in immediate danger of becoming structurally unsound, the ARB shall advise the property owner and direct repair of the property. The property owner shall satisfy the ARB within ninety (90) days of its decision that all necessary repairs and maintenance to safeguard structural soundness and integrity have been carried out and completed.

(3) **Enforcement:** The following enforcement action may be taken in addition to any other enforcement action allowed regarding this Ordinance:

(a) No application for plat approval, site plan approval, zoning amendment or certificate of occupancy shall be accepted, processed or issued for any property on which any person has allowed a Historic Building, Historic Structure, Historic Object or Historic Site to fall into disrepair or demolition thereof by or through neglect during the preceding five (5) years.

D. **ACTION AND APPEALS:**

(1) The ARB’s decision regarding a requested Certificate of Approval or Certificate of Demolition or Relocation shall be deemed filed on the day following the public meeting at which such determination is announced by the ARB.

(2) The Community Development Department shall immediately notify the applicant and the Chief Building Official when a building permit may be issued. However, the Community Development Department will not issue the subject Certificate of Approval or Certificate of Demolition or Relocation, as approved by the ARB, until after the tenth (10th) calendar day following the filing of the ARB’s decision. If an appeal of the ARB’s decision is filed the subject Certificate of Approval or Certificate of Demolition or Relocation and any related building permits will be withheld until such time as the appeal is heard and ruled upon by the Planning and Zoning Commission and City Council.

(3) Any person or party aggrieved by a decision of the ARB regarding the issuance or denial of a Certificate of Approval, Certificate of Demolition or Relocation, or a ruling regarding Omissions of Necessary Repairs and other related matters for any properties and structures within the geographic area of the HOZ District may
file in writing its notice of appeal to the Planning and Zoning Commission. Such appeal must be filed in the Community Development Department within ten (10) calendar days from the date the ARB’s decision is filed. The Community Development Department shall prepare a record of the proceedings from which the appeal is taken and shall place it on a Planning and Zoning Commission agenda. The applicant and the person making the appeal shall be notified by the Community Development Department of the date the appeal will be heard by the Planning and Zoning Commission.

(4) The Planning and Zoning Commission shall hold a public hearing regarding the appeal in which it shall hear testimony from all interested parties within thirty (30) days after the date on which the appeal to the Planning and Zoning Commission was filed. The Planning and Zoning Commission in hearing the appeal shall apply the standards and requirements set forth in this Section 34e.10 as well as the standards and requirements of the underlying Zoning Ordinance or Base Zoning District.

(5) If the appeal involves or arises out of a Certificate of Demolition or Relocation and the Planning and Zoning Commission, after the public hearing, determines that there is reasonable ground for preservation, the Planning and Zoning Commission may suspend the application for a period of no more than thirty (30) calendar days from the date of the hearing. During this period, no permit shall be issued for such demolition or removal nor shall any person remove or demolish the structure.

(6) At the time an application is suspended, the Planning and Zoning Commission shall instruct the ARB to attempt to negotiate a resolution with the applicant, to seek private or public preservation, or to identify any other action which would assist in the structure’s preservation.

(7) The application is reactivated after thirty (30) days from the date of the public hearing and the Planning and Zoning Commission must take action to deny or approve the removal or demolition. If no action has been taken by the Planning and Zoning Commission within one hundred twenty (120) days of the original receipt of the application, a demolition permit shall be issued and the Chief Building Official shall so advise the applicant. Notwithstanding the foregoing, a demolition permit shall not be so issued by the Chief Building Official if any party aggrieved by the action of the Planning and Zoning Commission timely files an appeal thereof to the City Council.

(8) Any person or party aggrieved by a decision, or failure to act, of the Planning and Zoning Commission regarding the issuance or denial of a Certificate of Approval, Certificate of Demolition or Relocation, or a ruling regarding Omissions of Necessary Repairs and other related matters for any properties and structures within the geographic area of the HOZ District may file in writing its notice of appeal to the City Council. Such appeal must be filed in the Community Development Department within ten (10) calendar days from the date the Planning and Zoning Commission’s decision is filed. The Community Development Department shall prepare a record of the proceedings from which the appeal is taken and shall place it on a City Council agenda. The applicant and the person making the appeal shall be notified by the Community
Development Department of the date the appeal will be heard by the City Council.

(9) The Community Development Department will not issue the subject Certificate of Approval or Certificate of Demolition or Relocation and any related building permits, as approved by the Planning and Zoning Commission, until after the later of (a) the tenth (10th) calendar day following the filing of the Commission’s decision or, (b) the tenth (10th) calendar day following a final decision by the City Council regarding an appeal taken from the Commission’s decision.

(10) After a decision is reached denying an application for Certificate of Approval, where no appeal is made to the Planning and Zoning Commission, a re-submittal of application will not be accepted for additional hearings within a six (6) month period from the date of the prior final decision except upon written request by the applicant indicating the incorporation of changes in plans and specifications to the original application as recommended by the ARB.

34e.11 NEW CONSTRUCTION IN THE HOZ – HISTORIC OVERLAY ZONE DISTRICT:

New construction in the HOZ District shall be compatible with the massing, size, scale, and architectural features of the surrounding homes and structures. New construction in the HOZ District need not attempt to recreate or replicate a past architectural style in its entirety but shall take cues from the architectural and design elements of surrounding structures within the HOZ District. No specific architectural style shall be required for new construction in the HOZ District; but new structures shall conform to the historical appearance and character of the surrounding buildings or structures and environment.

The following aspects of new construction in the HOZ District shall be visually compatible with the buildings or structures and environment with which the new construction is related. These aspects include but are not limited to: height, proportion between width and height of facade, proportion and relationship between doors and windows, rhythm of solids and voids created by openings in the facade, materials, textures, colors, patterns, trims, and design of the roof. New construction in the HOZ District shall also preserve the existing rhythm created by existing building and structure masses and open spaces in the neighborhood or area.

A. HEIGHT: All new construction in the HOZ District should take into consideration the general height of the buildings and structures in the neighborhood or area and also shall comply with the underlying Base Zoning District.

B. PROPORTION OF THE BUILDINGS FRONT FACADE: The relationship of the width to height of a building or structure creates a proportion that should be taken into consideration (such as tall and narrow, low and squat, or square). This proportional relationship should reflect the dominant character of the neighborhood or area.

C. PROPORTION OF OPENINGS WITHIN THE FACADE: This is a relationship of the width to height of windows and doors. For example, a window may be one unit wide and three units high, thus creating a proportional relationship of 1:3. If the majority of the buildings within a neighborhood or area have this 1:3 relationship, then new design should reflect this proportion as well. Large picture windows or horizontal
bands of windows should be avoided. Modern interpretations of historic windows are acceptable if they retain the historic size ratios and pattern of placement on the facade. Doors should also be compatible in proportion (see Illustration 1).

D. **RHYTHM OF SOLIDS TO VOIDS:** Rhythm is an ordered, recurrent alternation of wall to openings as well as spacing between buildings and structures. This rhythm creates a feel as one moves past a building or structure or group of buildings or structures. The design of a new building or structure in the HOZ District should respect the rhythm of the surrounding neighborhood or area in terms of its size, distance between buildings on either side, and the spacing of windows and doors (see Illustration 2).

E. **RELATIONSHIP OF MATERIALS:** New designs in the HOZ District should use materials that are compatible with the neighborhood or area and should seek to reflect the predominant materials found in the neighborhood or area. If the majority of existing buildings or structures are brick, then the proposed building or structure should be brick. If the predominant material is lap siding, then the proposed material should be lap siding. The texture and color of the materials should be considered as well and be compatible with the surrounding buildings and structures.

F. **RELATIONSHIP TO ROOF SHAPES:** Roof shape includes the type and pitch of the roof (such as hip, gable, mansard, or shed). The treatment of the eaves, rafter tails, soffits, bargeboards, and fascia are important considerations when designing any new construction in the HOZ District. For example, if the majority of the existing houses in a neighborhood have a gabled roof, then the proposed new construction should have a gabled roof. Additionally, if the existing buildings or structures in a neighborhood or area have boxed eaves, then the new construction should seek to incorporate either the same or similar design element.
G. RELATIONSHIPS TO ARCHITECTURAL DETAILS: Architectural details include features such as cornices, brackets, columns, lintels, arches, roof crests, quoins, balustrades, doors, windows, and chimneys. New construction in the HOZ District should be compatible with the predominant architectural details on surrounding buildings and structures. These details do not need to be copied in the new construction, but they should be reflected in some manner. For example, if the majority of houses in the neighborhood have pediments above the windows, then the new construction should reflect pediment-like features above the windows as well. Additionally, chimneys that are not constructed of historical materials (brick or stone) should be located to the rear of the building in order to reduce the visibility of the modern chimney covering from the public right-of-way.

H. SCALE: Scale is created by the architectural detailing that relates to the size of a human and by the building mass as it relates to open space. A large building or structure on a small lot has a different appearance when compared to a large building or structure on a large lot. This relationship should be considered when designing for a particular neighborhood or area. New construction in the HOZ District should observe the scale of surrounding and nearby buildings or structures and lots. The window and door lines should be similar to neighboring buildings and structures. The detailing should be consistent with the size of the building or structure. For example, a small house should not have massive or oversized details and decorations.

I. MASSING: The term “massing” refers to how the basic shapes of the buildings and structures appear to fit together. Massing addresses the visual fit of buildings and structures within a neighborhood or area. Massing can be very simple, such as a single rectangular shape, or it can be more complex with an L-shape, or have a combination of shapes. Additional massing elements are also found among the different architectural styles. For example, in Victorian architecture, elements such as bays, towers, and turrets add to the basic massing of the house. Massing patterns of the neighborhood or area buildings and structures should be considered and reflected in the design of new construction in the HOZ District. New construction in the HOZ District shall also comply with the technical requirements and floor-area ratios dictated by the underlying Base Zoning District.

J. DIRECTIONAL EXPRESSION OF THE FRONT ELEVATION: The use of architectural details and the proportion of the width-to-height ratio create structural shape. The structural shape will be expressed either vertically or horizontally. A building or structure with a ratio of 1:5 will have a vertical appearance while a ratio of 5:1 will have a horizontal appearance. Tall, narrow windows give a vertical appearance while wide windows tend to create a horizontal feel. New construction in the HOZ District should observe the predominant feel of the surrounding area.

K. RHYTHM OF SPACING AND SETBACKS: It is important that new construction in the HOZ District be consistent with adjacent buildings and structures in spacing and setback, which sets a rhythm for the block and neighborhood or area and is a part of the historic character. The setback of new construction in the HOZ District should generally be within ten percent (10%) of the setback lines of the adjacent buildings and structures. Setbacks for new construction in the HOZ District should maintain the existing pattern of setbacks in the block if at all possible. New construction in the
HOZ District shall also comply with the setbacks dictated by the underlying Base Zoning District (see Illustration 3).

Illustration 3

L. VARIATION OF STYLES: If groupings of two or more new homes are being built in the same area, then the new construction should reflect a variation in the styles of homes. It is not appropriate to build the same home or simply change the position of the front porch or the type of window or front door to comply with these criteria.

34e.12 SITE PLAN REQUIRED:

A. Site Plan Review: Formal consideration and approval of a site plan by the Planning and Zoning Commission and the City Council (in accordance with Section 12 of this Ordinance) shall be required for site redevelopment or the construction of any new building or structure within the HOZ District. No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the City Council.

B. For site redevelopment, building expansion or new construction, detailed building or structure facade (i.e., elevation) plans shall be submitted for review and approval along with the site plan. Facade plans shall be reviewed by City staff, the Planning and Zoning Commission, and the City Council with the City Council serving as the final approval authority. Facade plans shall clearly show how the building(s) or structure(s) will look, especially as viewed from the road(s) upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. Architectural style and scale of new/renovated/expanded buildings or structures within the HOZ District shall be compatible with the styles and scale of adjacent buildings and structures, as required by Section 34e.11 of this Ordinance, above, that make an aesthetically pleasing contribution to the historic character of the neighborhood or area. The City Manager may, as he/she deems appropriate, require submission of additional information and materials (possibly actual samples of materials to be used) during the site plan review process.

C. Formal consideration by the Planning and Zoning Commission is required, and formal approval of the City Council is required for all site plans and facade plans within the HOZ District. Development standards for all uses in the HOZ District shall be established on the site plan and all supporting information will be required at or before the time of approval.
SECTION 34f    “H – HISTORIC LANDMARK DESIGNATION”

34f.1 PURPOSE AND INTENT:

A. The City Council hereby finds and declares as a matter of public policy that the protection, enhancement, preservation and use of historic landmarks is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the people. The purposes of this Section are:

1. To protect, enhance and perpetuate historic landmarks that represent or reflect distinctive and important elements of the City’s cultural, social, economic, political, archaeological and architectural history;

2. To safeguard the City’s historic and cultural heritage, as embodied and reflected in such historic landmarks;

3. To stabilize and improve property values;

4. To foster civic pride in the beauty and accomplishments of the past;

5. To protect and enhance the City's attraction to tourists and visitors and provide incidental support and stimulus to business and industry;

6. To strengthen and help diversify the economy of the City; and

8. To promote the use of historical, cultural and architectural landmarks for the education, inculcation, pleasure and welfare of the community.

34f.2 DEFINITIONS:

For the purpose of this H - Historic Landmark Designation Ordinance, the definitions contained in Section 34.e, entitled “HOZ – Historic Overlay Zoning District,” shall apply in addition to the following definition, which shall have the meaning given herein, whether or not capitalized unless the context clearly requires another meaning. The word “shall” is mandatory and not merely directory.

A. HISTORIC LANDMARK. Any building, site, structure, or object of historical, architectural, archaeological or cultural importance or values that the City Council determines should be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the people.

B. HISTORIC DISTRICT. A collection of buildings, sites, structures, or objects of historic, architectural, archaeological or cultural importance or values situated within a contiguous area of the City that the City Council determines should be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the people.
34f.3 HISTORIC LANDMARKS -- DESIGNATION:

A. These provisions pertaining to the designation of historic landmarks constitute a part of the Zoning Ordinance of the City of Forney, Texas.

B. The City Council, after receiving a recommendation from the Planning and Zoning Commission ("P&Z"), may designate certain buildings, sites, structures, or objects, or a collection of the same within a contiguous area of the City, as historic landmarks or a historic district and define, amend and delineate the boundaries thereof separate and apart from those buildings, structures, land and areas within the HOZ - Historic Overlay Zoning District. Similarly, the City Council may also designate certain buildings, sites, structures, or objects within the HOZ - Historic Overlay Zoning District as historic landmarks. The suffix "H" shall indicate the designation of those buildings, sites, structures, or objects the City Council designates as historic landmarks and the collection of the same within a contiguous area of the City the City Council designates as a historic district. Such designation shall be in addition to any other zoning district designation established in the Zoning Ordinance. All zoning district maps shall reflect the designation of a historic landmark or historic district by the letter "H" as a suffix.

C. Property owners may petition the City, or the City Council on its own initiative may institute proceedings, to designate certain buildings, sites, structures, or objects, or a collection of the same within a contiguous area of the City, as historic landmarks and/or a historic district.

D. No person or entity shall alter, reconstruct, remove, or demolish a nominated landmark or any buildings, sites, structures, objects or areas within a nominated historic district, from the date of application until the final disposition of the nomination by the City Council unless such alteration, reconstruction, removal, or demolition is authorized in advance by formal resolution of the City Council as necessary for public health, welfare or safety. For purposes of this provision a building, site, structure, object, or area is considered to be nominated if a completed application form signed by the owner/owners or their respective authorized agents has been submitted to the Community Development Department; or

Any permit issued for the alteration, reconstruction, removal, or demolition of a nominated landmark or any building, site, structure, object or area within a nominated historic district, without the required prior approval and findings of the City Council as described above, shall be deemed void and of no effect. The owner of any nominated landmark or any building, site, structure, object or area within a nominated historic district who performs or causes another to perform the alteration, reconstruction, removal, or demolition in violation of this provision shall be deemed to be the responsible party for violations of this section and may be prosecuted therefore to the full extent of the law, including as provided herein below.

E. The P&Z shall hold public hearings as provided in the Zoning Ordinance, including the notice provisions thereof, to consider any historical landmark or historical district designation.
F. Property owners of proposed historic landmarks and/or owners of property within a proposed historic district shall be notified prior to the P&Z hearing on the recommended designation. At the P&Z’s public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmarks and/or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

G. The P&Z shall, after public hearing and consideration of the information and arguments presented, make a recommendation to the City Council whether certain buildings, sites, structures, or objects, or a collection of the same within a contiguous area of the City, be designated as historic landmarks and/or a historic district. Each recommendation shall include:

1. Those premises, lots or tracts to be designated;
2. Any additional uses to be permitted with the specific "H" designation; and
3. Specific criteria for the required preservation of the exteriors of the premises with the designated historic landmark and/or historic district.

H. After notice and public hearing as required by law in a zoning case under the Zoning Ordinance, the City Council may by ordinance approve the historic landmark designation and/or historic district designation.

I. Upon designation of a building, site, structure, or object, or a collection of the same within a contiguous area of the City as a historic landmark or a historic district, the City Council shall cause the historic designation to be filed in the Official Public Records of Real Property of Kaufman County, the tax records of the City of Forney and the Kaufman County Tax Assessor as well as the official zoning maps of the City of Forney; and shall send a copy of such notice by certified mail to the owner or owners of the affected property.

J. Use classifications as to all property which may be included in a historic landmark designation shall continue to be governed by the Zoning Ordinance and the ordinance establishing the "H" designation.

K. The designation of a historic landmark may be modified or removed using the same procedure as provided in this Section for the original designation.

34f.4 HISTORIC LANDMARKS – CRITERIA FOR DESIGNATION:

Designation of historic landmarks as set forth in Section 34f.3 shall be based on one (1) or more of the following criteria:

A. Character, interest or value as part of the development, heritage or cultural characteristics of the City of Forney, State of Texas, or the United States;
B. Location as the site of a significant historic event;
C. Identification with a person or persons who significantly contributed to the culture
and development of the City;

D. Exemplification of the cultural, economic, social or historical heritage of the City;

E. Portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;

F. Embodiment of distinguishing characteristics of an architectural type or specimen;

G. Identification as the work of an architect or master builder whose individual work has influenced the development of the City;

H. Embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;

I. Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on historic, cultural or architectural motif;

J. Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the City;

K. Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest; and/or

L. Value as an aspect of community sentiment or public pride.

34f.5 HISTORIC DISTRICTS – CRITERIA FOR DESIGNATION:

Designation of historic districts as set forth in Section 34f.3 shall be based on the following criteria:

A. The proposed historic district contains a collection of buildings, sites, structures, or objects within a contiguous area of the City in an environmental setting that meets one or more of the criteria for designation of a historic landmark; and

B. The proposed historic district constitutes a distinct section of the City.

34f.6 CERTIFICATE OF APPROVAL FOR ALTERATION OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS:

No person shall carry out any construction, reconstruction, alteration, restoration, rehabilitation, or relocation of any historic landmark or any property within a historic district, nor shall any person make any material change in the light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from a public right-of-way which affect the appearance and cohesiveness of any historic landmark or any property within a historic district, without first obtaining a Certificate of Approval for the work together with all other permits required by law. The application for and the grant or denial of such Certificate of Approval shall be controlled by and enforced through Section 34e.10 of the Zoning Ordinance.
34f.7 CERTIFICATE OF DEMOLITION OR RELOCATION AFFECTING LANDMARKS OR HISTORIC DISTRICTS:

No person shall carry out the demolition or relocation of any historic landmark or any property within a historic district without first obtaining a Certificate of Demolition and Relocation for the work, together with all other permits required by law. The application for and the grant or denial of such Certificate of Demolition and Relocation shall be controlled by and enforced through Section 34e.10 of the Zoning Ordinance.

34f.8 OMISSION OF NECESSARY REPAIRS:

Buildings, sites, structures, or objects designated as a historic landmark or a collection of the same within a contiguous area of the City designated as a historic district shall be maintained so as to ensure the exterior and interior structural soundness and integrity of the historic landmark or historic district and the exterior architectural features of such historic landmark or historic district. Failure to properly maintain any designated historic landmark and/or historic district shall be controlled by and enforced through Section 34e.10 of the Zoning Ordinance.

No owner or person with an interest in real property designated as a historic landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the ARB, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of such deterioration include:

A. Deterioration of exterior walls or other vertical supports;
B. Deterioration of roof or other horizontal members;
C. Deterioration of exterior chimneys;
D. Deterioration or crumbling of exterior stucco or mortar;
E. Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors; and/or
F. Deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for the public safety.
SECTION 34f   H – HISTORIC LANDMARK DESIGNATION

34f.1 PURPOSE AND INTENT:

A. The City Council hereby finds and declares as a matter of public policy that the protection, enhancement, preservation and use of historic landmarks is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the people. The purposes of this Section are:

1. To protect, enhance and perpetuate historic landmarks that represent or reflect distinctive and important elements of the City’s cultural, social, economic, political, archaeological and architectural history;

2. To safeguard the City’s historic and cultural heritage, as embodied and reflected in such historic landmarks;

3. To stabilize and improve property values;

4. To foster civic pride in the beauty and accomplishments of the past;

5. To protect and enhance the City’s attraction to tourists and visitors and provide incidental support and stimulus to business and industry;

6. To strengthen and help diversify the economy of the City; and

7. To promote the use of historical, cultural and architectural landmarks for the education, inculcation, pleasure and welfare of the community.

34f.2 DEFINITIONS:

For the purpose of this H - Historic Landmark Designation Ordinance, the definitions contained in Section 34.e, entitled “HOZ – Historic Overlay Zoning District,” shall apply in addition to the following definition, which shall have the meaning given herein, whether or not capitalized unless the context clearly requires another meaning. The word “shall” is mandatory and not merely directory.

A. HISTORIC LANDMARK. Any building, site, structure, or object of historical, architectural, archaeological or cultural importance or values that the City Council determines should be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the people.

B. HISTORIC DISTRICT. A collection of buildings, sites, structures, or objects of historic, architectural, archaeological or cultural importance or values situated within a contiguous area of the City that the City Council determines should be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the people.
34f.3 HISTORIC LANDMARKS -- DESIGNATION:

A. These provisions pertaining to the designation of historic landmarks constitute a part of the Zoning Ordinance of the City of Forney, Texas.

B. The City Council, after receiving a recommendation from the Planning and Zoning Commission (“P&Z”), may designate certain buildings, sites, structures, or objects, or a collection of the same within a contiguous area of the City, as historic landmarks or a historic district and define, amend and delineate the boundaries thereof separate and apart from those buildings, structures, land and areas within the HOZ - Historic Overlay Zoning District. Similarly, the City Council may also designate certain buildings, sites, structures, or objects within the HOZ - Historic Overlay Zoning District as historic landmarks. The suffix "H" shall indicate the designation of those buildings, sites, structures, or objects the City Council designates as historic landmarks and the collection of the same within a contiguous area of the City the City Council designates as a historic district. Such designation shall be in addition to any other zoning district designation established in the Zoning Ordinance. All zoning district maps shall reflect the designation of a historic landmark or historic district by the letter "H" as a suffix.

C. Property owners may petition the City, or the City Council on its own initiative may institute proceedings, to designate certain buildings, sites, structures, or objects, or a collection of the same within a contiguous area of the City, as historic landmarks and/or a historic district.

D. No person or entity shall alter, reconstruct, remove, or demolish a nominated landmark or any buildings, sites, structures, objects or areas within a nominated historic district, from the date of application until the final disposition of the nomination by the City Council unless such alteration, reconstruction, removal, or demolition is authorized in advance by formal resolution of the City Council as necessary for public health, welfare or safety. For purposes of this provision a building, site, structure, object, or area is considered to be nominated if a completed application form signed by the owner/owners or their respective authorized agents has been submitted to the Community Development Department; or

Any permit issued for the alteration, reconstruction, removal, or demolition of a nominated landmark or any building, site, structure, object or area within a nominated historic district, without the required prior approval and findings of the City Council as described above, shall be deemed void and of no effect. The owner of any nominated landmark or any building, site, structure, object or area within a nominated historic district who performs or causes another to perform the alteration, reconstruction, removal, or demolition in violation of this provision shall be deemed to be the responsible party for violations of this section and may be prosecuted therefor to the full extent of the law, including as provided herein below.

E. The P&Z shall hold public hearings as provided in the Zoning Ordinance, including the notice provisions thereof, to consider any historical landmark or historical district designation.
F. Property owners of proposed historic landmarks and/or owners of property within a proposed historic district shall be notified prior to the P&Z hearing on the recommended designation. At the P&Z’s public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmarks and/or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

G. The P&Z shall, after public hearing and consideration of the information and arguments presented, make a recommendation to the City Council whether certain buildings, sites, structures, or objects, or a collection of the same within a contiguous area of the City, be designated as historic landmarks and/or a historic district. Each recommendation shall include:

1. Those premises, lots or tracts to be designated;
2. Any additional uses to be permitted with the specific "H" designation; and
3. Specific criteria for the required preservation of the exteriors of the premises with the designated historic landmark and/or historic district.

H. After notice and public hearing as required by law in a zoning case under the Zoning Ordinance, the City Council may by ordinance approve the historic landmark designation and/or historic district designation.

I. Upon designation of a building, site, structure, or object, or a collection of the same within a contiguous area of the City as a historic landmark or a historic district, the City Council shall cause the historic designation to be filed in the Official Public Records of Real Property of Kaufman County, the tax records of the City of Forney and the Kaufman County Tax Assessor as well as the official zoning maps of the City of Forney; and shall send a copy of such notice by certified mail to the owner or owners of the affected property.

J. Use classifications as to all property which may be included in a historic landmark designation shall continue to be governed by the Zoning Ordinance and the ordinance establishing the "H" designation.

K. The designation of a historic landmark may be modified or removed using the same procedure as provided in this Section for the original designation.

34f.4 HISTORIC LANDMARKS – CRITERIA FOR DESIGNATION:

Designation of historic landmarks as set forth in Section 34f.3 shall be based on one (1) or more of the following criteria:

A. Character, interest or value as part of the development, heritage or cultural characteristics of the City of Forney, State of Texas, or the United States;

B. Location as the site of a significant historic event;

C. Identification with a person or persons who significantly contributed to the culture
and development of the City;

D. Exemplification of the cultural, economic, social or historical heritage of the City;

E. Portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;

F. Embodiment of distinguishing characteristics of an architectural type or specimen;

G. Identification as the work of an architect or master builder whose individual work has influenced the development of the City;

H. Embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;

I. Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on historic, cultural or architectural motif;

J. Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the City;

K. Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest; and/or

L. Value as an aspect of community sentiment or public pride.

34f.5 HISTORIC DISTRICTS – CRITERIA FOR DESIGNATION:

Designation of historic districts as set forth in Section 34f.3 shall be based on the following criteria:

A. The proposed historic district contains a collection of buildings, sites, structures, or objects within a contiguous area of the City in an environmental setting that meets one or more of the criteria for designation of a historic landmark; and

B. The proposed historic district constitutes a distinct section of the City.

34f.6 CERTIFICATE OF APPROVAL FOR ALTERATION OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS:

No person shall carry out any construction, reconstruction, alteration, restoration, rehabilitation, or relocation of any historic landmark or any property within a historic district, nor shall any person make any material change in the light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from a public right-of-way which affect the appearance and cohesiveness of any historic landmark or any property within a historic district, without first obtaining a Certificate of Approval for the work together with all other permits required by law. The application for and the grant or denial of such Certificate of Approval shall be controlled by and enforced through Section 34e.10 of the Zoning Ordinance.

34f.7 CERTIFICATE OF DEMOLITION OR RELOCATION AFFECTING LANDMARKS OR HISTORIC DISTRICTS:
No person shall carry out the demolition or relocation of any historic landmark or any property within a historic district without first obtaining a Certificate of Demolition and Relocation for the work, together with all other permits required by law. The application for and the grant or denial of such Certificate of Demolition and Relocation shall be controlled by and enforced through Section 34e.10 of the Zoning Ordinance.

34f.8 OMISSION OF NECESSARY REPAIRS:

Buildings, sites, structures, or objects designated as a historic landmark or a collection of the same within a contiguous area of the City designated as a historic district shall be maintained so as to ensure the exterior and interior structural soundness and integrity of the historic landmark or historic district and the exterior architectural features of such historic landmark or historic district. Failure to properly maintain any designated historic landmark and/or historic district shall be controlled by and enforced through Section 34e.10 of the Zoning Ordinance.

No owner or person with an interest in real property designated as a historic landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the ARB, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of such deterioration include:

A. Deterioration of exterior walls or other vertical supports;
B. Deterioration of roof or other horizontal members;
C. Deterioration of exterior chimneys;
D. Deterioration or crumbling of exterior stucco or mortar;
E. Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors; and/or
F. Deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for the public safety.
SECTION 35 – PLANNED COMMERCIAL DISTRICT

Purpose: The purpose of the Planned Commercial District is to provide a mechanism for achieving a greater flexibility in the development of land for commercial purposes, not otherwise possible in conventional commercial zoning districts.

A. Intent: It is the intent of this Section to provide for modern, attractive, and efficient retail shopping facilities. Such planned commercial developments may be designed, developed, and operated to serve areas ranging from a neighborhood to an entire urban area, and as such may be located in any area appropriately designated by the Comprehensive Plan.

B. Creation: A parcel of land may be zoned to the Planned Commercial District upon an application for change of zoning district designation, amending the zoning map of the City of Forney. The City Council, upon recommendation by the Planning and Zoning Commission, may authorize a Planned Commercial District when the proposed development or use of a specific tract of land warrants a greater flexibility and control than is afforded under the general regulations applicable to the property. A Planned Commercial District shall be established only following a public hearing, as specified in the amendatory procedures of Section 10 of the Comprehensive Zoning Ordinance of the City of Forney (“Ordinance”).

C. Preliminary Development Plan Required: When zoning is granted, the submission of a Project Text and Preliminary Development Plan (Concept Plan) conforming to the requirements of this Section shall be submitted for review and approval prior to any development of the property, the approval of which shall govern the development of the land and all subsequent final plans thereof.

D. Uses of Land: Within a Planned Commercial District, there are no "permitted uses" or "conditional uses" in the conventional sense. The use of land is considered an integral element of the proposed preliminary development plan. As such, approval of the preliminary development plan carries with it approval of the various uses encompassed by the plan, and as located upon it. Based upon this relationship, the Planning and Zoning Commission may recommend, and the City Council may require revisions to the proposed development plan as it relates to:

1. The uses proposed.
2. The spatial location of proposed uses upon the plan.
3. The area devoted to each proposed use upon the plan.
4. Or the elimination of any use(s) proposed under the plan.

The uses of land which may be proposed within a preliminary development plan, are those uses listed as permitted or conditional uses within the "O," "NS," "GR," and "C" and "MU" districts.
E. Baseline Standards: It is intended that the Planned Commercial District designation provide a means of achieving a greater flexibility in the development of land in a manner not otherwise possible in conventional zoning districts. Therefore, it is equally anticipated that each planned commercial development will incorporate modifications varying to one extent or another from the normal requirements of conventional zoning districts. As a result, baseline standards must be established for the purpose of identifying and evaluating such modifications as may be proposed. The baseline standards applicable within each planned commercial development shall be as follows:

1. Area Regulations and Performance Standards: Those area regulations and performance standards applicable to the designated zoning district, with the following exceptions:

   a. On a lot abutting a residential district, a minimum building setback line of fifty feet (50') shall be required along all property lines adjacent to that residential district unless a mitigation plan for additional screening in relation to the requested setback is approved in the project text.

   b. Buildings may be erected to ten (10) stories or one hundred and twenty feet (120') provided that any building that exceeds thirty-five feet (35') in height shall be setback from all required setback lines one foot (1') for each foot the building exceeds thirty-five feet (35') in height.

   c. The Design Guidelines per Appendix A.6 of the Ordinance.

2. Parking: In order to provide for modern shopping and office centers of integrated design, off-street parking and loading requirements will be in accordance with Section 38, “Off-Street Parking and Loading Requirements,” with the following exceptions:

   a. Multi-Tenant Centers: For multi-tenant centers, off-street parking shall be provided on the basis of one (1) parking space for every two hundred (200) square feet of gross floor area.

   b. Shared Parking: Off-street parking facilities may be shared between two or more adjacent properties subject to:

      (1) The recording of appropriate shared parking agreements, in a form approved by the City, between the property-owners securing the shared parking arrangement, as covenants running with the land.

      (2) Submission of a copy of the recorded agreement to the Planning Department for inclusion in the Planned Commercial District file, reflecting the County Clerk’s stamp as to volume and page.
(3) Approval of the shared parking agreement by the Planning and Zoning Commission and the City Council as an element of the planned development's original Project Text, or as an amendment to that project text.

Following approval of a shared parking arrangement between adjacent properties, application of the standard parking requirements shall be applied to the total parking area encompassed by the shared parking agreement.

3. Subdivision Regulations/Engineering Design Standards: Unless otherwise provided for in this Ordinance or approved by the City Council, the Subdivision Regulations and the Engineering Design Standards shall apply to all developments in the Planned Commercial District.

4. Signs: Signage requirements within Planned Commercial Districts shall conform to the requirements of Section 48 of the Comprehensive Zoning Ordinance for the City of Forney.

5. Buffering and Screening: Buffering and screening shall conform to the requirements of the Design Guidelines per Appendix A.6 of the Ordinance.

6. Open Storage: No open storage will be permitted within Planned Commercial Districts (this includes vehicles, e.g. contractors’ vehicles).

F. Modifications:

1. Generally: The approval of a project text and Preliminary Development Plan may provide for such modifications from the baseline standards as the City Council may find necessary or desirable to achieve the objectives of the proposed planned development, provided:

   a. such modifications are consistent with the standards and criteria contained in this Section 35;

   b. have been specifically requested; and,

   c. that no modification of the baseline regulations and standards will be allowed when such proposed modification would result in any of the following:

      (1) Inadequate or unsafe access to the proposed planned development.

      (2) Traffic volumes exceeding the anticipated capacity of the proposed major street network in the vicinity.

      (3) An undue burden placed on public parks and recreation areas, or diminish the quantity or quality of fire and police protection, public utilities, or other public facilities which serve or are proposed to serve the planned development.
4. A development which will be incompatible with the purposes of this Ordinance or the City’s adopted Comprehensive Plan.

5. Will create a nuisance in terms of diminished air quality, smoke, noise, toxic matter, odor, vibration, glare or light intrusion, wind blown litter, sanitary sewer waste, water quality, heat, or other condition detrimental to the public health, safety, or welfare.

6. Detrimental impact on the reasonable use, enjoyment, and/or value of adjacent properties and/or the surrounding neighborhood.

2. Burden of Proof: The burden of proof that the criteria required to secure approval of modifications to the baseline regulations and standards have been met shall rest with the applicant.

3. Limitation on Modifications: Modifications proposed by the project text or the preliminary development plan, are limited to those areas specified by this Section 35. Modifications shall not include those City standards and specifications pertaining to the design and construction of public improvements, or such privately maintained improvements that are required to meet public standards and specifications for construction and design.

G. Minimum Required Open Space: A minimum total area of twenty percent (20%) of the gross area of the site in the district must be established as open space and landscaping, which may include required setback yards and landscaped parking area islands. Floodways and drainage areas may be counted as open space with the approval of the City. Where a Preliminary Development Plan provides for commonly held open space, the protective covenants or trust indentures must include a provision for the control and maintenance of that open space.

H. Procedures for Planned Commercial District Approval:

1. Pre-Application Conference: Prior to filing any application for a Planned Commercial District approval, the prospective applicant shall request a Pre-Application Conference with the City staff. Such request shall include a general description of the nature, location, and extent of the proposed planned development, a Sketch Plan per Section 11.J.3, and a list of any professional consultants advising the applicant in respect to the proposed planned development. The purpose of the Pre-Application Conference is to provide the applicant with the opportunity to consult early and informally with the City staff before preparation of the required Preliminary Development Plan, and submission of the formal application to the Planning and Zoning Commission. The intent of this procedure is to assist the applicant in preparing a plan which will:

   a. meet the objectives of the Planning and Zoning Commission and
of this Ordinance,

b. identify uses proposed for the Planned Commercial Development, as well as the improvements required by those uses, and

c. identify any potential problems that may be involved in the proposed concept for the planned commercial development.

The Pre-Application Conference is intended to decrease costs for the applicant by eliminating poor design in the early stages of the development process. The Pre-Application Conference will also be used to identify the appropriate approval process required.

2. Meeting With Adjacent Property-Owners: Past experience has shown that support for a proposed planned development can be most successfully generated when the design of that planned development incorporates elements addressing the concerns of those adjacent property-owners who stand to be impacted the most. Following the pre-application conference with the City staff, but prior to the submission of the application to the Planning and Zoning Commission, the applicant will arrange for a meeting to be held with all adjacent property-owners. The purpose of the meeting will be to review all aspects of the planned development with the adjacent property-owners and receive their comments and concerns. The applicant may then make such revisions to the proposed plan as he/she deems prudent. For the purposes of this Section 35, an “adjacent property-owner” shall be considered any property-owner within the notification radius required by the Ordinance for rezoning purposes. The applicant shall submit to the Planning and Zoning Commission evidence that the meeting was held and a list of those individuals in attendance.

3. The Approval Process:

a. Generally: Establishment of a Planned Commercial District consists of two major elements: the zoning amendment, the approval of which designates a property a Planned Commercial District, and a preliminary development plan with its associated project text, the approval of which binds the actual development of the property. The submittal of the site development plan which incorporates the design guidelines may be in accordance with either Section 3.a.1 or 3.a.2 of this Section 35. The approval of a Planned Commercial District may take either of the following forms:

   (1) The concurrent submission and approval of a zoning amendment with the uses established, and submission and approval of the preliminary development plan, project text and site development plan, or;

   (2) the applicant may request the site development plan be submitted as each lot/phase develops. In this situation,
the site development plan will be approved at the staff level.

b. The Zoning Amendment:

(1) The Application: All applications for a Planned Commercial Development zoning amendment shall be made in writing by the owner of the property, or the owner's duly authorized agent, upon forms provided by the Forney Planning Department. The application shall contain the following information:

(a) The completed application form and the payment of all fees.

(b) A metes and bounds legal description(s) of the parcel(s) for which the approval is sought.

(c) A survey of the parcel(s) for which the approval is sought, prepared by a land surveyor licensed to do business within the State of Texas.

(d) Such other information required of the applicant as may be deemed necessary by the Planning and Zoning Commission to further clarify the various elements and/or impacts of the proposed planned commercial development, provided at the applicant's expense.

(2) Procedure: A request for a Planned Commercial District zoning amendment may be approved by the City Council following a recommendation by the Planning and Zoning Commission, in conformance with the requirements of Section 10 of the Comprehensive Zoning Ordinance.

(3) Council Discretion: Approval of a request for a rezoning to the Planned Commercial District designation, shall be at the discretion of the City Council, in the light of the recommendations of the Planning and Zoning Commission and the Comprehensive Plan, which may:

(a) approve all, or only a portion of the area requested for the zoning change; or

(b) grant the requested zoning classification or a more restrictive one.

c. The Preliminary Development Plan and Project Text: The Project Text shall be considered an integral part of the Preliminary Development Plan. Approval of the Preliminary Development Plan shall be considered concurrent approval of the Project Text.
The Application: All applications for Preliminary Development Plan and Project Text approval shall be made in writing by the owner of the property, or the owner’s duly authorized agent, upon forms provided by the Forney Planning Department. The application shall contain the following information:

(a) The completed application form and the payment of all fees.

(b) A Project Text conforming to the requirements of Section J.2 of this Section 35.

(c) A Preliminary Development Plan conforming to the requirements of Section J.4 of this Section 35.

(d) Such other information required of the applicant as may be deemed necessary by the Planning and Zoning Commission to further clarify the various elements and/or impacts of the proposed planned commercial development, provided at the applicant’s expense.

Staff Review: The application, preliminary development plan, project text, and all other required materials, shall be submitted to the Planning Department, no later than the filing deadline date established for the Planning and Zoning Commission meeting at which the application will be heard. The Director of Planning shall initiate an administrative review of the request by the affected City Departments, the results of which shall be reported to the Planning and Zoning Commission for its consideration.

The procedure for establishing a Planned Commercial District shall follow the procedures for zoning amendments as set forth in Section 10 of the Comprehensive Zoning Ordinance.

The Planning and Zoning Commission and City Council shall consider the potential impacts of the proposed plan upon:

a. The character of the community in light of the quality of construction proposed and the architectural compatibility of the proposed development with surrounding development;

b. Traffic conditions;

c. Public utility facilities;
d. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the City as a whole;

e. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;

f. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development;

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

h. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved; and

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

(1) Approval of the Site Development Plan Required Prior to Development: No development or redevelopment of the property encompassed within a Planned Commercial District designation shall take place until a site development plan, acceptable under the requirements of this Section 35, have been reviewed and approved by the City as provided herein.

(2) Contractual Agreement: The preliminary development plan and project text are intended to demonstrate to the Planning and Zoning Commission and the City Council the character and objectives of the proposed development, so that the Commission, and ultimately the Council, may evaluate the effect the proposed development would have on the community, and determine what provisions, if any, should be included as a part of the plan, and be binding upon the future use and development of the property. The filing of a preliminary development plan and project text shall constitute an agreement by the owner and applicant, successors, heirs, and assigns, that if the preliminary development plan and project text are approved, development of the property and any permits issued for the improvement of such property, and activities subsequent thereto, shall be in conformance with the approved preliminary development plan and project text for the subject property, and any conditions attached thereto. The approved preliminary development plan, project text, and any conditions attached thereto shall have the full force and effect of the Zoning Ordinance.
(3) Period of Validity: Approval of the preliminary development plan by the City Council shall expire, and be of no effect within two (2) years after the date of the approval of the preliminary development plan by the Council, unless a preliminary plat has been submitted for approval within that time.

(4) Effect of Expiration: At such time as the period of validity of a preliminary development plan lapses:

(a) No actual development or redevelopment of the property shall take place until a new preliminary development plan, acceptable under the requirements of this Section 35, has been reviewed and approved by the Planning and Zoning Commission and the City Council as provided herein.

(5) Extension of the Period of Validity: The Planning and Zoning Commission may grant extensions of the preliminary development plan approval, not exceeding one (1) year each, upon written request by the original applicant.

(6) Amendment of the Approved Preliminary Development Plan: An approved preliminary development plan may be amended upon application, and under the same applicable procedures as required for the original approval of the initial preliminary development plan, as required by this Section 35.

(7) Relationship Between Approval of the Preliminary Development Plan and Subdivision Approval: If the applicant so chooses, in those instances where a subdivision is an integral part of the proposed planned development, approval of the preliminary development plan shall constitute the same action as approval of a preliminary plat for subdivision approval purposes as long as it meets the subdivision requirements for a preliminary plat.

d. The Final Plat: Following the initial rezoning procedure, the proposed development shall follow all applicable procedures and requirements governing the subdivision of land. No building permit shall be issued until a final plat of the proposed development, or portion thereof when developed in phases, has been approved. The approval process for the final plat shall be in accordance with the requirements for a major subdivision as contained within the City's Subdivision Regulations.

I. Specifications for Plans and Documents:

1. Generally: An orderly and effective Planned Commercial Development involves an approval process based upon accurate, detailed and complete information submitted by the applicant in a form suitable for
satisfactory planning evaluation. Information must be supplied by the applicant graphically and in narrative writing. It must describe the data and documents and the degree of detailed information they must contain and the form in which they must all be submitted. Standardization and uniformity of information are necessary in order to eliminate uncertainty for the applicant and to facilitate speedy and equitable administration of these regulations.

2. Project Text (Bound Report): A Project Text shall be prepared by the applicant as an element of the Planned Commercial District designation. The Project Text shall contain the following information:

a. Name:

(1) Name of the subdivision if property is within an existing subdivision.

(2) Proposed name of the planned development.

b. Ownership:

(1) Name, address, telephone number, and fax number, if applicable, of the legal owner and the agent of the property; and, a citation of the last instrument conveying title to each parcel of property involved in the proposed development, including the grantor, grantees, date and land records reference. Verification of the applicant’s ownership and/or contractual interest in the subject site must be submitted.

(2) Citation of any existing legal right-of-ways or easements affecting the property.

(3) Existing and proposed covenants affecting the property.

(4) The current zoning designation of the property.

(5) Name, address, telephone number, and fax number, if applicable, of the professional engineers, land surveyors, or other design professionals retained for service on the project.

c. Description: The written metes and bounds legal description, including the location of the subject property by lot, section, township, range, and county.

d. Project Data:

(1) A brief narrative reviewing the nature of surrounding development. A discussion of the nature of the proposed development, including the nature of the financial backing
for the project and ownership arrangements. A discussion of the development approach for the proposed development, i.e., as a single, unified shopping center under single-ownership, a division of the property into lots for individual sale, or a combination of both. A discussion of how the proposed development will fit into the existing development pattern.

(2) Allocation of the site area by building coverage; parking, loading areas, and driveways; open space areas, including total open space, recreational areas, landscaped areas, and others.

(3) The list of permitted uses proposed for the planned development. Allocation of the site by land use type for the entire project.

(4) Proposed area and bulk regulations and performance standards for each element of the project. A list specifying all proposed modifications from the baseline standards discussed in Section F, along with the applicant’s justification for those modifications as discussed in Section G of this Section 35.

(5) A narrative discussion specifying proposed road improvements, access, and overall circulation within the project. A narrative discussion specifying proposed landscaping improvements, screening, and the development of common open space areas. A narrative discussion specifying proposed utility improvements and extensions, the provision of public facilities, and provisions for the control of storm water drainage. Each narrative shall include applicable typical cross-sectional drawings. As an appendix to the project text, letters shall be provided from the applicable utility providers addressing their ability to serve the proposed project.

(6) The anticipated development schedule for the project. If the project is proposed to be developed in stages or units during a period extending beyond one construction season, the schedule shall indicate:

(a) The approximate date when construction of the project can be expected to begin.

(b) The minimum area and the approximate allocation of common open space and public improvements that will be required for each phase.

(c) The order in which the phases of the project will be built.
e. A narrative discussion concerning the overall architectural concept sought to be achieved by the planned development, including the floor area of the proposed uses, landscaping, architectural requirements, i.e., style, building materials, colors, window and door treatments; specialized street furniture such as specialty mailboxes, lamp posts, street signs, trash receptacles; driveway and sidewalk finishes, uniform signage program, development focal points, etc. The narrative shall discuss the compatibility of the proposed architectural concept with adjacent and surrounding development.

f. A narrative discussion concerning the relationship between the proposed planned development and the requirements of the City's Comprehensive Plan, as well as the development's conformance with the goals and objectives of this Section 35.

3. Sketch Plan: The applicant shall prepare a sketch plan as an element of the pre-application conference held prior to the formal application for a Planned Commercial District zoning designation. This plan may be drawn as a freehand pencil sketch, and does not require precise dimensions or any special sheet size. The sketch plat is intended to be used to show the location, proposed street and lot layout, and other significant features of the proposed planned development. The Sketch Plan shall contain the following information:

a. Features:

(1) Location of property lines, watercourses, and existing wooded areas; location, width, and name of all existing or platted streets or other public ways within or immediately adjacent to the tract.

(2) Location and sizes of existing sewers, water mains, culverts, and other utilities within or immediately adjacent to the tract. Existing buildings, utility poles, and utility right-of-ways on or immediately adjacent to the tract.

(3) Approximate topography.

(4) The approximate location and widths of proposed streets, the approximate locations, dimensions, and areas of all proposed or existing lots, preliminary proposals for connections with water and sewer systems, and preliminary proposals for collecting and discharging storm water drainage.

(5) The approximate location, dimensions, and area of all parcels of land proposed to be either dedicated for public use or for the common use of the property-owners within the proposed subdivision.
(6) A vicinity map reflecting the streets and other general development of the surrounding area.

(7) The current zoning designation of the subject tract and all adjacent properties.

(8) An aerial photograph (aerial requirement-minimum data must be the latest available form NCTCOG) with the outer boundary of the proposed planned development identified.

4. Preliminary Development Plan: The preliminary development plan shall be prepared by a land surveyor licensed to do business in the State of Texas at a scale of not more than one inch (1") equals one hundred feet (100') on sheets not exceeding twenty-four inches (24") by thirty-six inches (36"). If more than one (1) sheet is used, all sheets shall be numbered in sequence. The design of all plans shall conform to the City's standards and specifications.

a. Generally:

(1) Covenants/Trust Indentures: The developer must prepare, in a form approved by the City, execute and record in the deed records of Kaufman County protective covenants that regulate development on the site and provide for the continuous maintenance of any common elements within the Planned Commercial Development that are proposed to be maintained by the owners of property within the development. In all cases, the management entity of the development must have the authority to enforce the covenants and restrictions on all tenants and/or property owners, and all future tenants and/or property owners. The covenants and restrictions must also provide for the maintenance of lots not yet purchased or occupied, and any other non-developable areas with the Planned Commercial District, in perpetuity.

(2) Design Concept:

(a) The preliminary development plan shall reflect the overall unity of the site design for the Planned Commercial Development.

(i) Architectural harmony of buildings and structures.

(ii) Design integration of the open space system, storm drainage system and layout of lots with the overall design unity of the Planned Commercial District.
Where the Planned Commercial District adjoins residentially zoned land, commercial and office structures shall be compatible with the character of single-family residences. Compatibility shall be determined by comparing the consistency of the design elements: height, colors, materials, and landscaping with the existing design materials of the adjoining residential structures.

Stage Set facades are prohibited. The continuity of design goes beyond the primary elevation of the building. The materials and colors of the street face shall continue on the sides and rear of the building.

The maximum unbroken façade plane shall be sixty feet (60') for commercial and office uses. The wall of any such building shall be interrupted through the use of projections or recesses, portals, courtyards, plazas, or other appropriate architectural convention.

Commercial complexes, office complexes, and shopping centers shall be provided with focal points for the development, such as plazas, courtyards, statuary, specialized landscape areas, and the like.

Vehicular Movement:

(a) The street design in any Planned Commercial District shall include a clearly defined hierarchical system.

(b) Streets shall not be laid out to encourage outside traffic to traverse the development or create unnecessary fragmentation of the development into small tracts.

(c) Local streets shall not be connected to the development in such a way as to encourage their use by through traffic.

(d) Streets, drives, parking and service areas must provide a safe and convenient access to units and project facilities.
(e) To maintain a sense of natural surroundings and a consistent streetscape, parking and service areas shall be screened from public view or surrounded by landscape buffers.

(f) Parking areas shall be organized as a series of small parking bays with planted islands separating them.

(g) Properties shall have clearly defined entrances and exits. Entrances and exits shall be so located such that parking spaces and traffic aisles do not conflict with entering and exiting traffic.

(h) Loading areas shall not be visible from any adjoining street.

(4) Pedestrian Movement:

(a) Within commercial or office complexes, buildings shall be clustered to create plazas or pedestrian mall areas. Where the clustering of buildings cannot be achieved due to the size and shape of the property, building pads shall be linked together with pedestrian walkways that are defined by separate paving textures and accented by landscaping.

(b) A five foot (5’) sidewalk shall be constructed along the entire street frontage of the property. Where a development borders more than one street, sidewalks will be constructed along the entire frontage of all streets that border the development.

(c) Handicapped access ramps shall be provided for both sidewalks adjacent to public streets as well as sidewalks provided internally within the development.

(d) Crosswalks shall be provided both internally and externally to the development as identified by the City Engineer.

(5) Buffering and Screening:

(a) Fences, walls, buffer yards, earthen berms, and vegetative screening shall be provided along the borders of Planned Commercial Districts where needed to protect residential and other non-commercial uses.
(b) Loading, service, mechanical and refuse collection areas shall located so as not to be exposed to adjacent streets. Screening for such areas shall be integrated into the building design and executed in the same materials as the principal structure, and in the same manner as the front façade.

(6) Existing Vegetation: In cases where a Planned Commercial District abuts a residentially zoned area, all existing trees within the required buffer area shall be preserved in order to provide maximum screening between the two districts. These areas will be recorded as "no disturb zones" for the life of the development. The protective covenants shall provide for the maintenance of these trees as a screening feature, and shall provide for the replacement of any trees that may die during the life of the project.

b. Required Information: All preliminary development plans shall contain all of the information described in this Section:

1) Required Data:

(a) The date of plan submission and the following names, addresses, telephone numbers, and fax numbers, if applicable:

(i) The record owner or owners of the subject property.

(ii) The party who prepared the plan, including their registration number.

(iii) The party for whom the plan was prepared, if different from the property-owner.

(iv) The engineer and/or land surveyor who will design the improvements for and survey the tract, or such part thereof as is proposed to be developed.

(v) All adjacent property-owners of record.

(b) The name of the proposed development and all proposed streets.

(c) Indication of the use of any lot.

(d) The approximate true north point, title, and graphic scale.

(e) The area of the tract and each subdivided lot.
expressed in square feet if less than an acre or tenth (0.1) of an acre if larger than an acre.

(f) F.E.M.A. flood information for the property, and the location of the flood zone boundary(ies) or if not located in a FEMA flood plain, a statement to that effect.

(g) A vicinity map reflecting the streets and other general development of the surrounding area.

(h) The current zoning designation of the subject property and of all adjacent properties, and the current owners of those properties.

(2) Existing Conditions:

(a) The location and dimensions of all out-boundary lines of the property by calculated distances and bearings, expressed in feet and decimals of a foot.

(b) The location of the property with respect to surrounding property and streets, including the names of adjacent property-owners and adjoining developments.

(c) The location and dimensions of existing easements, water bodies, streams, and other pertinent features such as wetlands, buildings, parks, drainage ditches, bridges, culverts, etc., in and adjoining the tract.

(d) The location and width of all existing streets, alleys, other public ways, easements, building setback lines, utilities, fire hydrants, and storm water drainage facilities.

(e) The location of all existing sidewalks and pedestrian walkways.

(f) Identification of the existing land use and zoning of the petitioned site and adjacent properties.

(3) Proposed Conditions:

(a) The internal circulation pattern for both vehicular and pedestrian traffic, including proposed and existing streets, alleys, driveways, sidewalks, pedestrian walkways, and other public ways. For all off-street parking areas, the proposed boundary of the parking area; location, size, and number of all parking spaces; the width of all traffic aisles
within the parking area; and the identification of all service islands, service parking, and loading zones.

(b) The locations and dimensions of all proposed lots.

(c) The location, dimensions, and height of all principal and accessory buildings; their relation to one another and to any existing structures to remain on the site; the distance between all such proposed buildings and to the adjacent property lines; their proposed finished floor elevations; and, the proposed building setback lines.

(d) The location and dimensions of all property proposed to be set aside for public or private common use, with designation as to the purpose thereof.

(e) Blocks shall be numbered consecutively. The blocks in numbered additions to subdivisions bearing the same name shall be numbered consecutively throughout the several additions.

(f) All lots in each block shall be numbered in consecutive order. Out-lots shall be lettered in alphabetical order.

(g) Total project density for that portion of the project intended for residential development and/or the building floor area, by use, for non-residential development.

(h) The location of landscaping areas, common open space areas, and buffer yard areas, and specifications for treatment as to plant type, plant size and plant location. The percentages of landscaping/open space areas and impervious surface areas to the total area of the site.

Note: A separate landscape plan may be required in those instances where the size and complexity of the proposed project indicate the need for additional detail.

(i) Height, size, location, design, and orientation of all proposed signs.

(j) Location, height, and type of all exterior lighting.

(k) Location, area, and type of screening for all exterior trash collection and/or recyclables collection areas.
(l) A graphic depiction of the proposed phase boundaries for all projects proposed to be constructed in phases.

(4) Grading, Drainage, and Utility Plan:

(a) The topography of the site at two foot (2') intervals, at the same scale as the plan. Contour data shall extend a minimum of one hundred and fifty feet (150') beyond the boundaries of the proposed development.

(b) Contours of the site reflecting the difference in elevation between the pre-developed site and the proposed finished grades.

(c) Proposals for storm water management, including retention/detention of run-off, as well as the size of the watershed, and calculations of the storm water run-off and retention/detention needs.

(d) Overall layouts for:

(i) Sanitary Sewer -- Pipe sizes, direction of flow, location of manholes, lift stations, location of laterals for each lot or property, etc.

(ii) Storm Sewer -- Pipe sizes, direction of flow, inlet locations, manhole locations, retention/detention basins, etc.

(iii) Water -- Pipe sizes, fire hydrant locations, valve locations, service locations for each lot, elevated or underground storage locations and specifications, standpipe locations and specifications, etc.

(iv) Natural Gas -- Pipe sizes, valve locations, individual service locations, etc.

(v) Electrical -- Transformer locations

(e) The location, dimensions, and proposed use of all proposed easements.

(5) Supplementary Information:

(a) Legal description of the tract to be subdivided.
(b) A copy of all proposed trust indentures, deed restrictions, and/or protective covenants, if any.

(c) A typical street section, showing roadbed construction, curbs, gutters, sidewalks, and the relationship of underground utilities.

(d) Architectural elevations of all proposed buildings, noting materials to be used in terms of type, location, texture, and color.

(e) Traffic Impact Report: A traffic impact report prepared by a certified traffic engineer shall be submitted in the following cases:

(i) Any development which proposes to take direct access to any collector or arterial street.

(ii) Any non-residential use which, according to the Table of Average Trip Generation Rate by Land Use Category, as established by the Institute of Transportation Engineers, will generate in excess of two hundred and fifty (250) trips per acre per day.

The Traffic Impact Report will analyze the pre- and post-development roadway service levels and intersection service levels for all roads and intersections within one (1) mile of the proposed development. The study shall be prepared in accordance with the Subdivision Ordinance, Section 3.1 (f).

(f) Certification by the registered land surveyor that the plan bearings and dimensions are correct and accurate.

(g) Such other information, data, plans, documents, calculations, and so forth as may be deemed necessary by the Planning and Zoning Commission to adequately review the proposed plans.

5. The Final Plat: The information and standards and specifications for design of the required Final Plat for a Planned Commercial Development shall be in accordance with the requirements for preparation of final plats as contained within the City's Subdivision Regulations, except as maybe provided herein.

a. Landscaping and buffer yard areas, identifying all improvements and planting in terms of location, type, and size.
b. The location of all common open space areas, specifically identifying all proposed improvements and landscaping.

c. The final version of all Deed Restrictions, Trust Indentures, and/or Protective Covenants, suitable for recording.

d. The internal circulation pattern for both vehicular and pedestrian traffic, including proposed and existing streets, alleys, driveways, sidewalks, pedestrian walkways, and other public ways. For all off-street parking areas, the proposed boundary of the parking area; location, size, and number of all parking spaces; the width of all traffic aisles within the parking area; and the identification of all service islands, service parking, and loading zones.

e. The location, dimensions, and height of all main and accessory buildings. Their relation to one another and to any existing structures to remain on the site. The distance from all such proposed buildings to the adjacent property lines. Their proposed finished floor elevations.

(1) Height, size, location, design, and orientation of all proposed signs.

(2) Location, height, and type of all exterior lighting.

(3) Location, area, and type of screening for all exterior trash collection and/or recyclables collection areas.

J. Deed Restrictions, Trust Indentures, and/or Protective Covenants: The City Council shall not consider any preliminary development plan which incorporates private improvements, facilities, or other common elements, which are proposed to be maintained by the owners of property within the proposed development, unless it is accompanied by deed restrictions, covenants, or a trust indenture.

1. In reviewing an application for preliminary development plan approval, the Planning and Zoning Commission and the City Council shall review and approve such deed restrictions, covenants, or trust indenture. The Planning and Zoning Commission may recommend and the City Council may require, at its own discretion:

a. The elimination of all or any part of any restriction, covenant or trust provision.

b. The amendment of all or any part of any restriction, covenant or trust provision.

c. The addition of any restriction, covenant, or trust provision determined by the City Council to be in the best interest of the public.

2. All such deed restrictions, covenants, or trust indentures shall provide for the following:
a. Provisions designating the common facilities, private improvements, or other common elements, and prohibiting the construction of structures other than those incorporated in the approved development plan upon them.

b. Provisions for the qualifications and for the election of at least three (3) qualified persons to serve as trustees for the administration and enforcement of the deed restrictions or trust provisions; their terms of office; their method of election after the first Board of Trustees’ election; succession or replacement of trustees who die, resign, or refuse to carry out their duties.

c. Provisions setting out the powers and duties of the trustees under the deed restrictions or trust provisions with respect to the following:

   (1) The reasonable minimum amount of money required to be expended yearly in maintenance of the common elements, improvements, or facilities, and the methodology upon which the responsibility for said amount is divided among the individual property-owners within the development.

   (2) That the yearly minimum amount of money required to be expended for maintenance of the common element, improvements, or facilities shall be paid to the trustees for such purposes, and the minimum yearly amount shall constitute a lien upon all real estate.

   (3) For the effective means of collection of the reasonable yearly minimum amount of money designated and required for maintenance of the common elements, improvements, or facilities.

   (4) Establishment of the date of the first annual assessment of all property-owners within the development of the yearly reasonable minimum amount. There shall be no exemptions from such assessment, including property owned by the developer.

d. Provisions setting out that the amendment or release of any restriction or provisions shall only be accomplished through the execution of a document so stating and suitable for recording, approved by the City Council, upon recommendation by the Planning and Zoning Commission.

3. Timing: For any Planned Commercial Development that incorporates private improvements, facilities, or other common elements, which are proposed to be maintained by the owners of property within the proposed development, the developer shall:
a. Incorporate the property-owners’ association prior to recording of the subdivision plat for the development or any phase of the development.

b. Transfer all improvements, property, and other common elements to the property-owners’ association concurrently with the recording of the subdivision plat for the development. Where the property is developed in phases, the common elements shall be transferred either with the subdivision plat of the initial phase of the development or with the subdivision plat of the phase within which the respective common element is to be located.

c. Submit copies of the recorded incorporation papers and property transfer records to the Planning Department for inclusion in planned development file.
SECTION 36  (reserved)
IV. USE REGULATIONS

SECTION 37  USE REGULATIONS (CHARTS)

37.1 A. The use of land and/or buildings shall be in accordance with those listed in the following Use Charts. No land or building shall hereafter be used and no building or structure shall be erected, altered, or converted other than for those uses specified in the zoning district in which it is located. The legend for interpreting the permitted uses in the Use Charts (Section 37.2) is:

- Designates use permitted in the zoning district indicated.
- Designates use prohibited (i.e., not allowed) in the zoning district indicated.
- Designates use may be permitted in the zoning district indicated by Conditional Use Provision (also see Section 34b).

See Definitions in Section 49 of the Zoning Ordinance for further description of uses.

B. If a use is not listed (or blank) in the Use Charts, it is not allowed in any zoning district (see Subsection D below).

C. Use Chart Organization - The following use categories are listed in the Use Charts (Section 37.2):

1. Agricultural Uses
2. Residential Uses
3. Office Uses
4. Personal and Business Service Uses
5. Retail Uses
6. Transportation and Auto Service Uses
7. Amusement and Recreational Service Uses
8. Institutional/Governmental Uses
9. Commercial and Wholesale Trade Uses
10. Light Manufacturing/Industrial and Construction Uses

D. Classification of New/Unlisted Uses - It is recognized that new types of land use will arise in the future, and forms of land use not presently anticipated may seek to locate in the City of Forney. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use in the Use Charts (Section 37.2) shall be made as follows:
1. **Initiation:**

   a. A person, City department, the Planning and Zoning Commission, or the City Council may propose zoning amendments to regulate new and previously unlisted uses.

   b. A person requesting the addition of a new or unlisted use shall submit to the City Manager or his/her designee, all information necessary for the classification of the use, including but not limited to:

      (1) The nature of the use and whether the use involves dwelling activity, sales, services, or processing;

      (2) The type of product sold or produced under the use;

      (3) Whether the use has enclosed or open storage and the amount and nature of the storage;

      (4) Anticipated employment typically anticipated with the use;

      (5) Transportation requirements;

      (6) The nature and time of occupancy and operation of the premises;

      (7) The off-street parking and loading requirements;

      (8) The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated;

      (9) The requirements for public utilities such as sanitary sewer and water and any special public services that may be required; and

      (10) Impervious surface coverage.

2. The City Manager, or his/her designee, shall refer the question concerning any new or unlisted use to the Planning and Zoning Commission requesting a recommendation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by the statement of facts in Subsection "b" above. An amendment to this Ordinance shall be required as prescribed by Section 10.

3. The Planning and Zoning Commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use is most similar and should be permitted (by right or by CUP).

4. The Planning and Zoning Commission shall transmit its findings and recommendations to the City Council as to the classification proposed for any new or unlisted use. The City Council shall approve or disapprove the recommendation of the Planning and Zoning Commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be amended in the use charts of the Zoning Ordinance according to Section 10 (i.e., following notification and public hearing, etc.).
5. Standards for new and unlisted uses may be interpreted by the City Manager, or his/her designee, as those of a similar use. When a determination of the appropriate zoning district cannot be readily ascertained, the same criteria outlined above ("b") shall be followed for determination of the appropriate district. The decision of the City Manager, or his/her designee, may be appealed according to the process outlined in subsections "2" through "4" above.
### SECTION 37.2 USE CHARTS

#### Legend
- **P** – The land use is permitted by right in the zoning district indicated.
- **C** – The land use may be approved as a conditional use (CUP) in the zoning district indicated.
- **P** – The land use is prohibited in the zoning district indicated.

#### Types of Land Uses

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<tr>
<th>Types of Land Uses</th>
<th>Residential Zoning Districts</th>
<th>Non-Residential Zoning Districts</th>
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<tbody>
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<td>AG</td>
<td>SF-20</td>
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<tr>
<td>Agricultural Uses</td>
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<td>Bulk Grain and/or Feed Storage</td>
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<td>Farms, General (Crops)</td>
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<td>Farms, General (Livestock/Ranch)</td>
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<td>Greenhouse (Non-Retail/Hobby)</td>
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<td>Hay, Grain, and/or Feed Sales</td>
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<td>Livestock Sales</td>
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<td>Orchard/Crop Propagation</td>
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<td>Plant Nursery (growing for commercial purposes but no retail sales on site)</td>
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<td>Stables (As A Business)</td>
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<td>Stables (Private, Accessory Use)</td>
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#### Residential Uses

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<td>Single Family Industrialized Home</td>
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<tr>
<td>Single Family Townhouse (Attached)</td>
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<tr>
<td>Single Family Zero Lot Line / Patio Homes</td>
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193
### Legend

- **P** – The land use is **permitted** by right in the zoning district indicated.
- **C** – The land use may be approved as a conditional use (CUP) in the zoning district indicated.
- **–** The land use is **prohibited** in the zoning district indicated.

### Types of Land Uses

<table>
<thead>
<tr>
<th>Types of Land Uses</th>
<th>AG</th>
<th>SF-20</th>
<th>SF-15</th>
<th>SF-11</th>
<th>SF-8</th>
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<tbody>
<tr>
<td>Swimming Pool (Private use only by resident)</td>
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<td>Mobile Home (built prior to June 15, 1976)</td>
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### Office Uses

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<td>Check Cashing Business/Credit Agency or Similar Financial Institution</td>
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<td>Offices (Medical Office)</td>
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### Personal and Business Service Uses

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<td>Automobile Driving School (including Defensive Driving)</td>
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<td>Barber/Beauty Shop/College (barber or cosmetology school or college)</td>
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<td>Communication Equipment Sales/Service (Installation and/or Repair – No outdoor</td>
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</tbody>
</table>
### Legend

- **P** – The land use is permitted by right in the zoning district indicated.
- **C** – The land use may be approved as a conditional use (CUP) in the zoning district indicated.
- **–** – The land use is prohibited in the zoning district indicated.

### Types of Land Uses

<table>
<thead>
<tr>
<th>Types of Land Uses</th>
<th>Residential Zoning Districts</th>
<th>Non-Residential Zoning Districts</th>
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</thead>
<tbody>
<tr>
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<td>AG</td>
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<tr>
<td>sales or storage or towers/antennae)</td>
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<td>Computer Sales</td>
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<td>Credit Unions</td>
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<tr>
<td>Dance/Drama/Music Schools (Performing Arts)</td>
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<tr>
<td>Extended Stay Hotels / Motels (Residence hotels)</td>
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<td>Exterminator Service (No outdoor sales or storage)</td>
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<td>Financial Services (Advice/Invest)</td>
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<td>Hotel/Motel</td>
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<td>Martial Arts School / Dance Studio</td>
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<td>Laundry/Dry Cleaning (Drop Off/Pick Up) with On-Site Plan Operation</td>
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<td>Locksmith</td>
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<td>Mini-Warehouse/Self Storage</td>
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<td>Tailor Shop</td>
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<td>Tool Rental (Indoor Storage only)</td>
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<td>Tool Rental (with Outdoor Storage)</td>
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<td>Travel Agency</td>
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### Retail Uses

- **Private Clubs**
  - (See Section 34d. of this Zoning Ordinance and Article 4.1000 of the Code of Ordinances for additional requirements)

  If located in ENT overlay:

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195
### Legend

P – The land use is permitted by right in the zoning district indicated.
– The land use is prohibited in the zoning district indicated.
C – The land use may be approved as a conditional use (CUP) in the zoning district indicated.

<table>
<thead>
<tr>
<th>Types of Land Uses</th>
<th>Residential Zoning Districts</th>
<th>Non-Residential Zoning Districts</th>
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<tbody>
<tr>
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<td>All Terrain Vehicle Dealer / Sales</td>
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<tr>
<td>Antique Shop (no outside storage)</td>
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<tr>
<td>Antique Shop (with outside storage)</td>
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<tr>
<td>Art Dealer / Gallery</td>
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<tr>
<td>Auto Dealer (New - Auto Servicing and Used Auto Sales as accessory uses only)</td>
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<tr>
<td>Auto Dealer, Used Auto Sales</td>
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<tr>
<td>Auto Supply Store for New &amp; Rebuilt Parts</td>
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<tr>
<td>Bakery (Retail)</td>
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<td>Bakery (Wholesale)</td>
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<td>Bike Sales and/or Repair</td>
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<td>Book Store</td>
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<td>Brewpub (See Definition)</td>
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<td>Building Material Sales</td>
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<td>Cabinet Shop (Manufacturing)</td>
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<td>Cafeteria</td>
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<td>Confectionary Store (Retail)</td>
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<td>Consignment Shop</td>
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<td>Convenience Store (without gas sales)</td>
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<td>Department Store</td>
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<td>Drapery Shop / Blind Shop</td>
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<td>Florist</td>
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<td>Food or Grocery Store</td>
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<td>Furniture Sales (Indoor)</td>
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<td>Garden Shop (Inside Only; no outside storage)</td>
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<td>Gravestone/Tombstone Sales</td>
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<td>Hardware Store</td>
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<td>Major Appliance Sales/Rental (Indoor)</td>
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<td>Motorcycle Dealer (New / Repair)</td>
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<td>Personal Watercraft Sales (New/Repair)</td>
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**Legend**

- **P** – The land use is permitted by right in the zoning district indicated.
- **–** – The land use is prohibited in the zoning district indicated.
- **C** – The land use may be approved as a conditional use (CUP) in the zoning district indicated.

<table>
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<th>Types of Land Uses</th>
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<td>Pet Shop / Supplies / Grooming</td>
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<td>Pharmacy</td>
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<td>Plant Nursery (Retail Sales / Outdoor Storage)</td>
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<td>Recycling Kiosk</td>
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<td>Restaurant</td>
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<td>Restaurant (Drive-In)</td>
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<td>Retail Store (Misc.)</td>
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<td>Security Systems Installation Company</td>
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<td>Snow Cone Stand</td>
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<td>Studio Tattoo or Body Piercing</td>
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<td>Temporary Outdoor Retail Sales / Commercial Promotion</td>
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<td>Upholstery Shop (Non-Auto)</td>
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<td>Used Merchandise/Furniture Store</td>
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<td>Vacuum Cleaner Sales and Repair</td>
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<td>Veterinarian (Indoor Kennels)</td>
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<td>Woodworking Shop (Ornamental)</td>
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**Transportation and Automotive Uses**

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<td>Auto Glass Repair/Tinting</td>
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<td>Auto Interior Shop / Upholstery</td>
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<td>Auto Paint Shop</td>
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<td>Auto Parts Sales (indoors only; no repair bays)</td>
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<td>Auto Tire Repair /Sales (Indoor)</td>
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<td>Car Wash (Self Service; Automated)</td>
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<td>Full Service Car Wash (Detail Shop)</td>
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### Legend

- **P** – The land use is **permitted** by right in the zoning district indicated.
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### Types of Land Uses

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<td>Tire Sales (Outdoors)</td>
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<td>Truck Rental</td>
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### Amusement and Recreational Uses

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<td>Broadcast Station (with Tower)</td>
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<td>Country Club (Private)</td>
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<td>Dance Hall / Dancing Facility</td>
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<td>Day Camp</td>
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<td>Earth Satellite Dish (Private, less than 3’ in diameter)</td>
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<td>Health Club (Physical Fitness; Indoors Only)</td>
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<tr>
<td>Motion Picture Studio, Commercial Film</td>
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</tbody>
</table>
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### Types of Land Uses

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### Institutional / Governmental Uses

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<tr>
<td>Adult Day Care (Business) (See Section 38.5)</td>
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<td>Orphanage</td>
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<tr>
<td>Phone Exchange/ Switching Station</td>
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<td>Portable Medical Unit-Human Blood Collection (See Definitions)</td>
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<td>School, Vocational (Business/Commercial Trade)</td>
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<td>Sewage Pumping Station</td>
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</tbody>
</table>
### Legend

- **P** – The land use is **permitted** by right in the zoning district indicated.
- **C** – The land use may be approved as a conditional use (CUP) in the zoning district indicated.
- **–** The land use is **prohibited** in the zoning district indicated.

### Types of Land Uses

<table>
<thead>
<tr>
<th>Types of Land Uses</th>
<th>Residential Zoning Districts</th>
<th>Non-Residential Zoning Districts</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>AG</td>
<td>SF-20</td>
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### Commercial and Wholesale Trade Uses

<table>
<thead>
<tr>
<th>Commercial and Wholesale Trade Uses</th>
<th>Residential Zoning Districts</th>
<th>Non-Residential Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Book Binding</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Feed &amp; Grain Store / Farm Supply Store</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Furniture Manufacture</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Heating &amp; Air-conditioning Sales / Services</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Livestock – Wholesale</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Pawn Shop</td>
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<td>P</td>
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<tr>
<td>Propane Sales (Retail)</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Taxidermist</td>
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<tr>
<td>Transfer Station (Refuse/Pick-up)</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Veterinarian (Outdoor Kennels or Pens)</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Warehouse / Office</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Welding Shop</td>
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<td>C</td>
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<tr>
<td>Structure greater than 36’ in height</td>
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### Light Industrial / Manufacturing Uses

<table>
<thead>
<tr>
<th>Light Industrial / Manufacturing Uses</th>
<th>Residential Zoning Districts</th>
<th>Non-Residential Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contractor’s Office/Sales, No Outside Storage...</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Contractor’s Office/Sales, With Outside Storage...</td>
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<tr>
<td>Contractor’s Temporary On-Site Construction Office</td>
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<tr>
<td>Electronic Assembly</td>
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<tr>
<td>Engine Repair/Motor Manufacturing Re-Manufacturing</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Heavy Machinery Sales and Storage</td>
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<td>C</td>
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<tr>
<td>Laboratory Equipment Manufacturing</td>
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<tr>
<td>Machine Shop</td>
<td>C</td>
<td>P</td>
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<tr>
<td>Maintenance &amp; Repair service for Buildings</td>
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<td>C</td>
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<tr>
<td>Brewery (Off-premise consumption)</td>
<td>C</td>
<td>P</td>
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<tr>
<td>Outside Storage</td>
<td>C</td>
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</table>

201
### Legend

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### Types of Land Uses

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<thead>
<tr>
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<th>Non-Residential Zoning Districts</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>AG</td>
<td>SF-20</td>
</tr>
<tr>
<td>Plumbing Shop (no outside storage)</td>
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<td>P</td>
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<tr>
<td>Research Lab (Non-Hazardous)</td>
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<td>C</td>
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<tr>
<td>Sand/Gravel Sales (Storage)</td>
<td>P</td>
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<tr>
<td>Sign Manufacturing</td>
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<tr>
<td>Sign Shop (small scale, such as a storefront; includes sign and banner making for retail sale only)</td>
<td>C</td>
<td>P</td>
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<tr>
<td>Stone/Clay/Glass Manufacturing</td>
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<tr>
<td>Manufacturing, General (meeting performance standards in Section 44)</td>
<td>C</td>
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<tr>
<td>Paper Manufacturing &amp; Converting/Finishing</td>
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</tbody>
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202
V. DEVELOPMENT STANDARDS

SECTION 38 OFF-STREET PARKING AND LOADING REQUIREMENTS

38.1 PURPOSE:

To secure safety from fire, panic, and other dangers; to lessen congestion on public streets; to facilitate the adequate provision of transportation; to conserve the value of buildings; and to encourage the most appropriate and efficient use of land. Minimum off-street parking and loading shall be provided as set forth in the following schedules and provisions.

38.2 RESIDENTIAL DISTRICTS -- SPECIAL OFF-STREET PARKING PROVISIONS:

A. Required off-street parking shall be provided on the same lot/site as the use it is to serve.

B. All required vehicle parking shall be on a paved parking surface. All driveways and approaches to parking spaces shall be similarly paved, except in the AG district.

C. No residential lot shall be used for the storage of a heavy load vehicle (see definitions for heavy load vehicle), truck tractor rig, or wrecker. A camper, RV, trailer, boat, or other similar vehicle may be stored on an improved driveway (in accordance with City standards) in the front yard or on a concrete or asphalt surface in the side or rear yard. No part of a vehicle may extend over a public easement or right-of-way and no vehicle stored on a residential lot may be used for living or sleeping quarters. No such vehicle shall be stored or parked for more than twenty-four (24) consecutive hours or on a regular, repetitive basis on any street or upon any unpaved surface.

38.3 NONRESIDENTIAL AND MF DISTRICTS -- SPECIAL OFF-STREET PARKING PROVISIONS:

A. To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties and in accordance with the standards established in Section 45.

B. For safety and fire-fighting purposes, free access through to adjacent nonresidential parking areas shall be provided in accordance with Section 38.10 (Fire Lanes).

C. All off-street parking, maneuvering, loading and storage areas shall be paved with concrete paving in accordance with the City’s parking lot paving requirements (i.e., no parking shall be permitted on grass, within landscaped areas, or on other unimproved surfaces): five inch (5”) thick reinforced concrete, with minimum No. 3 rebar steel reinforcement at least twenty-four inches (24”) on center and graded to drain properly per City standards (i.e., no standing or pooling of water). All driveway approaches shall be of reinforced concrete as described above, and shall be curbed to City standards. No paved parking space or area shall be designed such that a vehicle has to back up into a public street or across a public sidewalk, except for single- and two-family dwellings, which are only allowed to egress onto a local (50' right-of-way) or residential collector (60' right-of-way) street (i.e., not onto an arterial street).
Parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Non-permanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

D. Each standard off-street surface parking space size shall be in accordance with the design standards as shown on Illustration 10 for space size and design. Specific parking space sizes, exclusive of aisles, driveways and maneuvering areas shall be in accordance with the following minimum sizes:

1. Standard: Nine feet (9') by twenty feet (20') – eighteen-foot (18') length is allowed provided that the parking space has a two-foot (2') clear bumper overhang area that does not encroach upon a public right-of-way, a sidewalk of less than six feet (6') in width, or adjacent property.

2. Compact: Eight feet (8') by sixteen feet (16'); must be clearly designated with appropriate signage and pavement markings (also see Section 38.7 H.).

3. Parallel: Eight feet (8') by twenty-two feet (22').

E. All parking and loading spaces, and vehicle sales areas on private property shall have a vehicle stopping device (e.g., curb, wheel stop, etc.) installed so as to prevent parking of motor vehicles in any required landscaped areas, to prevent vehicles from hitting buildings, to protect public and/or private utility structures/facilities, and to prevent parked vehicles from overhanging a public right-of-way line, public sidewalk, or adjacent private property. An extra-wide walkway on private property may be permitted so as to allow encroachment of vehicle overhang while maintaining an unobstructed four-foot (4') minimum walkway width. Parking shall not be permitted to encroach upon the public right-of-way in any case. For new construction only, all vehicle maneuvering shall take place on-site. No public right-of-way shall be used for backing or maneuvering into or from a parking space (except business locations in the downtown area that are already in existence as of the effective date of this Ordinance), or for circulation within the parking lot. All entrances into parking lots shall be at least one hundred feet (100') from the beginning point of any street corner radius. All entrances into parking lots shall be at least twenty-four feet (24') in width, and a maximum of thirty-five feet (35') in width (fifty feet for divided entrances) unless engineering design templates demonstrate the need for a larger width for large truck turning movements. Divided entrances into parking lots shall have a minimum ingress lane of eighteen feet (18'), a minimum landscaped median width of five feet (5') for an unbroken distance of at least one hundred feet (100'), and a minimum egress lane of twenty-two feet (22').

F. In all nonresidential and multi-family zoning districts, the perimeter of all parking lots and driveways shall be provided with concrete curbs.

G. Refuse storage facilities placed in a parking lot shall not be located in a designated parking or loading space. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies and ease of egress from the site without having to back up further than twenty feet (20') and without having to go the wrong way in a traffic aisle.

H. Parking space(s) for persons with disabilities and other associated provisions (e.g., clear and unobstructed pathways into building, crosswalks across parking lots, etc.) shall be provided according to building codes, State laws, and requirements of the
Americans with Disabilities Act (ADA). Parking spaces for persons with disabilities shall be as close as possible to the main entrance of the building, and shall be appropriately and clearly marked.

I. In all nonresidential and multi-family zoning categories, designated parking and loading areas shall not be used for the repair, storage, dismantling or servicing (except for normal maintenance of a private vehicle) of vehicles or equipment, or for the storage of materials or supplies, or for any other use in conflict with the designated parking and loading areas (i.e., advertising or open storage of raw materials).

J. To ensure that all requirements set forth in this Section are carried forward, it will be the responsibility of the owner of the parking area to adequately maintain the facility. All off-street parking areas shall be kept free of trash, debris, vehicle repair operation or display and advertising uses. At no time after initial approval of the parking area layout can changes be made in the location and number of provided spaces without approval of a revised site plan (see Section 12).

K. Off-street stacking requirements for drive-through facilities:

1. A stacking space shall be an area on a site measuring at least eight feet (8') wide by twenty feet (20') long with direct forward access to a service window or station of a drive-through facility which does not constitute space for any other circulation driveway, parking space, or maneuvering area. An escape lane, of at least eight (8) feet in width and with negotiable geometric design, must be provided to allow vehicles to get out of stacking lane in the event of a stalled vehicle, emergency, accidental entry, etc.

2. For financial institutions with drive-through facilities, each teller window or station, human or mechanical, shall be provided with a minimum of five (5) stacking spaces. One escape lane shall be provided.

3. For each service window of a drive-through restaurant, a minimum of five (5) spaces shall be provided for the first vehicle stop (usually the menu/order board), and two (2) spaces shall be provided for each additional vehicle stop (order/pick-up windows, etc.). One escape lane shall be provided from the beginning of the stacking lane to the first stop (e.g., menu/order board).

4. For retail operations (other than restaurants, banks, etc.) and kiosks that provide drive-up service (e.g., pharmacy, dry cleaners, etc.), a minimum of three (3) stacking spaces for each service window shall be provided.

5. For a full-service car wash, each vacuum or gas pump lane shall be provided with a minimum of four (4) stacking spaces. For the finish/drying area, adequate vehicle stacking and storage space must be provided to keep finished vehicles out of circulation aisles, access easements, fire lanes, streets, etc.

6. For each automated self-service (drive-through/rollover) car wash bay, a minimum of three (3) stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing.

7. For each wand-type self-service (open) car wash bay, a minimum of two (2) stacking spaces, in addition to the wash bay itself, shall be provided. One
stacking space shall be provided at the exit end of each wash bay for window-
drying and other detailing, unless a separate area/shade structure is provided
(outside of circulation aisles) for these activities.

8. For automobile quick-lube type facilities, a minimum of three (3) stacking spaces
shall be provided for each service bay in addition to the service bay itself.

L. Dead-end parking areas shall be avoided if possible. If dead-end parking is
necessary, then it shall be designed such that it is no more than three (3) parking
spaces deep unless adequate turnaround space is provided. A minimum five-foot
(5') deep hammerhead back-up space shall be provided at the end of any dead-end
parking area.

M. All parking structures must conform to the construction and design standards of the
zoning district in which they are located.

38.4 OFF-STREET LOADING SPACE -- ALL DISTRICTS:

A. All retail and similar nonresidential structures shall provide and maintain off-street
facilities for receiving and loading merchandise, supplies and materials within a
building or on the lot or tract. All drives and approaches shall provide adequate
space and clearances to allow for the maneuvering of trucks off-street. Each site
shall provide a designated on-site maneuvering area for trucks (see Illustrations 2
and 15). Such off-street loading space may be adjacent to (but not any portion of) a
public alley or private service drive, or it may consist of a truck berth within the
structure. The minimum dimensions of a "regular" loading space shall be ten feet by
thirty feet (10' x 30'), and a "large" loading space shall be at least ten feet by sixty-
five feet (10' x 65'). Loading spaces or berths shall be provided in accordance with
the following schedule:

(a) Office uses, or portion(s) of building devoted to office uses:
    0 to 19,999 square feet: 0 spaces
    20,000 to 49,999 square feet: 1 regular space
    50,000 to 149,999 square feet: 1 regular space and 1 large space
    150,000+ square feet: 2 regular spaces and 1 large space

(b) Retail/commercial and restaurant uses, or portion(s) of building devoted to
    retail/commercial and restaurant uses:
    0 to 3,999 square feet: 0 spaces
    4,000 to 9,999 square feet: 1 regular space
    10,000 to 29,999 square feet: 1 regular space and 1 large space
    30,000 to 99,999 square feet: 2 regular spaces and 1 large space
    100,000 to 200,000 square feet:
    Each additional 100,000 square feet, or portion thereof, over 200,000:
        1 additional large space

B. In all nonresidential zoning districts, loading docks or service/delivery entrances shall
not be constructed facing any public street (except for large industrial uses; see
Subsection B.1 below), and shall not be visible from any public street. Such loading
areas shall be screened from view of any public street by the building itself, or by a
masonry screening wing wall at least twelve feet (12') in height with large evergreen
trees and shrubs planted in front of it such that limited portions of the wing wall will be
visible when the trees and shrubs are mature. Such masonry wing wall shall match
the exterior construction materials and colors of the main building, and shall be
located no closer than one hundred feet (100') to any public street right-of-way line (see Illustration 14).

1. For large industrial or warehouse uses in the LI zoning district only, the loading docks may face a public street, and shall not be required to provide a masonry screening wing wall, provided that a minimum thirty-foot (30') wide landscape buffer area is provided adjacent to the street right-of-way line. One (1) large shade trees shall be provided within the landscape buffer area for every twenty feet (20') of street frontage, or one (1) small ornamental tree shall be provided for every twelve feet (12') of street frontage (or some combination thereof). In addition, a solid massing of large evergreen shrubs and three- to four-foot tall berms shall be provided to further screen loading area from view of the street (see Illustration 15).

C. Loading docks for any establishment which customarily receives goods between the hours of 9:00 p.m. and 8:00 a.m. and is adjacent or close to a residential use or district shall be designed and constructed so as to enclose the loading operation on at least three sides in order to reduce the effects of the noise of the operation on adjacent residences. Other screening/buffering alternatives may be approved on the site plan provided that the City Council makes a finding that the alternative method of screening/buffering will be adequate to protect nearby residences.

D. Kindergartens, elementary schools, day schools, and similar child training and care establishments shall provide one (1) paved off-street pedestrian loading and unloading space for an automobile on a through, "circular" drive for each ten (10) students cared for (excluding child care in a residence). An additional lane shall also be required to allow pass by or through traffic to move while automobiles waiting or parked to pick up children occupy loading/unloading areas.

E. Loading spaces that are adjacent and easily accessible to several buildings or uses, including buildings and uses on separate lots, shall be allowed to satisfy the loading requirements for the individual buildings or uses, provided that: 1) the number of spaces satisfies the requirements for the combined square footages for the buildings or uses in question, and 2) for loading spaces to be shared among separate lots, they must be in reasonably close proximity to all potential users and an agreement granting mutual use by the owners of each building shall be executed and provided to the City (for file).

38.5 PARKING ACCESS FROM A PUBLIC STREET -- ALL DISTRICTS:

A. In the approval of a site plan, design consideration shall be given to providing entrance/exit drives that extend into the site to provide adequate queuing of vehicles on the site.

B. In all districts (except single-family and duplex zoning districts), the site plan and paving plans shall provide for entrance/exit drive(s) appropriately designed and located to minimize traffic congestion or conflict within the site and with adjoining public streets. Based upon analysis by the City, if projected volumes of traffic entering or leaving a development are likely to interfere with the projected peak traffic flow volumes on adjoining streets, additional right-of-way and paving in the form of a deceleration lane, a turn lane, or other roadway improvements may be required of a developer in order to reduce such interference and to help ensure traffic safety and efficiency. The dedication of additional right-of-way or street paving may also be required, and shall be determined at the time of site plan and final plat approval.
C. Vehicular access to non-residential uses shall not be permitted from alleys serving residential areas, and shall not be configured as “head-in” parking spaces which are accessed directly from the street.

D. Parking space configuration, location, arrangement, size and circulation in all districts shall be constructed according to Illustration 10.

E. Child Daycare (Business) shall not have direct access, ingress or egress to or from a local residential street, country lane, or alley, but shall provide in its site plan submitted for a CUP that access to the daycare business shall be to a parkway, collector, or arterial street only.

38.6 PARKING REQUIREMENTS BASED UPON USE:

A. In all districts, there shall be provided at the time any building or structure is erected or structurally altered, or change of use, off-street parking spaces in accordance with the following requirements:

1. **Automobile parts sales (indoors):** One (1) space per five hundred (500) square feet of indoor floor area, plus one (1) space for each two thousand (2,000) square feet of outside sales area.

2. **Automobile sales or service:** See Motor-Vehicle Sales

3. **Bank, savings and loan, or similar institution:** One (1) space per two hundred and fifty (250) square feet of gross floor area in addition to required stacking spaces (see Subsection 38.3 K.)

4. **Banquet Hall:** One (1) space for every one hundred (100) square feet of floor area.

5. **Bed and breakfast facility:** One (1) space per guest room in addition to the requirements for a normal residential use

6. **Bowling alley or center:** Six (6) parking spaces for each alley or lane

7. **Business or professional office (general):** One (1) space per three hundred (300) square feet of gross floor area, except as otherwise specified herein

8. **Car wash (self-serve):** One (1) space per washing bay or stall in addition to the washing areas/stalls themselves and required stacking spaces; **Car wash (full service):** One (1) space per one hundred fifty (150) square feet of floor area in addition to the required stacking spaces (also see Subsection 38.3 K.)

9. **Church, rectory, or other place of worship:** One (1) parking space for each three (3) seats in the main auditorium/sanctuary (see Subsection 38.7(B))

10. **Commercial amusement (indoor):** One (1) space per one-hundred (100) square feet of gross floor area, or as follows:

    a. Racquetball or handball courts - Three (3) spaces for each court

    b. Indoor tennis courts - Six (6) spaces for each court
c. Gymnasium, skating rinks, and martial arts schools - One (1) space for each three (3) seats at a maximum seating capacity (based upon maximum occupancy), plus one (1) space for each two hundred (200) square feet.

d. Swimming pool - One (1) space for each one hundred (100) square feet of gross water surface and deck area.

e. Weight lifting or exercise areas - One (1) space for each one hundred (100) square feet.

f. Indoor jogging or running tracks - One (1) space for each one hundred (100) linear feet.

g. Motion picture theaters (which do not include live performances): a) one (1) space per three and one-half (3.5) seats for single-screen theaters; b) one (1) space per five (5) seats for motion picture theaters with two (2) or more screens (see Subsection 38.7(B)).

h. Amusement Center - One (1) space for each game table and one (1) space for each amusement device.

i. All areas for subsidiary uses not listed above or in other parts of this Section (such as restaurants, office, etc.), shall be calculated in with the minimum specified for those individual uses.

11. Commercial amusement (outdoor): Ten (10) spaces plus one (1) space for each five hundred (500) square feet over five thousand (5,000) square feet of building and recreational area.

12. Commercial use: One (1) space per two hundred fifty (250) square feet of floor area.

13. Community center, library, museum or art gallery: Ten (10) parking spaces plus one (1) additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one (1) space for each four (4) seats that it contains (see Subsection 38.7(B)).

14. Convenience store (with gasoline pumps): One (1) space per two hundred (200) square feet of floor area, plus one (1) parking space for each side of a gasoline pump unit (a unit may have up to six (6) nozzles for gasoline disbursement). Spaces within pump areas qualify as spaces for the parking requirement. If no gasoline sales are provided, then the parking requirements shall be the same as for a retail store. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling.

15. Dance/aerobics studio, or assembly/exhibition hall without fixed seats: One (1) parking space for each one hundred (100) square feet of floor area thereof.

16. Day nursery, day care center, pre-school or pre-kindergarten: One (1) space per ten (10) pupils (based upon maximum occupancy and/or licensing capacity), plus one (1) space per teacher, plus one (1) space for each bus or van stored on the property (and sized to accommodate the vehicle); also see stacking requirements in Subsection 38.4 D.
17. **Defensive driving school/class:** One (1) space for each classroom seat (see Subsection 38.7(B))

18. **Fast-Food or Drive-In Restaurant:** One (1) parking space per one hundred (100) square feet of gross floor area (including indoor/outdoor play areas and patio dining areas), or one (1) space for every three (3) seats under maximum seating arrangement (i.e., occupancy), whichever is greater; required parking spaces are in addition to any stacking spaces that may be needed/provided for drive-through or drive-in facilities (see Subsection 38.3 K.).

19. **Furniture or appliance store, hardware store, wholesale establishments, clothing or shoe repair or service:** Two (2) parking spaces plus one (1) additional parking space for each three hundred (300) square feet of floor area over one thousand (1,000) square feet.

20. **Gasoline station:** One (1) space per two hundred (200) square feet of floor area, plus one (1) space for each side of a gasoline pump unit (a unit may have up to six (6) nozzles for gasoline disbursement). Spaces within pump areas qualify as spaces for the parking requirement. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling.

21. **Golf course:** Four (4) parking spaces per hole or green plus requirements for retail, office, and club house areas and one (1) space per each two (2) employees.

22. **Golf driving range:** One and one-half (1.5) spaces for each driving tee.

23. **Health club, health spa or exercise club:** One (1) space per one hundred fifty (150) square feet of floor area.

24. **Hospital:** One (1) space for each two (2) beds or examination room, whichever is applicable; plus one (1) space for every two (2) employees during periods of full occupancy.

25. **Hotel or Motel:** One (1) space per guest room for the first two hundred fifty (250) rooms and .75 space per room for each room over two hundred fifty (250), plus one (1) space per five (5) restaurant/lounge area seats (based upon maximum occupancy), plus one (1) space per one hundred twenty-five (125) square feet of meeting/conference areas, plus the following:
   
   a. One and one-tenth (1.1) spaces for any guest room containing kitchenette facilities;
   
   b. Two (2) spaces for any guest room provided with full kitchen facilities; and
   
   c. One (1) space for every two (2) employees during peak (i.e., busiest) time periods when the hotel/motel is fully occupied.

26. **Institutions of a philanthropic nature:** Ten (10) spaces plus one (1) space for each employee.

27. **Library or museum:** Ten (10) spaces plus one (1) space for every three hundred (300) square feet.

28. **Lodge or fraternal organization:** One (1) space per two hundred (200) square feet.
29. **Lumber yard/home improvement center:** One (1) space per four hundred (400) square feet display area, plus one (1) space per one thousand (1,000) square feet of warehouse.

30. **Manufactured home or manufactured home park:** Two (2) spaces for each manufactured home unit, plus visitor/supplemental parking in accordance with Subsection 26.4, plus additional spaces as required herein for accessory uses.

31. **Medical or dental office:** One (1) space per one hundred and fifty (150) square feet of floor area. Facilities over 20,000 square feet shall use the parking standards set forth for hospitals.

32. **Mini-warehouse:** Four (4) spaces per establishment, plus two (2) spaces for an on-site manager’s residence (if applicable), plus one (1) appropriately sized space for any type of vehicle to be stored on-site (e.g., rental trucks, boats, RVs, etc.)

33. **Mortuary or funeral home:** One (1) parking space for each two hundred (200) square feet of floor space in slumber rooms, parlors or individual funeral service rooms, or one (1) space for each three (3) seats in the auditorium/sanctuary (see Subsection 38.7(B)), whichever is greater. Adequate on-site stacking spaces shall also be provided for the organization and forming of processions such that these activities do not cause excessive or extended traffic congestion/delays on a public roadway.

34. **Motor-vehicle sales and new or used car lots:** One (1) parking space for each five hundred (500) square feet of sales floor/office and other indoor uses, plus one (1) parking space for each one thousand (1,000) square feet of exterior lot area used for storage, sales and parking areas, plus one (1) parking space per repair bay in service areas (indoors or outdoors), plus one (1) parking space per service/towing vehicle to be stored on-site (required parking spaces are in addition to those to be used for the storage/display of vehicles for sale/lease).

35. **Nursing home, convalescent home, or home for the aged:** One (1) space per six (6) beds; plus one (1) parking space for each three hundred (300) square feet of floor area devoted to offices, cafeterias, exercise/therapeutic rooms, and other similar ancillary uses; plus one (1) space for every two (2) employees at full occupancy.

36. **Office (administrative or professional):** One (1) space for each three hundred (300) square feet of floor area.

37. **Outdoor display:** One (1) space for each six hundred (600) square feet of open sales/display area.

38. **Pawn Shop:** One (1) space for each two hundred (200) square feet of floor area.

39. **Places of public assembly not listed:** One (1) space for each three (3) seats provided (see Subsection 38.7(B)).

40. **Real estate office:** One (1) space for each two hundred (200) square feet.

41. **Restaurant, cafe or similar food service establishment:** One (1) parking space for each one hundred (100) square feet of gross floor area (including indoor/outdoor play areas and patio dining areas), or one (1) space for every three (3) seats under maximum seating arrangement (i.e., occupancy), whichever is greater; required parking spaces are in addition to any stacking spaces that may be needed/provided for drive-through or
drive-in facilities (see Subsection 38.3 K.) (also see Subsection 34d.4 E. for food service establishments within the ENT overlay district).

42. **Retail or personal service establishment, except as otherwise specified herein:** One (1) space per two hundred (200) square feet of gross floor area in addition to any required stacking spaces for drive-through facilities (see Subsection 38.3 K.)

43. **Retirement housing for the elderly (independent living):** One and one-half (1.5) spaces for each dwelling unit, plus any additional spaces for accessory retail, office, service or recreational uses.

44. **Rooming or boarding house, or group quarters:** One (1) parking space for each sleeping room, plus one (1) parking space for each host resident or employee during maximum (i.e., peak) shift.

45. **School, elementary (grades K-6):** One (1) parking space for each fifteen (15) students (design capacity), plus one (1) large parking space for each bus to be parked on-site for any length of time other than student pick-up/drop-off. Also see Section 38.4(D).

46. **School, secondary or middle (grades 7-8):** One (1) parking space for each twelve (12) students (design capacity), plus one (1) large parking space for each bus to be parked on-site for any length of time other than student pick-up/drop-off. Also see Section 38.4(D).

47. **School, high school (grades 9-12):** One space for each three (3) students, faculty and staff (design capacity), plus one (1) large parking space for each bus to be parked on-site for any length of time other than student pick-up/drop-off. Also see Section 38.4(D).

48. **Storage or warehousing, and light manufacturing:** One (1) space for each two (2) employees on duty at peak shifts, or one (1) space for each one thousand (1,000) square feet of total floor area, whichever is greater.

49. **Technical School, College, Junior College or University:** One (1) space per three (3) students, based upon maximum enrollment or design capacity, whichever is greater.

50. **Telemarketing:** One (1) space for each two hundred and fifty (250) square feet of floor space.

51. **Terminal facilities, truck terminals, bus depots, and other similar transportation uses:** For warehouse and staging/loading areas, one (1) space for each two (2) employees on duty at peak shifts, or one (1) space for each one thousand (1,000) square feet of floor area, whichever is greater; for bus depot or other human transportation use, one (1) space per one hundred (100) square feet of passenger waiting area, plus parking spaces for any warehouse and staging/loading areas on the premises (as above).

52. **Theater, indoor or outdoor (live performances), sports arena, stadium, gymnasium or auditorium (except school auditorium):** One (1) parking space for each three (3) seats or bench seating spaces (see Subsection 38.7(B)).

53. **Veterinarian clinic:** One (1) space per three hundred (300) square feet of gross floor space.
54. **Wholesale distribution uses:** One (1) space for each two (2) employees on duty at peak shifts, and one (1) space for each one thousand (1,000) square feet of total floor area, whichever is greater.

38.7 **RULES FOR COMPUTING NUMBER OF PARKING SPACES AND MISCELLANEOUS OFF-STREET PARKING REQUIREMENTS:**

In computing the number of parking spaces required for each of the above uses, the following rules shall govern:

A. "**Floor Area**" shall mean the gross floor area of the specific use.

B. "**Seat**" shall be interpreted as follows:

1. For fixed (e.g., church pews, grandstands, benches, etc.) seating, one seat equals 1.75 feet of length; and
2. For flexible (e.g., folding chairs, etc.) seating areas, one seat equals eight (8) square feet of floor area occupied by such seating area (includes aisles).

C. Where fractional spaces result, the parking spaces required shall be construed to be the next higher whole number.

D. The parking space requirements for a new or unlisted use not specifically mentioned herein shall be the same as required for a use of similar nature. If the proposed use is not similar to any of the uses listed herein, a determination shall be recommended by the Planning & Zoning Commission, and shall be made/approved by the City Council, in conjunction with the request for classification of the new or unlisted use, as provided in Section 37.1 (D).

E. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. If a building or use that was in existence prior to the effective date of this Ordinance is enlarged by more than fifty percent (50%) in floor area, number of employees, number of dwelling units, seating capacity or otherwise, then said building or use shall be required to conform with the parking requirements herein for the entire building or use.

F. For buildings which have a combination of uses within the same structure or on the same premises (such as retail or office), the off-street parking requirement shall be calculated as the summation of the parking requirements for each use, and no parking space for one particular use shall be allowed to count toward the parking requirement for some other use on the premises except in the case of a shared parking arrangement (see Subsection G. below).

G. **Shared parking** may be allowed in the case of mixed uses (different buildings) under the following conditions: Up to fifty percent (50%) of the parking spaces required for a theater or other place of evening entertainment (after 6:00 p.m.), or for a church, may be provided and used jointly by banks, offices, and similar uses not normally open, used, or operated during evening hours. Shared parking must be on the same parking lot. Reduction due to shared parking shall only be allowed if approved on the
site plan. To assure retention of the shared parking spaces, each property owner shall properly draw and execute an irrevocable mutual parking agreement document expressing the same, shall file this agreement with the County, and shall provide a copy of the filed agreement to the City of Forney prior to issuance of a certificate of occupancy for any use that relies upon the parking agreement.

H. **Compact Car Spaces** - In the O, NS, GR, CBD, C, MU and LI districts only, compact car parking spaces may be permitted when approved as part of a detailed site plan by the Planning and Zoning Commission and the City Council, providing at least one of the following conditions apply:

1. Where it is necessary to preserve the natural landscape and native trees, a maximum of ten percent (10%) of required parking may be designated for compact cars.

2. For parking lots larger than one hundred (100) spaces involving a shopping center, a maximum of twenty percent (20%) of the required parking may be for compact cars.

3. For parking lots larger than one hundred (100) spaces involving large single-tenant industrial or office buildings, a maximum of twenty-five percent (25%) of the required parking may be for compact cars.

The City shall not be responsible for policing the use of compact car spaces on private property or for citing violations thereof.

38.8 **LOCATION OF PARKING SPACES:**

All parking spaces required herein shall be located on the same lot (and within 200 feet, in the case of nonresidential buildings/uses) of the building or use served, except as follows:

A. Where an increase in the number of spaces is required by a change or enlargement of an existing use, or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required additional spaces may be located not to exceed three hundred (300) feet from any nonresidential building served.

B. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, approval by the Planning and Zoning Commission and the City Council is required according to the following criteria:

1. Off-site parking may be permitted on an immediately contiguous lot or tract, or on a lot or tract within two hundred feet (200’) of such building or structure providing:

   a. That a permanent, irrevocable easement of the parking facilities in favor of the premises to be benefited shall be dedicated and recorded as a condition of such use; or

   b. That a long-term remote parking lease agreement be provided upon approval by the City as a condition of such use.
38.9 USE OF REQUIRED PARKING SPACES, NON-RESIDENTIAL DISTRICTS:

A. Off-street parking and loading spaces shall be used only for these respective purposes and shall not be used for refuse containers, cart corrals, recycling kiosks, signs or sign support structures, telecommunications towers or support structures, storage or permanent display of boats, trailers, campers, motor vehicles or other goods, materials, or products for sale/lease/rent.

38.10 FIRE LANES:

A. Fire lanes shall be provided in all multi-family (and in some single-family attached), manufactured home, and nonresidential developments, as required by the adopted Fire Code of the City (also see the Subdivision Ordinance for certain fire lane regulations). Fire lanes shall be a minimum width of twenty-four feet (24') of paving, and shall have a minimum inside turning radius at curves of twenty feet (20'), or as required by the Fire Code and/or the Fire Chief of the City of Forney. The minimum overhead vertical clearance over fire lanes shall be fourteen feet (14') for a linear distance of fifty feet (50') on each side (i.e., in front of and behind, as a fire apparatus would traverse underneath) of any overhead structure (e.g., canopy, roof overhang, vertical height control device, etc.).

38.11 SPECIAL REGULATIONS FOR SPECIAL MOTOR VEHICLES (including RVs):

A. See Section 47.6.

38.12 BICYCLE PARKING FACILITIES:

All nonresidential, single-family attached (townhomes) and multi-family uses shall provide bicycle parking facilities (racks). Bicycle parking shall be required whenever any new use is established or any existing use is altered or enlarged, and shall be approved during Site Plan approval.

A. Uses requiring fewer than ten (10) parking spaces shall provide one (1) bicycle rack.

B. Uses requiring more than ten (10) parking spaces shall provide bicycle racks at a rate of two (2) bicycle racks for every fifty (50) required parking spaces, with a minimum requirement of at least two (2) bicycle racks and a maximum of ten (10) bicycle racks. The number of required automobile parking spaces for uses providing such bicycle racks may be reduced at the ratio of one (1) automobile parking space for every five (5) bicycle parking spaces provided.

C. All bicycle parking facilities shall be located within one-hundred feet (100') of the primary use entrance or as close as the closest automobile parking space, whichever distance is closer. Outdoor bicycle parking areas shall be surfaced with concrete.

D. The permitted types of bicycle racks are shown on the attached illustration, which is incorporated herein by reference and attached
hereto as Exhibit A for all purposes allowed by law. Other types of bicycle racks may be considered and approved by the Director of Community Development. Bicycle racks shall support the bicycles upright by their frame in two (2) places. The bicycle racks shall be constructed with and upon a permanent concrete foundation that is securely concrete-anchored to the ground.

E. Bicycle racks shall be located a minimum of twenty-four inches (24") from a parallel wall, and thirty inches (30") from a perpendicular wall. There shall be a minimum separation of thirty inches (30") between adjacent bicycle racks, and if there are multiple rows of bicycle racks there shall be a minimum aisle width of forty-eight inches (48”). The aisle shall be measured from tip to tip of bike tires across the space between racks.

F. The grouping of bicycle racks in a central location by multiple businesses is permitted.

G. Multi-family and single-family attached (townhomes) uses shall provide at least one (1) bicycle space for every five (5) dwelling units. These bicycle spaces shall be grouped together within five-hundred feet (500’) of the buildings for which such spaces are provided.

H. Bicycle racks shall be included in retail, residential and multi-family use common areas that provide active recreation including, but not limited to, pool areas, tennis courts, and basketball courts.

Examples of Acceptable Bicycle Racks

- Spartan Rack
- Sentry Rack
- Post and Loop Rack
- Campus Rack
- Inverted-U Type Racks
- Swerve Rack
SECTION 39  LANDSCAPE REQUIREMENTS

39.1 PURPOSE:

Landscaping is accepted as adding value to property and is in the interest of the general welfare of the City. The provision of landscaped areas also serves to increase the amount of a property that is devoted to pervious surface area which, in turn, helps to reduce the amount of impervious surface area, storm water runoff, and consequent non-point pollution in local waterways. Therefore, landscaping is hereafter required of new development, except single- and two-family and agricultural uses, adjacent to public streets. Single- and two-family uses are generally not required to provide extensive landscaping at the time of development because they rarely fail to comply with the requirements set forth herein.

39.2 SCOPE AND ENFORCEMENT:

The standards and criteria contained within this Section are deemed to be minimum standards and shall apply to all new, or altered (i.e., exceeding thirty percent (30%) of the original floor area), construction occurring within the City, except that single-family or duplex dwellings shall be exempt. Additionally, any use requiring a Conditional Use Provision or a PD zoning designation must comply with these landscape standards unless special landscaping standards are otherwise provided for in the ordinance establishing the CUP or PD district. The provisions of this Section shall be administered and enforced by the City Manager, or his/her designee. The landscape standards in this Section apply only to nonresidential and multi-family developments (including uses such as schools and churches within a residential zoning district).

If at any time after the issuance of a certificate of occupancy, the approved landscaping is found to be not in conformance with the standards and criteria of this Section, the City Manager (or his/her designee) shall issue notice to the owner, citing the violation and describing what action is required to comply with this Section. The owner, tenant or agent shall have thirty (30) calendar days from date of said notice to establish/restore the landscaping, as required. If the landscaping is not established/restored within the allotted time, then such person shall be in violation of this Ordinance.

39.3 PERMITS:

No permits shall be issued for building, paving, grading or construction until a detailed landscape plan is submitted and approved by the City Manager, or his/her designee, along with the site plan and engineering/construction plans. A landscape plan shall be required as part of the site plan submission, as required in Section 12. The landscape plan may be shown on the site plan (provided the site plan remains clear and legible) or may be drawn on a separate sheet. Prior to the issuance of a certificate of occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the landscape plan.

In any case in which a certificate of occupancy is sought at a season of the year in which the City Manager, or his/her designee, determines that it would be impractical to plant trees, shrubs or groundcover, or to successfully establish turf areas, a temporary certificate of occupancy may be issued provided a letter of agreement from the property owner is submitted that states when the installation shall occur. All landscaping required by the landscaping plan shall be installed within six (6) months of the date of the issuance of the certificate of occupancy.
39.4 **LANDSCAPE PLAN:**

Prior to the issuance of a building, paving, grading or construction permit for any use other than single-family detached or duplex dwellings, a landscape plan shall be submitted to the City Manager, or his/her designee. The City Manager, or his/her designee, shall review such plans and shall approve same if the plans are in accordance with the criteria of these regulations. If the plans are not in conformance, they shall be disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.

Landscaping plans shall be prepared by a person knowledgeable in plant material usage and landscape design (e.g., landscape architect, landscape contractor, landscape designer, etc.) and shall contain the following minimum information:

A. Minimum scale of one inch (1") equals fifty feet (50'); show scale in both written and graphic form.

B. Location, size and species of all trees to be preserved (do not use "tree stamps" unless they indicate true size and location of trees).

C. Location of all plant and landscaping material to be used, including plants, paving, benches, screens, fountains, statues, earthen berms, ponds (to include depth of water), topography of site, or other landscape features

D. Species and common names of all plant materials to be used

E. Size of all plant material to be used (container size, planted height, etc.)

F. Spacing of plant material where appropriate

G. Layout and description of irrigation, sprinkler, or water systems including location of water sources

H. Description of maintenance provisions

I. Name and address of the person(s) responsible for the preparation of the landscape plan

J. North arrow/symbol, and a small map showing where the property is located

K. Date of the landscape plan

39.5 **GENERAL STANDARDS:**

The following criteria and standards shall apply to landscape materials and installation:

A. All required landscaped open areas shall be completely covered with living plant material. Landscaping materials such as wood chips and gravel may be used under trees, shrubs and other plants, but shall not comprise a significant portion of the total landscaped area.

B. Plant materials shall conform to the standards of the approved plant list for the City of Forney (see Section 50 for the approved plant list) and the current edition of the "American Standard for Nursery Stock" (as amended), published by the American
Association of Nurserymen. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxiou
s pests and insects.

C. Trees shall have an average spread of crown of greater than fifteen feet (15') at maturity. Trees having a lesser average mature crown of fifteen feet (15') may be substituted by grouping the same so as to create the equivalent of fifteen feet (15') of crown spread. Large trees shall be a minimum of three inches (3") in caliper (measured six inches (6") above the ground) and seven feet (7') in height at time of planting. Small trees shall be a minimum of one and one-half inch (1.5") in caliper and five feet (5') in height at time of planting.

D. Shrubs not of a dwarf variety shall be a minimum of two feet (2') in height when measured immediately after planting. Hedges, where installed for screening purposes, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen which will be six feet (6') high within three (3) years after time of planting (except for parking lot/headlight screens, which shall form a continuous, solid visual screen three feet high within two years after planting).

E. Vines not intended as ground cover shall be a minimum of two feet (2') in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet landscape screening requirements as set forth.

F. Grass areas shall be sodded, plugged, sprigged, hydro-mulched and/or seeded, except that solid sod shall be used in swales, earthen berms or other areas subject to erosion.

G. Ground covers used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonably completed coverage within one (1) year of planting.

H. All required landscaped areas shall be equipped with an automatic, underground irrigation system with freeze- and moisture sensors to prevent watering at inappropriate times. Landscaped areas having less than ten (10) square feet in area may be irrigated by some other inconspicuous method. If appropriate xeriscape planting techniques are utilized, the City Council may waive the requirement for an underground irrigation system at the time of site plan approval. However, the landscaping shall be required to be maintained in a healthy, living and growing condition, and any irrigation devices shall not be visible from public streets or walkways.

I. Earthen berms shall have side slopes not to exceed 33.3 percent (three feet (3') of horizontal distance for each one foot (1') of vertical height). All berms shall contain necessary drainage provisions as may be required by the City's Engineer.

39.6 MINIMUM LANDSCAPING REQUIREMENTS FOR NONRESIDENTIAL AND MULTI-
FAMILY DEVELOPMENTS:

A. For all nonresidential and multi-family developments (including schools, churches, day care facilities, and other similar uses in a residential district), at least twenty percent (20%) of the street yard shall be permanently landscaped area (see Illustration 13). The street yard shall be defined as the area between the building front and the front property line (which is not necessarily the front street right-of-way line if lots are platted between the building front and the street itself). For gasoline
service stations, the requirement is a minimum of fifteen percent (15%) landscaped area for the entire site, including a six hundred (600) square foot landscaped area at the street intersection corner (if any), which can be counted toward the fifteen percent (15%) requirement.

B. A minimum thirteen-foot (13') landscape buffer (interior parkway) adjacent to the right-of-way of any major thoroughfare is required, except that any nonresidential parcel that fronts onto U.S. Highway 80, F.M. 548 or Interstate Highway 20 shall provide a minimum eighteen-foot (18') landscape buffer/parkway. Corner lots fronting two (2) major thoroughfares shall provide the appropriate required landscape buffer on both street frontages (i.e., 13' on major thoroughfares, and 18' on U.S. Highway 80, F.M. 548 or Interstate Highway 20). All other street frontages shall observe a minimum eight-foot (8') landscape buffer. One (1) large shade tree shall be required per forty (40) linear feet (or portion thereof) of street frontage. Trees should be grouped or clustered to facilitate site design and to provide an aesthetically pleasing, natural looking planting arrangement. The landscaped buffer area may be included in the required street yard landscape area percentage.

C. Removed-Ordinance # 1216

D. Landscape areas within parking lots should generally be at least one parking space in size, with no landscape area less than fifty (50) square feet in area. Landscape areas shall be no less than five feet (5') wide and shall equal a total of at least sixteen (16) square feet per parking space. There shall be a landscaped area with at least one (1) tree within sixty feet (60') of every parking space. There shall be a minimum of one (1) tree planted in the parking area for every ten (10) parking spaces for parking lots having more than twenty (20) spaces. Within parking lots, landscape areas should be located to define parking areas and to assist in clarifying appropriate circulation patterns. A landscape island shall be located at the terminus of all parking rows, and shall contain at least one tree. All landscape areas shall be protected by a monolithic concrete curb or wheel stops, and shall remain free of trash, litter, and car bumper overhangs. The area of parking lot landscaping islands shall be in addition to the required street yard landscape area percentage.

E. All existing trees which are to be preserved shall be provided with undisturbed, permeable surface area under (and extending outward to) the existing dripline of the tree. All new trees shall be provided with a permeable surface under the dripline a minimum of five feet (5') by five feet (5').

F. A minimum of fifty percent (50%) of the total trees required for the property shall be large shade trees as specified on the approved plant list (see Section 50). Only shrubs and groundcovers (i.e., no trees) shall be used under existing or proposed overhead utility lines.

G. Necessary driveways from the public right-of-way shall be permitted through all required landscaping in accordance with City regulations.
MINIMUM LANDSCAPING REQUIREMENTS FOR SINGLE-FAMILY AND TWO-FAMILY DEVELOPMENTS:

A. For all single-family and two-family developments (including AG, SF-20, SF-15, SF-11, SF-8, SF-6, SF-PH, 2F, SFA and MH), each residential lot shall be planted with at least two (2) large shade trees having a minimum caliper of three inches (3") in the front yard. Trees shall be from the Approved Plant List (see Section 50).

B. Trees, except very small ornamental trees, shall not be planted between the street curb and the sidewalk (due to maintenance issues) unless otherwise specifically approved as part of a Planned Development (PD).

SIGHT DISTANCE AND VISIBILITY:

Rigid compliance with these landscaping requirements shall not be such as to cause visibility obstructions and/or blind corners at intersections. Whenever an intersection of two (2) or more public rights-of-way occurs, a triangular visibility area, as described below, shall be created. Landscaping within the triangular visibility area shall be designed to provide unobstructed cross-visibility at a level between thirty inches (30") and eight feet (8'). Trees may be permitted in this area provided they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area. The triangular areas are:

A. The areas of property on both sides of the intersection of an alley access way and public right-of-way shall have a triangular visibility area with two (2) sides of each triangle being a minimum of ten feet (10') in length from the point of intersection and the third side being a line connecting the ends of the other two (2) sides.

B. The areas of property located at a corner formed by the intersection of two (2) or more public rights-of-way (or a private driveway onto a public road) shall have a triangular visibility area with two (2) sides of each triangle being a minimum of twenty-five feet (25') in length along the right-of-way lines (or along the driveway curb line and the road right-of-way line) from the point of the intersection and the third side being a line connecting the ends of the other two (2) sides. (See Illustration 12 also)

Landscaping, except required grass and low ground cover, shall not be located closer than three feet (3') from the edge of any access way pavement.

In the event other visibility obstructions are apparent in the proposed landscape plan, as determined by the City Manager, or his/her designee, the requirements set forth herein may be reduced to the extent to remove the conflict.

TREE PRESERVATION (see Section 39a)
SECTION 39a  TREE PRESERVATION

39a.1 GENERAL PURPOSE AND DESCRIPTION:

Trees provide a valuable amenity to the urban environment in the maintenance of the public health and welfare, in the conservation of vital energy resources, and in the preservation of the City's historical heritage. Because trees which have survived generations of inhabitants can be replaced only after future generations, the preservation and protection of trees is essential to the health and general welfare of the City’s residents. These rules and regulations, therefore, govern the protection of trees within the City of Forney, encouraging the preservation and protection of significant trees, while providing for replacement and replanting of trees that are necessarily removed during construction, development, or redevelopment.

In all zoning districts, the preservation and protection of trees shall be required. Removal of protected trees shall be prohibited except in accordance with the procedures outlined herein.

39a.2 GENERAL PROVISIONS:

A. APPLICABILITY

These regulations shall apply to property as follows:

1. All vacant and undeveloped property

2. All property being redeveloped, including additions and major renovations, except single-family residential property as noted in Section 39a.2.B.3.

3. The required yard and/or landscape areas of all developed property, except single-family residential property as noted in Section 39a.2.B.3.

B. EXCEPTIONS

1. City Property  City property shall not be subject to this section. City property, including rights-of-way, streets, easements for public purpose, parks, and any other property under the jurisdiction of the City of Forney, shall be regulated by the requirements of the Forney Code of Ordinances.

2. Utilities  Governmental agencies providing operation & maintenance for streets, drainage, and/or utilities, and utilities operating under a franchise agreement with the City which are extending and maintaining services to customers, shall not be subject to this section when in the process of providing, extending, and maintaining such services.

3. Single-Family Residential Property  Developed property which is zoned in a single family residential classification and where an existing residence is located shall not be subject to this section.
C. DEFINITIONS

1. **Protected Trees**
   Protected tree means any tree named in Section 50 (Approved Plant List) which is at least six inches (6") or greater in caliper size.

2. **Replacement Trees**
   Replacement trees are those species acceptable for use in fulfilling the tree replacement requirements of this Ordinance. Acceptable replacement trees are marked with an asterisk (*) in Section 50 (Approved Plant List).

3. **Removal**
   Removal, as applied to protected trees, means uprooting, severing the main trunk of the tree or any act which causes, or may reasonably be expected to cause, the tree to die including but not limited to damage inflicted upon the root system by machinery, storage of materials or soil compaction; substantially changing the natural grade above the root system or around the trunk; excessive pruning; or paving with concrete, asphalt, or other impervious materials.

   a. Transplanting a tree to a location on the same property shall not be deemed removal, provided that the tree survives for a period of at least twelve (12) months (i.e., 365 calendar days) following transplantation.

   b. The removal of broken limbs or the removal of a protected tree that has been uprooted or has a broken trunk shall be allowed without application for a removal permit, provided that the removal is effected before the beginning of the 15th calendar day following the occurrence of the damage and provided further, that the period may be extended in the case of widespread and extensive storm damage.

D. PROTECTION DURING CONSTRUCTION

During any construction or land development, the developer or builder shall clearly mark all protected trees or groups of protected trees to be preserved. The developer shall not allow the movement of equipment or the storage of equipment, materials, debris or fill to be placed within the drip line of any such tree. The developer shall not allow cleaning of equipment or material under the canopy of any such tree or group of trees, nor shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc. under the canopy of any such tree or groups of trees to be preserved. No attachments or wires of any kind, other than those of a protective nature, shall be attached to any such tree.

39a.3 APPLICATION TO REMOVE PROTECTED TREES:

Except as otherwise provided herein, no person, corporation, or governmental agency shall remove or cause the removal of any protected tree without first submitting appropriate application and securing approval in accordance with the following procedures and criteria.

A. SUBMISSION, REVIEW AND APPROVAL

1. **Tree Removal in Conjunction**
   Whenever a construction project requires review and approval of a site plan, plat, or building permit, the application for tree removal shall be
processed in conjunction with the site plan, plat, or building plan review, and the Development Review Committee, Planning & Zoning Commission, and/or City Council shall have authority to approve tree removal in accordance with their respective authority to approve the site plan, plat, and/or building plan under consideration. Decisions of the Development Review Committee may be appealed to the Planning & Zoning Commission; Decisions of the Commission may be appealed to the City Council whose decision shall be final.

2. Tree Removal without Construction/Tree Removal Permit Required

When removal of a protected tree is proposed and the removal is not in conjunction with a construction project requiring review of a site plan, plat, and/or building permit, a Tree Removal Permit is required. Tree Removal Permit applications shall be reviewed by the City Manager (or his/her designee), who shall approve or deny said application within thirty (30) calendar days. The application for removal shall be deemed automatically granted if not denied on or before the close of business on the 31st day following the date the application was accepted. Unless otherwise stated on the permit, the tree(s) for which the Tree Removal Permit has been issued must be removed within 180 days of the issuance of the permit. The City Manager (or his/her designee) may waive submission requirements if less information is required to evaluate the situation and make a determination. Decisions of the City Manager (or his/her designee) may be appealed to the City Council, whose decision shall be final.

B. SUBMISSION REQUIREMENTS

An application for tree removal shall include a property survey indicating the following:

1. The location, caliper (i.e., trunk diameter), and species of existing protected trees on the property (an approximate canopy coverage area shall also be shown), and the approximate location of protected trees with branches overhanging the property.

2. The trees to be preserved.

3. An itemized list of trees, per species, to be removed indicating the total aggregate value in diameter inches.

4. The proposed grading of the property, showing existing and proposed elevations, including existing and proposed grades at the base of trees to be preserved (any retaining walls or tree “wells” shall be clearly shown along with a detail showing how the soil will be retained/held in place below the drip line of preserved trees).

5. The protective measures and barriers to be used during construction to preserve those protected trees which are to remain.

6. The proposed species, number, size, and location of required replacement trees.

C. MUNICIPAL REVIEW

An application meeting the requirements set out in Section 12 must be submitted to the City Manager (or his/her designee) for evaluation and recommendation along with submission of any planned development, any type of site plan, any type of plat, or any building permit application that is submitted for review by the Development Review Committee, Planning & Zoning Commission or City Council. Such site plan, plat or application shall not be formally approved
without a report from the City Manager (or his/her designee) pertaining to tree preservation which shall make a recommendation regarding the protection and/or removal of the protected trees. If the applicant represents that there are no protected trees on a property, the City Manager (or his/her designee) shall confirm that fact in his/her report.

D. CRITERIA FOR REVIEW OF APPLICATIONS

An application for removal of a protected tree shall be approved when a showing is made that the location of the tree would prevent reasonable access to the property or would preclude reasonable and lawful use of the property. Prior to determining that a protected tree precludes reasonable access or use, design alternatives shall be explored and determined to be inappropriate, impractical and/or cost prohibitive. An applicant shall be responsible for submitting design alternatives and evidence of their impracticality and/or cost prohibitive factors. In all instances, removal of a protected tree shall be approved if it is determined that the tree constitutes a hazard to life or property that cannot reasonably be mitigated without removal, or that the tree is dead, dying or diseased to the point that restoration to sound conditions is not practicable, or that its disease can be expected to be transmitted to other trees and to endanger their health.

E. MITIGATION FOR REMOVAL OF PROTECTED TREES

When it is deemed necessary to approve an application for protected tree removal, a replacement tree or trees shall be required to be planted on the property where the trees are removed in accordance with the following guidelines. The authority approving removal may stipulate other or lesser replacement requirements after considering the following: the size, value, and other features of trees to be removed; related on-site landscaping, trees, and vegetation; property use, visibility and relationships; and other similar factors.

1. Approved Replacement Trees

Trees installed to meet the requirements of this Ordinance shall be of a species indicated as replacement trees (i.e., with an asterisk) in Section 50 (Approved Plant List), and shall be installed at the minimum caliper size indicated in Section 39.5.C or larger.

2. Planting Requirements

Tree replacement must occur within twelve (12) months (i.e., 365 calendar days) of removal of a protected tree or trees. Replacement trees which do not survive for a period of at least 12 months shall be replaced until they survive a 12-month period.

3. Calculation of Required Replacements

The replacement requirement shall be calculated as follows:

a. When protected size is expressed in trunk diameter, the trunk diameter shall be recorded for each protected tree to be removed, with all the respective trunk diameters being added together to produce a total aggregate value expressed in diameter inches. Where only one protected tree is to be removed, its trunk diameter shall represent the total aggregate value.

b. When protected size is expressed in height, the height shall be recorded for each protected tree to be removed, with all the respective heights being added together to produce a total aggregate value expressed in total feet of height. Where only one protected tree is to be removed, its height shall represent the total aggregate value.
c. Replacement trees of sufficient number and trunk diameter and/or total height shall be provided to produce a total aggregate value of at least a three to one (3:1) ratio of the total aggregate value of the tree or trees to be removed. Provided however, that in no case shall the number of replacement trees be required to exceed more than one tree for each 500 square feet of unpaved site area. The replacement ratio shall be reduced to a one-to-one (1:1) basis only in single-family and two-family residential zoning districts, and only if the removal of protected trees was either caused by an act of God or otherwise beyond the property owner's or tenant's control, or if the tree removal was necessitated by damage due to an act of God or otherwise beyond the property owner's or tenant's control.

F. SPECIAL EXCEPTION FOR TREE PRESERVATION

Where removal of a protected tree would become unnecessary if the development standards required by zoning were modified, the application for removal shall be denied and an application to the Board of Adjustment shall be initiated at no fee. The Board shall be authorized to approve a Special Exception for Tree Preservation which may modify the development standards required. The Board shall consider the value and benefit of tree preservation and may approve such modifications to development standards where it determines that such modification can be accommodated without creating adverse impacts on adjacent properties and that such modification is compatible with the surrounding neighborhood.

39.10 MAINTENANCE:

The owner, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not to be limited to, mowing (of grass six inches or higher), edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds, and other such material or plants not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials which die shall be replaced with plant material of similar variety and size, within ninety (90) calendar days. Trees with a trunk diameter in excess of six inches (6") measured twenty-four inches (24") above the ground may be replaced with ones of similar variety having a trunk diameter of no less than three inches (3") measured twenty-four inches (24") above the ground on a caliper-inch for caliper-inch basis (e.g., for a 6" tree, two 3" replacement trees shall be required). A time extension may be granted by the City Manager, or his/her designee, if substantial evidence is presented to indicate abnormal circumstances beyond the control of the owner or his/her agent.

Failure to maintain any landscape area in compliance with this Section is considered a violation of this Section and may be subject to penalties of Section 53.
SECTION 40  ACCESSORY STRUCTURE AND USE REGULATIONS

40.1 In a single-family or multi-family district, an accessory structure is a subordinate or incidental building, attached to or detached from the main building, not used for commercial purposes and not rented. Accessory structures shall be located toward the rear portion of the property, and shall conform with applicable provisions of the Building Code. (Also see Section 42.2E for exterior construction standards.)

40.2 In nonresidential districts, an accessory structure is a subordinate building, the use of which is secondary to and supportive of the main building. Accessory structures shall not be permitted without a main building or primary use being in existence. Accessory structures should, wherever possible, be located toward the rear portion of the property. Accessory buildings shall conform with applicable provisions of the Building Code. (Also see Section 42.2E for exterior construction standards.)

40.3 Accessory dwelling units in the AG, SF-20 and SF-15 zoning districts shall be allowed as an incidental residential use of a building on the same lot as the main dwelling unit and used by the same person or persons of the immediate family, and shall meet the following standards:

A. The accessory dwelling unit must be constructed to the rear of the main dwelling, separate from the main dwelling.

B. The accessory dwelling unit may be constructed only with the issuance of a building permit, and shall be constructed out of the same material as the main structure if over two hundred twenty-five (225) square feet in size.

C. The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be sublet.

D. Setback requirements shall be the same as for the main structure.

E. Accessory dwellings are not permitted without the main or primary structure.

40.4 Accessory dwellings (including garage/accessory dwellings and detached units) may be permitted in other residential zoning districts (see regulations for the specific district, and the Use Charts, Section 37), and shall conform to the height limitations of the zoning district in which it is located. No such accessory dwelling or quarters shall be used or occupied as a place of abode or residence by anyone other than a bona fide caretaker, servant or farm worker actually and regularly employed by the land owner or occupant of the main building, or is a guest or family member of the owner/occupant. Only one (1) accessory dwelling unit (i.e., garage/accessory dwelling, servants/caretakers quarters, etc.) shall be allowed on any lot within a residential zoning district, and they shall be clearly incidental to the primary use. These accessory living structures shall not, in any case, be leased or sold.
AREA REGULATIONS FOR ACCESSORY BUILDINGS IN RESIDENTIAL AND MULTI-FAMILY DISTRICTS:

A. Size of Yards:

1. Front Yard: Detached accessory buildings shall be prohibited in front of the main building.

2. Side Yard: There shall be a side yard not less than three feet (3') from any side lot line or alley line for any accessory building provided that such building is separated from the main building by a minimum distance of ten feet (10'). In the case of an accessory building being closer than ten feet (10') to the main building, the minimum side yard requirements for the main building shall be observed. Accessory buildings adjacent to a side street shall have a side yard not less than fifteen feet (15'). Garages or carports located and arranged so as to be entered from an interior side yard shall have a minimum setback of twenty-five feet (25') from the side lot line. Carports or garages arranged to be entered from the side yard, facing a public street, shall have a minimum distance equal to the required yard for the main building or twenty-five feet (25'), whichever is greater.

3. Rear Yard: There shall be a rear yard not less than three feet (3') from any lot line or alley line or alley line, except that; a) where apartments are permitted, the main building and all accessory buildings shall not cover more than sixty percent (60%) of that portion of the lot lying to the rear of a line erected joining the midpoint of one side lot line with the midpoint of the opposite side lot line; b) carports, garages, or other accessory buildings, located within the rear portion of a lot as heretofore described, constructed closer than ten feet (10') to the main building, shall have a rear yard equivalent to the rear yard requirement for the main building; or c) accessory buildings constructed ten feet (10') or more from the main building shall have a rear yard of three feet (3'). If an alley exists, accessory buildings may be located within three feet (3') of a rear lot line if the maximum (e.g., ridge) height of the building is no greater than eight feet (8') and if a solid fence or wall of the same height is built on the rear lot line to screen the building from property located to the rear. Garages or carports that are arranged so as to be entered by a motor vehicle from an alley or rear alley easement shall be set back from the rear property line or alley easement line a minimum distance of twenty-five feet (25').

B. Carports shall be measured from the part of the carport (usually the roof) that is closest to the street or alley (see Illustration 4), and shall be constructed of materials like the main building(s) on the premises. In single-family and two-family zoning districts, carports shall be a maximum size of forty feet (40') long and twelve feet (12') deep. In multi-family and nonresidential zoning districts, carports shall be a maximum size of three (3) bays in width and one (1) bay in depth.

C. Accessory buildings are not permitted without a main structure.

D. Deleted.

E. Metal accessory buildings less than two hundred twenty-five (225) square feet are permitted but shall not be used as an enclosed parking area or garage.
F. Accessory structures or buildings (not including detached garages) within a single-family detached, two-family or single-family attached residential zoning district shall be limited to two hundred twenty-five (225) square feet in size and twelve feet (12') in overall height. Height shall be measured from grade to the highest point of the structure.

G. Exterior Construction Standards for Accessory Buildings: see Section 42.2(E.).

H. Any accessory structure or building exceeding the above mentioned size or height shall conform to exterior construction standards as provided in Section 42.2 of this Ordinance.

40.6 TEMPORARY ACCESSORY MODULAR BUILDING FOR PUBLIC SCHOOL ONLY

A temporary accessory modular building to be utilized on a temporary basis for a temporary classroom or as an accessory building to a public school will be permitted in all zoning districts with administrative approval and must adhere to all other zoning requirements for that district unless otherwise noted. The temporary classroom or accessory structure may be permitted for a maximum of three (3) years by the Planning Director and the Building Official after such time the permit must be re-applied for and any extension of the permit may be subject to City Council approval.

40.7 TEMPORARY PORTABLE STORAGE CONTAINERS:

A. Temporary Portable Storage Containers are temporary containers or structures used for the storage of items on a property or the moving and/or transfer of personal property to another property or location (“Container”).

B. No more than one (1) Container shall be located on a single lot or parcel of land at any given time.

C. The maximum Container size allowed is eight feet (8') in width, eight feet (8') in height, and sixteen feet (16') in length.

D. No Container may be used as a garage, shed, permanent storage, residence or place of human habitation.

E. A Container may remain on, at or about the same lot or parcel of land for up to thirty (30) days in residential zoning districts, two (2) times per calendar year. The Director of Community Development may grant extensions of up to thirty (30) days each upon the request of the property owner and the establishment by the property owner of a reasonable time frame for completion and removal of the Container.

F. In non-residential zoning districts, a container may be used for construction purposes until a Certificate of Occupancy is obtained. At that time the container must be removed.

G. Containers must be placed on an improved off-street surface.

H. No Container shall obstruct the view and access of pedestrians or motor vehicles entering, crossing or using the street right-of-way.

I. No Container may be placed in any public right-of-way or upon, over or across any
In the event of a natural disaster (fire, flood, hail storm, hurricane, tornado, tropical storm, etc.) the Director of Community Development may approve requests to allow a Container to remain on, at or about the same lot or parcel of land for longer than the thirty (30) day limit set forth herein.
SECTION 41  FENCING, WALLS AND SCREENING REQUIREMENTS

41.1 PURPOSE:

To encourage the most appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations are prescribed for the location and type of various screening devices to be used when required in the various zoning districts or in this Section in accordance with the following standards.

41.2 SCREENING OF NONRESIDENTIAL, MULTI-FAMILY AREAS AND MANUFACTURED HOME PARKS:

A. In the event that multi-family, non-residential uses, or manufactured home parks side or back upon a single-family, two-family or residential PD district, or in the event that any non-residential district sides or backs upon a multiple-family district, a solid brick/masonry screening wall of not less than six feet (6’), nor more than eight feet (8’), in height shall be erected on the property line separating these districts. The purpose of the screening wall or fence is to provide a visual and protective barrier between the properties.

1. The owner of the multi-family or manufactured home property shall be responsible for and shall build and maintain the required wall on the property line dividing the property from the single-family or duplex residential district.

2. When screening is required between nonresidential and residential uses, it shall be the responsibility of the nonresidential use to construct and maintain the screening wall.

3. Any screening wall or fence required under the provisions of this Section or under a Conditional Use Provision, Planned Development district, or other requirement shall be constructed of masonry, reinforced concrete, or other similar suitable permanent materials which do not contain openings. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or fence.

4. Alternative equivalent screening may be approved through the site plan approval process, Section 12.

B. In nonresidential, multi-family and manufactured home districts, no fence or wall shall be erected in any front yard or side yard which is adjacent to a public street unless the fence/wall is required to screen the development from an adjacent residential area (particularly if the residence has, or could have, a back yard fence that would be exposed to view from the street if the required screening wall were not extended out to the street right-of-way line). In this case, the screening fence/wall shall be extended out to the street right-of-way line by the developer of the nonresidential, multi-family or manufactured home development, and the fence/wall shall be finished on both sides in a manner/color that is compatible to the exterior finish materials used on the main buildings (except for a manufactured home park). Screening fences/walls shall be placed such that they do not impede visibility for vehicles entering or exiting the nonresidential, multi-family or manufactured home development (see Section 43.8 for sight visibility requirements).

C. All fences require permits.

D. See Section 43.8 for sight visibility requirements for fences and screening walls.
E. Open storage of materials, commodities or equipment (see Section 37.2, Use Charts, for zoning districts permitting outside storage) shall be screened with a minimum six-foot (6') fence or wall, and shall not be visible from the street or from adjacent property. (See definition of outside storage in Section 49.)

F. In districts permitting open storage, screening shall be required only for those areas used for open storage. A six-foot (6') screening fence or wall shall be provided and maintained at the property line adjacent to the area to be screened by one or a combination of the following methods:

1. Solid masonry (brick, concrete block or concrete panels)
2. Wrought iron with solid landscape screening
3. Alternate equivalent screening may be approved through the site plan approval process under Section 12.
4. **Screening Outdoor Display (Permanent)** - Outdoor display areas shall be screened from view on all sides and the rear by a masonry wall where any one of the side or rear property lines of the subject property area abuts a more restrictive zoning district. Walls or fences shall not be less than six (6) feet in height nor exceed eight (8) feet in height. No sales display may exceed the height of the screening wall or fence. If a screening fence or wall is located on the property line, no additional fence or wall is needed to screen an outdoor sales display area; provided, the sales display does not exceed the height of and is not visible behind the fence or wall on the property line.

No outside storage may exceed the height of the fence. Outside storage exceeding eight feet (8') shall require a Conditional Use Provision.

G. Refuse storage areas (including all dumpsters) that are not within a screened rear service area and which are visible from a public right-of-way for all nonresidential, single-family attached, multi-family and manufactured home park uses shall be visually screened. A minimum six-foot (6') tall solid masonry wall shall be required on at least three sides of any refuse container (see Illustration 11 for refuse container enclosure diagrams). The fourth side, which is to be used for garbage pickup service, shall provide a gate to secure the refuse storage area. The masonry wall shall also extend a minimum height of one foot (1') above the refuse container situated in the refuse storage area. Double-bay enclosures, accommodating both refuse and recycling containers, shall be required where both refuse and recycling containers are an integral part of the operation. Bollards shall be used along all sides of the masonry wall to protect the entire enclosure from damage by vehicles. Bollards must be a minimum of 48" tall. Alternate equivalent screening methods may be approved through the site plan approval process, Section 12. Landscaping adjacent to the refuse storage area shall be provided through the use of shrubs and/or trees. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies.

Adequate reinforced paved areas shall be provided for refuse facilities and their approaches for loading and unloading, as per Illustration 11. A concrete pad of at least six-inch (6") concrete, 6,000 pounds per square inch (psi), with number three (3) rebar, twenty-four inches (24") on center, shall be provided.

H. Plans and specifications for screening and/or fencing around ground-mounted utility structures (e.g., transformers, natural gas regulating stations, etc.) shall be approved
in writing by the affected utility company, and shall be submitted, along with an
approval letter/document from the utility company, to the City Manager (or his/her
designee) for review and approval prior to construction of said screening/fencing.

41.3 FENCES IN RESIDENTIAL AREAS:

A. Any fence or wall located to the rear of the minimum required front yard line shall not exceed eight feet (8') in height.

B. Except as provided by (1.) below, no fence or wall shall be permitted within the required front yard of any single-family or duplex residential lot which is adjacent to a public street. No residential fence shall be closer than fifteen feet (15’) to a public street except in cases where the side or rear building line of the yards on continuous corner lots adjoin, the fence may be constructed out to the property line of said side yard such that the street side yard may be included as part of the lot’s back yard area.

1. Decorative fences with openings not less than fifty percent (50%) of the fence area and not exceeding four feet (4’) in height are permitted in front yards. Chain link, woven wire mesh or similar materials are not considered decorative fencing.

Decorative ornamental iron fencing may be constructed up to six feet (6’) in height within the front yard only in the AG zoning district, and only on lots exceeding one (1) acre in size in other districts. Such fences shall have openings not less than fifty percent (50%) of the fence area, and shall not interfere with traffic visibility (see Section 43.8).

D. All fences require permits.

B. Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of three (3) or more acres.

F. Gates designed for vehicular access and all garage doors shall be set back from the property line a minimum of twenty-five feet (25’).

G. Fences around swimming pools shall comply with the Standard Swimming Pool Code and the City of Forney’s codes/ordinances pertaining to same.

H. See Section 43.8 for sight visibility requirements for fences and screening walls.

I. Special purpose fencing, such as fencing around tennis courts, is allowed only upon issuance of a permit from the City. The maximum height of such fencing shall be twelve (12) feet.

J. All new fences above fifty-two inches (52") in height that require a permit shall be constructed using a minimum of two and three-eights inch (2 3/8") diameter galvanized steel vertical posts. Posts shall be spaced a maximum of eight feet (8’) on center, set in minimum three-foot (3’) concrete footings. Stone or masonry columns are permissible substitutes for galvanized posts, subject to review by the Chief Building Official. Fences shall be constructed so that the fence posts face the interior side of the fence and, with the exception of the top cap, are not visible from the public right-of-way.
SECTION 42  EXTERIOR CONSTRUCTION AND DESIGN REQUIREMENTS

42.1 DEFINITIONS:

For the purpose of this Ordinance, the following definitions shall apply:

A. **Masonry Construction** – This term shall be construed to mean that form of construction composed of brick, stone, decorative concrete block or tile, or other similar building units or materials (or combination of these materials) laid up unit by unit and set in mortar, and shall exclude wall area devoted to doors and windows. As applicable to meeting the minimum requirements for the exterior construction of buildings within each zoning district, this term shall include the following materials:

1. **Hard fired brick** (kiln fired clay or slate material, can include concrete brick if it is to the same ASTM standard for construction as typical hard fired clay brick; severe weather grade; minimum thickness of three inches when applied as a veneer; shall not include unfired or underfired clay, sand or shale brick);

2. **Stone** (includes naturally occurring granite, marble, limestone, slate, river rock, and other similar hard and durable all-weather stone that is customarily used in exterior building construction; may also include cast- or manufactured-stone product, provided that such product yields a highly textured, stone-like appearance, its coloration is integral to the masonry material and shall not be painted on, and it is demonstrated to be highly durable and maintenance-free; natural or man-made stone shall have a minimum thickness of three and five-eighths inches when applied as a veneer);

3. **Decorative concrete block** (highly textured finish, such as split-face, indented, hammered, fluted, ribbed or similar architectural finish; coloration shall be integral to the masonry material and shall not be painted on; minimum thickness of three and five-eighths inches when applied as a veneer; shall not include lightweight or featherweight concrete block or cinder block units); *does not qualify as “masonry construction” in the CBD and CBT zoning districts;*

4. **Concrete pre-cast or tilt-wall panels** (only allowed if a highly textured, architectural finish which is at least as textured in appearance and physically as face brick or stone; can be brick-like or stone-like in appearance; coloration shall be integral to the masonry material and shall not be painted on; shall not include smooth, untextured or inadequately textured finishes); *does not qualify as “masonry construction” in the CBD and CBT zoning districts;* and

5. **Glass blocks or tiles** (of the type customarily used in exterior building construction; shall not comprise more than 30% of any exterior wall surface, nor more than 20% of the building’s total exterior on all wall surfaces combined; shall not be highly reflective or mirror-like finish); *does not qualify as “masonry construction” in the CBD and CBT zoning districts.*

The following materials shall not qualify nor be defined as “masonry construction” in meeting the minimum requirements for the exterior construction of buildings, unless specifically approved by the City Council on an approved site plan for single-family attached, multi-family, institutional, office, retail, commercial, industrial, or other non-
residential structures. All single-family detached residential construction must adhere to the section as applicable.

6. Stucco, exterior plaster, adobe or mortar wash surface material;
7. Exterior insulation and finish system (EIFS), acrylic matrix, synthetic plaster, or other similar synthetic material;
8. Cementitious fiber board siding (such as “Hardy Plank”, Hardy Board”, etc.);
9. PVC or other plastic-based siding material;
10. Lightweight or featherweight concrete blocks or cinder blocks; or
11. Any other cementitious product not listed above.

B. Standard Masonry Construction – See “Masonry Construction”.

C. Original Townsite Area – In that area generally thought of as the City’s original development and business area, certain standards specifically cited within the Zoning Ordinance, and possibly within other applicable City Codes, may differ from those required in newly developing areas of the City due to the original townsite’s unique character and history (see the CBD and CBT zoning districts for development and redevelopment standards).

42.2 MINIMUM EXTERIOR CONSTRUCTION STANDARDS:

The standards and criteria contained within this subsection are deemed to be minimum standards and shall apply to all new building construction occurring within the City. (See subsection D for exceptions.)

A. Single-Family and Duplex Residential:

1. All single-family and duplex homes shall be of exterior fire-resistant construction, and shall have a minimum of 90% masonry construction, more-or-less equally distributed around all sides of the home, for the first story of the structure, and a minimum of 75% masonry construction, more-or-less equally distributed around all sides, for any additional story above the first floor.

2. Within the City of Forney’s original townsite area (where neighborhood compatibility is an issue), all new single-family and duplex homes shall have a minimum of 50% standard masonry construction and at least an additional 30% cementitious fiber board “simulated wood siding”, or other cementitious siding material, such that at least 80% of the total exterior surface of the home is covered with durable, low maintenance, masonry-like materials. The design and coloration of the home’s exterior shall be, to the greatest extent possible, compatible with other nearby homes along the street, and shall complement and enhance the overall appearance of the neighborhood.

3. Areas of a home’s façade that are devoted to windows, doors, covered porches or patios that have a minimum size of four feet (4’) deep and eight feet (8’) wide (i.e., 32 square feet), chimneys, breezeways or courtyards shall not be counted as “wall surface” when calculating the masonry requirement.
4. Concrete, concrete block or metal exterior construction is not permitted on any single-family or duplex residential structure.

5. Roof materials for a single-family or duplex structure shall be comprised of an architectural, laminated, dimensional composition shingle (30-year minimum), flat pan standing seam metal roofing (only with a factory baked-on muted color finish; no bright colors or natural-colored metal roofing allowed), or terra cotta or slate tile in muted colors. Minimum roof pitch shall be at least 8:12, unless otherwise stated in the applicable zoning district or PD ordinance.

6. All chimney stacks shall be 100 percent masonry. Masonry shall be construed to mean that form of construction composed of brick or stone, or combination of these two materials, synthetic stone/masonry, stucco or cementacious board.

7. The elevation of a single family or duplex structure (including any garage) facing the street shall contain at least one section of at least twenty (20%) percent of the total street elevation that is offset at least two (2) feet from the remainder of the street elevation. The plate line of the exterior wall facing the street shall contain at least one section of at least twenty (20%) percent of the total street elevation that is at least one (1) foot higher than the remainder of the plate line of the exterior wall facing the street.

B. Multi-Family and Single-Family Attached Residential:

1. All multi-family and single-family attached residential dwelling units shall be of exterior fire-resistant construction, and shall have a minimum of 90% masonry construction, more-or-less equally distributed around all sides of the home/building, for the first story of the structure, and a minimum of 75% masonry construction, more-or-less equally distributed around all sides, for any additional story above the first floor.

2. Areas of a façade that are devoted to windows, doors, covered porches or patios that have a minimum size of four feet (4’) deep and eight feet (8’) wide (i.e., 32 square feet), chimneys, breezeways or courtyards shall not be counted as “wall surface” when calculating the masonry requirement.

3. Concrete, concrete block, or metal exterior construction is not permitted on any multi-family or single-family attached residential structure.

4. Roof materials for a multi-family or single-family attached structure shall be comprised of laminated, dimensional composition shingle (25-year minimum), flat pan standing seam metal roofing (only with a factory baked-on muted color finish; no bright colors or natural-colored metal roofing allowed), or terra cotta or slate tile in muted colors. Minimum roof pitch shall be at least 6:12, unless otherwise stated in the applicable zoning district or PD ordinance, and except for “Santa Fe” (with a flat roof and highly articulated parapet that conceals the roof and any roof-mounted equipment), “Texas ranch house” (with low pitched roofs, large eaves/overhangs, rambling design), or other uniquely styled architecture.

C. Non-Residential and Institutional Buildings:

1. All non-residential and institutional buildings in any zoning district except LI shall have a minimum of 90% masonry construction, more-or-less equally distributed
around all sides of the building, for the first story (i.e., below the first floor ceiling plate), and a minimum of 80% for any story above one. In the LI zoning district only, any exterior façade that faces a public right-of-way or is determined to be the primary entryway of the building shall have a minimum of eighty percent (80%) of the surface area of the exterior walls constructed from masonry materials (as defined by this ordinance). The remaining percentage and remaining facades may use metal construction. Metal building construction shall be allowed only if the City Council determines it to be in compliance with the following: consistent with other applicable design standards; avoids continuous vertical seams; avoids stark and uninterrupted panels, painted to compliment the brick or stone colors included in building design seeks to hide or disguise wall fastening systems and seams; and features elements such as curved metal corners, deep reveals at construction joints or other details to add interest to the architectural design.

The following images represent building designs that should be considered generally acceptable or unacceptable, but do not constitute the acceptance or denial of any specific building design.

**ACCEPTABLE**
NOT ACCEPTABLE
2. Areas of a façade that are devoted to windows, doors, covered porches or stoops, breezeways or courtyards shall not be counted as “wall surface” when calculating the masonry requirement.

3. Metal exterior construction is prohibited on any non-residential structure or institutional structure which is located within any residential zoning district, save and except the following:

1. Structures located on a through lot that both front and back onto a public street, with a rear façade located more than 1,000 feet from the public street, may use exterior construction on the rear façade upon approval of the Site Plan; and

2. Structures within any non-residential zoning district may use metal on up to twenty percent (20%) of the façade as architectural accents upon approval of the Site Plan.

The use of any type of metal for exterior building construction shall be clearly shown on the Site Plan and shall only be allowed with Site Plan approval. The exterior finish of metal used in exterior construction shall be of a permanent, maintenance free nature such as a baked-on finish unless approved otherwise on the Site Plan. The use of corrugated, galvanized, aluminum-coated, zinc-coated, unfinished, or similar metal surfaces shall be prohibited unless approved otherwise on the Site Plan.
4. Any roof materials for a non-residential or institutional structure that are visible from a public street shall be comprised of laminated, dimensional composition shingle (25-year minimum), flat pan standing seam metal roofing (only with a factory baked-on muted color finish; no bright colors or natural-colored metal roofing allowed), or terra cotta or slate tile in muted colors. Minimum roof pitch shall be at least 6:12, unless otherwise stated in the applicable zoning district or PD ordinance, and except for flat-roofed structures that shall have a highly articulated parapet that conceals the roof and any roof-mounted equipment.

D. Exemptions: The following structures are exempt from the masonry construction requirements outlined within this subsection:

1. Barns on property of one acre or more, provided that such barns are used solely for agricultural purposes (as distinguished from commercial purposes);

2. Mobile homes and HUD-Code manufactured homes otherwise lawfully existing as of August 19, 2003 (the effective date of this Ordinance);

3. Historic structures (with an “H” zoning designation);

4. Accessory building in a single-family, duplex or single-family attached zoning district that has equal to or less than two hundred twenty-five (225) square feet of floor area;

5. Accessory building (of any size) in the Agricultural (AG) zoning district, or in a single-family, duplex or single-family attached zoning district that is within the City’s original townsite area (shall be constructed of the same materials, colors and finishes as the main building on the lot, tract or site);

6. Temporary construction buildings, field offices, sales offices and temporary classroom or storage buildings for a public school only (provided that such facilities are legally permitted by the City for a specific period of time, and provided that they are completely removed from the premises upon expiration of the permit or upon completion of construction, whichever occurs first); and

7. Residential and non-residential structures legally in existence as of August 19, 2003 (the effective date of this Ordinance), and any additions to such structures that do not cumulatively exceed 20% of the original building size (as it existed on August 19, 2003). Such additions shall be allowed to be constructed of the same exterior materials as the original building.

E. Accessory Buildings:

1. In the Agricultural ("AG") zoning district, or in a single-family, duplex or single-family attached zoning district that is within the City’s original townsite area – See Subsection D.5. under “Exceptions” above.

2. In a single-family, duplex or single-family attached zoning district (but not within the City’s original townsite area) – Accessory buildings that have over two hundred twenty-five (225) square feet of floor area shall conform to the minimum exterior construction standards for the main building on the lot, tract or site, and shall be compatible in exterior finishes and colors as the main building.
3. In a multi-family or non-residential zoning district – Accessory buildings (any size) shall conform to the minimum exterior construction standards for the main building on the lot, tract or site, and shall be architecturally compatible in design and constructed of the same exterior finishes and colors as the main building.

F. Alternative Exterior Materials:

1. All written requests for alternative exterior building materials (including roof pitch and materials) shall be clearly noted and described in detail on a color façade plan that is submitted along with the site plan (for multi-family, single-family attached and non-residential structures only). The City may require submission of an actual sample(s) of the proposed exterior finish material(s) along with the façade plan and the site plan.

2. The Planning & Zoning Commission may recommend, and the City Council may approve, an alternative exterior construction material(s) if it is determined to be equivalent or better than the exterior materials otherwise required by this Subsection and by the City’s Building Code as part of the site plan approval process.

3. Consideration for exceptions to the above exterior construction requirements shall be based only upon the following:
   (1) Architectural design, creativity and innovation;
   (2) Compatibility with surrounding structures;
   (3) Relative ease of maintenance of the material(s);
   (4) Long-term durability and weather-resistance of the material(s); and
   (5) Long-term stability in property value due to the high quality of the material(s).
SECTION 43  SUPPLEMENTAL REGULATIONS

43.1  A. **Measuring Setbacks** - All setback measurements shall be made in accordance with Illustration 4.

B. **Configuration of Lots** - Wherever possible, flag lots (i.e., lots with minimal, or panhandle type, frontage) shall be avoided. Similarly, through (i.e., double frontage) lots (particularly within residential zoning districts) shall also be avoided wherever possible. (Also see Subdivision Ordinance for regulations pertaining to the configuration of lots.)

C. **Building Setbacks** – All setbacks established on a recorded plat shall be enforced, even if they exceed the required setbacks in this Ordinance. Setbacks established on a recorded plat shall only be changed through replat proceedings (see Subdivision Ordinance).

43.2  **FRONT YARD:**

A. On all corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless approved specifically otherwise on a final plat. Where single-family and duplex lots have double frontage, extending from one street to another, or are on a corner, a required front yard shall be provided on both streets unless a side or rear yard building line has been established along one frontage on the plat, in which event only one required front yard need be observed. The side and/or rear yards in the case of single-family and duplex uses shall be identified and the front of the structure shall not face the side or rear yard (see Illustration 12).

B. Where the frontage on one side of a street between two intersecting streets is divided by two or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage (see Illustration 3).

C. The front yard shall be measured from the property line to the front face of the building, to the nearest supporting member of a covered porch or terrace, or to any attached accessory building. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed four feet (4’), and subsurface structures, platforms or slabs may not project into the front yard to a height greater than thirty inches (30”) above the average grade of the yard (see Illustration 4). Open porches extending into the front yard shall not be enclosed.

D. Minimum lot widths for lots with predominate frontage on the curved radius of a street (e.g., cul-de-sac or "eyebrow" portion of a street) shall be measured as the linear distance of the curved front building line, and shall be shown on the subdivision plat. Lot widths for all lots shall be as set forth in the respective zoning district for each lot. The front building line required in a zoning district may be increased by up to five feet (5’) on cul-de-sac and street eyebrow lots in order to comply with the minimum lot width required in that zoning district, provided that an adequate building pad area (i.e., has adequate depth) is retained on the lot after moving the front building line back.

E. See Section 37.1 for special front yard regulations and setbacks for gasoline service station pump islands and canopies.
F. Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

G. If 50% or more improved with existing buildings, and if the front yard setback for these existing buildings is greater than the front yard required for that zoning district in this Ordinance, then no new building shall be constructed to project beyond the least front yard depth of the existing buildings without a variance from the Zoning Board of Adjustment.

43.3 SIDE AND REAR YARDS:

A. On a corner lot used for one or two-family dwellings, both street exposures shall be treated as front yards on all lots, except that where one street exposure is designated as a side yard for both adjacent lots or where the two lots are separated by an alley, street right-of-way, creek/flood plain area, or other similar phenomenon. In such case, a building line may be designated by the City Manager, or his/her designee, with a minimum side yard of fifteen feet (15') or more (as determined by the applicable zoning district standards). On lots which were official lots of record prior to the effective date of this Ordinance, the minimum side yard adjacent to a side street shall comply with the minimum required side yard for the respective district.

B. Every part of a required side and rear yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, and other architectural features not to exceed twelve inches (12") into the required side or rear yard, and roof eaves projecting not to exceed thirty-six inches (36") into the required side or rear yard. Air conditioning compressors and similar equipment are permitted in the side or rear yard. Open porches extending into a side or rear yard shall not be enclosed. A canopy or awning may project into a required side or rear yard provided that it is not enclosed, and provided that it is at least five feet (5') from the property line. The minimum separation between buildings shall be maintained, per the City's Building Code.

C. Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

43.4 SPECIAL HEIGHT REGULATIONS:

A. In any zoning district, water stand pipes and tanks, church steeples, domes and spires, ornamental cupolas, uninhabited (or one-man overseer's penthouse not exceeding fifty square feet in size) utility or industrial structures, and City or School District buildings may be erected to exceed the height limit, as specified in the particular zoning district, provided that two (2) additional feet shall be added to the width and depth of front, side, and rear yards for each foot that such structures exceed the district height limit.
43.5 COMMUNICATIONS ANTENNAS AND SUPPORT STRUCTURES/TOWERS:

A. APPLICABILITY:

1. These regulations apply to all commercial and amateur antennae and support structures, unless exempted in Subsection 2 below.

2. Direct broadcast satellite reception, multi-channel multi-point distribution (as defined by the FCC), television reception antennae, and amateur radio antennae meeting the following requirements do not require a permit unless mounted on a pole or mast that is twenty feet (20') or more in height:
   a. In any zoning district, antennae that are one meter (i.e., 39 inches) or less in diameter;
   b. In a non-residential zoning district, antennae that are two meters or less in diameter;
   c. In any zoning district, antennae designed to only receive television broadcasts;
   d. In any zoning district, amateur radio antennae concealed behind or located upon or within attics, eaves, gutters or roofing components of the building; and
   e. In any zoning district, amateur radio ground-mounted whips and wire antennae, unless mounted upon a pole or mast over twenty feet (20') in height.

3. Support structures or antennae legally installed before the effective date of this Ordinance are not required to comply with this Ordinance, but must meet all applicable State, Federal and local requirements, building codes and safety standards.

B. SPECIAL DEFINITIONS - For the purpose of this Section, the following special definitions shall apply:

1. **Antenna, Microwave Reflector & Antenna Support Structure** - An antenna is the arrangement of wires or metal rods used in transmission, retransmission and/or reception of radio, television, electromagnetic or microwave signals (includes microwave reflectors/antennae). A microwave reflector is an apparatus constructed of solid, open mesh, bar-configured, or perforated materials of any shape/configuration that is used to receive and/or transmit microwave signals from a terrestrial or orbital located transmitter or transmitter relay. Microwave reflectors are also commonly referred to as satellite receive only earth stations (T.V.R.O.S.), or satellite dishes. An antenna support structure is any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of supporting one or more antennae or microwave reflectors.

2. **Antenna (Non-Commercial/Amateur)** - An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business and/or for financial gain. A
satellite dish antenna not exceeding six feet (6') in diameter shall also be considered as a non-commercial antenna.

3. **Antenna (Commercial)** - An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain (e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A satellite dish antenna that exceeds six feet (6') in diameter shall also be considered as a commercial antenna.

4. **Collocation** - The use of a single support structure and/or site by more than one communications provider.

5. **Communications Operations (Non-Commercial/Amateur)** - The transmission, retransmission and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use, and not for the purpose of operating a business and/or for financial gain.

6. **Communications Operations (Commercial)** - The transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain.

7. **Height** - The distance measured from the finished grade of the lot/parcel to the highest point on the support structure or other structure, including the base pad and any antennae.

8. **Radio, Television or Microwave Tower** - See “Antenna, Microwave Reflector & Antenna Support Structure”.

9. **Telecommunications Tower or Structure** - See “Antenna, Microwave Reflector & Antenna Support Structure”.

10. **Temporary/Mobile Antenna** - An antenna and any associated support structure/equipment (including, but not limited to, a support pole, a vehicle, etc.) that is placed and/or used on a temporary basis only (i.e., not intended to be permanent), usually in conjunction with a special event, news coverage or emergency situation, or in case of equipment failure or temporary augmentation of permanent communications equipment.

11. **Wireless Communication Tower or Structure** - See “Antenna, Microwave Reflector & Antenna Support Structure”.

C. **GENERAL REQUIREMENTS:**

1. Antennae and support structures may be considered either principal or accessory uses.

2. Antenna installations shall comply with all other requirements of the Zoning Ordinance and the Code of Ordinances with the exception of those specifically cited within these regulations.

3. No commercial antenna support structure shall be closer to any residential district boundary line or residential dwelling than a distance equal to twice the height of
the support structure. Such setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a residential district boundary line or residential dwelling. Setbacks from residentially zoned property do not apply to antennae attached to utility structures that exceed fifty feet (50') in height, or to antennae placed wholly within or mounted upon a building.

4. No amateur or commercial antenna, antenna support structure, microwave reflector/antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards.

5. All antennae and support structures must meet or exceed the current standards and regulations of the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), and/or all other applicable Federal, State and local authorities. If those standards change, then the owner/user of an antenna or support structure must bring the antenna/structure into compliance within six (6) months or as may otherwise be required by the applicable regulating authority.

6. A building permit is required to erect or install an antenna, antenna support structure and related structures/equipment, unless the particular antenna is exempt from these regulations (see Section 43.5A. above). All installations shall comply with applicable Federal, State and local building codes and the standards published by the Electronic Industries Association. Owners/users shall have thirty (30) calendar days after receiving notice that an installation is in violation of applicable codes in order to bring it into full compliance.

7. Antennae (amateur or commercial) shall not create electromagnetic or other interference with the City of Forney’s and the County’s radio frequencies and public safety operations, as required by the FCC. Antennae also shall not interfere with radio or television reception of nearby property owners. In no manner shall the use of such equipment infringe upon adjoining property owners.

8. No antenna or support structure shall be located so as to create a visual obstruction within critical visibility areas (such as at street intersections or where a private driveway enters a roadway) or a traffic safety problem.

9. Safeguards shall be utilized to prevent unauthorized access to an antenna installation (e.g., on a water tower or utility structure, a free-standing installation, etc.). Safeguards include certain devices identified/recommended by the manufacturer of the antenna or support structure, a fence, a climbing guard, or other commercially available safety devices. Climbing spikes or other similar climbing device, if utilized, shall be removed immediately following use.

10. Temporary antennae shall only be allowed in the following instances:
   a. In conjunction with a festival, carnival, rodeo or other special event/activity;
   b. In case of an emergency (e.g., severe weather, etc.) or a news coverage event;
   c. When needed to restore service on a temporary basis after failure of an antenna installation. The City must be notified within 72 hours of the placement of a temporary antenna. If the temporary antenna is to be needed for more than seven (7) calendar days, then the owner/user must apply for
and acquire a permit for the temporary installation on or before the eighth (8th) day following initial placement of the antenna.

11. Collocation is greatly encouraged by the City.

a. All new support structures over fifty feet (50') in height shall be constructed to support antennae for at least two carriers, unless the structure is an alternative or stealth design, or the support structure is replacing an existing utility structure or light standard. Sufficient area for associated structures and equipment shall also be provided.

b. A support structure which is modified or reconstructed in order to accommodate collocation shall be of the same type, design and height as the existing structure, and it may be moved on the same property within fifty feet (50') of its original location provided that it is not moved any closer to residentially zoned property (if the structure was allowed by CUP, then its new location shall be within the physical/land boundaries of the CUP). The original (i.e., former) support structure shall be removed from the property within ninety (90) calendar days following completion of the new structure.

c. Where an additional antenna is to be attached to an existing support structure that already has an antenna mounted upon it, the new antenna shall comply with and be compatible with the design of the existing antenna on the collocated structure.

12. Support buildings and equipment storage areas/buildings shall be screened from public view if mounted on a rooftop, and such screening device shall be architecturally compatible with the design and materials of the building. When ground mounted, they shall meet all applicable front, side and rear yard setback requirements of the applicable base zoning district. They shall also be of a neutral color and shall use exterior finish colors and materials that are compatible with nearby structures. They shall be screened from public view by a dense, opaque evergreen landscaped screen with an initial planting height of three feet (3'), and which will attain an ultimate height of six feet (6') at maturity. A six-foot (6') solid masonry wall may be used in lieu of the landscaped screen provided exterior finish materials are compatible with nearby structures. The use of a wood fence for screening is prohibited, and wrought iron or chain link may only be used in conjunction with a landscaped screen as specified above.

13. Satellite dishes and other similar antennae shall be permitted on the roof of a building, as long as satellite dishes do not exceed one meter (39") in diameter and antennae do not extend over ten feet (10') above the roof of the building. A letter certifying the roof's/building's structural stability shall be written and sealed by a registered architect or engineer, and shall be submitted to the City Manager, or his/her designee, prior to any approval of a roof-mounted antenna. Roof-mounted antennae that comply with the provisions of these regulations do not require additional yard setbacks or setbacks from residential areas or dwellings.

14. Only one (1) amateur antenna/support structure shall be permitted per residential lot, except that a maximum of two (2) satellite dishes may be allowed if both units are no larger than one meter (39") in diameter (only one allowed if over one meter in diameter). Satellite dishes in any residential district shall not exceed twelve feet (12') in diameter, and must be permitted by the City Manager, or his/her designee.
15. All commercial signs, flags, lights and attachments other than those required for emergency identification, communications operations, structural stability, or as required for flight visibility by the FAA and/or FCC shall be prohibited on any antenna or antenna support structure. However, lights may remain or be placed upon light standards that are altered or replaced in order for them to serve as antenna support structures provided that said lights are not commercial (i.e., for-profit) in nature, and provided that said lights are placed/replaced as the same size, configuration, number of bulbs, degree of luminance, etc. as they previously existed prior to support structure modification/replacement.

16. Any publicly owned antennae or antenna support structures shall be permitted in any zoning district (e.g., public safety communications, etc.).

17. In all residential zoning districts (including Agricultural, SF-20, SF-15, SF-11, SF-8, SF-6, SF-PH, 2F, SFA, MF-15 and MH), commercial antennae and antenna support structures are prohibited, except as specified within this Section.

   a. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/ distribution tower, elevated water storage tank, etc.) provided that the utility structure exceeds fifty feet (50') in height, and provided that the antenna does not extend more than ten feet (10') above the height of the utility structure (see Subsection 43.5C.3. above).

   b. A commercial antenna may be placed wholly within any building permitted in the zoning district (see Subsection 43.5C.3. above). A commercial antenna may also be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.

18. In nonresidential zoning districts (including O, NS, GR, CBD, C, MU and LI), commercial antennae and antenna support structures are allowed as follows:

   a. Commercial antenna support structures are allowed by right if they do not exceed the maximum building height allowed for the zoning district in which they are located. Structures in excess of the height allowed in the zoning district may be allowed by Conditional Use Provision (CUP) provided the structure conforms in all other aspects of the base zoning district’s regulations, and provided that all applicable setback requirements are satisfied. In all nonresidential zoning districts, antenna support structures must meet all setback requirements, particularly from residential zoning districts.

   b. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/ distribution tower, elevated water storage tank, etc.) provided that the utility structure exceeds fifty feet (50') in height, and provided that the antenna does not extend more than ten feet (10') above the height of the utility structure (see Subsection 43.5C.3. above).

   c. A commercial antenna may be placed wholly within any building permitted in the zoning district (see Subsection 43.5C.3. above). A commercial antenna may also be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design, and
it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.

43.6 **MINIMUM DWELLING UNIT AREA:**

Minimum dwelling unit areas specified in this Ordinance shall be computed exclusive of breezeways, garages, open porches, carports and accessory buildings.

43.7 **OPEN STORAGE AREAS:**

Open long-term storage of materials, commodities or equipment (where allowed in the specific zoning district) shall be located behind the front building line and observe all setback requirements for the main structure or building. This standard does not apply to short-term outside display (see definition of outside display in Section 49; see screening requirements in Section 41; and see special requirements for outside display in Sections 27 - 33).

43.8 **SIGHT VISIBILITY:**

A. Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding, landscaping or other feature obstructs the vision of a motor vehicle driver approaching any street, alley, or driveway intersection. Whenever an intersection of a street(s), alley, and/or driveway occurs, a triangular visibility area shall be created. Landscaping, fences, walls, earthen berms and other features within the triangular visibility area shall be designed so as to provide unobstructed cross-visibility at a level between twenty-four inches (24") and eight feet (8') above the ground. The triangular areas are defined as follows:

1. Alley intersects a public street right-of-way - The areas on both sides of the intersection of an alley and a public street shall have a triangular visibility area with two (2) sides of each triangle being a minimum of ten feet (10') in length from the point of intersection, and the third side being a line connecting the ends of the other two (2) sides (see Illustration 12).

2. Street intersection or intersection of private driveway onto a public street - These areas shall have a triangular visibility area with two (2) sides of each triangle being a minimum of twenty-five feet (25') in length along the right-of-way lines (or along the driveway curb line and the street right-of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two (2) sides (see Illustration 12).

B. Shrubs and plant materials that are typically less than twenty-four inches (24") in height at maturity may be located within sight visibility areas provided that they are kept maintained at a maximum height of twenty-four inches (24").

C. A limited number of single-trunked trees having a clear trunk (i.e., branching) height of at least eight feet (8') may be located within sight visibility areas provided that they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area defined above, and provided that they are spaced and positioned such that their trunks will not produce a visibility inhibiting, "picket-fence" effect when they attain mature size.

43.9 **NONRESIDENTIAL STRUCTURES IN RESIDENTIAL DISTRICTS:**
A. Nonresidential structures (e.g., churches, schools, day care centers, etc.) which are permitted in residential zoning districts (AG, SF-20, SF-15, SF-11, SF-8, SF-6, SF-PH, 2F, SFA, MF-15 and MH) shall be designed and constructed such that they conform to the development standards set forth in the Retail (R) zoning district (i.e., with respect to maximum height, minimum lot size, minimum front/side/rear setbacks, screening, exterior building construction, etc.) unless otherwise stated in this Ordinance or in an ordinance establishing a PD.

43.10 PAD SITES:

A. Pad sites, which shall be defined as sites or lots that are no larger than two (2) acres in size, shall not occupy more than fifty percent (50%) of any street frontage of a development.

B. Buildings on pad sites may not block more than twenty-five percent (25%) of the view into a development.

43.11 ACCESS STANDARDS FOR NONRESIDENTIAL AND MULTI-FAMILY LOTS:

A. All nonresidential lots (including pad sites) shall share driveway curb openings via mutual access easements from one lot to adjacent lots (for fire and emergency access, as well as for public convenience).

B. All nonresidential and multi-family lots (including pad sites) shall have either direct or indirect (via mutual access/fire lane easements on adjacent property) access to a median opening if located on a median-divided roadway (existing or planned in the future). Driveways for all nonresidential and multi-family lots (including pad sites) shall align, to the greatest extent possible, with any existing or proposed driveways on the other side of any type of roadway.

43.12 OUTDOOR VENDING MACHINES:

A. General

1. All outdoor vending machine installations shall require review and approval of an Outdoor Vending Machine application addressing the location, signage, lighting and screening prior to installation. The issuance of a building permit is also required to field verify compliance with the installation guidelines.

2. Newspaper racks, phones, and fixed automatic teller machines are not considered or regulated as outdoor vending machines as part of this Zoning Ordinance.

B. Location and Quantity

1. The preferred location for all vending machines is inside buildings.

2. Outdoor vending machine installations are prohibited in all zoning districts, planned development districts and historic overlay districts.

3. Outdoor vending machines shall not be placed in direct view of adjacent residential uses.

4. Outdoor vending machines shall be recessed into the building in new
construction such that the face(s) of the vending machines shall be flush with the wall and located to minimize their visibility from the street.

5. If multiple outdoor vending machines are proposed for an outdoor location, they shall be located within a clearly delineated and contained area. Decorative structures, including, but not limited to, screen or screening walls, trellises, columns, and roof covers, shall be used to contain the vending machine area if the existing architecture or building form does not already provide a contained location.

6. A maximum of two (2) outdoor vending machines are permitted for businesses with exterior frontages of up to one hundred feet (100’). No more than three (3) outdoor vending machines are permitted per location unless completely screened from view. Gasoline service stations are permitted to have no more than two (2) outdoor vending machines of any type.

7. No outdoor vending machine shall be placed in a location so as to impede pedestrian access, block parking areas or create an unsafe condition.

8. Outdoor vending machines shall not be installed in the public right-of-way or immediately adjacent thereto so as to require customers to stand in the public right-of-way in order to use the machine.

9. Outdoor vending machine installations shall not require exposed conduits, piping or overhead utility connections.

10. Outdoor vending machines shall not be situated adjacent to any wall that is a lower height than that of the machine.

C. Design

1. No outdoor vending machine shall exceed seventy-two inches (72") in height or forty-two inches (42") in width, in keeping with the Sign Ordinance ground sign height limitation. (Current machine sizes range from seventy-two inches (72”) high to seventy-nine inches (79”) high).

2. The Director of Community Development shall evaluate the location and size of the proposed outdoor vending machine(s) to determine if the proposed design and placement are appropriate for the site in relation to the building’s architecture, pedestrian access routes and site layout.

3. Signs on outdoor vending machines may be internally illuminated. The portion of all product display panels that contain letters, logos, symbols and/or advertising art is considered signage.

4. Outdoor vending machines may be externally illuminated to provide security at night. Illumination shall not exceed a maximum of three (3)-foot-candles, the average of which is measured at ground level. The security lighting shall be designed and sited to avoid direct view of the light sources to pedestrians, vehicle drivers and passengers. The security lighting shall be designed to avoid light overspill beyond the property line and comply with the City’s Lighting and Glare Standards, Section 45, “Lighting and Glare Standards.”

5. Outdoor vending machines shall be integrated with the architecture of the
building. The outdoor vending machines shall not hide or obscure existing architectural features, including, but not limited to, windows, landscape planters, and decorative trim.

D. Lettering and Colors

1. Sign lettering text shall be primarily limited to the identification of the product being dispensed. Accessory signage shall be limited to product dispensing instructions and the list of available vending items.

3. Accessory signage area shall not exceed one-and-one-half (1.5) square feet for the operating instructions and product processing information, separate from the product name and logo signage. This accessory/informational lettering shall not exceed two inches (2") in height.

4. Sign lettering on outdoor vending machines shall be placed at the front of said machines.

5. Vending Machine Product display panels that incorporate lettering, logos, and trademarks shall be intended for the sole purpose of product name identification and shall not appear as advertising.

43.13 GATED COMMUNITIES

Subdivisions may be developed with gates and private streets instead of public streets if the development complies with the following requirements:

1. A private street development shall not cross or contain within its limits any existing or proposed thoroughfare as shown on the city thoroughfare plan.

2. A private street development shall not cross or contain within its limits any existing or proposed public pedestrian pathway, trail or park as shown on the city's master plan(s).

3. A private street development shall not be directly adjacent to another private street development.

4. A property owners association (which may also be established as a homeowners association) must be in place to take ownership of the private streets. The property owners association shall be responsible for the street lighting, street maintenance and cleaning, and the installation and maintenance of interior traffic control devices. The legal instruments establishing the responsibility for a private street or private alley shall be submitted to the planning and zoning commission for a recommendation of approval and to the city council for approval, be approved as to legal form by the city attorney, and be recorded in the office of the county clerk before any building permit is issued within the subdivision.

5. Private streets shall be designated on a plat as being owned by the property owners association. The private streets shall conform to the city’s minimum standards for public streets and rights-of-way.

6. Access easements over the private streets shall be provided to the owners and residences served by such private streets. In addition, access, utility and drainage easements shall be granted to the city, allowing unrestricted access.
and use of the private streets by the city as provided herein-below, for mail collection and delivery access services, for solid waste collection and other utility providers for the purpose of maintaining the utility services and for school buses. The easements also shall provide the city with the right of access for any purpose related to the exercise of a governmental service or function, including but not limited to fire and police protection, ambulance and other emergency care, inspection, utility repair and utility meter reading, and code enforcement.

7. All gates shall comply with City of Forney Fire Department regulations for emergency access. The developer shall install all necessary appurtenances for the access gates and provide to the city all equipment necessary to operate the access control devices, as determined by and at no cost to the city.

8. Water, sewer and drainage facilities, street lights and signs placed within the private street right-of-way or public utility easement shall be built to city standards. All maintenance and operation costs for such improvements shall be the responsibility of the property owners association.

9. The city shall not participate in the payment for any portion of the cost of constructing and/or maintaining a private street or any appurtenances related thereto.
SECTION 44 PERFORMANCE STANDARDS

44.1 PERFORMANCE STANDARDS – GENERAL:

A. **COMPLIANCE REQUIRED:** No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazards; noise or vibration; smoke, dust, odor, or other form of air pollution; heat, cold, dampness, electrical, or other substance, condition, or element in such a manner or in such an amount as to adversely affect the surrounding area or adjoining the premise. Any use permitted or not expressly prohibited by this ordinance may be undertaken and maintained if it conforms to the regulations of this section limiting dangerous and objectionable elements at the point of determination of their existence.

B. **STANDARDS:**

1. **Smoke:** The requirements of the Texas Air Control Board.

2. **Particulate Matter:** The requirements of the Texas Air Control Board.

3. **Odor:** No establishment or operation shall permit odors which are detectable at the property line in Commercial and Light Industrial Districts or at the zone boundary line in the Heavy Industrial Districts and which offensively affect the sense of smell.

4. **Toxic Material:** The emission of toxic and noxious materials shall not produce concentrations exceeding 10% of threshold limit values for toxic materials in industry as set forth in “Threshold Limit Values” for the current year as adopted as the annual meeting of the American conference of Governmental Industrial Hygienists, at a zone boundary line.

5. **Glare:** No direct or sky-reflected glare, whether from artificial light or from high-temperature processes such as combustion or welding or otherwise shall be allowed to cross a zoning district boundary line, and should be prevented by shielding or other methods or means.

6. **Vibration:** No continuous earth borne vibration shall be permitted which is discernible without instruments at the points of measurement along the nearest adjacent property line.

7. **Noise:** At no point either on the boundary of the zone or at 125 feet from the property line of the plant or operation, whichever distance is greater, shall the sound pressure level of any operation of plant (other than back-ground noises, not under control of these covenants, such as operation of motor vehicles or other transportation facilities) exceed the decibel limits in the octave bands designated in Table A.1 below.

Sound levels shall be measured with a sound-level meter and associated octave band filter, manufacture and calibrated according to standards prescribed by the American Standards Association. Measurements shall be made using the flat C network of the sound level meter and the fast meter movement of the octave band analyzer. Impulsive type noises shall be subject to the performance standards hereinafter prescribed provided that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so
measured, shall be those noises which cause rapid fluctuations of the needle of the sound-level meter with a variation of no more than plus or minus two (2) decibels. Noises incapable of being so measured, such as those of an irregular and intermittent nature, shall be controlled so as not be become a nuisance to adjacent users.

<table>
<thead>
<tr>
<th>Octave Band Frequency (cycles per border second)</th>
<th>Maximum Permitted Sound Level in Decibels Along Residential District Boundary, or 125 Feet From Plant or Operation Lot Line</th>
<th>Maximum Permitted Sound Level in Decibels Along Residential District Boundary, or 125 Feet From Operation Lot Line</th>
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<tbody>
<tr>
<td>0 to 75</td>
<td>67</td>
<td>73</td>
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<tr>
<td>75 to 150</td>
<td>62</td>
<td>68</td>
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<td>150 to 300</td>
<td>58</td>
<td>64</td>
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<td>300 to 600</td>
<td>54</td>
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<td>600 to 1200</td>
<td>49</td>
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<td>1200 to 2400</td>
<td>45</td>
<td>51</td>
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<tr>
<td>2400 to 4800</td>
<td>41</td>
<td>47</td>
</tr>
<tr>
<td>Above 4800</td>
<td>37</td>
<td>43</td>
</tr>
</tbody>
</table>

8. **Fire Hazards:** The storage, utilization, or manufacture of solid materials or products ranging from incombustible or moderate burning is permitted in accordance with applicable City Codes and Ordinances. The storage, utilization, or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted in accordance with applicable City Codes and Ordinances provided the following conditions are met:

Said materials or products shall be stored, utilized or manufactured within complete enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.

The storage, utilization or manufacture of flammable liquids or gases which produce flammable or explosive vapors, shall be permitted in accordance with Table A.2 (exclusive of storage or finished products in original sealed containers) and the City’s fire prevention code as interpreted by the City of Forney Fire Marshall.

9. **Water Pollution:** No operation or activity shall discharge or cause to be discharged, liquid or solid waste into public water unless in conformance with the rules and regulations of state agencies having jurisdiction of such discharge.

10. **Liquid or Solid Waste:** No discharge at any point shall be allowed into any public sewer, private sewer disposal system or stream or into the ground, except in accordance with standards approved by the State Health Department, or standards equivalent to those approved in such department, for similar uses, of any materials of such nature or temperature as can contaminate any water supply interfere with bacterial process in sewage treatment or otherwise cause the emission of dangerous or offensive elements. All discharges shall comply
with all applicable City Ordinances.

<table>
<thead>
<tr>
<th>TABLE A.2</th>
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</thead>
<tbody>
<tr>
<td><strong>Industries engaged in storage and distribution of such materials</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Materials having a flash point gallons above 190 degrees Fahrenheit</td>
</tr>
<tr>
<td>From and including 105 degrees gallons Fahrenheit and including 190 degrees Fahrenheit</td>
</tr>
<tr>
<td>Materials having a flash point gallons below 105 degrees Fahrenheit</td>
</tr>
</tbody>
</table>

| **INDUSTRIES ENGAGED IN UTILIZATION AND MANUFACTURE OF SUCH MATERIALS** |
|-------------------|-----------------|-----------------|
| Materials having a flash point gallons above 190 degrees Fahrenheit | 10,000 gallons | 50,000 |
| From and including 105 degrees gallons Fahrenheit to and including 190 degrees Fahrenheit | 1,000 gallons | 20,000 |
| Materials having a flash point below 105 degrees Fahrenheit | 500 gallons | 10,000 |
SECTION 45  LIGHTING AND GLARE STANDARDS

45.1 PURPOSE:

Standards for controlling lighting and glare are set forth to reduce the annoyance and inconvenience to property owners and traffic hazards to motorists. These standards are intended to allow reasonable enjoyment of adjacent and nearby property by their owners and occupants while requiring adequate levels of lighting of parking areas.

45.2 NONRESIDENTIAL SITE LIGHTING AND GLARE STANDARDS:

A. Any use shall be operated so as not to produce obnoxious and intense glare or direct illumination across the bounding property line from a visible source of illumination of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected that acting together, the light beam is controlled and not directed across any bounding property line above a height of three (3) feet. The allowable maximum intensity measured at the property line of a residential use in a residential district shall be 0.25 foot candles. Light poles shall be placed on the site a setback equal to its height from all adjacent residential property.

B. All off-street parking areas for non-residential uses in non-residential districts which are used after dark shall be illuminated beginning one-half (2) hour after sunset and continuing throughout the hours of business operation. If only a portion of a parking area is offered for use after dark, only that part is required to be illuminated in accordance with these standards. However, the portion offered for use shall be clearly designated. Lighting within the parking areas shall meet the following minimum requirements:

1. Intensity:
   a. Minimum at any point on the parking area surface to be at least 0.6 foot candles initial, and at least 0.3 foot candles maintained or one-third (1/3) of the average, whichever is greater.
   b. Illumination shall not exceed an average of one (1) foot candle at ground level and shall distribute not more than 0.25 foot candles of light upon any adjacent residentially zoned area.

2. Height:
   a. On tracts or lots over three (3) acres in size, the maximum height for poles with lights is thirty-five feet (35').
   b. On tracts or lots less than three (3) acres, the maximum height of poles with lights is thirty-five feet (35').
   c. Special lighting or lighting higher than thirty-five feet (35') may be approved as specifically noted on a site plan.

C. All Site Plans submitted for approval for any new development or any redevelopment project shall identify the location of all anticipated or proposed light poles, and shall be accompanied by a detailed photometric plan. Light poles may not be located within an easement.
45.3 **RESIDENTIAL LIGHTING AND GLARE STANDARDS:**

A. Residential lighting for security and night recreation use is permitted in all residential districts provided the following requirements are met:

1. Direct lighting over ten feet (10’) in height is shielded from adjacent property.

2. No light source shall exceed thirty-five feet (35’) in height. Street lights and other traffic safety lighting are exempt from this standard.

3. Lighting shall not directly shine on adjacent dwellings.

45.4 **LUMINAIRES:**

A. Light sources shall be of a down-light type, indirect, diffused, or shielded type luminaries installed and maintained so as to reduce glare effect and consequent interference with use of adjacent properties and boundary streets. Bare bulbs above seventy-five (75) watts and strings of lamps are prohibited, except for temporary lighting as provided in 43.5 below.

45.5 **SPECIAL OR TEMPORARY LIGHTING -- LOW WATTAGE:**

A. Bare bulbs or strings of lamps are prohibited, except during holidays special lighting shall be permitted for a maximum time period of forty-five (45) calendar days for each holiday used.
SECTION 46  HOME OCCUPATION REGULATIONS

46.1 PURPOSE:

Standards for controlling home occupations are set forth to minimize annoyance and inconvenience to neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses.

46.2 SPECIAL PROVISIONS FOR HOME OCCUPATIONS:

A. Home occupations shall be permitted as accessory use in single- and two-family residential zoning districts (i.e., AG, SF-20, SF-15, SF-11, SF-8, SF-6, SF-PH, 2F, SFA, MF-15 and MH) provided that they comply with all restrictions herein;

B. The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a residential dwelling, and performance of the occupation activity shall not be visible from the street;

C. Such use shall be incidental and secondary to the use of the premises for residential purposes, and shall not utilize floor area exceeding twenty percent (20%) of the combined gross floor area of dwelling unit and any accessory building(s) that are used for the home occupation (in no case shall the combined floor area utilized for a home occupation exceed 500 square feet);

D. The occupation shall not employ more than one (1) person who is not a member of the household in which the home occupation occurs (two persons, if the lot is over 20,000 square feet in size);

E. Not more than two (2) patron or business-related vehicles shall be present at one time, and the proprietor shall provide adequate off-street parking on the property where the use is located;

F. The operation of such an occupation shall be between the hours of 8:00 a.m. and 6:00 p.m. for outdoor activities, and between 7:00 a.m. and 10:00 p.m. for indoor activities;

G. One commercial vehicle, capacity of one ton or less (according to the manufacturer's classification), may be used or parked (behind the front building line) on the property in connection with the home occupation, but said vehicle may not be parked in the street or within the front yard setback;

H. The occupation activity shall not increase vehicular traffic flow beyond what normally occurs within a residential district, and shall not require regular and frequent deliveries by large delivery trucks or vehicles with a rated capacity in excess of one and one-half tons, according to the manufacturer's classification;

I. There shall be no outside storage, including trailers, or outside display related to the home occupation use;

J. No mechanical or electrical equipment shall be employed on the premises other than that which is customarily found in a home environment, and that which is customarily
associated with a hobby or avocation which is conducted solely for pleasure and not for profit or financial gain;

K. The home occupation shall not generate noise, vibration, glare, fumes/odors, heat or electrical interference beyond what normally occurs within a residential district;

L. The occupation shall not require the use of chemicals on the property that are obnoxious or hazardous to the welfare of the neighborhood;

M. The home occupation shall not involve the use of advertising signs or window displays, or any other device that calls attention to the business use of the premises through audio and/or visual means;

N. The occupation shall not offer a ready inventory of any commodity for sale on the premises unless the commodity is made/assembled on-site (e.g., arts and crafts items, handmade clothing, etc.); and

O. The occupation shall not be harmful or detrimental to the health, welfare and safety of the neighborhood, nor shall it interfere with the comfortable enjoyment of life, property and recreation by residents of the area.

46.3 APPLICABILITY OF OTHER REGULATIONS:

Home occupations shall also be subject to any and all other provisions of local, State and/or Federal regulations and laws that govern such uses.

46.4 USES ALLOWED AS HOME OCCUPATIONS:

Subject to the provisions of Section 46.2 above, home occupations may include the following uses:

A. Office facility of an accountant, architect, landscape architect, attorney, engineer, consultant, insurance agent, realtor, broker, or similar profession;

B. Author, artist or sculptor;

C. Dressmaker, seamstress or tailor;

D. Music/dance teacher, or similar types of instruction, provided that instruction shall be limited to no more than one pupil at a time;

E. Individual tutoring and home schooling;

F. Millinery;

G. Office facility of a minister, rabbi, priest or other clergyman;

H. Home crafts, such as rug weaving, model making, etc.;

I. Office facility of a salesman, sales or manufacturer's representative, etc., provided that no retail or wholesale transactions or provision of services are personally and physically made on the premises;

J. Repair shop for small electrical appliances, cameras, watches/clocks, and other small items, provided that the items can be carried by one person without using special
equipment, and provided that the items are not equipped with an internal combustion engine;

K. Food preparation establishments such as cake making/decorating or catering, provided that there is no on-premises consumption by customers, and provided that all aspects of the business comply with all State and local health regulations;

L. Community Home licensed in accordance with Chapter 123 of the Texas Human Resources Code and as defined in Section 49 of this ordinance shall be allowed as a Home Occupation notwithstanding the fact a Community Home cannot meet the requirements of Section 46.2(C), (D), (E) and (F) and a reasonable accommodation is required for such a use to be situated in a residential zoning district;

M. Barber shop/beauty salon or manicure studio, provided that no more than one customer is served at a time;

N. Swimming lessons and water safety instruction, provided that such instruction involves no more than six (6) pupils at any one time; and

O. Child care for up to six (6) children as defined for the phrase “Family Home (Child Care in Place of Residence)” in Section 49 of this ordinance.

46.5 USES PROHIBITED AS HOME OCCUPATIONS:

Home occupations shall not, in any event, be deemed to include the following uses:

A. Animal hospitals or clinics, commercial stables, or kennels;

B. Schooling or instruction, except swimming/water safety classes and home schooling, with more than one pupil at a time;

C. Restaurants or on-premises food or beverage (including Private Clubs) consumption of any kind, except for limited food/meal consumption associated with the operation of a licensed registered family home;

D. Automobile, boat or trailer paint or repair shop; small engine or motorcycle repair shop; welding shop; large household appliance repair shop; or other similar type of business;

E. Office facility for a doctor, dentist, veterinarian or other medical-related profession;

F. On-premises retail or wholesale sales of any kind, except for items that are produced entirely on the premises in conformance with this Ordinance;

G. Commercial clothing laundering or cleaning;

H. Mortuaries or funeral homes;

I. Trailer, vehicle, tool or equipment rentals;

J. Repair shops or services, except as specifically provided in Section 44.4 above;

K. Drapery or furniture upholstery shops;
L. Antique, gift or specialty shops;

M. Repair shops for any items having internal combustion engines; and

N. Any use that would be defined by the Building Code as an Assembly, Factory/Industrial, Hazardous, Institutional or Mercantile occupancy.

46.6 HOME OCCUPATION USES NOT CLASSIFIED:

A. Any use that is not either expressly allowed nor expressly prohibited by Sections 46.4 and 46.5, respectively, is considered prohibited, unless and until such use is classified by amendment to this Ordinance by the Forney City Council, subsequent to an affirmative recommendation by the Planning and Zoning Commission.

46.7 EFFECT OF SECTION 46 UPON EXISTING HOME OCCUPATIONS:

A. Any home occupation that was legally in existence as of the effective date of this Ordinance and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use, and is subject to the provisions of Section 7, provided that the home occupation use was not in violation of any other local, State or Federal law or regulation on the effective date of this Ordinance. Any home occupation that was legally in existence as of the effective date of this Ordinance and that conforms with (i.e., is not in violation of) the provisions herein shall be hereby authorized to continue.
SECTION 47    SPECIAL REGULATIONS FOR CERTAIN TYPES OF USES

47.1 GASOLINE SALES FACILITIES:

A. Gasoline service station pump islands that parallel a public street may be located a minimum of twenty feet (20') to the property line adjacent to a public street. For pump islands that are perpendicular or diagonal to a public street, the setback shall be thirty feet (30') in order to prevent vehicles stacking out into the street while waiting for a pump position. Pump islands may extend beyond the front building line as described above (provided that all other requirements of this Ordinance are met), but shall not be closer than fifteen feet (15') to any property line that is not adjacent to a public street.

B. Canopies for gasoline service station pump islands shall be located no closer than fifteen feet (15') from any street right-of-way line or side or rear property line.

C. Any oil draining pit, hydraulic hoists, lubrication and greasing devices, repair equipment and similar appurtenances shall be located at least twenty feet (20') away from any front property line, and at least thirty feet (30') away from any residential zoning district, except where such appurtenances are located wholly within a building.

D. Any service station providing self-service dispensing facilities for customers shall provide an emergency shut-off switch which will completely eliminate the flow of fuels from all of the self-service pumps in any emergency situation, and shall be located in the vicinity where the station attendant will be located most of the time.

E. Lighting shall be such that it shines downward and does not spill over onto adjacent property (see Lighting and Glare Standards, Section 45).

F. Gasoline service stations which have other uses associated with it (e.g., convenience store, fast food sales, drive-through window service, car wash, dry cleaners, minor or major auto repair, etc.) must be properly zoned for each use to be located on the site (including a CUP, if that zoning district requires such for any of the uses), and the amount of parking and stacking spaced shall be determined cumulatively for all uses (see parking requirements, Section 38).

G. The amount of paved area for gasoline service station sites shall be adequate to accommodate vehicle movements into and out of the site (including large tanker fuel trucks in the vicinity of the fuel storage tanks), but shall be minimized to the greatest extent practical and possible (to reduce storm water runoff, heat and glare, etc. Any area on the site that does not absolutely have to be paved shall be devoted to landscaping and pervious surface area.

47.2 SWIMMING POOLS:

A. A swimming pool shall be defined as any pool, pond, lake, or open tank that contains, or is capable of containing, water to a depth at any point greater than one and one-half feet (1.5'). No such swimming pool shall be constructed, maintained or operated in any district, whether as an accessory use or as a principal use, unless it complies with the following requirements and with any other related codes or policies of the City of Forney.
B. If located in any residential zoning district, the swimming pool shall be intended and used solely for the enjoyment of the occupants of the principal building on the property and their guests, or for the enjoyment of bona fide members of a club and their guests (provided the club itself is properly zoned).

C. **Requirements for all Swimming Pools:**

1. No swimming pool shall be located within a required front yard.

2. No swimming pool (except decking) shall be located closer than three feet (3’) to any side or rear property line.

3. Fencing: The swimming pool (or the property or compound area in which the pool is located) shall be walled or fenced with a minimum four-foot (4’) high fence or wall of masonry, wood or ornamental metal construction (not chain link) which shall be maintained in good condition, and which shall be equipped with a self-closing and self-locking gate to prevent uncontrolled access by children into the pool area.

4. Filtration and Pump System: The filtration and pump system shall be large enough to completely circulate the pool water once every six (6) hours, and shall not be located within any front yard setback. Such equipment may be located in a side or rear yard provided that it is completely screened from view and noise-buffered from any adjacent property.

5. Chlorinator: All pools shall have an automatic or semi-automatic chlorinator or other automatic sanitation device.

6. Drainage: Adequate provision for drainage shall be made to drain the pool into the City’s sanitary sewer system, in accordance to the City’s regulations pertaining to same.

7. Permit: No swimming pool shall be constructed nor altered in any way without issuance of a building permit from the City and without complete compliance with this Ordinance.

D. **Special Requirements for Swimming Pools in Apartment Complexes and in the MF, SFA and MH Zoning Districts:**

1. The swimming pool shall be located behind the front yard setback and behind the front façade of the front most building, and it shall not be located within any required side or rear yard setback.

2. The pool water surface area shall be large enough to accommodate at least six percent (6%) of the maximum number of people to be living in the complex (based upon maximum occupancy of all dwelling units combined), allowing at least fifteen (15) square feet of water surface area for each swimmer.

47.3 **EXTRACTION OF MINERALS:**

A. **General Requirements:** Any owner, leasee, or other person, firm, or corporation, having an interest in mineral lands in the AG zoning district only may file an application for a Conditional Use Provision (CUP) with the City for authorization to mine minerals there from, provided, however, that it shall comply with all
requirements of the AG zoning district in which said property is located, and with the following additional requirements.

1. **Distance from Property Lines:** No quarrying operation shall be carried on or any stock pile placed closer than fifty (50) feet to any property line, unless a greater distance is specified by the City Council where such is deemed necessary for the protection of adjacent property.

2. **Distance from Public Right-of-Way:** In the event that the site of the mining or quarrying operation is adjacent to the right-of-way or any public street or road, no part of such operation shall take place closer than twenty-five (25) feet to the nearest line of such right-of-way.

3. **Fencing:** Fencing shall be erected and maintained around the entire site or portions thereof where, in the opinion of the City Council, such fencing is necessary for the protection of the public safety, and such fencing shall be of the type and height specified by the City Council.

4. **Equipment:** All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise, and vibration. Access roads shall be maintained in dust-free condition by surfacing or other treatment as may be specified by the City Engineer or the City Council.

5. **Processing:** The actions of crushing, washing, refining or other similar processing may be authorized by the City Council as an accessory use within the CUP ordinance, but such actions or processing shall not be in conflict with the use regulations of the district in which the operation is located.

6. **Financial Ability:** In accepting such CUP request for review, the City Council must be satisfied that the proponents are financially able to carry out the proposed mining operation in accordance with plans and specification submitted, and in accordance with City health, safety and welfare standards and ordinances.

7. **Application:** An application for a CUP for such operation shall set forth the following information (additional information may be required by the City Manager, or his/her designee, or by the City Council):
   a. name of land owner from which removal is to be made;
   b. name of applicant making request;
   c. name of person or corporation conducting actual removal operation;
   d. location, description, and size of area from which removal is to be made;
   e. location of processing plant;
   f. type of resources or materials to be removed;
   g. proposed method of removal and if blasting or other use of explosives will be required;
   h. description of equipment to be used; and
i. method of rehabilitation and reclamation of mined area.

8. **Planning and Zoning Commission Recommendation:** In accordance with Section 34b, Conditional Use Provisions, the Planning and Zoning Commission of the City of Forney shall give its recommendation regarding a CUP to the City Council prior to the City Council’s final determination of application.

9. **Rehabilitation:** To guarantee restoration, rehabilitation, and reclamation of mined-out areas, every applicant granted a mining permit as herein provided, shall furnish a surety bond to the City of Forney, in the amount of not less than five thousand dollars ($5,000), the upper limit to be determined by the City Council, as a guarantee that such applicant, in restoring, reclaiming, and rehabilitating such land, shall within a reasonable time, but not more than one (1) year, and shall, to the satisfaction of the City Council, meet the following requirements.

   a. **Surface Rehabilitation:** All excavation shall be made either to a water producing depth, such depth to be not less than five (5) feet below the low water mark, or shall be graded or backfilled with non-noxious, non-flammable and non-combustible solids, to secure that the excavated area shall not collect or permit to remain therein stagnant water or that the surface or such area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions, so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land areas.

   b. **Vegetation:** Vegetation shall be restored by appropriate seeds, grasses, or planting of shrubs or trees in all parts of said mining area where such area is not to be submerged under water as herein above provided.

   c. **Banks of Excavations:** The banks of all excavations not backfilled shall be sloped to the water line at a slope which shall not be less than three (3) feet horizontal to one (1) foot vertical, and said banks shall be seeded.

10. **Additional Requirements:** In addition to the foregoing, the City Council may impose such other conditions, requirements, or limitations concerning the nature and extent of the use and operation of such mines, quarries, or gravel pits as the City Council may deem necessary for the protection of adjacent properties and the public interest. The said conditions and the amount of the surety bond shall be determined by the City Council prior to issuance of the CUP and issuance of the mining permit. No mining at all will be allowed without a permit as required by this Section or by any local, County, State or Federal agency.

47.4 **SEXUALLY ORIENTED BUSINESSES:**

See Chapter 4, Section 12 of the City’s Code of Ordinances.

47.5 **ALCOHOLIC BEVERAGE SALES:**

See Chapter 4, Section 9 of the City’s Code of Ordinances.

47.6 **SPECIAL MOTOR VEHICLES:**
A. For the purpose of these regulations, the term “special motor vehicles” is defined as including boats, boat trailers, travel trailers, pickup campers and coaches (designed to be mounted upon automotive vehicles), motorized dwellings (RVs), tent trailers and the like, as well as cases or boxes used for transporting such vehicles, whether occupied by such vehicles or not. No such vehicles shall be used for living, sleeping or housekeeping or similar purposes when parked or stored on a residential lot, or in any location not approved for such use, except as specified in this Ordinance.

B. No special motor vehicle, heavy load vehicle or recreational vehicle shall be left unattended or parked for more than twenty-four (24) hours within any parking lot, parking space(s), drive aisle, vacant or unused property, or pervious/unpaved surface area (except an appropriately zoned and approved/paved parking lot for such vehicles).

47.7 PAWN SHOPS:

A pawn shop must be located in a free-standing building containing no other uses. Pawn shops shall be prohibited within 500 feet of: (1) the boundary line of any residential zoning district; (2) the property line of any park or school; or (3) the right-of-way of F.M. 548 or U.S. Highway 80, including the service roads. The 500-foot distance shall be determined by a measurement on the ground from the front door of the premises in which the pawn-shop use is requested to the nearest applicable boundary line, property line, or right-of-way line.

47.8 SNOW CONE STANDS:

A. A permit application for a snow cone stand must include a site plan, drawn to scale, showing the fire lane, required parking and a full building floor plan.

B. Snow cone stand kiosks and trailers must meet all applicable City of Forney building code requirements, health code requirements and zoning ordinance requirements. Snow cone stands are not required to meet the landscaping or exterior masonry requirements of the zoning ordinance.

C. Snow cone stands may be located in a parking lot of a separate business or group of businesses but must provide a letter of permission from the property’s primary business allowing use of the primary business’s restroom facilities by the employees and patrons of the snow cone stand.

D. Snow cone stands, including all related appurtenances thereto, must be located outside of any required parking spaces for the businesses occupying permanent structures on and about the property on which the snow cone stand is situated and outside of any and all fire lanes.

E. Each snow cone stand must provide a minimum of two (2) trash receptacles.

F. Each snow cone stand must provide two (2) parking spaces in addition to the required parking of the businesses occupying permanent structures on and about the property on which the snow cone stand is situated.”
47.9 LAUNDRY/DRY CLEANING (DROP OFF/PICK UP) WITH ON-SITE PLANT OPERATION:

A. Dry cleaning machines shall be an EPA approved non-venting Maximum Achievable Control Technology (MACT) unit and have an enclosed trough to accommodate any solvent spill.

B. Non-petroleum based cleaning products shall be used such as hydrocarbon, “GreenEarth” and wet cleaning products.

C. No fumes, odor or noise shall be detectable beyond the premises of the business.

D. No chemical discharge shall be allowed into an organized central sewer system or private septic disposal system.

E. There shall be a maximum of no less than two-thousand (2,000) square feet for the gross area of the business.

F. Dry cleaning processing is limited to on site business, not trucked-in processing.

G. Used chemicals and filters shall be disposed of weekly or after every eight-thousand (8,000) pounds of processing and be transported by a state-licensed disposal company.

H. The laundry or dry cleaning plant shall be operated in strict conformity with all State or National environmental or pollution standards as determined by the U.S. Environmental Protection Agency, the Texas Commission on Environmental Quality, the Texas State Department of Health and any other governmental entity or agency having control regarding any of the products, materials and/or processes used in the operation.

In addition to the standards contained herein, the Laundry/dry cleaning (drop off – pick up) with on site plant operation use shall meet all requirements for the Laundry/dry cleaning (drop off – pick up) use.

47.10 FARMERS MARKET:

A. Farmers market is an allowed use with approval of a Conditional Use Provision in the GR- General Retail District and the CBD- Central Business District. An application for a Conditional Use Provision must contain the following information:

1. The name, address and telephone number of the applicant and of any other persons responsible for the conduct of the farmers market.
2. The street address of the proposed location of the farmers market; the name, address and telephone number of the property owner; and a copy of a consent letter from the property owner.
3. A description of the farmers market, including a proposed schedule of the dates and hours of operation for the market.
4. The estimated number of vendors and attendees.
5. A drawing showing the area to be used for the farmers market, along with proposed structures, tents, fences, barricades, signs, and banners.
6. Details on where parking will be allowed.
7. Details of how the applicant will clean up the property after each day.
8. A description of each farmers market that the applicant conducted or sponsored, or participated in conducting or sponsoring, within the preceding two years.

9. Any other information the Community Development Director or their designee determines necessary for a comprehensive evaluation of the farmers market proposal.

B. A farmers market may only operate between the hours of 8 a.m. and 7 p.m. on any day of the week. Additional restrictions may be imposed by the City Council during consideration of the Conditional Use Provision.

C. An applicant for a farmers market must execute a written agreement to indemnify the City and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the conduct of the market.

D. Prior to consideration by the Planning and Zoning Commission and the City Council, the City Manager or his designee (Community Development Director) may deny a Farmers Market application if:

   1. A farmers market permit has been previously granted to another farmers market that is located within one mile of the proposed market;
   2. the proposed farmers market will unreasonably disrupt the orderly flow of traffic, and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;
   3. the application does not provide for adequate emergency vehicle access or if the Police Chief or Fire Chief determines that the farmers market would pose a serious threat to the public health, safety or welfare;
   4. the applicant has had a farmers market permit revoked within the preceding 12 months;
   5. the applicant or a vendor at the applicant’s market has committed, within the preceding 12 months, three or more violations or a provision of this chapter;

E. All litter, food and merchandise must be removed from the premises at the end of each market day.

F. Products that may be sold at a farmers market include, but are not limited to, the following:

   1. Fruits, vegetables, honey, eggs, nuts, herbs, and mushrooms.
   3. Dairy Products.
   4. Prepared foods, including but not limited to baked goods, packaged foods and oils.
   5. Arts and crafts, including but not limited to jewelry, candles, natural skin care products, soaps, art, knitting, quilts and pottery.

G. Health inspection permits and inspections are required for each market day. The following requires a permit:

   1. Offering any food and/or drink samples.
   2. Any food and/or drink on-site preparation.
   3. Offering any temperature sensitive food/drink items. This includes, but is not limited to, frozen meats, eggs, and cottage bill
foods (as defined by the State of Texas Department of Health Services).

H. At least one half of the participating vendors must sell produce or other food items.
I. All products distributed, offered for sale, or sold at a farmers market must have been raised, grown, made, crafted, processed, or produced by the vendor in a Texas County completely or partially located within a 150-mile radius of Kaufman County. No products may be offered for resale.
J. Live animals may not be distributed, offered for sale, or sold at a farmers market.

47.11 ASSISTED LIVING, NURSING HOME AND RETIREMENT HOME (SENIOR LIVING) FACILITIES
The following special regulations are required in addition to all other required regulations.

A. Maximum height – The maximum height of a facility shall be 24 feet from the first finished floor elevation to the top plate on the second floor.

B. Storage space – An enclosed storage space shall be provided for each dwelling unit within a senior living facility, with direct access provided from the dwelling unit. Each storage space shall be a minimum of 25 square feet in area and shall contain not less than 175 cubic feet. A garage shall not count as a storage space.

C. Exterior walls and architectural features

1. At least two masonry materials (in addition to glass) shall be used on an exterior wall on each side of a building’s façade.
2. Exterior construction materials shall have a minimum of 90 percent masonry construction, more-or-less equally distributed around all sides of the building. Masonry materials are defined by the City of Forney Comprehensive Zoning Ordinance, as amended.
3. Buildings with linear frontage of 80 feet or more in length shall have no less than 30 percent of the total area of front facades (any façade that faces a public street or a residentially zoned district) offset a minimum of four feet in depth, either protruding forward or recessed back from the remainder of the façade. Buildings with linear frontage of less than 80 feet shall have no less than 30 percent of the total area of front facades offset a minimum of two feet. In addition, the horizontal line of a flat roof (or parapet wall) along any front façade shall vary vertically by a minimum of two feet up or down so that no more than 66 percent of the roofline is on the same elevation.
4. Buildings shall incorporate the following architectural features:
   a) Use of antique, ceramic, pierced metal, or other decorative exterior lighting fixtures compatible with the architectural style of the building.
   b) More than 50 percent of the doors, windows, and glazed surfaces, with the exception of steel fire doors mounted on the rear elevation of the building shall have frames recessed a minimum of four inches, be encased with trim, have divided lights or have exposed or articulated lintels. Decorative trim is encouraged around the roof perimeter, doors and windows.
   c) Use of arches for more than 10 percent of all doorways and windows, with a spring point of at least six feet above ground.

D. Screening and landscaping
1. A minimum of 40 percent of the gross platted area of the site shall be devoted to landscaping, open space areas, pools and similar outdoor recreational activity area.

2. Perimeter fencing and landscaping shall be required along property lines and access points to a senior living facility. Such fencing shall have a minimum height of six feet, and shall be constructed of masonry or ornamental iron with masonry columns. The use of ornamental iron requires additional landscaping of sufficient density to maintain the integrity of the fence as an effective visual barrier. Chain link is prohibited as a fence material. A minimum of one large shade tree (three-inch caliper) shall be provided for every 30 feet along the property lines. Alternate landscaping materials (xeriscape is encouraged) may be approved during site plan approval.

3. All parking spaces within public view shall be screened from view in accordance with screening and landscape standards of this Zoning Ordinance, as amended.

4. All satellite dishes/antennas, refuse storage collection areas, recycle collection areas, ground mounted equipment, and remote heating and cooling units (typically window units) shall be screened from view of the perimeter of the development. Acceptable methods of screening are landscaping, including trees or shrubs, earthen berms in conjunction with landscaping, and masonry walls in conjunction with landscaping.
SECTION 48   SIGNAGE

48.1 POLICY AND PURPOSE:

A. These regulations shall be known as the City of Forney Sign Code, may be cited as such, and will be referred to herein as “this Sign Code.” The terms and conditions of this Sign Code shall govern the placement and construction of all outdoor signs and shall apply to all signs located within the corporate limits of the City of Forney and, to the extent allowed by state law, to its extraterritorial jurisdiction (“ETJ”).

B. The purpose of the regulations in this Sign Code is to encourage and promote signage in the City that is consistent with the aesthetic requirements established in other standards and regulations applicable in the City. The regulations in this section are intended to be a positive tool to accomplish this purpose and to promote the health, safety and welfare of the citizens of the City as well as of the entire community. Accordingly, it is the intention of this Sign Code to establish regulations governing the display of signs and in part to achieve the following:

1. Safety. To promote the safety of persons and property by providing that signs:

   a. Promote and protect the public health, safety, comfort, morals and convenience;

   b. Do not obstruct firefighting, police surveillance and/or other emergency responders or providers in the performance of their duties; and

   c. Do not overload the public's capacity to receive information or increase the probability of traffic congestion and accidents by distracting attention or obstructing or impairing vision.

2. Communications efficiency. To enhance the economy and the business and industry of the City by promoting the reasonable, orderly and effective display of signs and thereby encourage increased communication with the public, so that:

   a. Businesses and services may identify themselves;

   b. Customers and other persons may locate a business or service;

   c. Signs are compatible with their surroundings, are appropriate to the type of activity to which they pertain, and are expressive of the identity of proprietors and other persons displaying signs; and

   d. Persons exposed to signs are not overwhelmed by the number of messages presented and are able to exercise freedom of
choice to observe or ignore said messages, according to the observer's purpose.

3. Environment quality and preservation. To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:

a. Do not interfere with scenic views and overall community aesthetics, and protect and preserve the unique and natural beauty and historic values of the City;

b. Do not create a nuisance to persons using the public rights-of-way;

c. Do not create a nuisance to the occupancy of adjacent and contiguous property by their brightness, illumination, size, height or movement; and

d. Are not detrimental to land or property values.

The emphasis on the design of signs, therefore, shall be for their use for identification and locational purposes. Notwithstanding the forgoing, the regulations in this Sign Code are not designed to discourage or inhibit aesthetically pleasing signage design, materials and placement.

C. The regulations of this Sign Code are not intended to authorize nor shall they be deemed to permit any violation of the provisions of any other ordinance, statute, rule or regulation.

48.2 GENERAL PROVISIONS:

A. All Site Plans submitted for approval for any new development or any redevelopment project shall identify the location of all anticipated or proposed monument signs and wall-mounted signs, and shall be accompanied by engineering detail regarding the structural integrity, strength and stability of such signs.

B. Freestanding signs shall be used to signal the entrance to a development and should be integrated into the street landscape. No permit will be issued for a freestanding sign unless the building with the business to be advertised is existing, or is under construction and such construction has proceeded to at least the point that vertical walls are being erected.

C. Wall signs mounted on buildings shall be integrated into the architecture of the building with minimal projections of not more than twelve inches (12") from the face of the building. Such signs shall not project above the roof line.

D. The color of all signs shall be complementary to the color of the structure, and shall not contain high intensity or bright, florescent colors, or full chroma colors. The color palette for signs shall be limited to muted or subdued primary and secondary colors.
E. No sign, banner or inflatable of any type, style or nature, excluding government signs only, shall ever be placed in, upon, over or across any right-of-way, alley, roadway, street or easement. In addition, no sign, banner or inflatable of any type, style or nature, excluding government signs only, shall ever be placed in, upon, over or across any telephone pole, utility pole, light pole or any other pole supporting any road sign, warning sign, identification sign, public information sign or traffic control device. In the event that this provision conflicts with any other provision in this Sign Code, this provision shall control.

F. DEFINITIONS:

For the purpose of this Sign Code, the following words, terms and phrases and their derivations shall have the meanings given herein, whether or not capitalized unless the context clearly requires another meaning, ascribed to them and the requirements and regulations set forth for each shall apply in the City of Forney and its ETJ. The word “shall” is mandatory and not merely directory.

1. A-FRAME SIGN/SANDWICH BOARD SIGN. A temporary sign constructed of two (2) pieces of wood, metal or other similar material connected at the top by hinges or similar devices that may collapse when the connecting devices are overextended or the two (2) pieces of wood, metal or other similar material are against one another.

   a. A sign permit is not required.

   b. A-Frame Signs/Sandwich Board Signs shall be placed immediately adjacent to the primary entrance to a bona fide business, and advertising goods or services available at that business.

   c. The maximum width allowed is two feet (2’). The maximum height allowed is four feet (4’). The maximum copy area allowed is eight (8) square feet per side.

   d. A-Frame Signs/Sandwich Board Signs are only allowed to be displayed during normal daytime business hours between 8:00 a.m. and 8:00 p.m., and shall be removed by the business owner immediately at 8:00 p.m. each day.

   e. A-Frame Signs/Sandwich Board Signs must be located a minimum of four feet (4’) from any curb of any adjacent street. Such signs shall not be closer than 20 feet (20’) to another A-Frame Sign/Sandwich Board Sign. A maximum of one (1) A-Frame Sign/Sandwich Board Sign is allowed per primary entrance to a commercial structure. No business may have more than one (1) A-Frame Sign/Sandwich Board Sign. An unobstructed pedestrian clearance of at least four feet (4’) in width shall be maintained around the perimeter of any such signs. An A-Frame Sign/Sandwich Board Sign shall not be placed in any manner that interferes with vehicular traffic or
causes a potential hazard.

f. A-Frame Signs/Sandwich Board Signs shall be professionally lettered, neatly painted or assembled, and remain in good repair.

g. A-Frame Signs/Sandwich Board Signs shall be constructed to avoid being blown from their intended location and to avoid tipping or falling.

h. Any site landscaping required by the City shall not be altered to accommodate an A-Frame Sign/Sandwich Board Sign.

i. An A-frame sign shall not be placed in any median, parking stall, Public Right-of-Way or Right-of-Way. An A-frame sign shall not be placed within a utility or Right-of-Way easement. An A-frame sign shall not be illuminated or contain any moving parts other than the fasteners holding the faces of the A-frame sign together.

2. ABANDONED OR NEGLECTED SIGN. A sign that is not maintained, has missing panels, burned out lights, missing letters or characters, has rust, loose or damaged parts, has faded from its original color, advertises a product or service no longer available or a business no longer in operation; a sign that is erected on premises of a vacant building; a sign which is illegible, non-functional, in disrepair, or hazardous as a result of a lack of maintenance; a previously nonconforming sign structure that has lost its lawful nonconforming status as a result of abandonment or lack of use.

a. Abandoned or neglected signs shall be considered a public nuisance.

b. Neglected or abandoned signs are prohibited in the City of Forney and its ETJ. (See Public Nuisance.)

c. It shall be the property owner’s obligation to remove any abandoned or neglected sign. The owner shall have a period of 6 months to remove any abandoned or neglected (non conforming) signage once said business is no longer in operation.

d. Provided that the sign cabinet and supporting structure are sound and in good repair the property owner may be allowed to remove the sign face (and all related lighting elements) advertising a product or service no longer available or a business no longer in operation in the premises on which such abandoned sign is situated and retain the sign cabinet and supporting structure.

(1) In such event it shall be the property owner’s continuing responsibility to maintain the sign cabinet and supporting structure in good repair and safe condition.
(2) If the property owner fails to maintain any such sign cabinet and supporting structure in good repair and safe condition it shall be the property owner’s obligation to remove any such sign cabinet and supporting structure as an abandoned or neglected sign.

3. **ADVERTISING DEVICE.** Banners affixed on poles, wires or ropes, and streamers, wind operated devices, flashing lights, other similar devices.

4. **AUDIBLE SIGN.** Any sign that emits music, talking, words, or other sound or amplification.
   a. Audible signs are prohibited in the City of Forney and its ETJ.

5. **AWNING.** A retractable or non-retractable projection, shelter or structure of rigid or non-rigid canvas, metal, wood, or other similar material, attached to the building, that extends above a window, door, patio, or deck used as a shading device for windows and/or entryways, used as protection from the weather, used as a decorative embellishment, and/or used for identity.
   a. Minimum height of the lowest part of an awning shall be seven feet (7’) above grade. Also see Canopy and Canopy Sign.

6. **AWNING SIGN.** A permanent sign that is directly applied, attached or painted onto an awning that extends above a window, door, patio, or deck used as a shading device for windows and/or entryways, intended for protection from the weather or as a decorative embellishment, and/or used for identity. An awning sign is used to advertise the name of the business, hours of operation, business telephone number, business address, and/or website address. An awning or canopy sign can be used as the primary sign, subject to the following:
   a. No building shall have both a wall sign and an awning sign on the same building face.
   b. A sign permit is required.
   c. The maximum height of the lettering of an awning sign or canopy sign shall not exceed eight inches (8”).
   d. One (1) business logo is permitted to be applied to the slope portion of the awning or canopy, centered over the primary entrance. A second logo is allowed if the storefront wraps a corner, one (1) per frontage.
   e. The business logo(s) shall not exceed four feet (4’) in width and three feet (3’) in height.
   f. The width of an awning sign shall not exceed seventy-five percent (75%) in length of any side of an awning.
g. An awning sign shall only be permitted in conjunction with a nonresidential use or in a nonresidential zoning district.

h. An awning sign shall be secure and may not swing, sway, or move in any manner. An awning sign shall not contain any moving devices. Also see Canopy and Canopy Sign.

i. Only gooseneck type full cutoff light fixtures shall be permitted when indirect lighting for awning or canopy signage is preferred.

j. No backlighting of canopy or awning signs is allowed.

k. All outdoor lighting for canopy or awning signs must comply with the outdoor lighting provisions set forth in the City of Forney’s Comprehensive Zoning Ordinance (“Zoning Ordinance”).

l. The light fixture shall not extend more than four feet (4’) from the building facade from which it is attached.

m. The total sign area for an awning or canopy sign shall not exceed the maximum allowance for a Wall Sign.

n. Multiple canopies shall be permitted provided the maximum sign area as outlined above is not exceeded.

7. BALLOONS AND OTHER FLOATING DEVICES. A visible airtight, inflatable apparatus with a maximum size not to exceed three (3) square feet in total area in various shapes and/or designs made of latex, mylar, or other similar material that extends less than ten feet (10’) into the sky which extends by, or is anchored to the ground by, a cord, rope, string, wire or other similar material. Allowed for temporary special events only with a sign permit. Special event permit required.

8. BANDIT SIGN. A sign that advertises a good, service or product not associated with a local permitted use. A bandit sign includes, but is not limited to, on or off-premise advertisement stake signs, off-premise homebuilder directional signs, off-premise for rent/sale signs, and similar signage. Bandit signs shall not be erected or placed in, on and about the Public Right-of-Way, Right-of-Way, or any City-owned or utility owned easement. Bandit signs and off-premise signs are prohibited in the City of Forney and its ETJ.

9. BANNER SIGN. Refer to Section 48.12

10. BEACON (OR SEARCHLIGHT OR SKYLIGHT). A source of high-intensity light with one (1) or more beams directed into the atmosphere or any other point; or any light with one (1) or more beams that rotate or move.

a. Beacons, Searchlights or Skylights are prohibited in the City of
Forsen except by written permission from the Forsen City Council.

11. **BILLBOARD OR COMMERCIAL BILLBOARD.** A structure directly attached to the land or a building having one (1) or more spaces used to display a sign or advertisement that does not advertise the principal business located on such premises, or which is used to display commercial or noncommercial messages not pertinent to the use of products sold or primarily manufactured on the premises, or the sale or lease of the property on which it is displayed. Billboards include any of its support, frame or other appurtenances.

   a. Billboards are prohibited in the City of Forsen and its ETJ.

12. **BLADE SIGNS/PERSPECTICULAR SIGNS.** A sign, oriented so as to be perpendicular to the face of a building, which projects more than twelve inches (12") from the face of the building or structure to which it is affixed or supported, and which is situated generally above or adjacent to the doorway of the business referenced on said sign. Blade Signs shall be affixed or supported to the face of the building or structure such that the bottom of said sign is at least eight feet (8') above the sidewalk. Blade Signs may have a maximum sign area of six (6) square feet, with lettering or graphics permitted on both sides. Only one (1) Blade Sign is permitted per building entry or exit, and no business within such building shall be permitted more than one (1) Blade Sign per structure.

13. **BUILDING DIRECTORY SIGNS.** A sign affixed to the exterior wall of a multi-tenant building identifying the tenants within that structure. The purpose of the sign is to provide location information such as room numbers and tenant names. Building directory signs shall not extend more than twelve inches (12") from the building wall and shall be no larger than twelve (12) square feet in area. One (1) building directory sign is permitted at each entrance to the building.

14. **BUILDING MARKER/MEMORIAL PLAQUE/CORNERSTONE.** A sign indicating the name, date and information about the building’s historical significance; which is cut into or made an integral part of a wall surface; or a wall-mounted or freestanding plaque of bronze or other permanent material describing such information.

   a. No sign permit is required.

   b. This type of sign is not an address sign.

15. **BUILDING OFFICIAL OR CHIEF BUILDING OFFICIAL.** This term includes any person designated by the Building Official to administer and enforce this Sign Code.

16. **CANOPY.** A roof-like structure on a framework sheltering an area or forming a sheltered walkway to the entrance of a building.
17. **CANOPY SIGN.** A sign that is applied, attached, painted or affixed on a canopy or other roof-like cover over gasoline fuel pumps, vacuum areas at car detail facilities, or other areas where services are provided to a patron in a vehicle intended for protection from the weather or as a decorative embellishment.

a. A canopy sign may contain only the business’s name and/or logo on the canopy band.

b. Canopy signs may only be erected on the sides of the canopy band that face a public street.

c. A sign permit is required.

d. Canopy signs may not exceed fifteen (15) square feet in size. Canopy signs must be attached directly to or painted on the exterior face of the canopy band and shall not project more than eighteen inches (18”) from the canopy band. Only the canopy band may be illuminated, not the entire canopy. Canopy signs attached or applied to a canopy shall not extend above or below the canopy band. Also refer to Awning Signs.

18. **CHANGEABLE COPY SIGN.** A freestanding sign or wall-mounted sign, with manually interchangeable plastic letters and symbols, communicating information to the public such as bulletin boards, and marquees and the like. A Changeable Copy Sign is usually secondary to and part of the sign area of a larger freestanding sign for which a sign permit is required.

a. If the Changeable Copy Sign is to be the primary sign then it must meet the sign requirements as outlined in this Sign Code. Refer to Monument Sign.

19. **CHANGEABLE ELECTRONIC VARIABLE MESSAGE (CEVM) SIGN.** CEVM Signs are allowed with the following restrictions:

a. CEVM signs are allowed as on-premises signs that must follow the size and base requirements of a freestanding monument sign.

b. CEVM signs may not display animated, full-motion or other moving images, or display a flashing or blinking image, an image that incorporates intermittent or bursts of illumination, or an image that scrolls, fades, rolls, shades, dissolves or otherwise gives the appearance of movement that is not solely an instant transition between displays.

c. CEVM sign messages shall remain static for a minimum period of five (5) seconds.

d. CEVM signs shall not be erected within 150 feet of a residential district or residential use unless the lighting is shielded from view of the residential use.
e. CEVM signs shall not emanate a luminance more than 0.3 foot candles above ambient light conditions as measured at any point along the property line.

f. CEVM signs shall be equipped with a properly functioning default mechanism that will cause the sign to revert immediately to a single, fixed image or to a black screen if the sign malfunctions.

g. CEVM signs shall not be used to display commercial messages relating to products/services that are not offered on the premises.

h. CEVM sign messages shall not continue a message from one display to a new display.

20. CHROMA COLORS. Any of various brilliant pigments containing chromium compounds, such as chromium green or chromium yellow. Any metallic color.

21. CHURCH AND CIVIC ORGANIZATIONS SIGN. Signs identifying groups such as churches or civic organizations.

a. These signs shall be regulated according to the provisions of this ordinance.

22. CITY OFFICIAL. An official within the City charged with the administration and enforcement of this section, including but not limited to the Director of the Community Development Department.

23. CLOUD BUSTER BALLOON AND AIR DEVICES. Any visible airtight or air-flow through, inflatable apparatus that exceeds one (1) square foot in total area made of latex, mylar, or other similar material that extends no higher than ten feet (10’) into the sky which extends by, or is anchored to the ground by, a cord, rope, string, wire, or other similar material. A cloud buster balloon or air device is commonly-used to attract passersby/patrons to a location having a promotion, sale, or other function. Allowed for temporary special events only with a sign permit.

24. CODE ENFORCEMENT. The Community Development Department or other designated authority, appointed by the City Manager, charged with the administration and enforcement of this Sign Code.

25. COMING SOON SIGN. Signage that promotes the future opening of a new business.

a. A Coming Soon Sign shall be permitted for a maximum of thirty (30) days or after the issuance of a Certificate of Occupancy, whichever occurs first.
b. The size of a banner is limited to fifty (50) square feet.

26. **COMMEMORATIVE SIGN/HISTORICAL MARKER.** A sign, tablet, or plaque commemorating or memorializing a person, event, structure, or site that is recognized by local, state, or federal authorities.

27. **COMMERCIAL REAL ESTATE SIGN (CRES).** An onsite, temporary sign made of wood, metal or similar material approved by the Community Development Department that pertains to the sale or lease of the commercial property where the sign is located. A CRES is a vertical framework consisting of two (2) or more uprights supported by the ground. A CRES generally advertises the name of a building or property for sale or lease, property owner name, realtor information, telephone number, zoning information, and other information relating to the sale or lease of nonresidential property.

   a. A CRES shall not exceed thirty-two (32) square feet in area. A CRES shall not exceed eight feet (8’) in height. The maximum width of a CRES shall not exceed four feet (4’).

   b. A V-shape sign is not a CRES.

   c. A sign permit is required.

   d. A CRES requires removal within ten (10) days after the sale or lease of the property or business.

   e. A CRES shall be located no closer than fifteen feet (15’) to any property line. A maximum of one (1) CRES per property shall be placed on a lot. EXCEPTION: For a property with more than five hundred feet (500’) of single street frontage, more than one (1) CRES is allowed, provided, that each CRES is spaced a minimum of two hundred feet (200’) from other signs. At no time shall more than 3 CRES be allowed on any property pursuant to this exception.

28. **CONFORMING SIGN.** A sign that is lawfully in place on a tract of land which complies to all regulations of this Sign Code.

29. **CONSTRUCTION (PROJECT DEVELOPMENT) SIGN.** Any temporary sign identifying the property owner, architect, contractor, engineer, landscape architect, opening dates, decorator and/or financiers engaged in the construction or improvement of the premises on which the sign is located. A construction sign is generally constructed of wood, metal or other similar materials. A construction sign is a vertical framework consisting of one (1) or more uprights supported by the ground.

   a. A construction sign may include zoning information and advertise residential builders selling homes within a subdivision.
b. In no case shall a construction sign contain information that pertains to off-premise uses.

c. A sign permit is required.

d. A construction sign must be removed when ninety-five percent (95%) of the buildings/homes/units in the commercial project/subdivision have been issued a certificate of occupancy.

e. The construction sign shall be installed no closer than fifteen feet (15’) to any property line. The minimum distance between a construction sign on one (1) site and a construction sign on another construction sign is two hundred feet (200’).

f. A construction sign installed on a lot, outside of the right-of-way, where a contractor requests a final inspection must be removed prior to the final inspection and issuance of a certificate of occupancy.

g. The maximum area of a construction sign is thirty-two (32) square feet. The maximum height of a construction sign is sixteen feet (16’).

h. A maximum of one (1) construction sign is allowed along a major street frontage per subdivision. When a subdivision has more than one (1) major thoroughfare, one (1) construction sign may be placed on each major thoroughfare.

30. COPY. Letters, characters, illustrations, logos, graphics, symbols, writing or any combination thereof, designed to communicate information of any kind, or to advertise, announce or identify a person, entity, business, business product, or to advertise the sale, rental or lease of premises.

31. COPY AREA. The area within the sign containing any copy, including the area between separate lines of text and the area between text and any symbol, sign, logo or graphic as well as the area between any symbols, signs, logos or graphics.

32. DECORATIVE DISPLAY. A flag or banner that contains no name, initials, logos, insignia or similar items and does not represent a government or private organization.

a. Decorative displays are not signs.

b. Decorative displays shall not protrude over property lines or be placed in, on, above or over the right-of-way.

33. DEVELOPED PROPERTY. A developed property is a nonresidential property for which a certificate of occupancy has been issued by the Community Development Department to occupy a building on the property, or a residential property for which a certificate of final acceptance has been issued by the
34. DILAPIDATED. Any surface element, background, or support of any sign that has finished materials that are missing, broken, bent, cracked, decayed, dented, harmful, hazardous, illegible, leaning, splintered, ripped, torn, twisted, or unsightly.

35. DIRECTIONAL SIGN. Any sign relating solely to internal pedestrian and vehicular traffic circulation within a complex or project without any form of advertising. Directional signs may be internally illuminated and shall be no more than two (2) square feet in size and no more than three feet (3') tall including the base measured from the top of grade at said sign base.

36. DIRECTORY SIGN. A sign, other than the general identification sign, listing the names, uses, or locations of the various businesses or activities conducted within a building or group of buildings that is centrally located and intended to provide on-site directions and contains no advertising. This sign may be freestanding or attached to a building and will be counted toward the area allowed for these types of signs per building, lot, parcel, business, use, etc. If the directory sign is freestanding, the greatest separation possible shall be maintained between the directory sign and the general identification sign and the directory sign shall be a maximum of one-half (½) or less of the height and one-half (½) or less of the area size of the general identification sign.

37. ERECT OR INSTALL. To build, construct, attach, hang, place, suspend, affix, display, apply, assemble or place in any manner, including but not limited to the exterior of a building or structure.

38. EXEMPT. A sign permit is not a requirement; however, compliance with all other City ordinances and the Zoning Ordinance, as it currently exists or may be amended, is required.

39. FACADE. Any separate face of a building, including parapet walls and omitted wall lines, or any part of a building which encloses or covers usable space. Where separate faces are oriented in the same direction or in directions within forty-five degrees (45°) of one another, they are to be considered as a part of a single facade.

40. FEATHER FLAG. A wind device that contains a harpoon-style pole or staff driven into the ground for support.
   a. One feather flag is equivalent to a 50 square foot banner.
   b. A feather flag may have a maximum height of twelve feet (12').

41. FLAG OR FLAGPOLE. A piece of fabric or other flexible material attached to a ground-supported staff on one (1) end used as a symbol of a nation, state, political subdivision, or organization.
a. No sign permit required.

b. A flag and its ground-supported staff shall be located on private property behind the property line.

c. The maximum height of a ground-supported flagpole shall be thirty-five feet (35') measured from the ground with the maximum area of the flag restricted to that size which can be flown from a pole not to exceed thirty-five feet (35') in height and subject to a maximum sixty (60) square feet in area.

d. A maximum of four (4) flags or flagpoles may be located on a single property.

e. A flag not displayed on a ground-supported staff shall meet the permit and display requirements of a banner (see “banner”).

f. Temporary flags for special interest groups (e.g. schools, Boy Scouts, Girl Scouts, and the like) may be placed at public parks during social and athletic events.

42. FLASHING SIGN. Any sign that incorporates the use of a pulsating, blinking, revolving or rotating light source; including a light source that changes or alternates the color of the light in sequence.

a. Flashing signs are prohibited in the City of Forney and its ETJ. Also see Illuminated Signs.

43. FOR SALE, RENT, OR LEASE SIGNS; REALTOR OPEN HOUSE SIGNS; AND BUILDER LOT SIGNS. A sign that advertises the availability for sale, rent or lease of a tract of land, a structure, or portions of a structure or the temporary ability to visit, view, inspect, tour or walk about a tract of land, a structure, or portions of a structure which is offered for sale, rent or lease.

a. No permit is required.

b. Such sign shall be set a minimum of three feet (3’) from the back of the curb and shall not be placed in the right-of-way or in the median.

c. Maximum sign area: six (6) square feet. Maximum height: 3 feet (3’). Maximum number of signs: one (1).

d. Home builders may place a maximum of one sign per property/tract for property that is available for sale. Such sign may advertise the sale of the property/tract and amenities offered.

44. FREESTANDING SIGN. Any type of sign supported by structures that are placed on or anchored in the ground, structurally independent of any building or other structure, and intended to be permanent. A freestanding sign constructed in the monument
style, which shall mean a sign which has a skirt or dressed base enclosing the structural members which support the sign, approved by the City. For the purposes of these guidelines, the terms "skirting" and/or "dressing" shall mean the enclosing of the structural members which support the sign with aesthetically pleasing materials such as brick, decorative masonry, natural and decorative stone, decorative wood, such as cedar or redwood (but only when used with such wood’s natural finish, and appropriately sealed - but not painted or stained - to prevent discoloration or decay).

a. A sign permit is required. Refer to Monument Sign.

45. **FRONTAGE OR PROPERTY FRONTAGE.** The entire length of the boundary line of any one (1) tract of real property adjacent to a public right-of-way, measured parallel to the right-of-way line in a horizontal manner.

46. **FUEL PUMP SIGN.** A sign affixed to or mounted on a fuel pump that includes information required by local, state, and federal regulatory officials. These signs will not be counted as part of the overall signage allowed per business. Only one (1) sign per pump island shall be allowed and the maximum total sign area of any single sign shall not exceed four (4) square feet.

47. **GARAGE SALE SIGNS.** Non-illuminated signs erected in the required yard of dwellings, no closer than four feet (4') to any street curb line or edge of roadway, provided that only one (1) such sign not exceeding two (2) square feet in area may be erected on the dwelling premises, but shall be limited to three (3) sales during any one calendar year. The number of signs is restricted to one (1) on-site and two (2) off-site signs with the off-site property owner’s permission. Such signs may be posted for no longer than seventy-two (72) hours. It shall be the responsibility of the individual operating or hosting the garage sale to remove all signs prior to the expiration of that time period. Posting of such signs is prohibited on any utility pole, public or private fence, structure or tree or in any public right-of-way.

48. **GAS STATION PRICE SIGN.** A sign which displays only the brand, type or prices of various types of gasoline or diesel fuel available at a motor-vehicle fuel-service station, and which signs do not flash, blink, scroll or contain moving or animated parts, messages or components. These signs will be counted as part of the overall signage allowed per business.

49. **GENERAL IDENTIFICATION SIGN.** A sign giving the nature, logo, trademark or other identifying symbol, address, or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.

50. **GRADE.** The ground elevation located at the higher of the adjacent street curb level or the mean street grade elevation if no
curb exists of the street upon which the sign faces or the ground level at the base of the sign if such level is above the street or road level.

51. **GRAFFITI.** Pictures, words or slogans, images, or other artwork painted, drawn, scratched, carved, cut or applied in any other manner to exterior walls, fences, structures, vehicles, stone, statues, buildings, or other items in public view. Graffiti includes the illegal or unauthorized defacing of a building, wall, or other edifice or object by painting, or otherwise, marking it with words, pictures, or symbols, advertising, logos, relations with a group, indecent/vulgar images or offensive languages.

   a. Graffiti is prohibited in the City of Forney and its ETJ.

52. **GRAND OPENING SIGN.** A commemoration that promotes the opening of a new business is a grand opening.

   a. A Grand Opening Sign shall be permitted within one hundred eighty (180) days of the issuance of a certificate of occupancy from the Community Development Department. Grand openings occurring more than one hundred eighty (180) days after the issuance of a certificate of occupancy require approval from the Community Development Department.

   b. A Grand Opening Sign may only be located at the business that received a certificate of occupancy from the Community Development Department.

   c. The period for which a Grand Opening Sign may be permitted shall not exceed fourteen (14) consecutive days in length.

53. **GRAND OPENING BALLOONS AND/OR BALLOON ARRANGEMENT.** A Grand Opening Balloon is a visible airtight, inflatable apparatus with a maximum size not to exceed three (3) square feet in total area, in various shapes and/or designs made of latex, mylar, or other similar material that extends by, or is anchored to the ground by, a cord, rope, string, wire or other similar material. Grand Opening Balloon arrangements are balloons tied, twisted, or connected in such a manner to design creative figures, shapes, crescents, and/or other displays.

   a. Grand Opening Balloon arrangements may not exceed twenty feet (20’) in height.

   b. A sign permit is required together with the Grand Opening Sign, if any.

   c. Grand Opening Balloon Arrangements shall only be displayed during a grand opening at a business. Grand Opening Balloons and/or Balloon Arrangements require removal within two (2) hours after the conclusion of the grand opening event.

   d. Grand Opening Balloon Arrangements shall only be displayed
within twenty feet (20') of the business' public entrance.

e. Grand Opening Balloon Arrangements shall not be placed or
displayed in front of (or at) other businesses. Grand Opening
Balloons and/or Balloon Arrangements shall not be attached to
parking signs, bicycle stands, benches, trees, fences, poles,
railings, vehicles, existing signage, display items, other
structures, or placed in required parking spaces. Grand
Opening Balloons and/or Balloon Arrangements shall not block
pedestrian or vehicular visibility or cause a safety hazard.

54. HISTORIC OVERLAY ZONING DISTRICT (HOZ). The area
includes the historic downtown area of the City of Forney Zoning
Ordinance, as it currently exists or may be amended, and as
indicated on the City of Forney Zoning Map.

a. All signs for the Historic Overlay Zoning District (HOZ) shall be
regulated according to the provisions of this Sign Code. Refer
to Section 34f of the Zoning Ordinance regarding signs in the
HOZ.

55. HOA-NEIGHBORHOOD SIGN (HOA-NS). A temporary stake
sign used to convey residential subdivision board meetings,
announcements, or other subdivision-related events to residents
within the subdivision.

a. No sign permit required.

b. A HOA-NS shall be located on private property within the
subdivision.

c. A HOA-NS shall not be located along any major thoroughfare
or street artery outside of the subdivision screening wall or
perimeter barrier. A HOA-NS shall not be placed in or on the
right-of-way. A HOA-NS shall not exceed six (6) square feet in
area. The maximum height of a HOA-NS shall not exceed four
feet (4').

56. HOME BUILDER DIRECTIONAL SIGNS. A temporary sign that
directs pedestrian or vehicular traffic to a particular home
development or residential subdivision.

a. Home Builder Directional Signs for individual home builders
are prohibited within the City of Forney and its ETJ.

b. All developers and home builders within a residential
subdivision or mixed-use subdivision shall place any
directional information to a particular residential or mixed-use
development subdivision on a Kiosk Sign obtained from or
through the City's approved contractor for the preparation and
fabrication of Kiosk Signs.
c. The City’s contractor for Kiosk Signs shall place such Kiosk Signs at those locations that are approved and permitted by the City.

d. For purposes of this provision the phrase “Kiosk Sign” means a free-standing sign structure situated adjacent to the Public Right-of-Way that features a subdivision identification panel at the top of the structure and displays individual sign panels or placards, and that provides directional information to new homes in residential and mixed-use development projects and identifies the names of developers and home builders in such subdivisions between two (2) posts or stiles. Kiosk Signs are intended to provide developers and home builders a uniform, coordinated method of utilizing directional signs while minimizing the negative impacts and visual clutter created by individual home builders’ weekend signs upon the City. Kiosk Signs may also be used to serve the public by providing directions to City facilities, parks, community events and school district facilities.

(1) Kiosk Signs shall be no taller than eight feet (8’) from the grade at the base of the sign.

(2) Kiosk Signs shall be no wider than three feet (3’).

(3) Sign panels within a Kiosk Sign shall be of uniform color, size and appearance, although the type-face within the individual Sign Panels may be of varying height provided that no letter or logo shall be greater than eight inches (8”) in height.

(4) Kiosk Signs shall be designed and constructed in accordance with specifications approved by the Community Development Department.

(5) Before any Kiosk Sign is erected, a sign location map reflecting the proposed locations of all Kiosk Signs for a subdivision shall be submitted for approval to the Director of the Community Development Department.

(6) Kiosk Signs shall be designed, constructed and installed with break-away features required for traffic signs and traffic control devices situated in the street right-of-way.

(7) Kiosk Signs shall be placed outside the visibility triangle of any intersection, whether two streets, a street and a driveway, a street and an alley, an alley and a driveway, or any other type of intersection where conflicting traffic patterns may arise.

(8) Price information regarding homes offered for sale within a particular subdivision shall be excluded from the Kiosk Sign.
(9) No additional or extraneous signs, pennants, flags or devices, whether moving or stationary, shall be attached to Kiosk Signs.

(10) Kiosk Signs shall not be illuminated.

(11) Kiosk Signs shall not interfere with the use of sidewalks, walkways, and hike and bike trails.

(12) Kiosk Signs may be placed on private property with the permission of the property owner.

(13) No Kiosk Sign shall be placed on City-owned property or in, on or about the Public Right-of-Way, Right-of-Way or any City-owned easement without the express prior written approval of the City.

(14) Kiosk Signs shall be placed at least one hundred feet (100’) from any intersection governed or regulated by a traffic control device.

(15) Kiosk Signs shall be spaced at least three hundred feet (300”) apart except that two (2) Kiosk Signs may be placed on either side of the roadway at the entry to the subdivision being advertised on said Kiosk Signs.

(16) No Kiosk Sign shall be placed in the median of any road.

57. HOME IMPROVEMENT SIGN. An onsite temporary stake sign that advertises the name, phone number, website address, and/or type of construction being performed on the property, such as a roof, fence, pool, paint, landscape, or other home improvement contractor.

a. No sign permit required.

b. A home improvement sign shall be removed within fifteen (15) days of being initially installed or when the home improvement work is completed, whichever occurs first. A home improvement sign shall be located only on the lot at which the home improvement is occurring.

c. A home improvement sign shall not be erected on private property closer than ten feet (10’) from the edge of any street pavement or designated roadway. A home improvement sign shall not exceed six (6) square feet in area. A home improvement sign shall not exceed four feet (4’) in height. A maximum of one (1) home improvement sign shall be erected on a lot.

58. HUMAN SIGN. A sign held by or attached to a human being who stands or walks on the ground, on private property, at a business location.
a. No sign permit is required.

b. A Human Sign includes a person dressed in costume, both for the purpose of advertising or otherwise drawing attention to an individual, business, commodity, service, activity or product on the premise where the Human Sign is located.

c. Human Signs may not be off-premise from where a promotion, sale, event or the like takes place. Podiums, risers, stilts, vehicles, roofs, or other structures or devices shall not support a Human Sign.

d. Human Signs may be displayed twenty-four (24) hours each and every continuing day until the promotion, sale, special event, or the like has ended.

e. Human Signs shall at all times remain outside of the roadways at or about the premise where the Human Sign is located, and shall refrain from interfering with, distracting or interfering with traffic on and about the roadways as well as pedestrian traffic on and about the sidewalk(s), if any.

59. **ILLUMINATED SIGN.** A sign lighted by, containing, incorporating into its design or fabric, or otherwise exposed to artificial lighting, either by lights on or within the sign (also including but not limited to lights, neon and LEDs) or directed toward the sign. Also see Electronic Message center signs.

60. **IMPOUNDED SIGN.** A sign that is legally removed by a City employee, or any City-authorized official, inspector, officer, or other person in accordance with the provisions of this section. Impounded signs removed from public property, specifically including, but not limited to, the City of Forney's rights-of-way, park property or other City-maintained area(s), may be disposed of by the City within forty-eight (48) hours after the collection of any such sign in any manner the City shall elect. Also refer to “Public Nuisance”.

61. **INFLATABLE DEVICE SIGN (IDS).** A sign manufactured of plastic, cloth, canvas or other flexible or light fabric, inflated with air. An IDS only brings attention to a business, advertises the opening dates, sale of items offered or sold, date of sale, name of business, telephone number, and/or website information of a business. Refer to Section 48.12.

a. Cloud buster balloons, blimps, wind devices or any similar type of apparatuses are not an IDS. Also see “Wind Device” and “Tethered/Inflatable Sign/Device.”

b. A sign permit is required.

c. IDSs are only permitted within a nonresidential zoning district.

d. An IDS shall not be erected or placed in, on and about the
Public Right-of-Way, Right-of-Way or any City-owned or utility-owned easement.

62. **INSTITUTIONAL SIGN.** A sign: (1) listing church services; or (2) a directory sign identifying the use of or listing the names, use and location of various services, offices or activities within a building or group of buildings of a public or semipublic use, a charitable use or a medical center.

63. **INSTRUCTIONAL/INFORMATIONAL SIGN.** The sole purpose of an instructional/informational sign is to provide instruction, information, or direction to the general public that is essential to the health, safety, and public welfare of the community.

   a. An instructional/informational sign shall contain no other message, copy, announcement, or decoration other than the essential instruction, information or direction and shall not advertise or otherwise draw attention to an individual, business, commodity, service, activity, or product. Such signs shall include, but are not limited to, a sign identifying a property address, street address, restrooms, public telephones, handicap parking spaces, reserved parking spaces, freeze warning, no trespassing, no dumping, no loitering, no soliciting, beware of warning, water resource information, neighborhood watch information, lock/take and hide information, construction entrance and/or exit signage.

   b. Instructional/informational signs erected by the City, local, federal or state governments for the purpose of public instruction, warnings or other similar hazards, street or highway designation, traffic control and similar purposes incidental to public interests shall be considered an instructional/informational sign. An instructional/informational sign will include a sign of a warning, directive or instruction erected by a public utility company that operates under a franchise agreement with the City of Forney and/or signs required by federal, state or other local authorities.

   c. A sign permit is not required.

   d. The maximum area of an instructional/informational sign is sixteen (16) square feet.

64. **L.E.D. SIGN.** A sign composed of light emitting diodes.

65. **LOGO.** Any design, insignia or other marking of a company or product, which is used in advertising to identify the company, business or product.

66. **LOT.** An individual parcel or tract of land recorded by a plat or deed in the County Clerk’s office.

67. **LOT LINE.** A line dividing one lot from another, or from a street or place.
68. **MENU BOARD SIGN.** A sign erected in conjunction with a use that incorporates a drive-thru or drive-in and generally used to provide service and/or product options and pricing for patrons who remain in a vehicle.

a. A sign permit is required.

b. A menu board sign is permitted only in conjunction with a nonresidential use or in a nonresidential zoning district. The minimum front building setback is twenty-five feet (25') from the property line.

c. Drive-thru menu board sign. A menu board sign shall be supported from the grade to the bottom of the sign having or appearing to have a solid base. The design, materials, and finish of a menu board sign shall match those of the buildings on the same lot. One (1) menu board sign is permitted per drive-thru use on a lot.

   (1) The maximum sign area of a drive-thru menu board sign is sixty (60) square feet.

   (2) The maximum height of a drive-thru menu board sign shall be no more than six feet (6') measured from the average grade at ground level to the top of said sign.

d. Drive-thru pre-order sign. A drive-thru pre-order sign shall be supported from the grade to the bottom of the sign having or appearing to have a solid base. The design, materials, and finish of a drive-thru pre-order sign shall match those of the buildings on the same lot. No more than two (2) drive-thru pre-order signs are permitted at the entrance of the drive-thru lane on a lot.

   (1) The maximum sign area of a drive-thru pre-order sign is twenty-four (24) square feet in area.

   (2) The maximum height of a drive-thru pre-order sign shall be no more than six feet (6') measured from the average grade at ground level to the top of said sign.

f. Drive-in menu board sign. A drive-in menu board sign shall be supported from the grade to the bottom of the sign having or appearing to have a solid base. If the drive-in stalls are covered by a canopy, the drive-in menu board signage may be attached directly to the canopy support columns. The design, materials, and finish of a drive-in menu board sign shall match those of the buildings on the same lot. One (1) drive-in menu board sign is permitted per ordering station.

   (1) The maximum sign area of a drive-in menu board sign is nine (9) square feet.
(2) The maximum height of a drive-in menu board sign shall be no more than six feet (6') measured from the average grade at ground level to the top of said sign.

69. **MOBILE ADVERTISEMENT SIGN.** An operable or inoperable vehicle with illuminated or non-illuminated panels, other devices, or appendages, used to advertise, promote or draw attention to products, services, events, or other similar purpose, designed or intended to be relocated from time-to-time. A mobile advertisement includes signs on wheels or mobile structures, such as, among other things, trailers, skids, banners, tents or other mobile structures. The primary purpose of a mobile advertisement sign is advertising and is not used in the daily function of the business it advertises.

   a. A mobile advertisement is prohibited in the City of Forney and its ETJ for longer than twenty (20) minutes in a twenty-four (24) hour day.

   b. A mobile advertisement sign shall only be driven on public streets in the City of Forney and its ETJ. A mobile advertisement sign is not a “Vehicle sign.” *Also refer to “Portable sign” and/or “Vehicle sign.”*

70. **MODEL HOME SIGN.** A sign used to identify a builder or contractor model house that is open to the public for inspection by customers and located within a residential district. A model home sign provides a builder's name, corporate logo, hours of operation, website information, and/or telephone number.

   a. A sign permit is required.

   b. A model home sign is permitted on a lot that has been issued a building permit for construction of a residential dwelling or temporary sales trailer. A Model Home sign is a vertical framework consisting of one or more uprights supported by the ground. One (1) model home sign is allowed per residential lot.

   c. The minimum front setback of a model home sign shall be fifteen feet (15') from the front property line or outside of the Public Right-of-Way, whichever distance is greater. The minimum side or rear setback of a model home sign shall be ten feet (10') from the property line. The maximum area of a model home sign shall not exceed thirty-two (32) square feet. The maximum height of a model home sign shall not exceed ten feet (10') measured at the lower of the average finished grade of the lot on which such sign is situated or the top of curb of the adjoining street and if there is no curb the average grade of the pavement in the adjoining street.

   d. Model home signs shall not contain neon or prohibited lights. Exterior lighting must meet the requirements of the light and glare standards as defined in the Zoning Ordinance, as it
currently exists or may be amended.

e. See Section 48.12(E) for any additional allowed signage.

71, MONUMENT SIGN OR FREESTANDING MONUMENT SIGN. A freestanding sign having a low profile, supported from the grade to the bottom of the sign having, or appearing to have, a skirt or dressed base or solid base enclosing the structural members that support the sign, approved by the City. For the purposes of these guidelines, the terms “skirting” and/or “dressing” shall mean the enclosing of the structural members which support the sign with aesthetically pleasing materials such as brick, decorative masonry, natural and decorative stone, decorative wood, such as cedar or redwood (but only when used with such wood’s natural finish, and appropriately sealed - but not painted or stained - to prevent discoloration or decay). The minimum width and depth of the base, whether solid or skirted or dressed, between the grade and the bottom of the sign shall be at least fifty percent (50%) of the width and depth, respectively, of the sign face. A monument sign shall be architecturally compatible with the quality, colors and materials of the building or complex that it identifies.

a. A sign permit is required.

b. Maximum height for lots five (5) acres or less: eight feet (8’) including base, measured from grade.

c. Maximum width for lots five (5) acres or less: ten feet (10’).

d. Maximum sign area for lots five (5) acres or less is sixty-four (64) square feet (per side if a double-faced sign).

e. Maximum height for lots greater than five (5) acres is ten feet (10’) including base, measured from grade.

f. Maximum width for lots greater than five (5) acres: eighteen feet (18’).

g. Maximum sign area for lots greater than five (5) acres is one hundred fifty (150) square feet (per side if a double-faced sign).

h. Setback: fifteen feet (15’) from the back of the curb line; if no curb line exists, the setback shall be fifteen feet (15’) from the property line.

i. Number of signs allowed: No more than one (1) monument sign per lot with the following exceptions:

(1) For lots over five (5) acres, abutting a state highway which is not classified as a business route: Minimum two hundred feet (200’) separation between other allowed permanent freestanding signs on the same lot.
(2) For lots over twenty (20) acres: Minimum three hundred feet (300’) separation between other allowed permanent freestanding signs on the same lot.

(3) Monument signs shall be located at least one hundred twenty feet (120’) apart and at least sixty feet (60’) from the property lines of any other lot.

j. A monument sign shall identify only the following:

(1) Churches shall be allowed to identify the name, church logo, address, name of pastor, hours of major services, phone number, and denominational affiliation and may include a changeable panel of up to sixteen (16) square feet with a maximum height of two feet (2’) and with letters being no more than 12 inches (12”) in height. The sign face of the changeable panel shall be designed and constructed in a manner capable of changing characters or panels attached to the face of the sign. Secondary signs, when allowed by ordinance, shall identify only the name, address and church logo.

(2) Schools shall be allowed to identify the name of school and/or school district, school logo or mascot, address, phone number and may include a changeable panel of up to sixteen (16) square feet with a maximum height of two feet (2’) and with letters being no more than twelve inches (12”) in height. The sign face of the changeable panel shall be designed and constructed in a manner capable of changing characters or panels attached to the face of the sign. Secondary signs, when allowed by ordinance, shall identify only the name, address and school logo and/or mascot.

(3) Nonresidential uses other than schools or churches shall be allowed to identify the name of the building, building complex and/or the names of the tenants, provided that no more than twenty-five percent (25%) of the sign area is devoted to the identification.

72. MOVING SIGN. Any sign, sign appendages or apparatus designed or made to move freely in the wind or designed or made to move by an electrical or mechanical device.

a. Moving signs, and/or any sign appendage that moves, are prohibited in the City of Forney and its ETJ.

73. (Reserved)

74. MURAL. Noncommercial pictures or artwork painted, drawn or applied on the exterior walls that do not depict or contain advertising, logos, or images of a product or service offered or sold on-premise or off-premise.
a. Murals shall not be used to advertise products or services offered or sold off-premise or on-premise. Any form of wording or logo shall be of secondary nature to a mural.

b. A sign permit is required.

c. A mural shall be located above grade and below the roof line and shall only be located within a nonresidential zoning district. Murals shall not be applied to a roof or other similar cover of a building or structure. The maximum area of a mural shall not exceed the length or height of the exterior wall face on which it is painted, drawn or applied. A mural shall not face a residential neighborhood, unless separated by a major thoroughfare.

d. Murals are permitted only in conjunction with a nonresidential use or in a nonresidential zoning district.

e. Murals shall not contain any matter that is obscene, or which offends the public morals, or that is inappropriate viewing material for anyone under the age of eighteen (18) years including, but not limited to:

(1) “Nudity or a state of nudity,” “specified anatomical areas” and “specified sexual activities” as those terms are defined in Section 4-102 of the Code of Ordinances of the City of Forney;

(2) Less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola; and

(3) Human male genitals in a discernibly turgid stage whether covered or uncovered.

f. A detailed drawing of the proposed mural shall be submitted to the City with the sign permit application for review to determine conformity with all applicable city, state and federal laws, statutes and ordinances.

g. The mural shall be executed in conformity to the detailed drawing of the proposed mural that is submitted to the City with the sign permit application.

75. NAMEPLATE SIGN OR ADDRESS SIGN. A sign showing only the name and address of the owner or occupant of the premises with a maximum area of five (5) square feet.

a. No sign permit is required.

76. NEON SIGNS. Neon signs are permitted. All neon used counts towards the allowable square footage for the sign type.

77. NEON TUBING. A discharge tube containing neon that ionizes
and glows with various colors when electric current is sent through it.

78. NONCONFORMING SIGN. Any sign and its supporting structure that does not conform to all or any portion of this Sign Code and was in existence and lawfully erected prior to the effective date of this Sign Code; and was in existence and lawfully located and used in accordance with the provision of any prior ordinances applicable thereto, or which was considered legally nonconforming thereunder, and has since been in continuous or regular use; or was used on the premises at the time it was annexed into the City and has since been in regular and continuous use. A nonconforming sign may be maintained.

a. The right to continue all nonconforming signs shall cease and such sign shall be removed whenever:

   (1) An approved application for a certificate of occupancy has been submitted or a certificate of occupancy is issued as provided in the Comprehensive Zoning Ordinance and a sign is associated with such occupancy. This provision applies to on-premise advertising signs only.

   (2) A sign is altered, moved or relocated without a permit pursuant to the provisions of this Sign Code.

   (3) A sign leans such that an angle between the sign and the ground is forty-five degrees (45°) or less.

   (4) The use or structure associated with a nonconforming sign ceases to operate for a continuous period of six (6) months (i.e., 180 calendar days).

Not withstanding the foregoing, the owner or operator of a new business at premises on which a nonconforming sign is situated may replace the sign face of such sign to reflect the change in business name provided that no alteration of the sign cabinet and supporting structure is required and all other provisions of this Sign Code are fulfilled.

b. If a structurally sound nonconforming sign is destroyed in part or in whole by fire, storm, wind, or any other uncontrollable event, the sign may be rebuilt to its original state unless the cost to repair exceeds sixty percent (60%) of the replacement cost on the date of damage. If a nonconforming sign is destroyed and removed by any other means, the sign must be repaired or replaced in compliance with this Sign Code.

c. Signs designated by official action of the City as having special historic or architectural significance are exempt from paragraph (A) of this section.

d. A nonconforming general business sign situated on property purchased by the City may be relocated provided the sign is
removed or rebuilt to conform to this Sign Code within one (1) year by the sign owner or responsible party. Relocation is limited to the same physical sign with no increase in height, area, or change in other physical attributes. For purposes of this provision, “A property acquisition initiated by the City” does not include right-of-way dedicated in the subdivision plat process. Also refer to Public Nuisances.

79. NOTICE. Notice required by this Sign Code shall be sufficient if it is affected by personal delivery or by registered or certified mail, return receipt requested, by the United States Postal Service and/or by posting notice at the premises.

80. OFF-PREMISES SIGN. A sign that advertises, promotes, or pertains to a business, person, organization, activity, event, place, service, or product that is not principally located or primarily manufactured or sold on the premises on which the sign is located. A business advertised on a panel of a multi-tenant shopping center sign, which business is located within that shopping center, shall not be considered an off-premise sign. Off-premises signs are prohibited in the City of Forney and its ETJ.

81. OFFICIAL SIGN. A sign erected by a governmental agency within its territorial jurisdiction for the purpose of carrying out an official duty or responsibility and including, but not limited to, traffic signs and signals, zoning signs, and street signs. Special lighting or banners celebrating seasonal or civic events sponsored and/or endorsed by the City Council may be Official signs.

82. ON-PREMISES SIGN. A sign identifying or advertising a business, person, organization, activity, event, place, service or product and installed and maintained on the same premises on which the business, person, or activity, etc., is principally located or primarily manufactured or sold.

83. OWNER. The owner of the sign, land or structure, or the person responsible for erecting, altering, replacing, relocating, or repairing the sign or structure.

84. PARAPET WALL SIGN. A sign erected on the top surface of a parapet wall.

85. PERMANENT SIGN. Any attached or detached sign placed in a fixed location or affixed to a permanent structure of a maximum height and area.

86. PERSON. Any person, firm, partnership, corporation, company or organization of any kind.

87. PERSONAL PROPERTY SALE SIGN. A non-illuminated temporary sign not exceeding two (2) square feet in size advertising personal property for sale on the premises on which the sign is located.
88. **POLE SIGN.** A sign supported by a single freestanding pole permanently attached and having no guys or braces to the ground or to any structure other than the pole. A Pole Sign also includes a sign erected on a vertical framework consisting of one (1) or more uprights supported by the ground, which framework does not have any permitted cladding or skirting to hide such structural components.

a. Pole Signs are prohibited in the City of Forney and its ETJ.

89. **POLITICAL SIGN.** A sign that relates to the election of a person to a public office, relates to a political party, relates to a matter to be voted upon at an election called by a public body, or contains primarily a political message.

a. No sign permit required.

b. Political signs shall be located only on private property with the consent of the property owner.

c. A political sign shall not be erected closer than ten feet (10') from the edge of the street pavement, located on any public property, or within a designated easement or a Public Right-of-Way or a Right-of-Way. Political signs shall not exceed eight feet (8') in height measured from the ground to the highest point of the sign. Political signs shall not exceed thirty-six (36) square feet in area. Political signs shall not be illuminated. Political signs shall not contain any moving elements or parts. Political signs shall not be dilapidated or cause a hazard.

d. A political sign shall be removed within ten (10) days after the polls close on election day.

90. **PORTABLE SIGN.** Any sign with illuminated or non-illuminated panels, other devices, or appendages, used to advertise, promote or draw attention to products, services, events, or other similar purpose, designed or intended to be relocated from time-to-time, whether or not it is permanently attached to a building or structure. Portable signs include signs on wheels or on portable or mobile structures, such as, among other things, trailers, skids, banners, tents or other portable structures.

a. Portable signs are prohibited in the City of Forney and its ETJ except as specifically allowed by other sections of this Sign Code.

b. A Portable Sign is not a Vehicle Sign. Also refer to “Mobile Advertisement sign and Vehicle sign.”

91. **PROHIBITED LIGHTS/LIGHTS.** Lights are any form of light sources or lumens, whether by electromagnetic radiation, flame, reflection, or any other form of lumens that act upon the retina of the eye and optic nerve that makes sight possible. Prohibited lights are lights that blink, strobe, flash, fade, scroll, or are
anything other than stationary or static that attracts the attention of the general public, or causes light pollution or light trespass.

a. Prohibited lights placed in any manner where the light is visible from the exterior of a business or other nonresidential use facility are prohibited in the City of Forney and its ETJ.

b. Exception: Federal, state and municipal authorized emergency devices or apparatuses, emergency vehicles, utility repair vehicles, fire and building code light devices for emergency and/or security purposes, or other required lighting for public safety purposes are not prohibited and must comply with all applicable ordinances or regulations.

92. PROPERTY LINE. The line denoting the limits of legal ownership of property.

93. PUBLIC INFORMATION SIGN. A sign usually erected and maintained by a public agency, which provides the public with information, including, but not limited to, speed limit signs, stop signs, City limit signs, street name signs, and directional signs. See also Official Sign.

94. PUBLIC NUISANCE. Any sign or similar device erected, constructed or placed in a manner that constitutes a traffic hazard, that causes annoyance either to a limited number of persons or to the general public, or causes a hazard or dangerous condition, any sign erected or constructed in, on or over any public right-of-way, or any prohibited or noncompliant sign.

a. Any sign deemed to present an immediate danger to public health, safety or welfare; the City shall remove immediately. Within ten (10) days after the removal of the sign the owner of the property on which the sign was located shall be notified of the reasons for the removal of such sign.

b. Upon written notification, to the owner, agent, or person having beneficial use of the land, building or structure upon which a neglected sign or an abandoned sign is located such neglected sign shall be repaired by the owner, agent or person having beneficial use thereof and/or such abandoned signs shall be removed. The notification shall state that the offending sign shall be repaired or removed within ten (10') days after written notification to do so. The notification shall further state that if the sign is not removed or repaired, a citation may be issued and the City may pursue any remedy available to it to remove or repair the sign up to and including impoundment. Also refer to “Impounded signs.”

95. PUBLIC RIGHT-OF-WAY. The area of land within the City that is acquired by, dedicated to or claimed by the City in fee simple, by easement or by prescriptive right and that is expressly or impliedly accepted or used in fact or by operation of law as a public roadway, highway, street, sidewalk, alley or utility access
easement. The term includes the area on, below and above the surface of the public right-of-way. The term applies regardless of whether the public right-of-way is paved or unpaved. The term does not include airwaves above the public right-of-way with regard to wireless telecommunications. No sign of any kind, type or nature, save and except government signs, shall be permitted or placed in, on, over or above any part or portion of the Public Right-of-Way.

96. **PUBLIC VIEW.** Visible from any public right-of-way, City right-of-way, or access easement.

97. (Reserved)

98. **READER BOARD.** An on-premise sign designed to give information such as a list of items and services available, their price, or any other related messages, including messages that can be manually changed, and will be counted toward the area allowed for these types of signs per building, lot, parcel, business, use, etc. A gas station price sign shall not be considered a reader board.

99. **REAL ESTATE SIGN.** A temporary sign placed upon property advertising that particular property for sale, for rent or for lease.

   a. No permit shall be required for signs not exceeding three (3) square feet in sign area and three feet (3') in height advertising the sale, lease or rental of real estate.

   b. No permit shall be required for signs advertising the display of an open house or unlocked unit for sale, lease or rent.

   c. Real Estate Signs shall not be erected or placed in, on and about the Public Right-of-Way, Right-of-Way or any City-owned or utility-owned easement.

   d. Real estate signs shall be removed within ten (10) days after the property advertised is sold, leased or rented.

100. **REPAIR, MAJOR.** Any repair, other than minor repair as defined below, of an existing sign, which through an act of God or other event has become damaged in excess of sixty percent (60%) of its replacement cost. Such repair work will require a permit and shall meet all provisions of this Sign Code. Verification of the percentage of damage will be supplied by the applicant to the Community Development Department, and such verification shall be: two (2) estimates from two (2) different reputable sign companies, stating the total value of the sign and the total value of all costs to repair the sign to its original state. If the applicant agrees that the repair exceeds sixty percent (60%) of replacement cost, then the said estimates shall not be required.

101. **REPAIR, MINOR.** Any repair limited to painting, replacement of defective parts, cleaning or other similar minor maintenance to a
sign, which will keep said sign at an acceptable level and which does not change the total area of the sign, and which repair is less than sixty percent (60%) of the replacement cost of the sign.

102. **REVOLVING SIGN.** Any sign that turns, spins, or partially revolves or completely revolves three hundred sixty degrees 360° on an axis.

   a. Revolving Signs are prohibited in the City of Forney and its ETJ.

103. **RIGHT-OF-WAY.** The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City has an interest. No sign of any kind, type or nature, save and except government signs, shall be permitted or placed in, on, over or above any part or portion of the Right-of-Way.

104. **ROOF SIGN.** A sign mounted on and supported by the roof portion of a building or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building or a sign that is painted directly to or applied on the roof or top of a building or structure.

   a. A sign that is mounted on mansard facades, pent eaves or architectural projections, such as canopies or the fascia (wall) of a building or structure shall not be considered to be a roof sign.

   b. Roof signs are prohibited in the City of Forney and its ETJ.

105. (Reserved)

106. **SCHOOL SIGN.** An onsite temporary stake sign used to convey school registrations, enrollments, open houses, award ceremonies, Parent Teacher Association meetings, or other school-related events or functions for a Forney-based public or private educational facility to which the information pertains.

   a. A school sign excludes information pertaining to dates, times, and/or locations of scheduled athletic games.

   b. No sign permit is required.

   c. A school sign may be erected up to seven (7) days prior to the event and shall be removed no more than forty-eight (48) hours after the conclusion of the meeting or event.

   d. With permission of the owner, a school sign may be placed at a private or public school, and/or at an improved property that has received a certificate of occupancy. A school sign erected on private property shall be no closer than ten feet (10’) from the edge of any street pavement.
e. The maximum area of a school sign shall not exceed six (6) square feet. The maximum height of a school sign shall not exceed four feet (4').

f. A school sign shall not contain balloons, streamers, flags, pennants, or wind devices.

107. SECURITY SIGN. A sign which identifies emergency telephone numbers, hours, and security information.

a. No sign permit is required.

108. SIGHT DISTANCE TRIANGLE (TRIANGULAR VISIBILITY AREA). An area of land at the intersection of streets, or a street and a driveway or alley access way, within which nothing may be erected, planted, placed, or allowed to grow in a manner which will obstruct the vision of motorists entering or leaving any such intersection. Whenever such an intersection occurs a triangular visibility area, as described below, shall be created.

a. The areas of property located at a corner formed by the intersection of two (2) or more public rights-of-way (or an alley access way or private driveway onto a public road) shall have a triangular visibility area with two (2) sides of each triangle being a minimum of twenty-five feet (25') in length along the right-of-way lines (or along the driveway curb line and the road right-of-way line) from the point of the intersection with the third side of such visibility triangle being a line connecting the ends of the other two (2) sides. See also, Section 39.8 of the Zoning Ordinance.

109. SIGN. Shall mean and include any medium, including its structure and component parts, including a name, number, identification, description and announcement, declaration, demonstration, device, display, flag, banner, pennant, illustration, beacon, light or insignia, and structure supporting any of the same, affixed directly or indirectly to or upon any building, structure, or vehicle, or erected or maintained upon a piece of land, which directs attention to any object, project, product, service, place, activity, person, institution, organization or business. This definition shall also include any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, to communicate information of any kind to the public. Signs erected by an authorized public agency for the purpose of directing traffic and providing information are not affected by these regulations. Flags, flagpoles, and banners are considered signs and are therefore subject to these regulations.

110. SIGN AREA. The gross surface area of the space to be used for sign purposes, including the spaces between open type letters and figures, including the background structure, or other decoration or addition which is an integral part of the sign, e.g., neon tubing framing of letters, the name of a shopping center, the
name of an apartment complex, and other such sign features, as determined by the building official when conducting an effective sign area measurement. “Effective sign area measurement” means the area enclosed by drawing one (1) or more rectangles of horizontal and vertical lines that fully contain all extremities of the sign drawn to scale. The measurement is to be calculated from the viewpoint that gives the largest rectangle of that kind as the viewpoint is rotated horizontally around the sign. Sign supports or architectural features on the support shall be excluded in determining the effective sign area measurement of a sign. Double faced signs shall not be counted twice provided both sides cannot be viewed from the same direction of traffic at the same time. Where two (2) or more signs share a single structure the effective sign area measurement is the sum of all such surfaces. Additionally, the effective sign area measurement of a sign includes both faces of a V-shaped sign not to exceed a forty-five degree (45°) angle, and the copy area of a monument sign.

a. The square footage of a sign made up of letters, words or symbols within a frame shall be determined from the outside edge of the frame itself.

b. The square footage of a sign composed of only letters, words or symbols shall be determined from imaginary straight lines drawn around the entire copy or grouping of such letters, words, or symbols.

c. Three-dimensional or multifaceted signs shall be calculated as the maximum area visible from any single direction at any point in time.

d. In the case of an irregularly shaped sign, the sign area is calculated by enclosing the extreme limits of the sign by no more than four (4) rectangles. The sum of the area of the rectangles shall be the effective sign area measurement. The maximum allowable area is reduced by ten percent (10%) for the second and each subsequent rectangle used in the calculation.

111. **SIGN HEIGHT.** The vertical height of a sign measured from the sign grade to the highest point of the sign or its structure.

112. **SIGN LETTER HEIGHT.** The height in feet of any single letter or symbol located within a single row of sign copy.

113. **SIGN SETBACK.** The horizontal distance between the closest portion of a sign, whether the support structure or edge of the sign area, and the front or side property line, as measured from that part of the sign, including its extremities and supports, nearest any point on an imaginary vertical plane projecting vertically from the front or side property line.

114. **SIGN ROW** – A horizontal row or grouping of letters, numbers, words, or symbols on a single wall sign.
115. SPECIAL EVENT. Special events are generally defined as a festival, fair, tournament, celebration, gathering, fund-raiser, sporting event or other similar happening.

a. Should the Community Development Department question a proposed activity or celebration as a valid special event, a description of the proposed activity or celebration will be prepared by the applicant and forwarded to the City Manager by the Community Development Department for the City Manager’s consideration of the event as a special event.

b. Business promotions, such as grand openings and sales events, shall not be classified as a special event.

116. SPECIAL EVENT SIGNS. Temporary signs, banners, pennants, or lights as may be authorized for a special event.

a. A sign permit is required and shall be controlled and approved through a Special Event Permit.

b. Signage associated with a special event shall be erected no earlier than seven (7) days prior to the event and removed no later than twenty-four (24) hours after the conclusion of the event.

117. STACKED SIGNS. The placing of one (1) sign above another at the same location.

118. STAKE SIGN. A temporary directional sign with a maximum height of three feet (3') and a maximum copy area of six (6) square feet with an end for driving into the ground. A stake sign includes but is not limited to “garage sale,” “realtor/open house,” “homebuilder directional,” “for rent/sale,” and similar signage. Stake Signs shall not be erected or placed in, on and about the Public Right-of-Way, Right-of-Way or any City-owned or utility-owned easement.

119. SUBDIVISION IDENTITY/ENTRANCE SIGN. A subdivision identity/entrance sign is a sign mounted to a screening wall or engraved into a masonry block which identifies a residential development or a planned development, whether residential or noncommercial, and generally refers to the platted name of the subdivision or planned development.

a. A sign permit is required.

b. A sign permit shall not be issued to erect or place a subdivision identity/entrance sign on a property until a final plat is approved by the planning and zoning commission for development of the property.

c. All subdivision identity/entrance signs shall be located within the platted limits of a residential subdivision to which it pertains.
Subdivision identity/entrance signs may be in the form of a sign mounted to a screening wall that does not project from the fascia of the wall more than one inch (1”). Subdivision identity/entrance signs are limited to two (2) signs per entrance.

120. (Reserved)

121. **TEMPORARY IDENTIFICATION SIGN.** A sign used during the remodeling or renovation of an existing business where the signage for the existing business is removed for or blocked or obscured by the remodeling or renovation. A Temporary Identification Sign shall be limited in location, size, color and area to the same general location, size, color and area of the sign(s) so removed, blocked or obscured. A Temporary Identification Sign requires a permit and may be allowed or permitted during such remodeling or renovation. Any permit issued for a Temporary Identification Sign shall expire upon the earlier of the removal of the impediment to the visibility of the permitted sign or the issuance of the final green tag for the remodeling or renovation work being performed.

122. **TEMPORARY REAL ESTATE SIGN.** A sign not exceeding three (3) square feet in area on which appears the name of the real estate company or home owner and a directional arrow and necessary wordage to identify purpose. Temporary Real Estate Signs shall not be erected or placed in, on and about the Public Right-of-Way, Right-of-Way or any City-owned or utility–owned easement. See also Real Estate Sign.

123. **TETHERED/INFLATABLE SIGN/DEVICE** – a sign or device that is anchored by a rope, wire, strap, chain or similar method combined with an object filled with air or non-flammable or non-combustible similar gases placed to draw attention to a business, product, service, or premise, regardless of whether it contains an advertised message. This includes any object such as bounce houses and slides and any other inflatable structure that holds its shape through the use of a continuous operation fan which supplies ambient air to the structure. A Tethered/Inflatable Sign/Device shall not be erected or placed in, on and about the Public Right-of-Way, Right-of-Way, any City-owned or utility–owned easement, any firelane or any required off-street parking spaces.

124. **V-SHAPED SIGN.** A sign that fronts two (2) street frontages with more than five degrees (5°) of parallel.

a. V-shaped signs are prohibited in the City of Forney and its ETJ.

125. **VACANT BUILDING SIGN.** No sign shall be permitted to remain on the lot of or on any vacant building, except a sign regarding the lease or sale of the building and property to which it pertains, or a sign which is under lease from an owner or his authorized agent when such sign is maintained by a person operating under his
own bond.

a. Vacant building signage is prohibited in the City of Forney and its ETJ.

126. **VARIANCE REQUEST.** An official written request, to the Sign Board of Appeals to allow exceptions to the regulations or requirements of this Sign Code.

a. Variance requests shall be in writing, authorized by the property owner. Variance request shall be heard by the Sign Board of Appeals at a public hearing.

b. An application for such a request may be obtained from the Community Development Department.

127. **VEHICLE.** Any operable or inoperable motorized machine on wheels, treads, or runners by which any person, materials, commodity, or property is or may be transported.

128. **VEHICLE SIGN.** A sign that is permanently mounted or otherwise permanently affixed to a vehicle, trailer, or semi-trailer, and visible from the public right-of-way,

a. Any vehicle, whether operable or not, shall not be parked and/or decorated where the primary purpose is to use the vehicle as an additional sign placed in, on or about the perimeter of the parking lot of, or the roadway adjacent to and adjoining, the premises on which the business identified on said vehicle is situated.

b. Vehicle signs shall exclude bumper stickers and state required registration or inspection stickers.

c. No sign permit is required.

d. Vehicles signs are permitted provided the vehicle is:

(1) operable, currently registered, and licensed to operate on public streets; and

(2) actively used for transporting people or materials in the normal day-to-day operations of the business to which such sign relates; and,

(3) parked in, at, on or about a loading zone, a loading dock or a parking space immediately adjacent to and adjoining the lot, suite or premises of the business identified on such vehicle and such vehicle and the loading zone, loading dock or parking space within which it is situated are screened from the view of any person operating a motor vehicle in or walking along the Public Right(s)-of-Way immediately adjacent to the premises on which such vehicle is parked;
(4) not parked overnight in, at, on or about the premises of the business identified on the vehicle.

129. **WALL SIGN.** A sign erected flat against an exterior wall, supported throughout its entire length by the building face and having the sign face parallel to and extending not more than twelve inches (12”) from the wall surface to which it is attached. A wall sign identifies the name of a business and/or logo of a business.

a. A sign permit is required.

b. Wall signs are permitted only in conjunction with a nonresidential use or in a nonresidential zoning district.

c. Wall signs are generally limited to one (1) sign on the front facade of the building with one (1) additional sign on each side facade of the building, provided such wall-mounted signs shall not be located on the same wall. Wall signs are prohibited on the rear facade of the building, unless a business has a customer entrance on the rear facade. Any wall sign placed on a rear facade shall count towards the limit three (3) total wall signs. Maximum coverage for a wall sign placed on a rear facade shall be limited to a sign area of fifteen (15) square feet.

d. Maximum wall coverage for a sign placed on the front facade of a building, which wall contains a main entrance into the building, shall be limited to ten percent (10%) of the front wall area, including openings, or sixty (60) square feet.

e. Maximum wall coverage for wall signs placed on the side facade shall be limited to a maximum sign area of fifteen (15) square feet.

f. All wall signs may be internally lit, with no exterior lighting, and signs shall be limited to a maximum of three (3) rows of sign copy (three (3) stacked rows of sign copy) per wall sign. The maximum height of any single letter, number, or symbol within any row of sign copy shall not exceed four feet (4’) in height.

g. Wall signs shall not exceed the building height.

130. **WINDOW SIGN.** Any sign, poster, window slick, or other similar displayed item, excluding banners, located on the internal or external surface of a window for the purpose of advertising a business name, telephone number, website information, services, commodities, and/or products offered or sold that are available within the building that is visible from a public street or sidewalk.

a. No sign permit required.

b. The maximum area of allowable illuminated and non-
illuminated window signage shall not exceed twenty percent (20%) of the cumulative area of all windows within or along any single facade of the subject building and no more than fifty percent (50%) of any individual window in which a window sign is displayed. Illuminated window signs shall not exceed twenty-five percent (25%) of any individual window and shall not be closer than three feet from a public door. A window sign may be displayed twenty-four (24) hours each and every continuing day.

c. Signs located within the building (interior signs) and visible to the outside of the building through the windows shall be located a minimum of ten feet (10’) from the building store front containing such windows.

d. Window signs may be displayed and installed on the inside or exterior of a window.

e. Illuminated and non-illuminated window signs or its appendages shall not blink, strobe, fade, flash, scroll, or move in any manner. Illuminated window signs shall remain static and stationary.

f. Retail or commercial uses at ground level of any building or structure may have one interior non-intermittent and nonmoving neon window sign stating "OPEN," not exceeding five square feet in area as measured from the outer dimensions of such sign and consisting of not more than two colors. Any neon “OPEN” sign shall be turned off at close of business.

g. No exterior Neon Signs or Neon Tubes shall be permitted. No interior Neon Sign or Neon Tubing, save and except the one “OPEN” sign described herein-above, shall be visible from the exterior of the building.

131. WIND DEVICE. Any pennant, streamer, spinner, balloon, cloud buster balloon, inflatable objects or similar devices made of cloth, canvas, plastic or any flexible material designed to float or designed to move, or which moves freely in the wind, with or without a frame or other supporting structure, used for the purpose of advertising or drawing attention to a business, commodity, service, sale or product. Allowed for temporary special events only with a sign permit.

132. YARD SIGN. A temporary stake sign used to publicize the arrival of a newborn, participation of a family member in a school activity or sport, the presence of a security system, animals, and seasonal decorations.

a. No sign permit required.

b. Yard signs may be erected twenty-four (24) hours each and every day.
c. Yard signs shall be located only on lots containing an occupied single-family, two-family, or multifamily dwelling. Yard signs shall be erected no closer than ten feet (10’) from the Public Right-of-Way, Right-of-Way and any City-owned or utility-owned easement.

d. Signs advertising the presence of a home security system shall not exceed one square foot in area.

e. Signs advertising the arrival of a newborn, the participation of a family member in a school activity or sport, or the presence of animals shall not exceed four (4) square feet in area.

f. Seasonal decorations are excluded from place and manner requirements so long as they are erected no closer than ten feet (10’) from the public right-of-way.

133. ZONING SIGN. A temporary sign erected to publicize a request to zone or rezone a property.

a. No sign permit required.

b. The zoning sign shall be placed in a location visible from all streets adjacent to the property included in the zoning request. One (1) zoning sign shall be erected adjacent to each street frontage of the property. The area of a zoning sign shall be sixteen (16) square feet. The width of a zoning sign shall be four feet (4’).

48.3 SIGNS NOT REQUIRING A PERMIT

A permit shall not be required for any of the following types of signs unless otherwise regulated by this section:

A. A-Frame Signs.

B. Banner Signs meeting the following conditions.

1. Temporary Banner of a religious organization that temporarily operates in a school or other nonreligious facility may be erected on or about the structure in which its worship service occurs without the issuance of a sign permit provided the banner is erected no earlier than two (2) hours before a worship service and removed no later than two (2) hours after said worship service; or

2. Temporary Banner may be erected during a social or athletic event at a public park or other City-owned property without the issuance of a sign permit provided the banner is attached to pavilions, fences, vehicles, stakes, rails, or poles and is erected no earlier than two (2) hours prior to the start of the event and removed no later than one (1) hour after the conclusion of the event;
C. Building Marker / Memorial Plaque / Cornerstone.
D. Commemorative Sign / Historical Marker.
E. Flag or Flagpole.
F. For Sale, Rent, Lease Signs.
G. Fuel Pump Sign.
H. Garage Sale Signs / Personal Property Sale Signs.
I. HOA-Neighborhood Sign.
J. Home Improvement Sign.
K. Human Sign.
L. Instructional / Informational Sign.
M. Nameplate Sign or Address Sign.
N. Neon “OPEN” Signs.
P. Political Sign.
Q. Public Information Sign.
R. Real Estate Signs / Realtor Open House Signs.
S. Sandwich Board Signs.
T. Security Sign.

U. Signs one (1) square foot in area, or less, provided they are erected outside the Public Right-of-Way, Right-of-Way and any City-owned or utility-owned easement.

V. Vehicle Sign.
W. Window Sign.
X. Yard Sign.

48.4 PERMIT TO ALTER, ENLARGE, ETC. CONFORMING SIGNS

A. No sign shall be altered, rebuilt, enlarged, extended, replaced or relocated, nor shall sign faces be renewed or neon tubing be rearranged when the value of such work exceeds twenty-five dollars ($25.00), except upon the issuance of a permit by the Community Development Department. All work under such permit shall be in
conformity with the requirements of this section.

B. The changing of moveable parts of signs which are designed for changing or the repainting of display matter or the repairing of damaged neon tubing while a sign is in place shall not be deemed to be alterations.

48.5 ILLUMINATED SIGNS

A. All illuminated signs shall be wired in accordance with the requirements of the current electrical code adopted by the City.

B. No sign shall be illuminated to an intensity that will cause glare or brightness to a degree that could constitute a hazard or nuisance.

C. All illuminated signs shall be either:

1. internally lit, where the sign is constructed of translucent material with internal lights;

2. back lit, where the letters are raised above the sign’s background and cover the lighting sources which illuminate the background; or

3. indirectly lit, where the sign is illuminated by light sources that are not directly visible to the public.

D. When any sign is illuminated, the light(s) shall be properly installed, shaded, or concealed, so the light emitted will illuminate the sign face and will not interfere with the vision of motorists nor shine directly onto residentially zoned property.

48.6 INTERFERENCE WITH TRAFFIC DEVICES, SIGNALS PROHIBITED

In order to obtain and secure reasonable traffic safety, it shall be unlawful for any person to erect or maintain any sign in such manner as to obstruct free or clear vision or at any location where by reason of position, shape, color, degree, manner or intensity of illumination it may interfere with vehicular or pedestrian traffic. Pursuant to the foregoing, no sign shall be erected or maintained in such a manner as to be likely to interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device. Accordingly, no sign shall make use of the words “Stop,” “Go,” “Look,” “Slow,” “Danger” or any other similar words, phrases, symbols or characters or employ any red, yellow, orange, green or other colored lamp or light in such a manner as to interfere with, mislead or confuse traffic. In all cases, a Sight Distance Triangle must be adhered to as stated below:

A. The areas of property on both sides of the intersection of an alley access way and public right-of-way shall have a triangular visibility area with two (2) sides of each triangle being a minimum of ten feet (10') in length from the point of intersection and the third side being a line connecting the ends of the other two (2) sides.

B. The areas of property located at a corner formed by the intersection of
two (2) or more public rights-of-way (or a private driveway onto a public road) shall have a triangular visibility area with two (2) sides of each triangle being a minimum of twenty-five feet (25') in length along the right-of-way lines (or along the driveway curb line and the road right-of-way line) from the point of the intersection and the third side being a line connecting the ends of the other two (2) sides.

48.7 PERMITTED SIGNS

A. Freestanding monument-style signs.

B. Wall-mounted signs (wall signs, awning signs, projecting signs).

C. Public information signs.

D. Commemorative signs/historical markers.

E. Name plates mounted on a building or mail box not exceeding one (1) square foot in size.

F. Traffic directional signs.

G. Signs in or on the inside of a door or window not exceeding twenty percent (20%) of the door or window area.

H. Signs advertising the sale, lease, or rent of real estate.

I. Political signs.

J. Reader boards as part of overall permitted signage but not to be used as a general identification signage or directory sign.

K. Directory signs.

L. Personal property/garage sale signs.

M. Sandwich board signs.

N. Tethered/Inflatable Signs/Advertising.

O. Neon Signs.

P. Changeable Electronic Variable Message Signs.

48.8 PROHIBITED SIGNS

A. Signs located on or over balconies, galleries, sheds, roofs, fences, freestanding walls, and signs that conceal or disfigure architectural features or details that are necessary to comply with some other regulation, e.g., architectural elements required in a Planned Development, Planned Commercial Development or within the Historic Overlay Zoning (HOZ) District.

B. Signs located in, on or over Public Right-of-Way, Right-of-Way,
railroad right-of-way, public easements or designated fire lanes.

C. Portable signs, temporary signs, changeable letter signs (however, changeable letter capability as an integral element of a permanent, freestanding monument sign or reader board is permitted) unless otherwise permitted by this Sign Code or a base zoning district, overlay district, or Planned Development.

D. Signs containing any material or device which has the effect of intensifying reflected light, including but not limited to scotch light, day glow, glass beads, and luminous paint.

E. Pole-mounted signs.

F. Pylon signs.

G. Bench signs.

H. Off-premise signs, unless otherwise permitted by this Sign Code.

I. Signs that contain characters, cartoons, or other representations or statements, words, or pictures of an obscene, prurient, or immoral character, or that offend the public morals, or that are inappropriate viewing material for anyone under the age of eighteen (18) years including, but not limited to:

1. “Nudity or a state of nudity,” “specified anatomical areas” and “specified sexual activities” as those terms are defined in Section 4-102 of the Code of Ordinances of the City of Forney;

2. Less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola; and

3. Human male genitals in a discernibly turgid stage whether covered or uncovered.

J. Signs which contain, or are an imitation of, an official traffic sign or signal, or which are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control sign or signal, or which may hide from view any traffic sign or signal.

K. Any signs constructed or located in such a manner that is or becomes an immediate hazard or danger to persons or property because it is in an unsafe condition, or which obstructs any window, door, or fire escape of any building.

L. Stacked signs.

M. Vehicle signs (non-political).

N. Commercial billboards.
O. Parapet wall signs.

P. Roof signs.

Q. Abandoned or neglected signs.

R. Any signs not specifically permitted by this Sign Code.

S. Any signs erected or installed without the issuance of a permit (if a permit was required), either prior to or after the adoption of this Sign Code.

T. Any signs that do not comply with this or other applicable City of Forney ordinances or those signs which do not comply with federal or state law.

U. Neon Signs and Neon Tubing, except as specifically provided herein above and signs with exposed bulbs.

V. Moving, flashing, intermittently lighted, color changing, revolving or similarly constructed signs.

W. Bandit Signs.

X. Beacons and searchlights.

Y. Any type or style of sign that is not otherwise specifically identified as being a permitted sign under this Sign Code.

48.9 NUMBER OF PERMITTED SIGNS

A. Single Business Use on an Individual Lot:

1. Freestanding Monument Sign -- One (1).

2. Wall-Mounted Sign – Three (3). No more than one wall-mounted sign shall be located on the same wall.

3. Directory Sign – None.

B. Multi-Tenant Buildings or Shopping Centers:

1. Freestanding Monument Sign.

   a. Centers less than 100,000 square feet of gross floor area -- One (1) freestanding monument-style sign for the building or center as a whole. One (1) directory sign for the building or center as a whole.

   b. Centers greater than 100,000 square feet of gross floor area -- One (1) freestanding monument-style sign per street frontage. One (1) directory sign for the building or center as a whole.

   c. A multi-tenant complex comprised of more than one building,
with exterior or interior access, shall be permitted one (1) freestanding monument-style sign per building, provided that buildings separated by a distance of less than 60 feet shall be considered a single building.

2. Wall Sign -- One (1) wall-mounted sign for each lease space (permitted signage for any individual lease space shall not be transferable to other lease spaces or cumulated by the combination of lease spaces).

C. Residential Projects: One (1) freestanding monument sign per project, except that where the project fronts on two (2) or more streets, one (1) sign shall be permitted per frontage, provided that the project has a major traffic entrance on the street where the sign is erected.

48.10 LOCATION

A. Freestanding Monument-Style Signs shall be located no closer than fifteen feet (15') from the back of the curb line or if no curb line exists then no closer than fifteen feet (15') from the property line.

B. Wall-Mounted Signs --

1. Shall not extend beyond the roofline or parapet wall of the building.

2. Shall not exceed a maximum height on the building of thirty-five feet (35').

3. Shall be placed such that the lowest projecting edge is a minimum of eight feet (8') above the elevation of the adjacent pavement or sidewalk.

4. Shall not project beyond the face of the building more than twelve inches (12').

C. Residential Project Signs -- Residential project signs shall be located a minimum of twenty feet (20') behind the adjacent Public Right-Of-Way line.

D. Freestanding Directory Signs -- Freestanding directory signs shall be constructed in a “monument style” and shall not exceed overall size requirements or be larger than the freestanding general identification sign. If the directory sign is freestanding, the greatest separation possible shall be maintained between the directory sign and freestanding general identification sign and the directory sign shall be a maximum of one-half (½) or less of the height and one-half (½) or less of the area size of the freestanding general identification sign.
48.11 SIZE AND HEIGHT OF SIGNS (INCLUDES FLAGS AND FLAG POLES)

A. SIGNS PERMITTED IN RESIDENTIAL AREAS

1. Nameplates with a maximum area of one (1) square foot and restricted to the name and address of the occupant. Only one (1) sign per address is permitted.

2. Institutional signs not exceeding sixteen (16) square feet in area per side. All signs shall be of the monument type, not exceeding two feet (2') in height.

3. Apartment signs are permitted in districts zoned for multi-family purposes only and the maximum area shall not exceed sixteen (16) square feet per side. Only one (1) sign per street frontage is permitted. All signs shall be of the monument type, not exceeding two feet (2') in height.

4. Real estate signs.

5. Political signs as described in this Sign Code.

B. SIGNS PERMITTED IN NON-RESIDENTIAL DISTRICTS.

1. All signs must pertain to the business property at the location of the sign.

2. Wall signs on the front facade of buildings provided that the total face area of the wall signs shall not exceed the greater of ten percent (10%) of the front face area of the building or store façade as established in approved plans submitted to the City, or sixty (60) square feet. Wall signs on the two sides of the building (excluding the rear facade) not exceeding fifteen (15) square feet in area. All wall signs shall be limited to a maximum of two (2) rows of sign copy (two (2) stacked rows of sign copy per wall sign). The maximum height of any single letter, number, or symbol within any row of sign copy shall not exceed six feet (6') in height.

3. For Office, Neighborhood Services District, the Central Business District (CBD) and Central Business Transition (CBT) Overlay Districts. The total allowable area of a freestanding monument sign and/or directory sign shall not exceed one and one-half (1 1/2) square feet per foot of lineal frontage of the lot on which the structure is situated up to a maximum of sixty-four (64) square feet for lots five (5) acres or less in size and one hundred fifty (150) square feet for lots greater than five (5) acres in size. The frontage shall be determined by the frontage of the principal entrance to the premises and on only one side of the lot. Double-faced signs shall not be counted twice.

4. For General Retail, Commercial, Mixed Use, and Light Industrial -- The total allowable area of a freestanding monument sign and/or directory sign shall not exceed two (2) square feet per foot of lineal frontage up to a maximum of sixty-four (64) square feet for
lots five (5) acres or less in size and one hundred fifty (150) square feet for lots greater than five (5) acres in size. The frontage shall be determined by the frontage of the principal entrance to the premises and on only one side of the lot. Double-faced signs shall not be counted twice.

5. In all non-residential districts the maximum height of any freestanding monument sign shall be eight feet (8') including base, measured from grade for lots five (5) acres or less in size and ten feet (10') including base, measured from grade for lots greater than five (5) acres in size.

C. In all districts, flags and flagpoles will be considered signs and will be subject to a maximum height of thirty-five feet (35') measured from the highest point of the pole to the ground level with the maximum area of the flag restricted to that size which can be flown from a pole not to exceed thirty-five feet (35') in height subject to a maximum sixty (60) square feet in area. The area around the base of any flagpole shall be landscaped proportionate to the height of the flagpole to break up the vertical impact of such flagpole.

D. Political signs as described in this Sign Code.

48.12 TEMPORARY BANNER SIGNS/INFLATABLE SIGNS/ADVERTISING

All temporary banner signs/inflatable signs including banners mounted on poles within parking lots must be permitted (i.e., must obtain a permit under this section) and will be tracked by the Community Development Department for compliance as to length of time and number, etc. Temporary banner signs/tethered inflatable signs are prohibited in all zoning districts except for the following:

A. New Business -- Any non-residential premises or occupancy may display either one (1) banner sign equaling one hundred (100) square feet or two (2) 50-square foot banners announcing a new business. Display of such banner is limited to a maximum of fourteen (14) calendar days or less per opening, three (3) times in a twelve (12) month period. Each suite within a retail development shall be considered a building and, therefore, shall be allowed to erect a banner accordingly. The privilege to begin display of such sign expires three (3) months after the issuance of a Certificate of Occupancy.

B. Special Event/Promotion -- Any non-residential premises or occupancy may display banner signs containing a message directly relating to a special event/promotion, limited to six (6) Special Events/Promotions per year. The size of a Special Event/Promotion banner is limited to fifty (50) square feet. Special Event/Promotion banners may be displayed no more than fourteen (14) days prior to the Special Event/Promotion and must be removed within two days after the conclusion of the Special Event/Promotion. The fourteen (14)-day period will commence on the first day the permit is issued. Only one (1) Special Event or Promotion banner may be displayed on the Premises at any one (1) time. The banner may be located on the
face of the building of the business offering the Special Event/Promotion and placed not closer then ten feet (10’) from any Public Right Of Way, Right-of-Way, City-owned easement or utility easement if it is not installed on the face of a building.

C. Banners announcing special programs of religious or educational institutions are exempt from permit fees; however, a valid permit must be issued. The size of a banner is limited to fifty (50) square feet. No more than one (1) banner per institution shall be allowed at any one time. The banner shall be located on-site and placed not closer then ten feet (10’) from any Public Right-Of-Way, Right-of-Way, City-owned easement or utility easement.

D. Banners intended for use by sponsors of non-profit community activities, e.g., festivals, conventions, major events, and general street beautification conducted solely for the promotion of the City of Forney shall be permitted in the CBD and the CBT Overlay District. These banners shall be limited to fifty (50) square feet. The location of these banners will be limited to street light standards (poles) with approval of the City and any entity that owns and maintains such light standards and banner brackets.

E. Balloons and other Floating Devices, Cloud Buster Balloon and other Devices, Inflatable Device Signs (IDSs), Tethered/Inflatable Signs, and Wind Signs (collectively referred to as “Inflatable Signs”) shall not be installed, constructed, or erected prior to the issuance of a sign permit. Inflatable Signs are allowed to be erected and displayed on a lot for not more than three (3) fourteen (14) day periods per calendar year, unless specifically provided otherwise herein-below.

1. Balloons and other Floating Devices are allowed for temporary events in residential and nonresidential zoning districts.

a. Temporary events include business grand openings, festivals, fairs, gilleys, tournaments, births, birthdays, open houses or other similar happenings.

b. No person shall erect, maintain, or allow the installation of any floating devices anchored to the ground, any vehicle, structure or any other fixed object for the purpose of advertising or attracting attention to a business, commodity, service, sale, or product, except as otherwise permitted in this section. See Special Event, Special Event signs, Grand Opening and Grand Opening signs. Also refer to Wind Devices.

2. Cloud buster balloons, blimps, and other air devices are allowed for temporary special events in nonresidential zoning districts.

a. Cloud buster balloons, blimps and other air devices -- specifically excluding IDSs and Tethered/Inflatable Signs -- may be used by a homebuilder in the residential subdivisions in which the homebuilder is selling lots and/or building homes (“Subdivision”) subject to the following conditions:
(1) One (1) only windsock, windsock dancer or blimp per Subdivision located at either one (1) model home or one (1) sales trailer of the homebuilder; and

(2) Cloud buster balloons located at any model home or sales trailer of the homebuilder provided that such cloud buster balloons extend no higher than fifteen feet (15') into the air, are spaced at least twelve feet (12’) apart and are set back at least ten feet (10’) from the Public Right-of-Way, Right-of-Way and any easement.

(b) This provision regarding cloud buster balloons, blimps and other air devices cannot be combined with the provision regarding wind devices to allow more than one (1) windsock, windsock dancer or blimp per homebuilder per Subdivision.

3. IDSs may only be erected and displayed in nonresidential zoning districts.

a. A business can only display one (1) IDS at a time.

b. In the case of multiple businesses or tenants located on a single lot, each business is allowed to erect an IDS on the lot for not more than three (3) fourteen (14) day periods per calendar year, provided that not more than one (1) IDS is installed along any street frontage at the same time.

c. One (1) IDS per street frontage may be installed each time.

d. An IDS shall not be located in required parking places, or driveways that provide access to parking spaces or fire lanes, nor shall any IDS or its securing devices encroach into a right-of-way.

e. An IDS shall be secured directly to, and not suspended or floating from, the ground.

f. An IDS shall not be placed on a roof, canopy, parking garage, or awning, or suspended or floating from any building or garage.

g. The maximum height of an IDS shall not exceed thirty feet (30’). One (1) banner may be applied to an IDS. A banner applied to an IDS shall not count toward the allotted number of banners during a calendar year. The maximum area of a banner applied to an IDS shall not exceed forty-eight (48) square feet.

h. An IDS shall not be installed within two hundred feet (200’) from another IDS measured in a straight line in any direction.

4. Tethered/Inflatable Signs may only be erected and displayed in nonresidential zoning districts.
5. Wind Devices may only be erected and displayed in nonresidential zoning districts.
   
a. Wind devices are allowed for temporary events only. Temporary events include business grand openings, festivals, fairs, tournaments, or other similar happenings.

b. Wind devices shall be erected no earlier than seven (7) days prior to an event and removed no later than twenty-four (24) hours after the conclusion of the event.

c. Wind devices are allowed for not more than three (3) fourteen (14) day periods per calendar year.

d. Flags and grand opening balloons or balloon arrangements shall not be considered a wind device.

e. Wind Devices -- specifically excluding IDSs and Tethered/Inflatable Signs -- may be used by a homebuilder in the residential subdivisions in which the homebuilder is selling lots and/or building homes ("Subdivision") subject to the following conditions:
   
   (1) One (1) only windsock dancer per Subdivision located at either one (1) model home or one (1) sales trailer of the homebuilder; and

   (2) This provision regarding wind devices cannot be combined with the provision regarding cloud buster balloons, blimps and other air devices to allow more than one (1) windsock, windsock dancer or blimp per homebuilder per Subdivision.

6. The following provisions shall apply to all Inflatable Signs identified in this Section:

a. The permittee shall provide the Community Development Department with wind-loading diagrams and graphs showing stress on rigging and attach points in twenty-five (25) mile-per-hour and fifty (50) mile-per-hour wind conditions.

b. Rigging ropes or straps must have adequate certified strength to withstand loads shown on a fifty (50) mile-per-hour wind chart.

c. These devices may not be used or installed where it could create a potential safety hazard of any type and shall conform to flame-retardant requirements set forth in the current fire code adopted by the City.

d. No device shall exceed sixty feet (30') in height from ground elevation.

e. All devices must be mounted to the ground, i.e., the device itself must be touching the ground. All lighted, inflatable
devices shall be subject to electrical inspections and fees and must meet the current City electrical code.

f. An emergency deflation port must be installed and must be operational from ground level. All motors and lighting equipment used must adhere to current city electrical code.

g. These signs/devices may not be located in required parking spaces, driveways, fire lanes, or rights-of-way.

48.13 COMPREHENSIVE SIGN PACKAGE.

A. Purpose. The purpose of this section is to allow for a specialized review of signs which may have meritorious design and seek to promote a unique quality for an existing or proposed development, but which require special consideration. Such specialized review shall encompass the number, size, height, color, location, lighting, and/or relation to adjacent property, to promote the public health, safety, and welfare and be consistent with the goals of community character. The permitting of such signs shall not be based on the content of any sign, but is intended to allow for the evaluation of the physical impact of the proposed comprehensive sign package on adjacent properties and to ensure adequate mitigation of potentially unfavorable factors, such as the number, size, height, color, location, lighting and other potentially unfavorable impacts. Under these provisions, any form of monument, statue, art work, tower, signage, as defined herein, or as proposed for a particular development as an architectural feature, other than a prohibited sign, may be presented as a comprehensive sign package for approval as stated herein.

B. Applicability. No building permit shall be issued in any zoning district for any use for which a comprehensive sign package is sought under this Sign Code until a special sign permit has been approved according to the requirements of this section.

C. Submittal requirements. Any person, firm or corporation having a proprietary interest in any property within the corporate limits of the City requesting approval of a special sign permit shall file an application with the Community Development Department. The completed application shall include the following information:

1. A clear description of the proposed comprehensive sign package.

2. A drawing of the proposed sign, at a scale of not less than one-quarter inch (¼") to one foot (1’).

3. The location of each proposed sign illustrated on a site plan at a scale of not less than one inch (1”) to 200 feet (200’).

4. A metes and bounds description of the subject property typewritten on an eight and one-half-inch (8½") by eleven-inch (11") sheet of paper.

5. An eight and one-half-inch (8½") by eleven-inch (11") photomatte
(PMT) reduction of any of the drawings listed in this subsection (c).

6. A filing fee shall be submitted with every application in accordance with the fee schedule contained in this Sign Code. In addition, a site plan review fee shall be submitted with every application requesting a special sign permit that requires a site plan in accordance with the fee schedule found in the Zoning Ordinance.

7. Development of the comprehensive sign package shall be in accordance with the approved site plan.

D. Issuance. The City 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 special sign permits for the comprehensive sign package.

E. Additional information. The Planning And Zoning Commission, in considering and determining its recommendations to the City Council on any request for a special sign permit, may require from the applicant plans, information, operating data and expert evaluation concerning the location, function and characteristics of any sign proposed.

F. Additional requirements. The City Council may, in the interest of the public welfare and to ensure compliance with this section and the City’s master plan, establish conditions of operation, location, arrangement, proportionality, scale, materials and construction of any use for which a permit is authorized. In authorizing the location of any use listed as a special sign permit, the City Council may impose such development standards and safeguards as the conditions and location indicate important to the welfare and protection of adjacent property from glare, offensive view or other undesirable conditions.

48.14 ADMINISTRATION:

A. Sign Permits.

1. No sign, other than those signs allowed without a permit by this Sign Code, shall be erected, placed, attached, secured, altered or displayed to/on the ground, any building, or any structure, until a permit for such sign has been issued by the Community Development Department. In addition it shall be unlawful for any person to erect, conduct major repair of or relocate any sign within the City without first obtaining a permit. Minor repair, however, is allowed without a permit, as defined in section 48.2(F)(102).

2. Application for a sign permit required by this Sign Code shall be made upon forms provided by the Community Development Department of the City of Forney. Such application shall include the following information:

a. A drawing to scale of the proposed sign and all existing signs located on the premises, visible to the public, showing the size, type, height and construction materials of the proposed
sign and such other information as the Community Development Department or other authorized agent shall require.

b. Detailed drawings reflecting the structural integrity, strength and stability of all proposed monument signs and wall-mounted signs for which a permit is required shall be prepared and sealed by a registered professional engineer fully licensed by the State of Texas and submitted to the Community Development Department with the application for such a sign.

c. A drawing to scale of the site plan or building facade showing the proposed location of the sign.

d. Name, address and telephone number of the applicant.

e. Name, address and telephone number of the owner.

f. Name, address and telephone number of the person responsible for the erection of the sign.

g. Location of the building, structure or tract to which, or upon which, the sign is to be attached or erected.

h. A registered professional engineer or architect shall prepare such plans.

3. The City shall approve or deny an application for a sign permit within thirty (30) days of the Community Development Department's receipt of the fully completed application. A sign permit will be issued if a proposed sign conforms to all City ordinances.

4. A Site Plan shall be provided showing the location of all signs on the property and/or the adjacent properties. Incorrect information on an application shall be grounds for denial or revocation of a sign permit.

5. Insurance.

6. Not to issue for prohibited locations. No sign permit shall be issued under this Sign Code for any sign in a district where signs are prohibited by the Zoning Ordinance, as it currently exists or may hereafter be amended.

7. A sexually oriented business seeking a sign permit must also comply with all City ordinances regulating such businesses.

8. Interpretation and administration. The Director of Community Development shall be responsible for interpreting and administering this Sign Code. The Director of Community Development may revoke any permit for a sign issued in error.

9. Time limit for completion of work. If the work authorized by a
permit issued under the provisions of this Sign Code has not been completed within sixty (60) days after the date of issuance of the certificate of occupancy or the issuance of a sign permit, whichever is later, the permit shall become null and void.

10. Revocation. All rights and privileges acquired under the provisions of this Sign Code or any amendment hereto are mere licenses, revocable at any time by the City Council, and all permits issued hereunder shall contain this provision.

B. Fees and Procedures. No sign permit shall be issued until all appropriate sign permit fees have been paid to the City as provided in this Sign Code as follows:

1. Initial permit fee. Initial permit fees shall be as established from time to time in the attached fee schedule.

2. Renewal. A renewal permit fee as listed in the attached fee schedule shall be required for all on-premises and off-premises project or development signs renewed in accordance with this Sign Code.

3. Sign repair permit. Any repair or alteration to any sign requiring a permit by this Sign Code shall require an additional repair permit obtained by the Director of Community Development upon application and payment of a repair permit fee as listed in the attached fee schedule.

4. Electrical permit. Any sign in which electrical wiring and connections are used shall require an electrical permit obtained according to the City's fee schedule for such permit. The Chief Building Official shall examine the plans and specifications submitted with the application to ensure compliance with the electrical code of the City.

5. Identification of signs. All signs erected, constructed or maintained that require a permit shall be plainly marked with the name of the person erecting and maintaining such sign and shall have affixed on the front of the sign the number and date of issue of the permit issued for such sign.

6. Annual inspection. It shall be the duty of the Director of Community Development or his/her designee to inspect all permanent signs requiring a permit at least once annually. All signs and sign supports shall be maintained in good repair so as to prevent rust, peeling, flaking, or fading. Broken panels, missing letters, flaking or peeling paint, and other visual damage shall be repaired within thirty (30) days of notification by the City.

7. Expiration. Every permit issued under the provisions of this Sign Code shall expire and become null and void if the work authorized by such permit is not commenced within sixty (60) days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is
commenced for a period of more than one hundred twenty (120) days. Before such work can be recommended, a new permit shall be first obtained.

8. Any permit issued under this Sign Code shall be void if it is issued for a sign which conflicts with any provision of this Sign Code.

9. Failure to pay permit fees. If a sign is installed, erected, replaced, altered, or relocated without a permit for such work, the applicable permit fee shall be doubled.

10. The fees for an initial sign permit or renewal shall be as follows:

<table>
<thead>
<tr>
<th>Area of Sign Face</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 50 sq ft.</td>
<td>$75.00</td>
</tr>
<tr>
<td>51 to 100 sq ft.</td>
<td>$150.00</td>
</tr>
<tr>
<td>More than 100 sq ft.</td>
<td>$200.00</td>
</tr>
<tr>
<td>Temporary Banner</td>
<td>$25.00</td>
</tr>
<tr>
<td>Sign/Tethered/Inflatable</td>
<td></td>
</tr>
</tbody>
</table>

C. Responsibility of Compliance.

The permittee, owner, agent, person or persons having the beneficial use of a sign, the owner of the land or structure on which the sign is located, and the person in charge of erecting the sign, are all subject to the provisions of this Sign Code.

D. Enforcement.

1. Authority. The Director of Community Development or his designee(s) or such other person(s) as may be appointed by the City Manager is hereby designated to be the City’s Sign Inspector(s) and is further authorized and directed to interpret and enforce all the provisions of this Sign Code. For such purposes the Sign Inspector(s) shall have the powers of a law enforcement officer.

2. Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this Sign Code, or whenever there is reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Sign Inspector may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed by this Sign Code, provided that if such building or premises is occupied, he shall first present proper credentials and request entry; and if such building or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused or the owner or other
persons having charge or control of the building or premises cannot be located, the Sign Inspector shall have recourse to every remedy provided by law to secure entry.

3. Penalty. Any person, firm or corporation who shall violate any of the provisions of this Sign Code or cause or permit the same to be done in violation of this Sign Code shall be guilty of a class C misdemeanor and, upon conviction, shall be subject to a fine not to exceed the maximum permissible fine allowed by state law.

48.15 POSTING IN SPECIFIED AREAS PROHIBITED, GENERALLY

No person shall post or cause to be posted, attach or maintain any sign upon:

A. Any public right-of-way or public area unless specifically excepted herein;

B. Any tree, public or private utility pole or structure or any fence post;

C. The outside of any fence, railing or wall that is not a structure except for a nameplate sign; or

D. On a sidewalk, curb, gutter or street, except for house numbers.

48.16 EXISTING SIGNS

A. A sign lawfully in place as of the effective date of this section may remain in place as a nonconforming use and may not be altered or moved for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

B. A nonconforming sign shall be removed because the sign or a substantial part of it is blown down or otherwise destroyed or dismantled if the cost of repairing the sign is more than sixty percent (60%) of the cost of erecting a new sign of the same type at the same location.

48.17 MAINTENANCE OF SIGNS

The owner of any premises upon which a sign is located, or the owner of any sign, shall be responsible to maintain the sign at all times to comply with minimum structural requirements as contained herein for safety purposes.

48.18 COMPLIANCE WITH BUILDING CODES

A. All sign structures shall comply with minimum standards established by the building code or this Sign Code, whichever provisions are more restrictive. The Building Official may require any documentation, including engineered design or other construction documents, to determine code compliance.

B. All sign structures shall comply with the City’s Comprehensive Zoning
Ordinance, as it currently exists or may be amended, the International Building Code, the National Electrical Code, and other City ordinances, as they currently exist or may be amended. If the standards as described herein are more restrictive than another ordinance or code, then the provisions of this Sign Code shall apply.

C. All signs shall observe all visibility requirements. Signs shall not be placed within visibility triangles, corner clips, or easements as defined in the City's Thoroughfare Design Manual, as it currently exists or may hereafter be amended. Signs shall not create a hazard.

D. Unless otherwise permitted within this Sign Code, no person shall post or cause to be posted, attach or maintain any sign upon:

1. Any City-owned property or right-of-way without written permission of the City Manager or his designated representative;

2. Any utility easement. Should a property owner be able to demonstrate to the City Engineer and/or franchise utility company that there is no other viable location for a sign other than a utility easement, a sign may be located within the utility easement subject to written approval from the City Engineer and/or franchise utility company and subject to the providing of a letter to the City releasing the City of any liability for repair or replacement of a sign damaged by work occurring within the utility easement;

3. Any tree, utility pole or structure, street sign, rail, or any fence;

4. Any fence, railing or wall, except in accordance with this Sign Code; or

5. Any sidewalk within the right-of-way or sidewalk easement, curb, gutter, or street, except for house numbers or fire lane designation.

E. No sign shall be attached in any manner to any fire escape or to the supporting members of any fire escape, nor shall it be guyed to or supported by any part of a fire escape.

F. All signs shall be constructed to prevent the accumulation of rainwater in the sign.

G. No sign shall be erected nearer than two feet (2') from any telephone cable, power line or any street light standard.

H. No sign shall be erected to block, partially block, or interfere in any way with a required means of exit from any building or with any window. No sign shall block, interfere, or otherwise hinder pedestrian or vehicular traffic on a public sidewalk, a public thoroughfare, a fire lane easement, or a driveway required to access parking.

I. Signs constructed of glass or other materials which may shatter upon impact are prohibited over a public right-of-way or pedestrian area.
J. For the purposes of design of structural members in signs, an assumed wind load of at least twenty (20) pounds per square foot shall be used.

K. The permitting of a sign on a property or building shall not necessarily preclude the permitting of other types of signs on a property or building, unless the signs are expressly prohibited herein.

L. Exemptions. Signs located within a building, with the exception of window signs, shall not be regulated by this article.

48.19 VARIANCES

A. The Forney Zoning Board of Adjustment ("BOA") shall perform the functions of the Sign Board of Appeals (the Board).

B. Requests for variances to sign regulations and allegations of errors in orders, decisions, or determinations by an administrative official in the administration of the sign regulations shall be made in writing by the applicant and heard by the Board at a public hearing. An application for such appeal may be obtained from the Community Development Department. The Board shall hear, if possible, the request for a variance or the allegation of error within thirty (30) days after receipt of a completed application and applicable application fees. The application will require written authorization from the property owner before being filed.

C. Before the tenth day before the date of the public hearing conducted by the Board, written notice of the public hearing shall be sent by its deposit in the United States mail to each owner, as indicated by the most recently approved municipal tax roll of property within two hundred feet (200’) of the property on which the variance is proposed. The notice shall include a description of the time and place of such hearing, a description of the location of the subject property, and a description of the requested variance. In addition, the notice shall be published in the official newspaper of the City stating the time and place of such hearing, a minimum of ten (10) days prior to the date of the public hearing.

D. In order to approve a request for a variance, the Board shall determine whether the request meets three (3) of the following four (4) criteria:

1. The proposed sign shall not adversely impact the adjacent property (visibility, size and the like);

2. The proposed sign shall be of a unique design or configuration;

3. The variance is needed due to restricted area, shape, topography, or physical features that are unique to the property or structure on which the proposed sign would be erected;
4. The variance will substantially improve the public convenience and welfare and does not violate the intent of this article.

E. Should the Board deny a request for a variance, the applicant may appeal the request to City Council. A vote of three-fourths of the council members present is required to approve the appeal. The City Council's decision is final. The appeal to the City Council will require re-notification of the surrounding property owners and publication in the newspaper in the same manner described in subsection (C), above.

F. A variance shall not be approved for a sign that is prohibited by this Sign Code.

48.20 THE SIGN BOARD OF APPEALS

A. The Sign Board of Appeals shall adopt rules to govern its proceedings provided that such rules are not inconsistent with this Sign Code. Meetings of the Board will be held at the call of the Chairman or the Director of Community Development as necessary. All meetings shall be held in accordance with the Texas Open Meetings Act. The Chairman or, in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.

B. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and other official actions. All records shall be immediately filed in the office of the City Secretary and shall be a public record.

C. The Board may hear appeals by any person aggrieved, or by any officer, department or board of the City affected by any decision of the Director of Community Development. Such appeal shall be taken within ten (10) days’ time after the decision has been rendered by the Director of Community Development, by filing with that officer and with the Board a notice of appeal specifying the grounds thereof, accompanied by a filing fee as provided for in the Master Fee Schedule. The Director of Community Development shall transmit to the Board all of the papers constituting the records upon which the action appealed from was taken.

D. An appeal shall stay all proceedings in furtherance of the action appealed for, until the Board takes action, unless the Director of Community Development certifies to the Board, after the notice of appeal shall have been filed, that in his opinion such stay will cause imminent peril to life. In such a case, proceeding shall not be stayed. Notwithstanding the foregoing, any criminal action having been commenced in the Municipal Court shall not be stayed.

E. No appeal to the Board for the same or a related variance on the same piece of property shall be allowed prior to the expiration of six (6) months from the previous ruling by the Board, unless other property in the immediate vicinity has within said six (6) months, been changed or acted on by the Board or City Council so as to alter the
facts and conditions upon which the previous Board action was based, as determined in the sole discretion of the Board. Such change of circumstances shall permit the rehearing of an appeal prior to the expiration of a six-month period, but such conditions shall not have any force in law to compel the Board after hearing, to grant a subsequent appeal; such subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.

F. At a public hearing, any interested party may appear before the Board in person or by agent or by attorney. The burden of proof shall be on the applicant to establish the necessary facts to warrant favorable action of the Board on any matter. Any action granting a variance authorizing the issuance of a sign permit shall be valid for only sixty (60) days, unless said permit is secured in this 60-day period and construction is commenced in accordance with the Building Code, in which event the action of the Board shall be permanent with regard to the specific sign for which a variance is granted. If said sign permit is not secured within said 60-day period, or such period granted by the Board, any subsequent request and appeal shall be subject to the same regulations and requirements for hearing as herein specified for the original appeal.

48.21 ACTION OF THE BOARD.

A. In exercising its powers, the Board may amend, reverse or affirm, wholly or in part, or may modify the order, requirements, decision or determination appealed from and make such order, requirement, decision or determination in the Board’s opinion as ought to be made. The Board shall have the power to impose reasonable conditions in order to assure compliance and protect adjacent property.

B. The concurring vote of at least three/fourths of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Director of Community Development, or to decide in favor of the applicant in any matter upon which the Board is required to act under this subsection or to grant any variance to this Sign Code.

48.22 NOTICE OF HEARING BEFORE THE BOARD.

A. The Board shall hold a public hearing on all requests made to it. Notice shall be given by publishing the same in the official publication of the City at least ten (10) days prior to the date set for the hearing, which notice shall state the time and place of the hearing.

B. Before the tenth day before the date of the public hearing conducted by the Board, written notice of the public hearing shall be sent by its deposit in the United States mail to each owner, as indicated by the most recently approved municipal tax roll of property within two hundred feet (200’) of the property on which the variance is proposed. The notice shall include a description of the time and place of such hearing, a description of the location of the subject property, and a description of the requested variance. In addition, the notice shall be
published in the official newspaper of the City stating the time and place of such hearing, a minimum of ten (10) days prior to the date of the public hearing.

C. The Board shall also comply with the notice requirements of the Texas Open Meetings Act.

48.23 JURISDICTION OF THE BOARD.

A. When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured, the Sign Board of Appeals may, in specific cases, after public notice and hearing, and subject to appropriate conditions and safeguards, authorize the following variances to the regulations established by this Sign Code and take action relative to the continuance or discontinuance of a nonconforming use as follows:

1. Hear and decide appeals where it is alleged there is an error on any order, requirement, decision or determination made by the Director of Community Development in the enforcement of this Sign Code.

2. Authorize the reconstruction of a nonconforming sign provided such reconstruction does not, in the judgment of the Board, increase the degree of nonconformity of the sign.

3. Authorize such variance where the literal enforcement of the provisions of this Sign Code would result in an unnecessary hardship, and where such variances are deemed necessary to permit a sign on a specific parcel of land which differs from other parcels of land in the same zoning district by being of such restricted area, shape or slope that a sign cannot be placed on the parcel in a manner commensurate with those signs permitted on other parcels of land in the same zoning district. The modification of the standards established in this Sign Code shall not be granted to relieve a self-created or personal hardship, not for financial reason alone, nor shall such modification be granted to permit any person a privilege in placing a sign on a parcel of land not permitted by this Sign Code to other parcels of land in that district.

4. Authorize a special exception for one off-site temporary directional ground sign for residential subdivisions. The sign shall be limited to thirty-two (32) square feet in area, twenty feet (20') in height and placed a minimum of fifteen feet (15') from any street abutting property lot lines. Such a sign shall be allowed only in case of a geographical hardship and for a specific time period, but no longer than three (3) years.

5. Authorize a special exception allowing a single business to include their company logo or name on a subdivision entry sign structure when the Board determines the following:

a. That the granting of such special exception will be consistent
with the general purpose and intent of this Sign Code, and will serve the general welfare and preserve the community interest; and

b. The request is for a minimum subdivision size of one hundred (100) acres; and

c. A single logo or company name is limited to the permitted subdivision entry sign structures at only one (1) main entrance to the subdivision; and

d. The logo or name must be subordinate to the subdivision identification sign; and

e. Any conditions that the Board believes are necessary to secure substantially the purpose and intent of this Sign Code.

6. Authorize a special exception allowing a business wall sign increased area when the Board determines the following:

a. That the granting of such special exception will be consistent with the area’s 19th and early 20th century small town Texas character in size, shape, style, color and content; and

b. The wall sign is placed on a single tenant building with a minimum floor area of four thousand (4,000) square feet; and

c. The maximum wall sign area authorized is one hundred (100) square feet; and

d. The maximum number of wall signs with an area increase allowed is two (2) per building, meeting the criteria of (b) above; and

e. Any conditions that the Board believes are necessary to secure substantially the purpose and intent of this Sign Code.

7. Authorize a special exception allowing multiple lots to be considered as a single site in determining the maximum number of signs allowed, the maximum sign size, or determining whether the sign is an on-premise sign. The Board shall make the following findings:

a. That the granting of such special exception will be consistent with the general purpose and intent of this Sign Code, and will serve the general welfare and preserve the community interests; and

b. At least one (1) of the lots being considered is three (3) acres or larger; and

c. Freestanding signs serving individual lots on the multiple lot site are removed.
B. No variance may be granted if the granting of that variance will create an unnecessary hardship upon another parcel of land. The Board is not authorized to grant a variance to any provision of the zoning district in which a sign is permitted. In order to make a finding of hardship and to grant a variance, the Board shall find:

1. The requested variance does not eliminate any requirement of this Sign Code and does not allow any prohibited signs or acts;

2. The hardship is not in any way the result of the applicant’s own action; and

3. The hardship is peculiar to the property of the applicant and not due to the general conditions of the neighborhood.

Economic gain or loss shall never be sufficient grounds for the finding of a hardship or the granting of a variance.

48.24 PENALTY

Any person violating any of the provisions of this Sign Code, as amended, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed the sum of two thousand dollars ($2,000.00) for each offense, and each and every day any such violation shall continue or exist shall be deemed to constitute a separate offense.”
SECTION 48a SMALL WIND ENERGY SYSTEMS

48a.1 GENERAL PURPOSE AND DESCRIPTION

The purpose of these regulations is to accommodate small wind energy systems in appropriate locations while protecting the public’s health, safety, and welfare, and to provide a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

48a.2 DEFINITIONS

For the purpose of this section, the following words and phrases shall have the meanings ascribed to them:

1. Meteorological Tower (Met Tower) - Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For purposes of this section, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

2. Modification - Any change to a small wind energy system that materially alters the size, type or location of the system. Like-kind replacements shall not be construed to be a modification.

3. Net Metering - The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer’s small wind energy system that is fed back into the electric distribution system over a billing period.

4. Occupied Building - Any residence, school, hospital, church, public library, or other building that is occupied or in use when the permit application is submitted.

5. Owner - The person, entity or entities having an equity interest in the small wind energy system, including their successors or assigns, that intend to own and operate the system in accordance with this section.

6. Power Grid - The transmission system created to balance the supply and demand of electricity for consumers.

7. Rotor - The blades and the hub together constitute the rotor.

8. Shadow Flicker - The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

9. Small Wind Energy System or System - A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts (kW) or less and will be used primarily to convert wind energy into electricity for on-site consumption.
10. **System Height** – The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

11. **Tower** - The monopole, guyed monopole or lattice structure that supports a wind generator.

12. **Tower Height** - The height above grade of the fixed portion of the tower, excluding the wind generator.

13. **Wind Generator** - The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

48a.3 **GENERAL REGULATIONS AND PROCEDURES FOR REVIEW**

The following general regulations and procedures for review shall apply to all small wind energy systems located within any single-family or agricultural district. A small wind energy system lawfully in existence at the time of the enactment of this section shall not be required to meet the requirements established herein.

A. **Building Permit**: No small wind energy system shall be erected, constructed or installed without first receiving an approved building permit from the Building Official. A building permit also shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed three (3) years from the date the building permit was issued. An issued permit shall expire if the system is not installed, or modified, and functioning within six (6) months from the date the permit is issued.

B. **Application; Required Plans and Specifications**: In addition to the submittals otherwise required upon making application for a building permit, a building permit application for a small wind energy system must be accompanied by:

1. A site plan of the proposed small wind energy system, which shall include the following information and documentation:
   a. A survey or a scaled drawing of the site on which the proposed system will be constructed, including the property lines and physical dimensions of the applicant's property;
   b. A plan view layout of the proposed system clearly showing:
      (1) The location of the proposed system, foundations, guy anchors and associated equipment in respect to the property on which the system will be built;
      (2) Distance of the system to existing property lines;
      (3) Required setbacks;
(4) Location, dimensions and types of existing major structures on the site; and
(5) Natural features such as watercourses and trees;

c. Elevation drawings that include:

(1) Tower and tower foundation blueprints or drawings that depict the design and height of the proposed system;
(2) Detailed drawings of all system components; and
(3) Screening requirements;

d. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms with the edition of the International Electrical Code in effect at the time of construction; and

e. Location of any existing overhead utility lines.

2. Small wind energy system specifications, including manufacture, model, rotor diameter, tower height, tower type, and nameplate generation capacity.

3. Standard installation drawings of the wind turbine structure, including the tower, base and footings.

4. Either an engineering analysis of the tower or a copy of the manufacturing specifications demonstrating compliance of the system with the edition of the International Residential Code in effect at the time of construction. An engineering analysis shall be certified by a licensed professional engineer registered in the State of Texas.

5. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.

6. For each small wind energy system that will be connected to the power grid, a copy of the application for interconnection with the electric utility provider.

7. List of abutters to the applicant’s property.

A. Standards:

1. A small wind energy system shall be installed according to the manufacturer’s recommendations or under the seal of a professional engineer registered by the State of Texas.

2. The Building Official shall evaluate each permit application for compliance with the following standards:
a. Primary Structure Required: Small wind energy systems and met towers are an accessory or secondary use only. A small wind energy system may not be erected on a lot until a primary structure has been constructed.

b. Maximum Tower Height: The tower height of a small wind energy system shall not exceed 40 feet to the center of the shaft for properties less than three (3) acres in area size; 60 feet to the center of the shaft for properties over three (3) acres but less than 10 acres in area size; and 120 feet to the center of the shaft for properties over 10 acres in area size. In no situation shall the tower height exceed 120 feet. Additionally, no tower shall exceed the height recommended by the manufacturer or the distributor of the small wind energy system.

A small wind energy system that is permitted by the City based on a specific lot size but later, through subdivision of the original parcel into smaller lot sizes, would no longer qualify for a permit based on the reduced lot size,

(1) Must be removed within six (6) months of the subdivision of the parcel; or

(2) Must be reduced in height, within six (6) months of the subdivision of the parcel, to that height allowed by the new, smaller size of the parcel on which the system exists.

c. Location and Minimum Setback Requirements; Proximity to Other Towers:

(1) The tower structure of a small wind energy system shall be anchored only in the rear yard of the lot on which the system is located; provided, however, that the location of a tower structure on a parcel of 10 acres or greater shall be approved by the Director of Community Development.

(2) No portion of a small wind energy system, including blades or guy wire anchors, may protrude across a property line unless prior to making application for the system the owner obtains and files with the City an easement from the adjoining property owner that specifically authorizes the protrusion.

(3) The tower for a small wind energy system
shall setback a distance equal to 1.25 times the tower height from all property lines, public rights-of-way and occupied buildings. No part of the wind system structure, including guy wire anchors, may extend closer than 15 feet to the property boundaries of the installation site.

(4) The tower for a small wind energy system shall setback a distance equal to 1.25 times the tower height from any overhead utility lines, unless written permission is granted by the affected utility.

(5) No tower shall be erected closer than 75 feet or a distance of five times the diameter of the larger rotor, whichever is the greater distance, to another small wind energy tower.

d. Visual Impacts: Small wind energy systems may pose certain visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce such visual impacts without restricting the owner’s access to the optimal wind resources on the property.

(1) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system’s visual impacts will be minimized for surrounding neighbors and the community. This may include but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground-mounted electrical and control equipment.

(2) All electrical wires associated with a system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground except when the financial costs are prohibitive.

(3) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
e. Signs: No sign, including flags streamers, decorative items or advertising signs, either temporary or permanent, shall be placed on or attached to a small wind energy system, except for manufacturer identification or appropriate warning signs. A clearly visible warning sign that states “Caution, High Voltage” shall be placed at the base of all pad-mounted transformers and substations.

f. Sound Pressure Levels and Vibration: Sound pressure levels produced by the operation of a small wind energy system shall not exceed the limitations set forth in Section 44.1B(7) of the City’s Zoning Ordinance. Vibration produced by a small wind energy system at the property line or within adjacent homes or structures shall comply with Sec. 44.1B(6) of the City’s Zoning Ordinance. In no instance shall the operation of a system create vibration within structures on abutting property that exceeds the vibration perception threshold of the occupants.

g. Approved Wind Generators: The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the applicable regional or state authority. Wind generators shall not be attached to a roof or any other building structure or part thereof.

h. Shadow Flicker/Blade Glint: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impact or blade glint upon any inhabited structures (except for the owner’s) or city roadways. “Significant shadow flicker” is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures, and systems found to be in violation of this condition shall be shut down until the flicker or glint problem is remedied.

i. Braking Systems: All small wind energy systems shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
j. Utility Connection: If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to applicable local, state and federal law.

k. Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

l. Climb Prevention/Locks:
   
   (1) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

   (2) All access doors to small wind energy systems shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

m. Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations and ordinances.

3. Minimum Lot Size and Zoning Requirements: Small wind energy systems shall not be sited on any property less than two (2) acres in area size. Small wind energy systems are allowed solely on land zoned as an agricultural or residential use.

4. Lighting: A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration ("FAA"); however, this prohibition does not include operational lighting installed by the manufacturer of the system as original equipment. When lighting is required by FAA regulations, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the system, such lighting not to exceed the minimum requirements of those regulations.

   If so required, a small wind energy system tower structure may be artificially lighted ONLY with steady-burning red obstruction lights (FAA type L-810) or flashing red obstruction lights (FAA type L0864), flashing no faster than 20 flashes per minute. Upward lighting, flood lights or other lighting not strictly required by the FAA is prohibited.
5. Placement of Commercial Telecommunication: The installation, attachment or presence of commercial telecommunication equipment, either temporary or permanent, on a tower or small wind energy system is prohibited.

6. Prohibited in Easements: No portion of a small wind energy system shall be located in, on or across a public easement unless authorized in writing by the easement holder.

7. Notice to Abutting Property Owners: The Building Official shall notify all abutting property owners by certified mail upon the submission of an application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the building inspector prior to the issuance of the building permit.

8. Notice to Utility Company on Grid-Interconnected Systems: No grid-interconnected small wind energy system may be installed until evidence has been provided to the City that the appropriate electrical provider has been informed of the customer’s intent to install a grid-connected, customer-owned system. Off-grid systems are exempt from this requirement.

9. State or Federal Requirements: A small wind energy system shall meet or exceed current standards and regulations of the FAA and any other agency of the state or federal government with the authority to regulate small wind energy systems. If such standards and regulations are changed, and if the controlling state or federal agency mandates compliance, then the owner of the system shall bring such system into compliance with those revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency.

10. Application for Construction: Prior to the installation of a small wind energy system, an application for the system must be approved by the City Manager after a technical review by the Director of Community Development, the Building Official, the Director of Public Works, and the City Engineer. An application for approval of a small wind energy system shall be made to the Director of Community Development and shall be accompanied by payment of an application fee based on the value of the construction project and as stated in the City’s schedule of fees.

48A.4 MAINTENANCE AND ABANDONMENT

A. A small wind energy system shall be maintained at all times
B. A small wind energy system that has become unstable, leans significantly out-of-plumb, or that poses a danger of collapse shall be removed or brought into repair within 60 days following notice by the Building Official to the owner of the lot upon which the system is located. The Building Official may order immediate repairs in the event of imminent collapse. Failure to make the required repairs within the time provided is an offense under this section.

C. At such time that a small wind energy system is scheduled or required to be abandoned or discontinued, the owner of the system shall notify the Building Official by certified U.S. mail of the proposed date of abandonment or discontinuation. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations.

D. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Building Official. For purposes of this section, “physically remove” shall include but not be limited to:

1. Complete removal of the wind generator and tower and related above-grade structures from the site of installation.

2. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

E. In the event that the owner fails to give such notice of abandonment or discontinuation, the small wind energy system shall be considered abandoned or discontinued if the system is not operated or is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the Building Official is authorized to issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from the Notice receipt date. After review of the information provided by the owner, the Building Official shall determine if the system has been abandoned. If it is determined that the system has not been abandoned, the Building Official shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

F. If the owner fails to respond to the Notice of Abandonment or if, after review by the Building Official, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the system shall remove the wind generator and tower at the owner’s sole expense within three (3) months of receipt of the Notice of Abandonment. If the owner fails to physically remove the system after the Notice of Abandonment procedure, the
Building Official may pursue legal action to have the system removed at the owner’s expense.

48a.5. VIOLATION

It shall be unlawful for any person or entity to construct, install, modify, or operate a small wind energy system that is not in compliance with this section. Small wind energy systems installed prior to the adoption of this section are exempt from this section except when modifications are proposed to the system.

48a.6. PENALTIES

Any person, firm, or corporation who fails to comply with any provision of this section or a building permit issued pursuant to this section shall be guilty of a misdemeanor and upon conviction, shall be fined a sum not to exceed $2,000.00 for each offense, and each and every violation or day such violation shall continue or exist, shall be deemed a separate offense. The penal provisions imposed under this section shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law.”
SECTION 49    DEFINITIONS

49.1 For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall also include the future tense; words used in the masculine gender shall also include the feminine gender; words used in the singular number shall also include the plural number; and words in the plural number shall also include the singular number, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory. For any term or use not defined herein, Webster's Dictionary (latest edition) shall be used.

1. ACCESSORY BUILDING (RESIDENTIAL) - In a residential district, a subordinate building that is attached or detached and is used for a purpose that is customarily incidental to the main structure but not involving the conduct of a business (i.e., the building area must be significantly less than that of the main structure). Examples may include, but are not limited to, the following: a private garage for automobile storage, tool shed, greenhouse as a hobby (no business), home workshop, children's playhouse, storage building, garden shelter, etc.

2. ACCESSORY BUILDING (BUSINESS OR INDUSTRY) - In the nonresidential districts, a subordinate building to the main building that does not exceed the height of the main building and does not exceed fifty percent (50%) of the floor area of the main building, and that is used for purposes accessory and incidental to the main use (see "Accessory Use").

3. ACCESSORY USE - A use that is customarily incidental, appropriate and subordinate to the principal use of land or building(s) and that is located upon the same lot therewith (i.e., the land/building area that is used for the accessory use must be significantly less than that used for the primary use, and/or the gross receipts/income that is derived from the accessory use must be significantly less than that derived from the primary use).

4. ADULT DAY CARE FACILITY - A facility that provides services under an adult day-care program on a daily or regular basis but not overnight to four (4) or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility.

5. AIRPORT OR LANDING FIELD - A place where aircraft can land and take off that is usually equipped with hangars, facilities for aircraft refueling and repair, and various accommodations for passengers.

6. ALL TERRAIN VEHICLE - A vehicle that travels on low-pressure tires, with a seat that is straddled by the operator, along with handlebars for steering control. For the purposes of this Ordinance, all terrain vehicle also applies to utility task vehicles, side by side, personal water craft, and other similar vehicles.

7. ALLEY - A minor right-of-way that is dedicated to public use and which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

8. AMBULANCE SERVICE - Provision of private (not operated by the City of Forney) emergency transportation which may include mobile medical care, and which may include storage and maintenance of vehicles.
9. **AMUSEMENT ARCADE (ALSO VIDEO ARCADE)** - Any building, room, place or establishment of any nature or kind, and by whatever name called, where more than ten percent (10%) of the public floor area is devoted to four (4) or more amusement devices that are operated for a profit, whether the same is operated in conjunction with any other business or not, including but not limited to such amusement devices as coin-operated pinball machines, video games, electronic games, shuffle boards, pool tables or other similar amusement devices. However, the term "amusement device", as used herein, shall not include musical devices, billiard tables which are not coin-operated, machines that are designed exclusively for small children, and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports.

10. **AMUSEMENT, COMMERCIAL (INDOOR)** - An amusement enterprise that is wholly enclosed within a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, and that provides activities, services and/or instruction for the entertainment of customers or members, but not including amusement arcades. Uses may include, but are not limited to, the following: bowling alley, ice skating rink, martial arts club, racquetball/handball club, indoor tennis courts/club, indoor swimming pool or scuba diving facility, and other similar types of uses.

11. **AMUSEMENT, COMMERCIAL (OUTDOOR)** - An amusement enterprise offering entertainment and/or games of skill to the general public for a fee wherein any portion of the activity takes place outdoors and including, but not limited to, a golf driving range, archery range, miniature golf course, batting cages, go-cart tracks, amusement parks, and other similar types of uses.

12. **ANIMAL GROOMING/PET SHOP** - A retail establishment offering small animals, fish and/or birds for sale as pets, where such creatures are housed within the building, and which may include the grooming of dogs, cats and similar animals.

13. **ANTIQUE SHOP, SALES INDOORS** - A retail or wholesale establishment engaged in the selling of works of art, architectural antiques, furniture and/or other artifacts of an earlier period (i.e., over 50 years old) and that are in clean, operable and saleable condition (i.e., not junk), with all sales and storage occurring inside a building. An antique shop is differentiated from a "used merchandise store", a "resale shop" or a "consignment shop" in that it does not market common, contemporary used household goods, clothing or furnishings – rather, it deals primarily in vintage and nostalgia items (generally over 50 years old) and in antiquities (generally over 100 years old) from past eras.

14. **ART GALLERY OR MUSEUM** - An institution for the collection and/or display of bona fide objects of art or science, and which is typically sponsored by a public or quasi-public agency and generally open to the public. An art gallery/museum can include a small gift shop that sells items to visitors provided that such sales are clearly accessory to the primary use as a gallery/museum. An establishment that sells new art or science objects on the retail market shall be defined as a "retail store", and an establishment that sells used objects (or parts of objects) shall be defined as a "used merchandise store".

15. **ASSISTED LIVING FACILITY** - A congregate residence facility licensed by the State of Texas pursuant to Chapter 247 of the Texas Health and Safety Code for ten (10) or more elderly (over 55 years of age) persons, regardless of legal relationship, who need limited assistance with daily living activities. A limited number of support
services such as meals, laundry, housekeeping, transportation, social/recreational activities, hairdressing, etc. may be provided or associated with the Assisted Living Facility. Units may be attached or detached, single- or double-occupancy, and may include limited or full kitchen facilities. Full-time medical or nursing care is not typically provided by the facility, but may be privately arranged for by individual residents on a part-time or temporary basis (e.g., visiting nurses, etc.).

16. AUTO LAUNDRY OR CAR WASH - Washing, waxing or cleaning of automobiles or light duty trucks.
   a. Attended Auto Laundry or Car Wash - The owner of the vehicle does not actually wash the vehicle. Instead, he either leaves the vehicle and comes back to retrieve it later, or he waits in a designated area while employees of the car wash facility vacuum, wash, dry, wax and/or detail the vehicle for a fee.
   b. Unattended Auto Laundry or Car Wash - The owner of the vehicle causes the vehicle to become washed. One type of unattended car wash facility utilizes automated self-service (drive-through/rollover) wash bays and apparatus in which the vehicle owner inserts money or tokens into a machine, drives the vehicle into the wash bay, and waits in the vehicle while it is being washed. The other type of unattended facility is comprised of wand-type self-service (open) wash bays in which the vehicle owner drives the vehicle into the wash bay, gets out of the vehicle, and hand washes the vehicle with a wand-type apparatus by depositing coins or tokens into a machine.

17. AUTO FINANCE AND LEASING - Leasing of automobiles, motorcycles, and light load vehicles but no outside storage.

18. AUTO PARTS AND ACCESSORY SALES (INDOORS) - The use of any building or other premise for the primary inside display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles.

19. AUTO RENTAL - Storage or renting of automobiles and light trucks.

20. AUTO SALES (NEW) - Retail sales of new automobiles or light load vehicles, including, as a minor part of the business, the sales of used automobiles or light load vehicles and the service of new or used vehicles.

21. AUTO SALES (USED) - Retail sales, or offering for sale, used automobiles or light load vehicles.

22. AUTO STORAGE AND AUTO WRECKER SERVICE (Vehicle Storage Facility) – The removal and temporary storage or impoundment of consent or non-consent tows of operable automobiles, on a lot or tract for the purpose of holding such vehicles for sale, distribution and/or storage. This definition shall not include the storage of wrecked or inoperable vehicles (see "Wrecking Yard") or an automobile service use that has a tow truck and repairs vehicles on-site.

23. AUTOMOBILE - A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, light duty trucks and sport utility vehicles, vans and mini-vans, motor scooters and motorcycles.
24. **AUTOMOBILE ACCESSORY INSTALLATION (MINOR)** - Minor installation of minor automobile accessories such as car alarms, radio and stereo equipment, window tinting, pin striping, cellular telephones and similar accessories.

25. **AUTOMOBILE REPAIR GARAGE** - An establishment providing major or minor automobile repair services to all motor vehicles except heavy load vehicles.

26. **AUTOMOBILE REPAIR, MAJOR** - General repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision repair services including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; those uses listed under "Automobile Repair, Minor"; and other similar uses.

27. **AUTOMOBILE REPAIR, MINOR** - Minor repair or replacement of parts, tires, tubes and batteries; diagnostic services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses and brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems; and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under "Automobile Repair, Major" or any other similar use.

28. **AUTOMOTIVE GASOLINE OR MOTOR FUEL SERVICE STATION** - Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of automotive fuels, lubricants and automobile accessories, including those operations listed under "Automobile Repair, Minor". Vehicles which are inoperative or are being repaired may not remain parked outside these facilities for a period greater than forty-eight (48) hours.

29. **BAKERY OR CONFECTIONERY (RETAIL)** - A facility which is typically less than 2,000 square feet in size for the production and/or sale of baked goods for human consumption such as (but not limited to) pies, cakes, cookies, doughnuts, desserts, etc.

30. **BAKERY OR CONFECTIONERY (WHOLESALE OR COMMERCIAL)** - A manufacturing facility which is typically over 2,000 square feet in size for the production and distribution of baked goods and confectioneries to retail outlets.

31. **BALLROOM DANCING** - An establishment open to the general public for dancing (any sales of alcoholic beverages for on-premise consumption shall be subject to requirements and use restrictions for private clubs -- see definition for “Private Club” (also see Chapter 4, Section 9 of the City’s Code of Ordinances, and Section 34d, Entertainment Overlay District, of this Ordinance).

32. **BANK, SAVINGS AND LOAN, CREDIT UNION OR SIMILAR FINANCIAL INSTITUTION** - An establishment, open to the public, for the deposit, custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds, **excluding** pawnshops, check cashing businesses, payday advance/loan businesses, and car title loan businesses.

33. **BANQUET HALL** - An establishment which is rented by individuals or groups to accommodate private functions including , but not limited to, banquets, weddings, anniversaries, and other similar celebrations or gatherings by appointment. Such a use may or may not include kitchen facilities for the preparation or catering of food and...
outdoor gardens and reception facilities. Occupancy loads must be strictly adhered to.

34. **BARN** - A structure intended for the purpose of storing farming and ranching related equipment and/or housing livestock.

35. **BASEMENT (OR CELLAR)** - A portion of a building that is partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

36. **BED AND BREAKFAST OR INN** – A dwelling, occupied as a permanent residence by an owner or renter, which serves breakfast and provides or offers merriment and temporary sleeping accommodations in not more than five (5) rooms for transient guests for compensation. Parking shall be provided on-site for all motor vehicles kept for the use of the Inn’s guests. In no event may the proprietor of the Inn and their guests keep motor vehicles in numbers that exceed the number of bedrooms in the Inn.

37. **BLOCK** - A piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the City Manager, or his/her designee, shall determine the outline of the block.

38. **BOARDING OR ROOMING HOUSE** - A dwelling other than a hotel, where for compensation and by prearrangement for definite periods, lodging and/or meals are provided.

38a. **BREWERY** - A manufacturing use that requires a Brewer's Permit from the Texas Alcoholic Beverage Commission. A Brewery may not have a taproom or involve the sale of alcohol for onsite consumption.

38b. **BREWPUB** - A restaurant that incorporates the manufacturing of beer in accordance with Texas Alcoholic Beverage Commission 'Brewpub Permit' regulations. Brewpub’s are limited to the production of 10,000 barrels per year. A brewpub must hold a TABC Brewpub Permit in addition to either a TABC RM (Mixed Beverage Restaurant Permit with Food and Beverage) Permit or a TABC NB (Private Club) Permit.

39. **BUILDING** - Any structure intended for shelter, occupancy, housing or enclosure for persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

40. **BUILDING HEIGHT** - The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof.

41. **BUILDING LINE** - A line parallel, or approximately parallel, to any lot line at a specific distance there from, marking the minimum distance from the lot line that a building may be erected (see Illustration 6).

42. **BUILDING, MAIN OR PRIMARY** - A building in which the principal use of the lot on which it is situated is conducted. In a residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.
43. BUILDING MATERIALS AND HARDWARE SALES (INDOOR OR OUTDOOR) - Materials, tools, and/or hardware customarily used in the construction of buildings and other structures, including facilities for storage of materials for retail sales. Sometimes referenced as a “home improvement center”. “Outdoor” means the storage of materials and products outside of the main building.

44. BUILDING OFFICIAL - The inspector or administrative official charged with responsibility for issuing permits and enforcing the Zoning Ordinance and Building Code of the City of Forney.

45. BUILDING SITE - See “Lot” definition.

46. BUS STATION OR TERMINAL - Any premises for the transient housing and/or parking of motor-driven buses and the loading and unloading of passengers.

47. CARETAKERS’ OR GUARDS’ RESIDENCE - A residence located on a premises with a main residential or nonresidential use and occupied only by a caretaker or guard employed on the premises (e.g., residence for guard in a private street development, residence for a guard/manager/caretaker for a self-storage facility or a restricted access business park, etc.).

48. CARNIVAL, CIRCUS OR TENT SERVICE (TEMPORARY) - Outdoor or indoor commercial amusement provided on a temporary basis.

49. CARPORT - A structure that is open on a minimum of two sides and designed or used to shelter vehicles. Also called “covered parking area.”

50. CEMETERY OR MAUSOLEUM - Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

51. CEMETERY, ANIMAL - Same as cemetery except only for the burial of dead animals.

52. CERTIFICATE OF OCCUPANCY - An official certificate issued by the City through the Building Official which indicates conformance with the zoning regulations and building codes and which authorizes legal use of the premises for which it is issued.

52a. CHECK CASHING BUSINESS/CREDIT AGENCY OR SIMILAR FINANCIAL INSTITUTION - A check cashing business, credit agency or similar financial institution, e.g., payday advance/loan businesses or car title loan businesses, defined as:

An establishment that provides to the customer an amount of money that is equal to the face of a check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction, and where there is an agreement not to cash the check or execute an electronic transfer of money for a specified period of time, the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose for compensation by any person or entity other than a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers, that cashes checks or money orders, or issues money orders or money transfers for a minimum flat fee as a service that is incidental to its main purpose or business, provided such retailer does not cash more than 100 checks in any calendar month, and/or an establishment that makes small consumer loans, usually backed by a postdated check or authorization to
make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until an applicant’s next payday, and then cashed unless the customer repays the loan to reclaim such person’s check, and/or an establishment that makes small consumer loans that leverage the equity of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application. The loan terms are often for 30 days and failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle. This definition excludes a state or federally chartered bank, savings and loan association or credit union, pawnshop or grocery store.

These uses will only be allowed with a Conditional Use Permit (CUP) in the LI (Light-Industrial) zoning district in a free-standing building developed in accordance with the provisions of this Ordinance and shall not be co-located in the same structure as other uses. No lot containing this use will be allowed within 2,000 lineal feet from any other lot containing this similar use (as measured in a straight line between the nearest points of one lot to another lot).

No lot containing this use will be allowed within 500 lineal feet of any residentially zoned lot or lot used for residential use, or within 1,000 lineal feet of F.M. 548, F.M. 688 (Broad Street), and U.S. Highway 80, including the service roads.

53. CHILD CARE CENTER (OR DAY CARE CENTER) - A commercial institution or place designed for the care or training of twelve (12) or more children under fourteen (14) years of age for less than 24 hours a day.

54. CHURCH, RECTORY OR TEMPLE - A building for regular assembly for religious worship which is used primarily and designed for such purpose and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns or rabbis on the premises (tax exempt as defined by State law). For the purposes of this ordinance, religious study and other similar activities which occur in a person's primary residence shall not apply to this definition.

54a. CITY COUNCIL - The governing body of the City of Forney, Texas.

54b. CITY OF FORNEY - The City of Forney, Texas; sometimes referred to as the “City”.

55. CIVIC CENTER - A building or complex of buildings that may house municipal offices and services, and which may include cultural, recreational, athletic, food service, convention and/or entertainment facilities owned and/or operated by a municipality.

56. CLEANING PLANT (COMMERCIAL/WHOLESALE) - An industrial facility where fabrics are cleaned with substantially no aqueous organic solvents on a commercial or wholesale basis.

57. CLEANING SHOP OR LAUNDRY (SMALL SHOP, PICK-UP AND SELF SERVICE) - A custom cleaning shop not exceeding two thousand five hundred (2,500) square feet of floor area and may include customer self-service laundry and cleaning.

58. COLLEGE OR UNIVERSITY - An academic institution of higher learning, accredited or recognized by the State and covering a program or series of programs of academic study.
59. COMMERCIAL AMUSEMENT (INDOOR) - See Amusement, Commercial (Indoor).

60. COMMERCIAL AMUSEMENT (OUTDOOR) - See Amusement, Commercial (Outdoor).

61. COMMUNICATION EQUIPMENT SALES & SERVICE - A retail store that provides sales and service for personal communication devices such as cellular phones and pagers.

62. COMMUNITY CENTER (PUBLIC) - A building or complex of buildings that house cultural, recreational, athletic, food service and/or entertainment facilities owned and/or operated by a governmental agency or private nonprofit agency.

63. COMMUNITY HOME - A facility licensed by the State of Texas that meets all of the requirements of Chapter 123 of the Texas Human Resources Code, which provides food and shelter, personal guidance, care, habilitation services and supervision to persons with disabilities, as identified in Texas Human Resources Code § 123.002, residing in the Community Home. The residents of a Community Home shall be limited to not more than six (6) persons with disabilities and two (2) supervisors at the same time. Off-street parking shall be provided on-site for all motor vehicles kept for the use of the Community Home’s residents. In no event may residents of the Community Home keep motor vehicles in numbers that exceed the number of bedrooms in the Community Home. A new Community Home may not be established within one-half mile of an existing Community Home.

64. COMPREHENSIVE PLAN - Document adopted by the City that consists of graphic and textual policies which govern the future development of the City and which consists of various components governing specific geographic areas and functions and services of the City.

65. CONCRETE OR ASPHALT BATCHING PLANT (PERMANENT) - A permanent manufacturing facility for the production of concrete or asphalt.

66. CONCRETE OR ASPHALT BATCHING PLANT (TEMPORARY) - A temporary manufacturing facility for the production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

67. CONSIGNMENT SHOP/RE-SALE SHOP (also THRIFT STORE) - See “Used Merchandise Store”.

68. CONTINUING CARE RETIREMENT COMMUNITY - A housing development designed to provide a full range of accommodations for older adults (55 years of age or older), including independent living, assisted living and skilled full-time nursing or medical care. Residents may move from one level to another as their needs change.

69. CONTRACTOR’S SHOP WITH OUTSIDE STORAGE YARD - A building, part of a building, or land area for the construction or storage of materials, equipment, tools, products, and vehicles.

70. CONVENIENCE STORE WITH (OR WITHOUT) GASOLINE SALES - Retail establishment selling food for off-premises consumption and a limited selection of groceries and sundries (and possibly gasoline, if pumps are provided). Does not include or offer any automobile repair services.
71. **COPY SHOP OR PRINTING** - An establishment which reproduces, in printed form, individual orders from a business, profession, service, industry or government organization and occupies less than 5,000 square feet.

72. **COUNTRY CLUB (PRIVATE)** - A land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available only to members and their guests.

73. **COURT** - An open, unobstructed space, bounded on more than two sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

74. **COVERAGE** - The lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.

75. **CUSTOM PERSONAL SERVICE SHOP** - Tailor, dressmaker, shoe shop, barber shop, beauty shop or similar shop offering custom service.

76. **DAY CAMP FOR CHILDREN** - A facility arranged and conducted for the organized recreation and instruction of children including outdoor activities on a daytime basis.

77. **DENSITY** - The total number of residential buildings allowed upon a given tract of land usually expressed in total number of units per net acre (i.e., not including street rights-of-way, HOA common/landscaping areas, parks, floodplains, etc.).

78. **DETACHED** - Having no physical connection above the top of the floor line of the first floor with any other building or structure.

79. **DISTRIBUTION CENTER** - Building or facility used for the storage and distribution of wholesale items/products.

80. **DRAPERY OR FURNITURE UPHOLSTERING SHOP** - An establishment for the production, display and sale of draperies and soft coverings for furniture.

81. **DWELLING** - Any building or portion thereof, which is designed or used as living quarters for one or more families.

82. **DWELLING, SINGLE FAMILY ATTACHED (TOWNHOUSE)** - See "Single Family Dwelling (Attached)".

82a. **DWELLING SIZE / AREA** - The total square footage of a dwelling unit, including only the livable (i.e., air-conditioned) space within the home (i.e., not the garage, accessory buildings, etc.).

83. **EASEMENT** - A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

84. **EDUCATIONAL FACILITIES** - Public and private primary, secondary and post-secondary educational facilities offering instruction in the branches of learning and study required to be taught by the Texas Education Agency; and such federally funded educational programs for preschool children as the Head Start Program.
85. **ELECTRICAL SUBSTATION (HIGH VOLTAGE BULK POWER)** - A subsidiary station in which electric current is transformed.

86. **ENCLOSED BUILDING** - A structure which is floored, roofed and surrounded by outside walls, which contains no opening larger than 120 square feet in area normally open to the air and which contains no series of openings forming a divided opening larger than 120 square feet in area normally open to the air. Includes an enclosed garage.

87. **FAIRGROUNDS OR EXHIBITION AREA** - An area or space either outside or within a building for the display of topic-specific goods or information.

88. **FAMILY** - One or more persons related by blood, marriage, or adoption; or a group not to exceed four (4) persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit.

89. **FAMILY HOME (Child Care in Place of Residence)** - A facility that regularly provides care in the caretaker's own residence for not more than six (6) children under fourteen (14) years of age, excluding children who are related to the caretaker, and that provides care after school hours for not more than six (6) additional elementary school children. However, the total number of children, including children related to the caretaker, provided care at such facility shall not exceed twelve (12) at any given time. The phrase “children who are related to the caretaker” includes children who are the children, grandchildren, siblings, great grandchildren, first cousins, nieces, nephews or wards of the caretaker. No outside employment is allowed at the facility. This facility shall conform to Chapter 42 of the Texas Human Resources Code, as amended, and in accordance with such standards as may be promulgated by the Texas Department of Human Resources.

90. **FARM, RANCH, GARDEN, CROPS OR ORCHARD** - An area used for growing farm products, vegetables, fruits, trees, and grain and for the raising thereon of farm animals such as horses, cattle, and sheep. May also include the necessary accessory uses for raising, treating, and storing products raised on the premises, but does not include the commercial feeding of offal or garbage to swine or other animals. Also does not include any type of agriculture or husbandry specifically prohibited by ordinance or law.

91. **FARMERS MARKET** – A temporary, outdoor marketplace on private property where produce, merchandise, food or other products that are distributed, offered for sale, or sold directly to consumers by the persons that have raised, grown, made, crafted, processed, or produced the products. A Farmers Market is separate from a Special Event and must follow the regulations set forth in Section 47.10 of this Zoning Ordinance.

92. **FEED AND GRAIN STORE** - An establishment for the selling of corn, grain and other food stuffs for animals and livestock, and including implements and goods related to agricultural processes, but not including farm machinery.

93. **FIRE, POLICE OR MUNICIPAL BUILDING** - Any public service building of the municipal government including a library or City Hall, but excluding storage yards, utility shops and equipment centers.
94. FLOOD PLAIN - An area of land subject to inundation by a 100-year frequency flood as determined using standard engineering practices and generally as shown on the FIRM Flood Insurance Rate Map of the City of Forney.

95. FLOOR AREA - The total gross square feet of floor space within the outside dimensions of a building including each floor level, but excluding carports, residential garages, and breezeways.

96. FLOOR AREA RATIO (FAR) - The floor area of a main building or buildings on a lot, divided by the lot area (see Illustration 1).

97. FLORIST SHOP - An establishment for the display and retail sale of flowers, small plants and accessories.

98. FOOD PROCESSING - A manufacturing or light industrial use that primarily deals with the processing and packaging of food (such as dairy or grain) products that are intended for human consumption, but which are not typically sold in volume to end users on the premises. Incidental retail sales of food products (e.g., bread and baked goods, dairy products such as cheese, etc.) created and packaged on the premises may be allowed as an accessory use.

99. FOOD STORE - A retail business establishment that displays and sells consumable goods that are not to be eaten on the premises. Prepared food may be sold only as a secondary or accessory use.

100. FOSTER FAMILY HOME – A private home that is the primary residence of the foster parent(s) providing foster care for a maximum of six (6) children at any one time, under the regulation of a child-placing agency. The Texas Administrative Code (Title 40, Part 19, Chapter 749) requires that a foster parent must be trained and verified by the Texas Department of Family and Protective Services, independently licensed by the Office of Child Care Licensing (CCL), or trained and verified by a CCL-licensed child-placing agency. Foster Family Homes are required to have fire safety inspections conducted by the City of Forney Fire Marshal.

101. FRANCHISED PRIVATE UTILITY (NOT LISTED) - A utility such as one distributing heat, chilled water, closed circuit television or similar service and requiring a franchise to operate in the City of Forney.

101. FRATERNAL ORGANIZATION, LODGE, CIVIC CLUB, OR UNION - An organized group having a restricted membership and specific purpose related to the welfare of the members such as Elks, Masons, Knights of Columbus, or a labor union.

102. FRONT YARD - See "Yard, Front".

103. FUNERAL HOME OR MORTUARY - A place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

104. FURNITURE, HOME FURNISHINGS OR APPLIANCE STORES - This group includes retail stores selling new goods for furnishing the home including, but not limited to furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances.
105. **FURNITURE STORE (NEW AND USED)** - Same as above except sales may include used items.

106. **GARAGE, PRIVATE** - An enclosed accessory building, or a part of a main building, used for storage of automobiles and used solely by the occupants and their guests. Also called "enclosed parking space."

107. **GARAGE/ACCESSORY DWELLING** - A residential dwelling unit attached to or over a garage but not attached to the main residential structure.

108. **GARDEN SHOP** - A facility which is engaged in the selling of flowers, ornamental plants, shrubs, trees, seeds, garden and lawn supplies, and other materials used in planting and landscaping, but not including cultivation and propagation activities outside a building.

109. **GASOLINE SERVICE OR FILLING STATION** - See "Automotive Gasoline or Motor Fuel Service Station".

110. **GENERAL COMMERCIAL PLANT** - Establishments other than personal service shops for the treatment and/or processing of products as a service on a for-profit basis including, but not limited to, newspaper printing, laundry plant, or cleaning and dyeing plants.

111. **GENERAL MANUFACTURING** - See "Industrial, Manufacturing".

112. **GENERAL RETAIL STORES** - This major group includes retail stores which sell a number of lines of primarily new merchandise including but not limited to dry goods, apparel and accessories, furniture and home furnishings, small wares, small appliances, hardware, and food. The stores included in this group are known as department stores, variety stores, general merchandise stores, general stores, etc. (also see "Retail Shop").

113. **GOLF COURSE** - An area of twenty (20) acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses.

114. **GROUP DAY-CARE HOME** - A facility that provides care for seven (7) to twelve (12) children under fourteen (14) years of age for less than 24 hours a day.

115. **GUN RANGE (INDOOR ONLY)** – Any indoor facility, including a sport shooting range or commercial shooting range, that is open to the public and used for the discharge of firearms, including target, silhouette, skeet, trap, black powder, self-defense or similar recreational and/or professional shooting.

116. **GYMNASTIC OR DANCE STUDIO** - A building or portion of a building used as a place of work for a gymnast or dancer or for instructional classes in gymnastics or dance.

117. **HAULING OR STORAGE COMPANY** - See "Motor Freight Company".

118. **HEAVY LOAD VEHICLE** - A self-propelled vehicle having a manufacturer's recommended Gross Vehicle Weight (GVW) of greater than 16,000 pounds (including trailers), such as large recreational vehicles (originally manufactured as RVs, not converted), tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "Heavy Load Vehicle" unless specifically stated otherwise.
119. **HEAVY MACHINERY SALES AND STORAGE** - A building or open area used for the display, sale, rental or storage of heavy machinery, tractors or similar machines, or a group of machines which function together as a unit.

120. **HELIPORT** - An area of land or water or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and other heliport facilities.

121. **HELISTOP** - The same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.

122. **HOME FOR AGED, RESIDENCE** - A home where elderly people are provided with lodging and meals without nursing care being a primary function.

123. **HOME OCCUPATION** - An occupation carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, which occupation is clearly incidental and secondary to the use of the premises for residential purposes (see Section 46).

124. **HOME IMPROVEMENT CENTER** – An establishment that offers for sale materials, tools and/or hardware customarily used in the construction of buildings and other structures, and that can include facilities for storage of such materials (if allowed in the zoning district).

125. **HOUSEHOLD APPLIANCE SERVICE AND REPAIR** - The maintenance and repair of appliances that are customarily used in the home including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, vacuum cleaners, etc., but not including appliances/equipment which have internal combustion engines.

126. *(Reserved)*

127. **INCIDENTAL OR ACCESSORY RETAIL AND SERVICE USES** - Any use different from the primary use but which compliments and/or supplements the primary use (for example, a sundries shop that serves tenants of an office building or hospital). Incidental shall mean an area which constitutes not more than fifteen percent (15%) of the building or space occupied by the primary use.

128. **INDUSTRIAL, MANUFACTURING** - Establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories, and characteristically use power driven machines and materials handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic consumer.

129. **INDUSTRIALIZED HOME OR MODULAR HOME** – See “Manufactured Housing”.

130. **INSTITUTION FOR ALCOHOLIC, NARCOTIC OR PSYCHIATRIC PATIENTS** - An institution offering out-patient treatment to alcoholic, narcotic or psychiatric patients.

130a. **ITINERANT VENDORS / VENDING** - A person or operation that offers merchandise, art or food items, produce, publications and/or services from a temporary (i.e., not permanent) stand, cart, trailer, truck or other type of vehicle that is placed or parked
on a piece of property for any period of time (as differentiated from a “peddler” or “solicitor” who is mobile and who goes from place to place to sell goods or services). Such vending operations are not allowed unless they are located in an allowed zoning district (see Use Charts, Section 37.2), unless they have received site plan approval (per Section 12), and unless they have received the appropriate vending permit from the City. (Also see Chapter 4, Section 3 of the City Code of Ordinances).

130b. **INTRADERMAL COSMETICS (PERMANENT MAKEUP)** – The application of intradermal cosmetics, as defined by the State of Texas Department of State Health Services. The intradermal cosmetics are typically applied to the eyebrows, eyelids and lips only. This is only allowed as an accessory use to a barber/beauty shop and shall not include ornamental tattoos.

131. **KENNELS (INDOOR PENS)** - An establishment with indoor pens in which more than four (4) dogs or domesticated animals are housed, groomed, bred, boarded, trained and/or sold for commercial purposes.

132. **KENNELS (OUTDOOR PENS)** - An establishment with outdoor pens in which more than four (4) dogs or domesticated animals are housed, groomed, bred, boarded, trained and/or sold for commercial purposes.

133. **KINDERGARTEN OR NURSERY SCHOOL (PRIVATE)** - An establishment where more than three (3) children are housed for care and/or training during the day or portion thereof.

134. **KIOSK** - A small, free-standing, one-story accessory structure having a maximum floor area of one hundred (100) square feet and used for retail purposes, such as automatic teller machines or the posting of temporary information and/or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of 50 square feet.

135. **KITCHEN, RESIDENTIAL** - Generally, that portion of a residential dwelling that is devoted to the preparation and/or cooking of food for the purpose of consumption by residents of the dwelling. A kitchen, as referred to within this Ordinance, generally indicates the presence of complete cooking facilities (i.e., stove, oven, refrigerator, and/or microwave oven) as differentiated from a "kitchenette" which provides very limited cooking facilities (i.e., single-burner hot plate, under-counter refrigerator, microwave oven only, etc.).

136. **LABORATORY EQUIPMENT MANUFACTURING** - A facility that makes or produces equipment or products used for research or testing.

137. **LABORATORY, SCIENTIFIC OR RESEARCH** - An establishment that engages in research, testing or evaluation of materials or products, but not medical-related (see "Medical Facilities -- Medical Laboratory").

138. **LANDSCAPING** - Material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees or palms, and non-living durable materials that are commonly used in landscaping such as, but not limited to, rocks, pebbles, sand, walls or fences, but excluding paving.

139. **LAUNDROMAT (OR SELF-SERVE WASHATERIA)** - A facility where patrons wash, dry and/or dry clean clothing and other fabrics in machines that are operated by the patron.
140. **LIGHT LOAD VEHICLE** - A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) not greater than 16,000 pounds and having no more than two axles, such as pick-up trucks, sport utility vehicles, vans and mini-vans, recreational vehicles (less than thirty-two [32] feet in length), campers and other similar vehicles but not including automobiles and motorcycles.

141. **LIGHT MANUFACTURING OR INDUSTRIAL USE** - Manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing. Included in this use is paper manufacturing and/or converting-finishings, which involves the creation of pulp, paper, and/or converted products through a series of vertically connect processes with primary activities that include: manufacturing of pulp by separating the cellulose fibers from other impurities in wood or used paper; manufacturing of paper by matting the pulp fibers into a sheet; and converting paper products produced from paper and other materials by various cutting and shaping techniques which may also include coating and laminating activities.

142. **LOADING SPACE** - An off-street space or berth used for the delivery and loading/unloading of vehicles.

143. **LOCAL UTILITY LINE** - The facilities provided by a municipality or a franchised utility company for distribution or collection of gas, water, surface drainage water, sewage, electric power or telephone service, including pad- and pole-mounted transformers.

144. **LOT** - A platted (as specified in Chapter 212 of the Texas Local Government Code) parcel of land that is occupied or intended to be occupied by one main building (or a group of main buildings) and any accessory building(s), which includes such parking, landscaping and open space as are required by this Ordinance or other laws and/or ordinances, and also which has its principal frontage upon a public street. (See Illustrations 6, 7 and 8)

145. **LOT AREA** - The total area, measured on a horizontal plane, included within lot lines. In single-family and two-family residential zoning districts, lot area shall be defined as the area of the lot that excludes major utility easements (e.g., gas pipeline, electric, etc.) and any area that lies within the 100-year flood plain (as it is established at the time of final plat approval).

146. **LOT, CORNER** - A lot which has at least two adjacent sides abutting for their full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five degrees (135°). (See Illustration 9).

147. **LOT DEPTH** - The mean horizontal distance between the front and rear lot lines. (See Illustration 7).

148. **LOT, DOUBLE FRONTAGE** - A lot having frontage upon two (2) non-intersecting streets, as distinguished from a corner lot. (See Illustration 5).

149. **LOT, FLAG** - A lot having access to a street by means of a parcel of land generally having a depth greater than its frontage, but not less than thirty-five (35) feet. Flag, or panhandle, lots are typically discouraged.

150. **LOT, INTERIOR** - A lot other than a corner lot.
151. **LOT FRONTAGE** - That dimension of a lot or portion of a lot abutting onto a street, excluding the side dimension of a corner lot.

152. **LOT LINE, FRONT** - The narrower side of the lot abutting a street. Where two lot lines abutting streets are of equal length, the owner shall have a choice in designating which shall be the lot frontage. For a lot which has a boundary line which does not abut the front street line, is not a rear lot line, and lies along the same general directional orientation as the front and rear lot lines, said line shall be considered a front lot line in establishing minimum setback lines. (See Illustration 6).

153. **LOT, KEY** - A corner lot whose exterior side is adjacent to the front yard of another lot.

154. **LOT LINE, REAR** - The lot line farthest from and most parallel to the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line and have a value of zero. (See Illustration 8).

155. **LOT LINE, SIDE** - Any lot line not the front or rear lot line.

156. **LOT LINES OR PROPERTY LINES** - The lines bounding a lot as defined herein.

157. **LOT OF RECORD** - A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk of Kaufman County.

158. **LOT WIDTH** - The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line which is closest to the front lot line. (See Illustration 6).

159. **MAIN BUILDING** - The building or buildings on a lot which are occupied by the primary use.

160. **MANUFACTURED HOME DISPLAY OR SALES (NEW)** - The offering for sale, storage, or display of new manufactured housing units (e.g., HUD-Code homes, industrialized homes) on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

161. **MANUFACTURED HOME DISPLAY OR SALES (USED)** - The offering for sale, storage, or display of previously owned (i.e., used), movable manufactured housing units (e.g., mobile homes/trailers, HUD-Code homes, industrialized homes) on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

162. **MANUFACTURED HOUSING** - Any one of three types of prefabricated housing products which are typically manufactured/assembled at a location other than the end user's permanent site, and which are regulated by the Texas Manufactured Housing Standards Act (Article 5221f and 5221f-1, V.A.C.S.). For the purpose of this Ordinance, there are three types of manufactured homes:

a. **Mobile Home** - A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or
without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems.

b. **HUD-Code Manufactured Home** - A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems. The term does not include a recreational vehicle, as that term is defined herein and by 24 C.F.R., Section 8282.8(g).

c. **Industrialized Home (also called Modular Prefabricated Structure or Modular Home)** - A residential structure that is designed for the use and occupancy of one or more families, that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent residential site, and that is designed to be used as a permanent residential structure when the modules or modular components are transported to the permanent residential site and are erected or installed on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include any residential structure that is in excess of three (3) stories or forty-nine (49) feet in height, as measured from the finished grade elevation at the building entrance to the peak of the roof. The term shall not mean nor apply to: (a) housing constructed of sectional or panelized systems not utilizing modular components; or (b) any ready-built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location. The term does not include mobile homes or HUD-Code manufactured homes as defined in the Texas Manufactured Housing Standards Act (Article 5221f, V.A.C.S.). Industrialized homes must meet all applicable local codes and zoning regulations that pertain to construction of traditional site constructed ("stick built") homes.

163. **MASONRY CONSTRUCTION** – (See Section 42.1)

164. **MAUSOLEUM** - Property used for the interring of the dead and where bodies are interred above ground in staked vaults.

165. **MEDICAL FACILITIES:**

   a. **Medical Clinic or Office** - A facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients provided that patients are not kept overnight except under emergency conditions.

   b. **Dental Office or Doctors Office** - Same as medical clinic.

   c. **Hospital . . . .**

      1. **Hospital (Acute Care)** - An institution where sick or injured patients are given medical and/or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas.

      2. **Hospital (Chronic Care)** - An institution where those persons
suffering from illness, injury, deformity and/or deficiencies pertaining to age are given care and treatment on a prolonged or permanent basis and which is licensed by the State of Texas.

d. **Massage Establishment** - Any place of business in which massage therapy is practiced by a massage therapist, as defined and licensed by State law. "Massage therapy", as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body message. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower or cabinet baths. Equivalent terms for "massage therapy" are massage, therapeutic massage. Massage and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

e. **Public Health Center** - A facility primarily utilized by a health unit for providing public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therewith.

f. **Sanitarium** - An institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.

g. **Surgical Out-Patient Facility** - An establishment offering any type of surgical procedures and related care which, in the opinion of the attending physician, can be performed safely without requiring inpatient overnight hospital care and exclusive of such surgical and related care as licensed physicians ordinarily may elect to perform in their private offices.

h. **Medical Laboratory** - An indoor establishment that includes laboratories and/or experimental equipment for medical testing, prototype design and development, and product testing.

166. **MINI-WAREHOUSE** - Small individual storage units for rent or lease, restricted solely to the storage of items. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

167. **MINOR MEDICAL EMERGENCY CLINIC** - See "Medical Clinic or Office".

168. **MANUFACTURED HOME PARK (also TRAILER PARK or RV PARK)** - A parcel of land not less than three (3) acres nor greater than thirty-five (35) acres which is designed, improved, or intended to be used for short- or long-term occupancy by manufactured homes/trailers and/or recreational vehicles (including travel trailers) in designated spaces. Facility may include a residence for the owner/manager of the premises, utility hook-ups, accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities.

169. **MANUFACTURED HOME SPACE** - A plot of ground within a manufactured home park, trailer park, RV park, or manufactured home subdivision which is designed for the accommodation of one manufactured home, trailer or RV unit.

170. **MANUFACTURED HOME SUBDIVISION** - A parcel of land which is designed, platted, improved and intended for the long-term placement of individually owned
manufactured home units, including HUD-Code manufactured homes, on platted lots which can be purchased outright by the owners of the manufactured home units. Facility may include a residence for the owner/manager of the premises, utility hook-ups, accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities.

171. **MODEL HOME** - A dwelling in a developing subdivision, located on a legal lot of record, that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built within the same subdivision.

172. **MOTEL OR HOTEL** - A facility offering temporary lodging accommodations or guest rooms on a daily rate to the general public (for stays of generally 14 days or less) and providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities. A guest room shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

172a **MOTEL OR HOTEL, EXTENDED STAY** - A facility offering temporary lodging accommodations or guest rooms on a daily rate to the general public (for stays of generally longer than 14 days) and providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities. A guest room shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

173. **MOTORCYCLE** - A usually two-wheeled, self-propelled vehicle having one or two saddles or seats, and which may have a sidecar attached. For purposes of this Ordinance, motorbikes, motor scooters, mopeds and similar vehicles are classified as motorcycles.

174. **MOTORCYCLE SALES AND REPAIR** - The display, sale and/or servicing, including repair work, of motorcycles.

175. **MOTOR FREIGHT COMPANY** - A company using trucks or other heavy load vehicles to transport goods, equipment and similar products. Includes companies that move residential or commercial belongings.

176. **MOTOR VEHICLE** - Any vehicle designed to carry one or more persons which is propelled or drawn by mechanical power, such as automobiles, vans, trucks, motorcycles and buses.

177. **MULTIPLE-FAMILY DWELLING** - Three or more dwelling units on a single lot designed to be occupied by three or more families living independently of one another, exclusive of hotels or motels. Includes three-family units (triplex) and four-family units (Quadraplex), as well as traditional apartments.

178. **MUNICIPAL FACILITY OR USE** - Any area, land, building, structure and/or facility (including a park, plaza, swimming pool, tennis court, maintenance building, etc.) which is owned, used, leased or operated by the City of Forney, Texas.

179. **NONCONFORMING USE** - A building, structure, or use of land lawfully occupied as of the effective date of this Ordinance or amendments thereto, but which does not conform to the use regulations of the district in which it is situated.

179a **NON-PROFIT ACTIVITY BY CHURCH** - An activity such as, but not limited to, a rummage sale, bake sale, fundraising event, charitable function, etc. that is clearly in
furtherance of the religious institution’s tax-exempt (i.e., non-profit) purpose. An activity that is intended to generate money for profit for the institution does not qualify as a non-profit activity by a church.

180. **NURSERY** - An establishment, including a building, part of a building or open space, for the growth, display and/or sale of plants, shrubs, trees and other materials used in indoor or outdoor planting.

181. **NURSING, CONVALESCENT OR REST HOME** - See "Skilled Nursing Facility".

182. **OCCUPANCY** - The use or intended use of the land or buildings by proprietors or tenants.

183. **OFFICES, PROFESSIONAL AND GENERAL BUSINESS** - A room or group of rooms used for the provision of executive, management and/or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

184. **OFFICE CENTER** - A building or complex of buildings used primarily for conducting the affairs of a business, profession, service, industry, government or similar entity, that may include ancillary services for office workers such as a coffee shop, newspaper stand, sundries shop, hair/nail salon, etc.

185. **OFFICE SHOWROOM** - An establishment with no more than twenty-five percent (25%) of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.

186. **OFFICE WAREHOUSE** - An establishment with more than twenty-five percent (25%) of the total floor area devoted to storage and warehousing, but not generally accessible to the public.

187. **OFFICIALLY APPROVED PLACE OF ACCESS** - Access to a property, other than from a dedicated street, which is approved by the City of Forney.

188. **OFF-STREET PARKING INCIDENTAL TO MAIN USE** - Off-street parking spaces provided in accordance with the requirements of this Ordinance, located on the lot or tract occupied by the main use or within one hundred fifty feet (150’) of such lot or tract, and located within the same zoning district as the main use or in an adjacent parking district.

188a. **OUTDOOR VENDING MACHINE OR VENDING MACHINE** -- Any self-service, self-contained or connected retail business device including any appliance, machine, and/or storage container located outside or in a non-enclosed space which upon deposit of coins, tokens or currency, insertion of a credit card, debit card or other item of value, or wireless electronic telecommunication transfer of funds, mechanically, electronically, or manually dispenses or provides goods or services or the storage of a product or service. Such goods and services include, but are not limited to, food products, tobacco products, water, ice, and beverages of all kinds or types. Newspaper racks, phones, and fixed automatic teller machines are not considered outdoor vending machines.
189. **OUTSIDE DISPLAY** – Also see “Temporary Outside Retail Sales”.

**Outdoor Display (Permanent)**-A permitted retail accessory use to display bulk goods for retail sales that are the sole product(s) of the business. These bulk goods have such a large mass, size or volume that they typically may only be moved with a mechanical device and cannot be displayed inside a standard building because of the bulk of the item, e.g., portable buildings (this excludes motor vehicles, trailers, etc). This does not apply to multi-tenant occupancy. Outdoor display areas shall be surfaced with either an asphaltic or portland cement binder pavement on a suitable base or geotextile style fabric covered with compacted gravel or crushed rock, contained within a distinct border. All surfaces will be graded and drained as to dispose of all surface water accumulated within the area to a public storm drain or on-site detention at the approval of the City Engineer. Asphalt or concrete walkways or aisles shall be provided to permit all-weather customer access to all areas of the outdoor display. The area of the outdoor display may not exceed thirty percent (30%) of the open area available for display and must be a minimum of fifty (50) feet from any public ROW or property line.

190. **OUTSIDE STORAGE** (also “Open Storage”) - The permanent and/or continuous keeping, displaying or storing, outside a building, of any goods, materials, merchandise or equipment on a lot or tract for more than twenty-four (24) hours (i.e., overnight).

191. **PAINT SHOP** - A commercial establishment where painting services are performed (but not automotive-related painting services, which would be included under "Automobile Repair, Major").

192. **PARCEL** - Any unplatted tract of land, or any portion of an unplatted tract of land (also see "Tract").

193. **PARK OR PLAYGROUND (PRIVATE)** - See "Private Recreation Facility".

194. **PARK OR PLAYGROUND (PUBLIC)** - See "Public Recreation".

195. **PARKING LOT** - An off-street (i.e., not on a public street or alley), ground level area, paved in accordance with City of Forney parking lot standards, for the short- or long-term storage of motor vehicles.

196. **PARKING LOT OR STRUCTURE, COMMERCIAL (AUTO)** - An area or structure devoted to the parking or storage of automobiles for a fee which may include, in the case of a parking structure only, a facility for servicing automobiles provided that such facility is an internal function for use only by automobiles occupying the structure and that such facility creates no special problems of ingress or egress.

197. **PARKING SPACE** - An off-street (i.e., not on a public street or alley) area, paved in accordance with City of Forney parking lot standards, that is used for parking a vehicle, and that is accessed from a paved driveway which connects the parking space with a public street.

198. **PATIO HOME (ZERO-LOT-LINE DWELLING)** - A single-family dwelling on a separately platted lot which is designed such that one side yard is reduced to zero feet in order to maximize the width and usability of the other side yard, and which
permits the construction of a detached single-family dwelling with one side (i.e., wall) of such dwelling placed on the side property line. (See Section 18).

199. **PAWN SHOP** – A use as defined in Section 371.003 of the Texas Finance Code and having a license issued under Chapter 371 of the Texas Finance Code.

200. **PERSONAL SERVICE SHOP OR CUSTOM PERSONAL SERVICES** - Establishments primarily engaged in providing services generally involving the care of the person or his apparel and including (but not limited to) barber/beauty shops, dressmaking, shoe shining and repair, dry-cleaning and laundry pick-up stations, tailor or seamstress services, and other similar types of uses (no outside storage) that are not otherwise defined specifically herein.

201. **PET AND ANIMAL GROOMING SHOP** – (See “Animal Grooming/Pet Shop”)

202. **PETROLEUM DISTRIBUTION/STORAGE/WHOLESALE FACILITY** - A facility for the long-term storage and distribution of petroleum that may also involve wholesale sales, but not retail sales, of petroleum and petroleum-based products. No manufacturing or refining of petroleum or petroleum-based products occurs on the premises, only storage and/or distribution functions.

203. **PLANNED DEVELOPMENT DISTRICT** - Planned associations of uses developed as integral land use units, such as industrial parks or industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing, including attached single-family dwellings or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or by a combination of owners.

204. **PLANNING AND ZONING COMMISSION** - A board which is appointed by the City Council as an advisory body, and which is authorized to recommend changes in the zoning of property and other planning functions as delegated by the City Council. Also referred to as the "Commission."

205. **PLAT** - A plan showing the subdivision of land, creating building lots or tracts, showing all essential dimensions and other information in compliance with the subdivision standards of the City of Forney, and which is approved by the City of Forney and recorded in the plat records of Kaufman County.

206. **PLATTED LOT** - See "Lot" and "Lot of Record".

207. **PLAYFIELD OR STADIUM (PUBLIC)** - An athletic field or stadium owned and operated by a public agency (e.g., City of Forney, the School District, etc.) for the general public including a baseball field, soccer field, golf course, football field or stadium which may be lighted for nighttime play.

208. **PLAYFIELD OR STADIUM (PRIVATE)** - An athletic field or stadium owned and operated by an agency other than the City of Forney or the School District.

209. **PORTABLE BUILDING SALES (OUTDOOR DISPLAY)** - An establishment which displays and sells structures capable of being carried and transported to another location, but not including manufactured homes.

210. **PORTABLE MEDICAL UNIT** - Temporary use of a prefabricated building or mobile unit for the purpose of offering portable radiology services, portable heart catheter lab
services or any other similar temporary medical service. Any such individual use or mobile unit will require a Conditional Use Permit (a CUP per each use and/or unit) in all non-residential districts with strict adherence to parking standards for the respective uses. A portable medical unit to be permitted by right will be a unit for the purpose of human blood collection operated by a reputable blood collection bank. A portable medical unit will also be permitted by right if it is engaged exclusively for the members of an organization, company, or business and does not offer the medical service to the public at large. These uses will be a permitted use by right in all non-residential districts with strict adherence to parking requirements for the respective uses. Any such use on-site more than 48 hours will require a Conditional Use Permit.

211. PREMISES - Land together with any buildings or structures situated thereon.

212. PRIMARY USE - The principal or predominant use of any lot or building.

213. PRINCIPAL BUILDING - See "Main Building".

214. PRIVATE CLUB - An establishment providing social and/or dining facilities which may provide alcoholic beverage service, to an association of persons, and otherwise falling within the definition of, and permitted under the provisions of, that portion of Title 3, Chapter 32, Vernon's Texas Codes Annotated, Alcoholic Beverage Code, as the same may be hereafter amended, and as it pertains to the operation of private clubs. (Also see Chapter 4, Section 9 of the City's Code of Ordinances, and Section 34d, Entertainment Overlay District, of this Ordinance.)

215. PRIVATE RECREATION FACILITY OR PRIVATE PARK - A recreation facility, park or playground which is not owned by a public agency such as the City or School District, and which is operated for the exclusive use of private residents or neighborhood groups and their guests and not for use by the general public.

216. PRODUCE STAND - A seasonal use for which the primary purpose and design is to sell fruit, nuts, vegetables and similar foods, typically from a non-permanent structure. No cooking or on-premises consumption of produce occurs on the site.

217. PROFESSIONAL SERVICE - Work performed which is commonly identified as a profession, and which may be licensed by the State of Texas.

218. PROPANE SALES - Retail sales of gaseous substances commonly used for household purposes such as propane and/or butane; does not include the storage, sale or distribution of other types of combustible substances or alternative fuels such as containerized natural gas, liquid propane, etc.

219. PUBLIC AGENCY BUILDING, SHOP, YARD OR FACILITY - Any building, land, area and/or facility (including maintenance/storage yards and shops) which is owned, leased, primarily used and/or occupied by any subdivision or agency of the following: the State of Texas, the United States, or other public utility or agency. Any facility which is owned, leased, used and/or occupied by the City of Forney is defined as "Municipal Facility or Use".

220. PUBLIC RECREATION - Publicly owned and operated parks, recreation areas, playgrounds, swimming pools and open spaces that are available for use by the general public without membership or affiliation. This land use shall include special
event type uses such as rodeos, concerts, festivals and other special events requiring special event permits, as set forth in the City of Forney’s Code of Ordinances.

221. **PUBLIC VIEW** - Public view means areas that can be seen from any public street.

222. **REAR YARD** - See “Yard, Rear”.

223. **RECREATION CENTER** - A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

224. **RECREATIONAL VEHICLE (RV)** - A self-propelled (i.e., motorized), mobile living unit which is typically used for temporary human occupancy away from the users' permanent place of residence. An RV may also be utilized as a permanent place of residence within districts that allow them to be used as such. (See also “Heavy Load Vehicle”).

225. **RECREATIONAL VEHICLE/CAMPER SALES AND LEASING** - An establishment that sells, leases and/or rents new and/or used recreational vehicles, travel trailers, campers, boats/watercraft, and similar types of vehicles.

226. **RECREATIONAL VEHICLE (RV) PARK** - An area or commercial campground for users of recreational vehicles, travel trailers, and similar vehicles to reside, park, rent or lease on a temporary basis. (See also "Manufactured Home Park").

227. **RECYCLING KIOSK** - A small uninhabited structure (120 square feet maximum) or temporary container (e.g., "igloo" or dumpster-type container) which provides a self-service location for the depositing of non-liquid recyclable materials such as aluminum cans (e.g., "can banks"), glass bottles, magazines/newspapers, metal or plastic containers, etc. Recyclables are picked up periodically from the site. This definition does not include large trailers or manned collection centers.

228. **REHABILITATION CARE FACILITY (HALFWAY HOUSE)** - A dwelling unit which provides residence and care to not more than nine (9) persons regardless of legal relationship who have demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct living together with not more than two (2) supervisory personnel as a single housekeeping unit.

229. **REHABILITATION CARE INSTITUTION** - A facility which provides residence and care to ten (10) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

230. **RESIDENCE** - Same as a dwelling; also, when used with district, an area of residential regulations.

231. **RESIDENCE HOTELS** - A multi-unit, extended stay lodging facility consisting of efficiency units and/or suites with complete kitchen facilities and which is suitable for long-term occupancy. Customary hotel services such as linens and housekeeping, telephones, and upkeep of furniture shall be provided. Meeting rooms, club house, and recreational facilities intended for the use of residents and their guests are permitted. This definition shall not include other dwelling units as defined by this Ordinance.
232. **RESIDENTIAL DISTRICT** - District where the primary purpose is residential use.

233. **RESTAURANT OR CAFETERIA (WITH DRIVE-THROUGH SERVICE)** - An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which may include a drive-through window(s).

234. **RESTAURANT OR CAFETERIA (WITH NO DRIVE-THROUGH SERVICE)** - An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which do not have a drive-through window.

235. **RESTAURANT OR EATING PLACE (DRIVE-IN SERVICE)** - An eating establishment where food and/or drinks are primarily served to customers in motor vehicles, or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises.

236. **RETAIL OR SERVICE, INCIDENTAL** - The rendering of incidental retailing or services incidental to the primary use. In the Office district, for example, such uses may include a barber/beauty shop, smoke shop, news stand, candy counter, restaurant, pharmacy or other incidental activity secondary to the primary office occupancy. Incidental uses shall mean uses which occupy less than fifteen percent (15%) of the building or space that is occupied by the principal use.

237. **RETAIL SHOP (FOR APPAREL, GIFTS, ACCESSORIES AND SIMILAR ITEMS)** - An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. (Also see "General Retail Stores").

238. **RETIREMENT HOUSING FOR THE ELDERLY (also INDEPENDENT LIVING CENTER or CONGREGATE HOUSING)** - A development providing self-contained dwelling units specifically designed for the needs of the elderly. Units may be rented or owner-occupied. To qualify as retirement housing, a minimum of 80% of the total units shall have a household head 55 years of age or greater. No long-term or permanent skilled nursing care or related services are provided.

239. **ROOM** - A building or portion of a building which is arranged, occupied or intended to be occupied as living or sleeping quarters but not including toilet or cooking facilities.

240. **ROOMING HOUSE** - See "Boarding House".

241. **SALVAGE OR RECLAMATION OF PRODUCTS (ALSO SEE WRECKING YARD)** - The reclamation and storage of used products or materials.

242. **SAND, GRAVEL OR STONE EXTRACTION AND/OR STORAGE** - The process of extracting and/or storing sand, gravel, stone, topsoil, compost or other products from the earth.

243. **SCHOOL, BUSINESS** - A for-profit business that offers instruction and training in a profession, service or art such as a secretarial or court reporting school, barber/beauty college or commercial art school, but not including commercial trade schools.
244. **SCHOOL, COMMERCIAL TRADE** - A for-profit business that offers vocational instruction and training in trades such as welding, brick laying, machinery operation/repair, and similar trades.

245. **SCHOOL, PRIVATE (PRIMARY OR SECONDARY)** - A school under the sponsorship of a private agency or corporation, other than a public or religious agency, which offers a curriculum that is generally equivalent to public elementary and/or secondary schools.

246. **SCHOOL, PUBLIC OR PAROCHIAL** - A school under the sponsorship of a public or religious agency which provides elementary and/or secondary curricula, but not including private business or commercial trade schools.

247. **SCIENTIFIC AND INDUSTRIAL RESEARCH LABORATORIES** - Facilities for research including laboratories, experimental equipment, and operations involving compounding or testing of materials or equipment.

248. **SCREENED** - Shielded, concealed, and effectively hidden from the view of a person standing at ground level on an abutting site, or outside the area or feature so screened, by a fence, wall, hedge, berm or similar architectural or landscape feature.

249. **SEASONAL USES/ITEMS** - Seasonal uses include the sales of items such as Christmas trees, holiday decorations, pumpkins, snow cones, fresh produce, spring planting materials, and other items which are typically only available or marketed at certain times of the year in a non-permanent setting (i.e., includes itinerant vendors).

250. **SERVANT’S QUARTERS OR GUEST HOUSE** - An accessory dwelling in a residential district for the sole use and occupancy of a member of the immediate family or of a person or persons employed on the premises by the occupant on a full-time basis as domestic help such as a maid, nanny/governess, groundskeeper, chauffeur, cook or gardener, but not involving the rental of such facilities or the use of separate utility connections for such facilities.

251. **SEXUALLY ORIENTED BUSINESS** - See Chapter 4, Section 12 of the City’s Code of Ordinances

252. **SHOPPING CENTER** - A group of primarily retail and service commercial establishments that is planned, constructed and managed as a total entity, and which provides customer and employee parking on-site, unloading/delivery areas which are separated from customer access, and aesthetically appropriate design and protection from the elements.

253. **SIDE YARD** - See “Yard, Side”.

254. **SINGLE-FAMILY DWELLING, ATTACHED (TOWNHOUSE)** - A dwelling which is joined to another dwelling at one or more sides by a party (i.e., shared) wall, which is designed for occupancy by one family, and which is located on a separate lot delineated by front, side and rear lot lines.

255. **SINGLE-FAMILY DWELLING, DETACHED** - A dwelling designed and constructed as a free-standing structure for occupancy by one family, and located on a lot or separate building tract having no physical connection to a building located on any other lot or tract.
256. **SKILLED NURSING FACILITY** (also termed **NURSING HOME, CONVALESCENT HOME, CONTINUING CARE FACILITY** or **LONG-TERM CARE FACILITY**) - A residence providing primarily inpatient health care, personal care, or rehabilitative services over a long period of time to persons who are chronically ill, aged or disabled and who need ongoing health supervision but not hospitalization.

257. **SMALL ENGINE REPAIR SHOP** - Shop for the repair of lawn mowers, chain saws, lawn equipment, and other machines with one-cylinder engines.

257a. **SNOW CONE STAND** - A portable kiosk or trailer offering the sale of crushed or shaved ice topped with flavored syrup. (Also see Section 47, Special Regulations for Certain Types of Uses).

258. **STABLE, COMMERCIAL** - A stable used for the rental of stall space or for the sale or rental of horses or mules.

259. **STABLE, PRIVATE** - An area used solely for the owner's private purposes for the keeping of horses, mules or ponies which are not kept for remuneration, hire or sale.

260. **STORAGE OR WHOLESALE WAREHOUSE** - A building used primarily for the storage of goods and materials.

261. **STORY** - That portion of a building (above grade), other than a basement, that is included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, then the space between the floor and the ceiling above it. The average height for a story shall be defined as twelve feet (12'). The definition of a story does not include parapets, gables and other normal roof structures. In cases where the site has a significant slope, the number of stories (i.e., height) of a building shall be measured from point representing the average slope from front to back (or side to side) of the building.

262. **STORY, HALF** - A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet (3') above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half-story containing an independent apartment or self-contained living quarters shall be counted as a full story.

263. **STREET** - Any dedicated public thoroughfare which affords the principal means of access to abutting property. A street is termed a major thoroughfare or arterial when the right-of-way is greater than sixty feet (60').

264. **STREET INTERSECTION** - Any street which joins another street at an angle, whether or not it crosses the other.

265. **STREET YARD** - The area between the building front line and the front property (i.e., right-of-way) line.

266. **STRUCTURE** - Anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground (also see definition of "Building").

267. **STRUCTURAL ALTERATIONS** - Any change in the supporting members of a building, such as load-bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.
268. **STUDIO, HEALTH/REDUCING/FITNESS** - Includes, but is not limited to, an establishment which provides facilities and equipment (e.g., gymnasiums, weight rooms, swimming pools/spas, exercise apparatus, instruction/classes, etc.) which are intended to promote health, fitness, weight reduction and/or similar health-related activities. Such facilities may include such accessory uses as food service, sales of sundries and apparel, and child care services, provided that such accessory uses are clearly incidental to the primary use and are for the use of studio patrons only (i.e., not the general public). No outside signage may be used to advertise accessory uses.

269. **STUDIO, TATTOO OR BODY PIERCING** - A building or portion of a building used for selling and/or applying tattoos (by injecting dyes/inks into the skin), and/or for piercing the skin with needles, jewelry or other paraphernalia, primarily for the purpose of ornamentation of the human body.

270. **STUDIO FOR RADIO AND TELEVISION** - A building or portion of a building used as a place for radio or television broadcasting.

271. **SWIMMING INSTRUCTION AS A HOME OCCUPATION** - The teaching of swimming in a private swimming pool. Within a residential district, this use is subject to the approval and issuance of a conditional use permit which may specify operating conditions and standards and which may limit the number of students and operating times. (Also see Home Occupation Regulations, Section 46.)

272. **SWIMMING POOL, COMMERCIAL** - A swimming pool with accessory facilities which is not part of the municipal or public recreational system and which is not a private swim club, but where the facilities are available for use by the general public for a fee.

273. **SWIMMING POOL, PRIVATE** - A swimming pool constructed for the exclusive use of the residents of a one-family, two-family or multiple-family dwelling and located, fenced and built in accordance with Article 3.3 of the City of Forney Code of Ordinances. A private swimming pool shall not be operated as a business nor maintained in a manner to be hazardous or obnoxious to adjacent property owners.

274. **TELEMARKETING CENTER** - An establishment which solicits business or the purchase of goods and/or services by telephone only. No sales of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

275. **TELEPHONE AND EXCHANGE, SWITCHING/RELAY OR TRANSMITTING STATION** - A line for the transmission of telephone signals and a central office in which telephone lines are connected to permit communication but not including a business office, storage (inside or outside) or repair yards.

276. **TEMPORARY** - Used or lasting for only a limited period of time; not permanent.

277. **TEMPORARY BUILDING** - Any nonresidential prefabricated structure which is not originally manufactured or constructed at its use site, required on-site installation of utilities and/or foundation.

278. **TEMPORARY FIELD OFFICE OR CONSTRUCTION YARD OR OFFICE** - A structure or shelter used in connection with a development or building project for...
housing on the site of temporary administrative and supervisory functions and for
sheltering employees and equipment. Temporary permits for one (1) year for a
specific time and location as determined may be issued by the Building Official and
shall be subject to review and renewal for reasonable cause.

278a TEMPORARY OUTSIDE RETAIL SALES / COMMERCIAL PROMOTION (also
“Outside Display”) - Outside temporary display of finished goods that are specifically
intended for retail sale by the owner or lessee of the premises (i.e., does not include
itinerant vendors) but not displayed outside overnight.

279. TENNIS COURT, PRIVATE - A surface designed and constructed for playing the
game of tennis along with all fencing, nets and related appurtenances but excluding
lighting for nighttime play in residential areas except as may be otherwise provided
or restricted by the conditional use permit.

280. THEATER, DRIVE-IN (OUTDOOR) - An open lot with its appurtenant facilities
devoted primarily to the showing of motion pictures or theatrical productions on a
paid admission basis to patrons seated in automobiles.

281. THEATER OR PLAYHOUSE (INDOOR) - A building or part of a building devoted to
the showing of motion pictures, or for dramatic, musical or live performances.

282. TIRE DEALER, NO OPEN STORAGE - A retail establishment engaged in the sale
and/or installation of tires for vehicles, but without open storage.

283. TIRE DEALER, WITH OPEN STORAGE - A retail establishment engaged in the sale
and/or installation of tires for vehicles, with open storage.

284. TOOL AND MACHINERY RENTAL SHOP - A building or a portion of a building
used for the display and rental of tools, machinery and instruments.

285. TRACT - A single individual parcel or lot.

286. TRACTOR SALES - See "Heavy Machinery Sales and Storage".

287. TRADE AND COMMERCIAL SCHOOLS - See "School, Commercial Trade".

288. TRAILER PARK OR COURT - See "Manufactured Home Park".

289. TRAILER, HAULING - A vehicle or device which is pulled behind an automobile or
truck and which is designed for hauling animals, produce, goods or commodities,
including boats.

290. TRAILER HOME - See "Manufactured Housing, Manufactured Home".

291. TRAILER OR MANUFACTURED HOME SPACE - See "Manufactured Home
Space".

292. TRAILER RENTAL - The display and offering for rent of trailers designed to be
towed by automobiles and light load vehicles.

293. TRAILER, TRAVEL OR CAMPING - A portable or mobile living unit which is used
for temporary human occupancy away from the users' permanent place of residence,
which does not constitute the users' principal place of residence, and which is designed to be towed behind another vehicle.

294. **TRANSPORTATION AND UTILITY STRUCTURES/FACILITIES** - Permanent facilities and structures operated by companies engaged in providing transportation and utility services including but not limited to railroad track rights-of-way, sewage pumping stations, telephone exchanges, transit station turnarounds, water reservoirs and water pumping stations.

295. **TRUCK** - A light or heavy load vehicle (see definitions for "Light Load Vehicle" and "Heavy Load Vehicle").

296. **TRUCK AND BUS REPAIR** - An establishment providing major and minor automotive repair services to heavy load vehicles.

297. **TRUCK AND BUS LEASING** - The rental of new or used panel trucks, vans, trailers, recreational vehicles or motor-driven buses in operable condition and where no repair work or intensive cleaning operations are performed.

298. **TRUCK STOP** - A facility for the parking, refueling and/or minor repair of heavy load tractor-trailer trucks. These facilities may also include retail sales of food and/or other items, restaurant(s), restroom/showers facilities, and/or temporary sleeping quarters.

299. **TRUCK TERMINAL** - An area and building where cargo is stored and where trucks, including tractor and trailer units, load and unload cargo on a regular basis. May include facilities for the temporary storage of loads prior to shipment.

300. **TRUCK SALES (HEAVY TRUCKS)** - The display, sale or rental of new or used heavy load vehicles in operable condition.

301. **TWO-FAMILY DWELLING (DUPLEX)** - Two attached dwellings in one structure, each designed to be occupied by one family.

302. **USABLE OPEN SPACE** - An open area or recreational facility which is designed and intended to be used for outdoor living and/or recreation purposes. An area of usable open space shall have a slope not exceeding ten percent (10%), shall have no dimension of less than ten feet (10'), and may include landscaping, walks, recreational facilities, water features and decorative objects such as art work or fountains (see also Section 19.5(C-E)).

303. **USE** - The purpose for which land or buildings are or may be occupied in a zoning district.

303a **USED MERCHANDISE STORE** (also "Resale Shop" or "Thrift Store" or "Consignment Shop") An establishment that generally markets common, contemporary used household goods, clothing or furnishings on a straight “for sale” basis or on a consignment basis. This term includes a used merchandise store that is operated by a non-profit, charitable or religious organization.

304. **UTILITY DISTRIBUTION/TRANSMISSION LINES** - Facilities which serve to distribute and transmit electrical power, gas and water, including but not limited to electrical transmission lines, gas transmission lines, telephone lines and metering stations, whether operated by the City or private utility company.
305. **VARIANCE** - An adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the Board of Adjustment of the City of Forney can grant a variance.

306. **VETERINARIAN CLINIC** - An establishment where animals and pets are admitted for examination and medical treatment (also see "Kennels").

307. *(Reserved)*

308. **WRECKING YARD (JUNKYARD OR AUTO SALVAGE)** - Any lot upon which two or more motor vehicles of any kind, which are incapable of being operated due to condition or lack of license, have been placed for the purpose of obtaining parts for recycling or resale.

309. **YARD** - An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this Ordinance that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used. (See Illustration 6).

310. **YARD, FRONT** - A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building. (See Illustration 6).

311. **YARD, REAR** - The area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard. (See Illustration 8).

312. **YARD, SIDE** - The area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building. (See Illustration 8).

313. **ZERO-LOT-LINE DWELLING** - See "Patio Home".

314. **ZONING BOARD OF ADJUSTMENT** - A board which is appointed by the City Council, and which is authorized to make special exceptions to the Zoning Ordinance (i.e., variances), and to hear and decide any appeals that allege error in an order, requirement, decision or determination made by an administrative official in the enforcement of the Zoning Ordinance. Also referred to as the "BOA."

315. **ZONING DISTRICT** - A classification applied to any certain land area within the City stipulating the limitations and requirements of land usage and development.

316. **ZONING DISTRICT MAP** - The official map upon which the boundaries of the various zoning districts are drawn and which is an integral part of the Zoning
Ordinance. (See Section 3, “Zoning District Map” and Section 4, "Zoning District Boundaries").

<table>
<thead>
<tr>
<th>Large Trees</th>
<th>Large Trees</th>
<th>Small Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>(within parking areas or as street trees)</td>
<td>(non-vehicular areas)</td>
<td></td>
</tr>
<tr>
<td>Green Ash (Fraxinus pensylvanica)</td>
<td>Arizona Cypress (Cupressus glabra)</td>
<td>Eve’s Necklace (Sophora affinis)</td>
</tr>
<tr>
<td>White Ash (Fraxinus americana)</td>
<td>Southern Magnolia (Magnolia grandiflora)</td>
<td>Possumhaw Holly (Ilex decidua)</td>
</tr>
<tr>
<td>Bald Cypress (Taxodium distichum)</td>
<td>Bur Oak (Quercus macrocarpa)</td>
<td>Yaupon Holly (Ilex vomitoria)</td>
</tr>
<tr>
<td>Pond Cypress (Taxodium mucronatum)</td>
<td>Pecan (Carya illinoiensis)</td>
<td>Crape Myrtle (Lagerstroemia indica)</td>
</tr>
<tr>
<td>American Elm (Ulmus americana)</td>
<td>Common Persimmon (Diospyros virginiana)</td>
<td>Southern Wax Myrtle (Myrica cerifera)</td>
</tr>
<tr>
<td>Lacebark Elm (Ulmus parvifolia)</td>
<td>Western Soapberry (Sapindus Drummondii)</td>
<td>Lacey Oak (Quercus glaucooids)</td>
</tr>
<tr>
<td>Cedar Elm (Ulmus crassifolia) (Avoid Winged Elm [Ulmus alata], which is similar but not adapted.)</td>
<td></td>
<td>Vasey Oak (Quercus pungens var. vaseyi)</td>
</tr>
<tr>
<td>Ginkgo (Ginkgo biloba)</td>
<td></td>
<td>Aristocrat Pear (Pyrus calleryana ‘Aristocrat’) (Avoid Bradford Pear [P. c. Bradford].)</td>
</tr>
<tr>
<td>Chinquapin Oak (Quercus muehlenbergii)</td>
<td></td>
<td>Eldarica Pine (Pinus eldarica)</td>
</tr>
<tr>
<td>Live Oak (Quercus virginiana)</td>
<td></td>
<td>Mexican Plum (Prunus mexicana)</td>
</tr>
<tr>
<td>Shumard Oak (Quercus shumardii)</td>
<td></td>
<td>Golden Rain Tree (Koelreuteria paniculata)</td>
</tr>
<tr>
<td>Water Oak (Quercus nigra)</td>
<td></td>
<td>Redbud (Cercis canadensis)</td>
</tr>
<tr>
<td>Chinese Pistache (Pistacia chinensis)</td>
<td></td>
<td>Shining Sumac (Rhus copallina)</td>
</tr>
<tr>
<td>Sweetgum (Liquidambar styraciflua)</td>
<td></td>
<td>Rusty Blackhaw Viburnum (Viburnum rufidulum)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Evergreen Shrubs (acceptable for low [5’ or less] screening)</th>
<th>Evergreen Shrubs (acceptable for 6’ screening)</th>
<th>Large Evergreen Shrubs/Small Trees (screening over 6’ tall)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwarf Abelia (Abelia grandiflora ‘Edward Goucher’)</td>
<td>Glossy Abelia (Abelia grandiflora)</td>
<td>Leyland Cypress (Cupressocyparis leylandii) (30-40’)</td>
</tr>
<tr>
<td>Japanese Boxwood (Buxus microphylla var. japonica)</td>
<td>Cleyera (Temstroemia gymnantedra)</td>
<td>Nellie R. Stevens Holly (Ilex cornuta ‘Nellie R. Stevens’) (10-15’)</td>
</tr>
<tr>
<td>Elaeagnus pungens ‘Fruitlandii’</td>
<td>Burford Holly (Ilex cornuta ‘Burford’)</td>
<td>Cherry Laurel (Prunus caroliniana) (12-20’)</td>
</tr>
<tr>
<td>Berries Jubilee Holly (Ilex cornuta ‘Berries Jubilee’)</td>
<td>Chinese Horned Holly (Ilex cornuta)</td>
<td>Glossy Ligustrum (Ligustrum lucidum) (20-25’)</td>
</tr>
<tr>
<td>Carissa Holly (Ilex cornuta ‘Carissa’)</td>
<td>Mary Nell Holly (Ilex x ‘Mary Nell’)</td>
<td>Little Gem Magnolia (Magnolia grandiflora ‘Little Gem’) (to 20’)</td>
</tr>
<tr>
<td>Dazzler Holly (Ilex cornuta ‘Dazzler’)</td>
<td>Needlepoint Holly (Ilex cornuta ‘Needlepoint’)</td>
<td>Chinese Photinia (Photinia serrulata) (12-20’) (Avoid Red-Tip Photinia [P. x fraseri] )</td>
</tr>
<tr>
<td>Dwarf Burford Holly (Ilex cornuta ‘Dwarf Burford’)</td>
<td>Waxleaf Ligustrum (Ligustrum japonicum)</td>
<td></td>
</tr>
<tr>
<td>Dwarf Chinese Holly (Ilex cornuta ‘Rotunda’)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwarf Yaupon Holly (Ilex vomitoria ‘Nana’)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nandina (Nandina domestica)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Covers</th>
<th>Other Shrubs</th>
<th>Large Evergreen Shrubs/Small Trees (screening over 6’ tall)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpleleaf Honeysuckle (Lonicera japonica ‘Purpurea’)</td>
<td>Barberry (Berberis spp.)</td>
<td>Leyland Cypress (Cupressocyparis leylandii) (30-40’)</td>
</tr>
<tr>
<td>English Ivy (Hedera helix) (shade only)</td>
<td>American Beautyberry (Callicarpa americana)</td>
<td>Nellie R. Stevens Holly (Ilex cornuta ‘Nellie R. Stevens’) (10-15’)</td>
</tr>
<tr>
<td>Asian Jasmine (Trachelospermum asiaticum)</td>
<td>Indian Hawthorn (Raphiolepis indica)</td>
<td>Cherry Laurel (Prunus caroliniana) (12-20’)</td>
</tr>
<tr>
<td>Trailing Juniper (Juniperus spp.)</td>
<td>Wilson Holly (Ilex x altaclarensis ‘Wilsonii’)</td>
<td>Glossy Ligustrum (Ligustrum lucidum) (20-25’)</td>
</tr>
<tr>
<td>Harbour Dwarf Nandina (Nandina domestica ‘Harbour Dwarf’)</td>
<td>Earth-Kind (TAMU) Roses</td>
<td>Little Gem Magnolia (Magnolia grandiflora ‘Little Gem’) (to 20’)</td>
</tr>
<tr>
<td>Mondrograss (Ophiopogon spp.)</td>
<td>Savannah Holly (Ilex x ‘Savannah’)</td>
<td>Chinese Photinia (Photinia serrulata) (12-20’) (Avoid Red-Tip Photinia [P. x fraseri] )</td>
</tr>
</tbody>
</table>
### Notes:

1. Plants in *italics* are preferred due to their lower water demand, as designated in "Landscape Water Conservation Xeriscape", published by the Texas Agricultural Extension Service.

2. Additional plant materials may be approved on the landscape plan for non-required landscaping areas, as may be appropriate for the use and effect intended.

<table>
<thead>
<tr>
<th>Autumn Sage (<em>Salvia gregii</em>)</th>
<th>Vinca minor (Avoid V. major.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>St. Johnswort (<em>Hypericum patulum</em> ‘Henryi’)</td>
<td><em>Liriope muscari</em> (Avoid L. spicata.)</td>
</tr>
<tr>
<td>Spiraea spp.</td>
<td>Hardy Plumbago (<em>Ceratostigma plumbaginoides</em>)</td>
</tr>
<tr>
<td>Chastetree (<em>Vitex agnus-castus</em>)</td>
<td></td>
</tr>
<tr>
<td>Juniper (<em>Juniperus spp.</em>)</td>
<td></td>
</tr>
<tr>
<td>Loropetalum</td>
<td></td>
</tr>
</tbody>
</table>
VI.  INTERPRETATION; PRESERVING RIGHTS; PENALTY FOR VIOLATIONS; VALIDITY; EFFECTIVE DATE

SECTION 51  EFFECT OF INTERPRETATION; REPEALER

51.1 In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by agreements, the provisions of this Ordinance shall govern. This Ordinance is also not intended to abrogate or annul any lawfully obtained permit issued prior to the effective date of this Ordinance.

51.2 All provisions of Ordinance No. 832, and any other ordinances of the City of Forney, that are in conflict with the provisions of this Ordinance shall be, and the same are hereby, repealed. All other provisions of City of Forney ordinances that are not in conflict herewith shall remain in full force and effect.

SECTION 52  PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCES

52.1 By the passage of this Ordinance, no presently illegal use shall be deemed to have been legalized unless such use specifically falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this Ordinance that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the previous Zoning Ordinance was repealed and this Zoning Ordinance adopted, shall be discharged or affected by such repeal and adoption of this Ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed.

SECTION 53  PENALTY FOR VIOLATIONS

53.1 Any person or corporation violating any of the provisions of this Ordinance shall, upon conviction, be fined any sum not exceeding two thousand dollars ($2,000.00) and each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense. In addition to the said penalty provided for, the right is hereby conferred and extended upon any property owner owning property in any district, where such property owner may be affected or invaded, by a violation of the terms of the Ordinance, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owners.

53.2 Nothing contained herein shall prevent the City of Forney from taking such other lawful action as is necessary to prevent or remedy any violation.
SECTION 54   VALIDITY

54.1 If any section, paragraph, subdivision, clause, phrase, or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

SECTION 55   EFFECTIVE DATE

55.1 This Ordinance shall be effective as of the date of its adoption by the City Council of Forney, Texas.

PASSED AND APPROVED by the City Council of the City of Forney, Texas on the 19th day of August, 2003.

PASSED AND ADOPTED by the City Council of the City of Forney, Texas on the 19th day of August, 2003.

(City’s Seal)

________________________
Darrell Grooms, Mayor
City of Forney, Texas

ATTEST:

____________________________________________
Odessa Moore, City Secretary
City of Forney, Texas

APPROVED AS TO FORM:

____________________________________________
Rob Dillard, City Attorney
City of Forney, Texas
APPENDICES

A-1  PLANNED DEVELOPMENT DISTRICTS

For specific requirements or restrictions for each individual Planned Development, refer to the original amending ordinance for each Planned Development.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ORDINANCE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adams Ranch</td>
<td>1094</td>
</tr>
<tr>
<td>Brookville Estates</td>
<td>1066</td>
</tr>
<tr>
<td>City Plaza</td>
<td>1171</td>
</tr>
<tr>
<td>Deerfield Heights</td>
<td>1053</td>
</tr>
<tr>
<td>Diamond Creek Estates</td>
<td>1042</td>
</tr>
<tr>
<td>Estates of Deerfield (Park Trails)</td>
<td>1082</td>
</tr>
<tr>
<td>Forney Center</td>
<td>1158</td>
</tr>
<tr>
<td>Forney Marketplace</td>
<td>11-15</td>
</tr>
<tr>
<td>Forney Medical Plaza (Forney Medical Arts) – PCD</td>
<td>1217</td>
</tr>
<tr>
<td>Forney Regional Medical Center – PCD</td>
<td>1238</td>
</tr>
<tr>
<td>Forney Senior Living Center – PCD</td>
<td>12-01</td>
</tr>
<tr>
<td>Fox Hollow</td>
<td>1055/17-23</td>
</tr>
<tr>
<td>Fox Hollow South</td>
<td>1114/1126/17-24</td>
</tr>
<tr>
<td>Grayhawk</td>
<td>1212</td>
</tr>
<tr>
<td>H&amp;P Motors – Park Creek Gardens (amended 8/2005)</td>
<td>1072</td>
</tr>
<tr>
<td>Hamblen Estates</td>
<td>1036</td>
</tr>
<tr>
<td>Hamblen Estates (amended 12/2001)</td>
<td>1043</td>
</tr>
<tr>
<td>Historic Overlay Zone</td>
<td>927</td>
</tr>
<tr>
<td>Kickapoo Trace Center (formerly Place LeGrand)</td>
<td>1240</td>
</tr>
<tr>
<td>Name</td>
<td>Code</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>Meadow Ridge Farm (amended 4/2007) (inactive)</td>
<td>1095/1213</td>
</tr>
<tr>
<td>Meadow Ridge Farm (active)</td>
<td>0911/13-04</td>
</tr>
<tr>
<td>Mustang Creek Estates</td>
<td>1015/10370</td>
</tr>
<tr>
<td>Mustang Crossing (commercial)</td>
<td>1090/1172/1123/1174</td>
</tr>
<tr>
<td>Nexxus Building – PCD</td>
<td>1211</td>
</tr>
<tr>
<td>Overland Grove</td>
<td>17-49</td>
</tr>
<tr>
<td>Pinson Crossing – PCD</td>
<td>1207</td>
</tr>
<tr>
<td>Place LeGrand (inactive)</td>
<td>1188</td>
</tr>
<tr>
<td>Ridgecrest Plaza</td>
<td>1137</td>
</tr>
<tr>
<td>Skyline Estates</td>
<td>923</td>
</tr>
<tr>
<td>Stonebriar Estates (amended 5/2007)</td>
<td>1097/1214</td>
</tr>
<tr>
<td>Trails of Chestnut Meadows</td>
<td>1031</td>
</tr>
<tr>
<td>Trails of Chestnut Meadows (amended 9/2006)</td>
<td>1196</td>
</tr>
</tbody>
</table>
## CONDITIONAL USE PERMITS (2013-PRESENT)

<table>
<thead>
<tr>
<th>Date</th>
<th>Applicant</th>
<th>Location</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/7/14</td>
<td>Zanata Restaurant</td>
<td>215 S. Bois D'Arc Street</td>
<td>Private Club</td>
</tr>
<tr>
<td>2/18/14</td>
<td>Texas Motor Toys</td>
<td>10676 E. U.S. Highway 80</td>
<td>Used Auto Sales</td>
</tr>
<tr>
<td>4/1/14</td>
<td>Venue 80</td>
<td>123 E. U.S. Highway 80</td>
<td>Banquet Hall</td>
</tr>
<tr>
<td>4/15/14</td>
<td>Main Street Produce</td>
<td>114 E. Main Street</td>
<td>Food Store</td>
</tr>
<tr>
<td>6/17/14</td>
<td>Random Finds</td>
<td>10470 E. U.S. Highway 80</td>
<td>Consignment Shop</td>
</tr>
<tr>
<td>3/17/15</td>
<td>7-Eleven South</td>
<td>F.M. 741/F.M. 548</td>
<td>Car Wash (accessory use)</td>
</tr>
<tr>
<td>8/18/15</td>
<td>Crumbzz Restaurant</td>
<td>212 S. Bois D'Arc St.</td>
<td>Private Club</td>
</tr>
<tr>
<td>8/18/15</td>
<td>DFW Golf Cart</td>
<td>10512 E. U.S. Highway 80</td>
<td>ATV Dealer</td>
</tr>
<tr>
<td>11/19/15</td>
<td>Hampton Inn</td>
<td>E. U.S. Highway 80/Regal Dr.</td>
<td>Building height greater than 36'</td>
</tr>
<tr>
<td>1/19/16</td>
<td>Cedar Creek GenesisCenter</td>
<td>126 E. U.S. Highway 80, Ste 110</td>
<td>Consignment Shop</td>
</tr>
<tr>
<td>5/17/16</td>
<td>Chilton Properties</td>
<td>113 &amp; 117 E. U.S. Highway 80</td>
<td>Motorcycle Dealer</td>
</tr>
<tr>
<td>6/21/16</td>
<td>Forney Arts Council</td>
<td>210 E. Broad Street</td>
<td>Farmers Market to operate one time per month</td>
</tr>
<tr>
<td>8/16/16</td>
<td>RideNow Powersports</td>
<td>113 &amp; 117 E. U.S. Highway 80</td>
<td>Motorcycle and ATV Dealer</td>
</tr>
<tr>
<td>1/10/17</td>
<td>Forney Public Storage</td>
<td>E. Broad St./Regal Dr.</td>
<td>Self-storage</td>
</tr>
<tr>
<td>1/17/17</td>
<td>Forney Arts Council</td>
<td>210 E. Broad Street</td>
<td>Farmers Market to operate twice per month</td>
</tr>
<tr>
<td>4/7/17</td>
<td>Rex Ramsey</td>
<td>206 E. U.S. Highway 80</td>
<td>Indoor Gun Range</td>
</tr>
<tr>
<td>4/18/17</td>
<td>Pinnacle Montessori</td>
<td>Block A, Lot 3, Ridgecrest Center Addition</td>
<td>Child Care Center</td>
</tr>
<tr>
<td>4/18/17</td>
<td>RideNow Powersports</td>
<td>113 &amp; 117 E. U.S. Highway 80</td>
<td>Motorcycle and ATV Dealer</td>
</tr>
<tr>
<td>6/20/17</td>
<td>Matt Yarbrough</td>
<td>12201 Currency Circle</td>
<td>Auto Repair (Major)</td>
</tr>
<tr>
<td>7/6/17</td>
<td>Joyce Carr</td>
<td>700 W. Broad Street</td>
<td>Adult Day Care</td>
</tr>
</tbody>
</table>
# A-3 SUMMARY OF ZONING DISTRICT REGULATIONS

This is a chart for general comparison purposes only and it shall not be construed as the complete regulations for each zoning district. For complete requirements, see the body of the Zoning Ordinance for each respective district.

<table>
<thead>
<tr>
<th>District</th>
<th>Minimum Lot Area</th>
<th>Minimum Dwelling Unit Size</th>
<th>Minimum Lot Width</th>
<th>Minimum Lot Depth</th>
<th>Minimum Front Yard</th>
<th>Minimum Rear Yard</th>
<th>Minimum Side Yard</th>
<th>Maximum Height of Building</th>
<th>Maximum Lot Coverage by Building</th>
</tr>
</thead>
<tbody>
<tr>
<td>AG</td>
<td>1 Acre/43,560 sf min.</td>
<td>2,400 sf</td>
<td>100 ft.</td>
<td>200 ft.</td>
<td>60 ft.</td>
<td>25 ft.</td>
<td>10% of lot width/25 ft. garage door to ROW</td>
<td>3 stories/45 ft.</td>
<td>35%</td>
</tr>
<tr>
<td>SF-20</td>
<td>20,000 sf min.</td>
<td>2,400 sf</td>
<td>100 ft.</td>
<td>150 ft.</td>
<td>40 ft.</td>
<td>20 ft.</td>
<td>10% of lot width/25 ft. garage door to ROW</td>
<td>3 stories/45 ft.</td>
<td>35%</td>
</tr>
<tr>
<td>SF-15</td>
<td>15,000 sf min./17,500 sf average</td>
<td>2,200 sf</td>
<td>80 ft.</td>
<td>120 ft.</td>
<td>30 ft.</td>
<td>20 ft.</td>
<td>8 ft. interior/15-20 ft. corner/25 ft. garage door to ROW</td>
<td>2.5 stories/36 ft.</td>
<td>35%</td>
</tr>
<tr>
<td>SF-11</td>
<td>11,000 sf min./12,500 sf average</td>
<td>2,000 sf</td>
<td>75 ft.</td>
<td>120 ft.</td>
<td>25 ft.</td>
<td>10 ft.</td>
<td>6 ft. interior/15-20 ft. corner/25 ft. garage door to ROW</td>
<td>2.5 stories/36 ft.</td>
<td>35%</td>
</tr>
<tr>
<td>SF-8</td>
<td>8,800 sf min./9,500 sf average</td>
<td>1,800 sf</td>
<td>70 ft.</td>
<td>110 ft.</td>
<td>25 ft.</td>
<td>10 ft.</td>
<td>6 ft. interior/15-20 ft. corner/25 ft. garage door to ROW</td>
<td>2.5 stories/36 ft.</td>
<td>35%</td>
</tr>
<tr>
<td>SF-6</td>
<td>7,700 sf min./</td>
<td>1,500 sf</td>
<td>60 ft.</td>
<td>100 ft.</td>
<td>25 ft.</td>
<td>10 ft.</td>
<td>6 ft. interior/15-20 ft. corner/25 ft. garage door to ROW</td>
<td>2.5 stories/36 ft.</td>
<td>35%</td>
</tr>
<tr>
<td>SF-PH</td>
<td>4,500 sf min./5,200 sf average</td>
<td>1,000 sf</td>
<td>45 ft.</td>
<td>100 ft.</td>
<td>20 ft./25 ft. garage door to ROW</td>
<td>10 ft.</td>
<td>0 ft. and 10 ft. interior/15-20 ft. corner/25 ft. garage door to ROW</td>
<td>2.5 stories/36 ft.</td>
<td>50%</td>
</tr>
<tr>
<td>2F</td>
<td>Duplex: 10,000 sf per pair of lots/5,000 sf per dwelling unit</td>
<td>Duplex: 1,600 sf per pair of units, with smallest unit 800 sf min.</td>
<td>Duplex: 90 ft. per pair of lots, 45 ft. per dwelling unit</td>
<td>Duplex: 100 ft.</td>
<td>Duplex: 20 ft./25 ft. garage door to ROW</td>
<td>10 ft.</td>
<td>0 ft. where duplex units join/6 ft. interior/15-20 ft. corner/25 ft. garage door to ROW</td>
<td>2.5 stories/36 ft.</td>
<td>45%</td>
</tr>
<tr>
<td>District</td>
<td>Minimum Lot Area</td>
<td>Minimum Dwelling Unit Size</td>
<td>Minimum Lot Width</td>
<td>Minimum Lot Depth</td>
<td>Minimum Front Yard</td>
<td>Minimum Rear Yard</td>
<td>Minimum Side Yard</td>
<td>Maximum Height of Building</td>
<td>Maximum Lot Coverage by Building</td>
</tr>
<tr>
<td>----------</td>
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</tr>
<tr>
<td>SFA</td>
<td>3,500 sf min./8 units per acre max. gross density Project Size: min.3 acres max.15 acres</td>
<td>800 sf</td>
<td>35 ft.</td>
<td>100 ft.</td>
<td>15 ft. with staggering required/15 ft., 19 ft. and 23 ft.</td>
<td>10 ft.</td>
<td>0 ft. interior/15-20 ft. corner/25 ft. garage door to ROW</td>
<td>2.5 stories/36 ft.</td>
<td>70%</td>
</tr>
<tr>
<td>MF-15</td>
<td>2,000 sf per dwelling unit/ max. density 15 d.u.'s per acre Project Size: min.10 acres</td>
<td>500sf-Eff'c'y. 725sf-1 B.R. 875+sf-2+ B.R.</td>
<td>100 ft.</td>
<td>150 ft.</td>
<td>30 ft.</td>
<td>15 ft./25+ ft. if adjacent to SF residential</td>
<td>15 ft./25+ ft. if adjacent to SF residential</td>
<td>2.5 stories/36 ft.</td>
<td>45%</td>
</tr>
<tr>
<td>MH</td>
<td>3,500 sf min. per dwelling unit</td>
<td>800 sf</td>
<td>40 ft.</td>
<td>80 ft.</td>
<td>25 ft./15 ft.</td>
<td>10 ft./20 ft.</td>
<td>10-20 ft. interior/15-20 ft. corner/25 ft. garage door to ROW</td>
<td>2.5 stories/36 ft.</td>
<td>50%</td>
</tr>
<tr>
<td>O</td>
<td>6,000 sf min.</td>
<td>N/A</td>
<td>60 ft./120 ft. on highway frontage</td>
<td>100 ft./max. depth = 3 times width</td>
<td>25 ft.</td>
<td>15 ft./20 ft. if adjacent to residential</td>
<td>15 ft./20 ft. if adjacent to residential</td>
<td>2 stories/35 ft.</td>
<td>40%</td>
</tr>
<tr>
<td>NS</td>
<td>6,000 sf min.</td>
<td>N/A</td>
<td>60 ft./120 ft. on highway frontage</td>
<td>100 ft./max. depth = 3 times width</td>
<td>25 ft.</td>
<td>15 ft./20 ft. if adjacent to residential</td>
<td>15 ft./20 ft. if adjacent to residential</td>
<td>2 stories/35 ft.</td>
<td>40%</td>
</tr>
<tr>
<td>GR</td>
<td>6,000 sf min.</td>
<td>N/A</td>
<td>60 ft./120 ft. on highway frontage</td>
<td>100 ft./max. depth = 3 times width</td>
<td>25 ft.</td>
<td>15 ft./20 ft. if adjacent to residential</td>
<td>15 ft./20 ft. if adjacent to residential</td>
<td>2 stories/35 ft.</td>
<td>50%</td>
</tr>
<tr>
<td>CBD</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>2 stories/35 ft.</td>
<td>100%/3:1 FAR</td>
</tr>
<tr>
<td>C</td>
<td>10,000 sf/½ acre along highway frontage</td>
<td>N/A</td>
<td>60 ft./150 ft. on highway frontage</td>
<td>100 ft./150 ft. on highway frontage/ max. depth = 3 times width</td>
<td>25 ft.</td>
<td>15 ft./20 ft. if adjacent to residential</td>
<td>15 ft./20 ft. if adjacent to residential</td>
<td>2 stories/35 ft.</td>
<td>60%/2:1 FAR</td>
</tr>
<tr>
<td>MU</td>
<td>20,000 sf</td>
<td>N/A</td>
<td>100 ft.</td>
<td>100 ft./max. depth = 3 times width</td>
<td>50 ft.</td>
<td>25 ft./60-200 ft. if adjacent to SF residential</td>
<td>25 ft./60-200 ft. if adjacent to SF residential</td>
<td>3 stories/50 ft.</td>
<td>50%/2:1 FAR</td>
</tr>
<tr>
<td>District</td>
<td>Minimum Lot Area</td>
<td>Minimum Dwelling Unit Size</td>
<td>Minimum Lot Width</td>
<td>Minimum Lot Depth</td>
<td>Minimum Front Yard</td>
<td>Minimum Rear Yard</td>
<td>Minimum Side Yard</td>
<td>Maximum Height of Building</td>
<td>Maximum Lot Coverage by Building</td>
</tr>
<tr>
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<td>---------------------------------</td>
</tr>
<tr>
<td>LI</td>
<td>20,000 sf</td>
<td>N/A</td>
<td>100 ft./200 ft. on highway frontage</td>
<td>125 ft./200 ft. on highway frontage/ max. depth = 3 times width</td>
<td>50 ft.</td>
<td>25 ft./40+ ft. if adjacent to residential</td>
<td>25 ft./40+ ft. if adjacent to residential</td>
<td>120 ft.</td>
<td>60%</td>
</tr>
</tbody>
</table>

*See text of the Zoning Ordinance for additional or supplemental requirements for all zoning districts.*
# SCHEDULE OF FEES

## Planning Services Fee Schedule

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annexation Fee</td>
<td>None</td>
</tr>
<tr>
<td>Zoning Change</td>
<td>$400</td>
</tr>
<tr>
<td>Zoning Change (Planned Developments)</td>
<td></td>
</tr>
<tr>
<td>0 to 5 acres</td>
<td>$400 + $20/acre</td>
</tr>
<tr>
<td>5 to 20 acres</td>
<td>$700 + $20/acre</td>
</tr>
<tr>
<td>20 to 50 acres</td>
<td>$1000 + $20/acre</td>
</tr>
<tr>
<td>50 + acres</td>
<td>$1300 + $20/acre</td>
</tr>
<tr>
<td>Planned Development Amendment (Project Text only)</td>
<td>$400 + $20/acre</td>
</tr>
<tr>
<td>Planned Development Amendment (Concept Plan only)</td>
<td>$700 + $20/acre</td>
</tr>
<tr>
<td>Planned Development Amendment (Project text and concept plan)</td>
<td>$1100 + $20/acre</td>
</tr>
<tr>
<td>Conditional Use Permit (without site plan)</td>
<td>$400</td>
</tr>
<tr>
<td>Conditional Use Permit (with site plan)</td>
<td>Same as zone change for Planned Developments</td>
</tr>
<tr>
<td>Site Plan (new and amended)</td>
<td>$500 + $20/acre</td>
</tr>
<tr>
<td>Site Plan (new and amended with engineering review)</td>
<td>$1000 + $20/acre</td>
</tr>
<tr>
<td>Civil Engineering Plans</td>
<td>$1000 + $20/acre</td>
</tr>
<tr>
<td>Renewal of Expired Civil Engineering Plans</td>
<td>$500 + $20/acre</td>
</tr>
<tr>
<td>Flood Study Review</td>
<td>$500 (per review)</td>
</tr>
<tr>
<td>Traffic Impact Analysis without Modeling</td>
<td>$500 (per review)</td>
</tr>
<tr>
<td>Traffic Impact Analysis with Modeling</td>
<td>$1500 (per review)</td>
</tr>
<tr>
<td>Engineering/Inspection Fee</td>
<td>3% of public improvements construction costs (collected at time of engineering and public works pre-construction meeting. Project engineer must submit a sealed document indicating the cost of public improvements to the City Engineer.)</td>
</tr>
<tr>
<td>Preliminary Plat</td>
<td>$250 + $15/lot</td>
</tr>
<tr>
<td>Final Plat</td>
<td>$300 + $20/lot</td>
</tr>
<tr>
<td>Service</td>
<td>Fee</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>Replats</td>
<td>$350 + $20/lot</td>
</tr>
<tr>
<td>Minor Plat</td>
<td>$300 + $20/lot</td>
</tr>
<tr>
<td>Development Plat</td>
<td>$300 + $20/lot</td>
</tr>
<tr>
<td>Amended Plat</td>
<td>$300 + $20/lot</td>
</tr>
<tr>
<td>Vacating Plat</td>
<td>$300</td>
</tr>
<tr>
<td>Waiver to Subdivision Regulations</td>
<td>$250</td>
</tr>
<tr>
<td>Subdivision Name Change after Plat Recorded</td>
<td>$500</td>
</tr>
<tr>
<td>Street Name Change after Plat Recorded</td>
<td>$300 + Sign Costs</td>
</tr>
<tr>
<td>Recording Fees</td>
<td>As amended by Kaufman County - County Clerk Office</td>
</tr>
<tr>
<td>BOA Application</td>
<td>$500</td>
</tr>
<tr>
<td>Zoning Verification Letter (available in City format only)</td>
<td>$25 Each</td>
</tr>
<tr>
<td>Comprehensive Plan/Zoning Ordinance/Subdivision Regulations/EDS:</td>
<td></td>
</tr>
<tr>
<td>Paper Copy</td>
<td>$75</td>
</tr>
<tr>
<td>CD</td>
<td>$25</td>
</tr>
<tr>
<td>Color Maps – 11 x 17</td>
<td>$5</td>
</tr>
<tr>
<td>All large maps-black and white</td>
<td>$25</td>
</tr>
<tr>
<td>All large maps-color</td>
<td>$50</td>
</tr>
</tbody>
</table>
ENTERTAINMENT OVERLAY DISTRICT
DESIGN GUIDELINES FOR PLANNED COMMERCIAL DISTRICTS

1.01 Purpose:

The overall design of any development has a direct bearing on the economic value of the property. When public areas, business establishments, and residential communities exhibit good design, shoppers, businessmen, homeowners, and industrial developers tend to have strong confidence in the community. Poor design, congestion, and a lack of proper maintenance bring about blight, decay, decreased property values, and the loss of both private and public revenues.

Good community design is the product of orderly and harmonious relationships established between man-made objects and nature. Good design results from the skillful combination and interrelation of these elements through both contrast and similarity.

What citizens experience daily in the community, both consciously and unconsciously, influences their lives. New building programs, along with the improvement and preservation of existing development, are necessary in order to maintain a healthy community. Expanded building programs and land development greatly reduce open space, resulting in an increased awareness of the importance of good design and land use.

Forney's natural environment is its most important asset in seeking to attract residents, businesses, and employment opportunities. The quality of that environment has a direct impact on the City's livability and its economic prospects.

1.02 Intent:

The intent of the City's design guidelines and process is to promote a more pro-active growth and development strategy, for the purpose of maintaining the long-term economic viability of the community, as well as its quality of life. Compliance with these guidelines is required in order to secure a building permit for any development in the Planned Commercial District (PCD).

1.03 Definitions and Rules of Construction:

A. Rules of Construction:

1. Words used in the present tense include the future tense and the singular includes the plural.

2. The term "shall" and "must" are always mandatory and not discretionary; the words "may" or "should" are permissive.

3. The term "person" or "applicant" includes a firm, organization, association, partnership, trust, company, limited liability company, limited liability partnership, or corporation, as well as an individual.

4. The terms "use" or "occupy" shall include the concept of intended, designed, or arranged to be used or occupied.
5. The term “building” includes the term “structure” or “any portion of a building or structure.”

6. Whenever any reference is made in this ordinance to any other section or provision of this or any other ordinance, such reference shall be deemed to include the provisions or regulation to which the reference is made.

B. Definitions: For the purposes of this ordinance, certain words and phrases are herein defined. Words and phrases defined herein shall be given the defined meaning. Words and phrases not defined herein shall be given their usual meaning, except where the context clearly indicates a different or specified meaning.

1. Addition -- An extension, expansion, enlargement or increase in the area or height of a building or structure or the number of dwelling units within the building or structure.

2. Administrative Official -- The Director of Planning for the City of Forney.

3. Appearance -- The outward aspect visible to the public.

4. Appurtenance -- The visible, functional objects accessory to and part of buildings.

5. Architectural Character -- The composite or aggregate of the characteristics of structure, form, materials, and function of a building, group of buildings, or other architectural composition.

6. Architectural Feature -- A prominent or significant part or element of a building, structure, or site.

7. Architectural Style -- The characteristic form and detail of a building, structure, or site, as of buildings of a particular historic period.

8. Berm – An earthen mound designed to provide visual interest, screen undesirable elements of a project from public view, and/or decrease noise.

9. Caliper – The average diameter of a tree measured six (6) inches above the ground.

10. Chroma Colors – Any of various brilliant pigments containing chromium compounds, such as chromium green or chromium yellow. Any metallic color.

11. City -- The City of Forney, Texas.

12. Cohesiveness -- The unity of composition between design elements of a building, structure, and site.
13. Compatibility -- The harmony in appearance of two or more buildings, structures, and landscaping elements in the same vicinity.

14. Earth tone -- Earth tone colors are considered to be various shades of reddish-brown, brown, tan, ochre, umber, flat gold, sand, and flat greens. The following are not ordinarily considered earth tone colors: bright primary colors, blue, canary yellow, red, orange, violet, magenta, bright green, silver, gray, or metallic finishes.

15. Exterior Building Component -- An essential and visible part of the exterior of a building.

11. Exterior Design Feature -- The architectural style and general arrangement of such portion of a building or structure as is to be open to view from a public street, place, or way, including the kind, color, and texture of the building material of such portion, and the type of windows, doors, and lights, or ground signs and other fixtures appurtenant to the building.

12. Fenestration -- Any exterior window or door.

13. Frontage -- The total lineal distance measured along all adjacent right-of-ways.

14. Graphic Element -- A letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.

15. Ground Cover -- Sod or other low growing plants installed in such a manner so as to form a continuous cover over the ground surface.

16. Harmony -- A quality which produces an aesthetically pleasing whole in the arrangement of varied architectural and landscape elements.

17. Mechanical Equipment -- Equipment, devices, and accessories the use of which relates to water supply, electrical supply, drainage, heating, ventilation, air conditioning, and similar purposes.

18. Parking Row --

(A) Single Loaded Parking Row -- A single row of spaces for the parking of vehicles.

(B) Double Loaded Parking Row -- Two parallel rows of spaces for the parking of vehicles arranged so that, when parked, the front end of each vehicle faces the front end of another vehicle.

19. Predominate -- Having the most publicly visible surface area.

20. Portals and Canopies -- Any structure attached to, or part of, a building at the inner end, or also a free-standing structure, having supporting posts or columns, meant to provide shelter from the weather.
21. Proportion -- The relationship between parts of a building, landscape, or structures to each other and to the whole.

22. Right-of-Way Line -- That line delimiting the Public/Private boundary of the street, and being identical with the property line of persons owning property fronting upon the streets.

23. Roof -- Any surface covering a building area or space that is horizontal, or has a slope less steep than one-half \((\frac{1}{2})\) foot of horizontal run for every twelve feet \((12')\) of vertical rise. The term "roof" also includes the overhangs over porches, porticos, and covered walks.

24. Roof Line -- The highest point of the coping on a flat roof, false mansard, or parapet wall; the ridge line between the upper and lower slopes of a gambrel roof; or the mean height level between the eaves and ridge of a gable or hip roof.

25. Scale -- The harmonious relationship of the size of a building or parts of a building to one another and to the human figure.

26. Shrub -- A woody plant, smaller than a tree, consisting of several small stems from the ground or branches near the ground.

27. Sod -- A layer of earth containing grass plants and their matted roots. (synonym -- turf)

28. Stage Set Façade -- A structure in which the primary elevation of the building presents a distinct and separate design from the remainder of the building. A structure where the continuity of design does not continue beyond the primary elevation to the sides and rear of the building. This may also include separate materials and colors from the remainder of the building. An example of a stage set façade would be a brick façade reflecting a parapet on a pre-engineered steel or wood frame building with a pitched roof.

29. Tree -- A large woody plant having one or several self-supporting stems or trunks and numerous branches.

30. Wall -- Any exterior surface on a building or structure that is either vertical or has a slope steeper than one-half \((\frac{1}{2})\) foot of horizontal run for every twelve feet \((12')\) of vertical rise.

### 1.04 Projects Requiring a Site Development Plan:

A. Actions Requiring Site Development Plan Approval: Neither a Building Permit nor a Certificate of Occupancy Permit shall be issued for the construction of the following buildings, structures, or uses of land until a Site Development Plan has been submitted, reviewed, and approved in conformance with the requirements of this Ordinance.
1. All new construction, additions, change in exterior appearance, exterior alteration, or change in use for either land, buildings, or buildings and land in combination for all categories of non-single-family residential construction.

2. The construction, re-construction, alteration, or expansion of a parking area for automobiles, trucks, trailers, recreational vehicles, mobile homes, manufactured homes or other vehicles, whether for customer parking, sales, or temporary or long-term storage.

3. Fences, signs, landscaping requirements, and curb cuts for the land uses regulated by Section 1.04A1, not otherwise reviewable pursuant to the foregoing requirements.

4. Subdivision entrance signs and landscape plans for subdivisions or planned unit developments, including entrances, landscaped buffer areas, medians, and streetscaping.

B. Exemptions:

1. All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment when such work is entirely within the interior of the building, or when located outside of the building, but buried beneath the surface of the earth.

2. Any permit necessary for the compliance with a lawful order of the Planning Department, Building Department, Fire Department, Police Department, or Public Works Department related to the immediate public health or safety.

3. All permits for interior alterations, repairs, or renovations.

4. All permits for demolition or wrecking.

1.05 Site Development Plan -- Application and Requirements: For all applications for building or occupancy permits for the purpose of construction, reconstruction, alteration, rehabilitation, repair, moving or demolition, or change in use for either land, buildings, or buildings and land within the City of Forney, as well as for such other forms of development as is regulated by this Ordinance, an overall site development plan and text, containing the information required by this Ordinance, must be submitted to the Planning Department, for review and approval, prior to the issuance of any permit. In no case shall any site improvement or construction be conducted prior to the review and approval of these plans, as provided herein.

A. Intent: The plan must provide sufficient and specific information to aid in the determination of what provisions, if any, should be included as part of the plan, and be binding on the use and development of the subject property. The filing of
a Site Development Plan for approval constitutes an agreement by the owner and applicant, their successors and assigns, that if the Site Development Plan is approved, any building or use and occupancy permits issued for the improvement of the property(ies) shall be in conformance with the approved Site Development Plan.

B. Filing: An application for Site Development Plan approval shall be filed in the offices of the Forney Planning Department (same fee and application as site plan review) upon the forms provided, and shall be submitted either in advance or concurrently with a request for Building Permit Plan Review or an application for a Certificate of Occupancy Permit, where applicable. An application shall consist of three (3) complete sets of drawings measuring not more than twenty-four inches (24") by thirty-six inches (36"), drawn to a scale as large as practical, and including the following information:

1. Existing Conditions:
   a. Scale, date, north arrow, title of the project, and a vicinity map reflecting the location of the proposed project.
   b. The boundaries, dimensions, and total gross acreage of the subject property.
   c. The relationship of the project to the surrounding road system, including the widths of right-of-way and pavement for all adjacent roads. Show existing site drainage and exit points to surrounding road system.
   d. The location and dimensions of all existing man-made features, such as roads, utilities, and structures on both the petitioned site and adjacent properties, along with an indication as to which features on the petitioned site are to be removed.
   e. The location and dimensions of existing easements, watercourses, utilities, water and sewer lines, and other important physical features in and adjoining the project.
   f. The location, type and delineation of existing trees eight inches (8") in diameter or larger, as measured three feet (3') above the ground, and information as to which trees will be removed.

2. Proposed Conditions:
   a. The "footprint," location, dimensions, and height of the proposed main and accessory buildings, their relation one to another and to any existing structures to remain on the site. The distance from all proposed buildings and structures to the adjacent property lines.
   b. The location of the one hundred (100) year flood plain, where applicable, and the existing or proposed finished floor elevations
of all structures.

c. The internal circulation pattern for both vehicular and pedestrian traffic, including the location and dimensions of all existing and proposed streets, driveways, traffic aisles, and sidewalks, as well as the location, size, and number of parking spaces within off-street parking areas, as well as the identification and dimensions of service islands, service parking, and loading zones.

d. Total project density for residential projects or building floor area by the use intended for commercial and industrial projects.

e. Percentage of landscaping/open space areas and percentage of impervious surface areas to the total area of the site.

f. Location and dimensions of all landscape areas, common open space areas, and buffer yard areas, including the location, number, type, and size of all landscaping materials, as well as any other proposed amenities.

g. Size, location, materials, and orientation of all signs.

h. Location, height, and type of all exterior lighting.

i. Location, area, and type of screening for all exterior trash collection and/or recyclables collection areas.

j. Architectural Elevations:

(1) Architectural drawings, drawn to scale showing all elevations of the proposed structures and other improvements as they will appear on completion of construction.

(2) If the exterior of an existing structure is to be changed, both the proposed and existing elevations of such structures shall be shown.

(3) If an addition to an existing structure is proposed, the elevation of the existing structure shall be shown together with those of the addition.

(4) The elevations shall also show all superstructures and equipment above the roof, projections from the wall of the structure, mechanical units, etc.

(5) A floor plan for all structures.

(6) Exterior materials to be used shall be noted in terms of type, location, texture, and color, with samples of each to be provided with the submitted plans.
k. The location and type of screening for all mechanical units, utility services, and so forth.

l. The names, addresses, telephone numbers, and fax numbers of the developer(s), the property-owner(s), and the designer(s) of the plan.

m. Proposal for sanitary sewer, storm sewer, water, natural gas, and electrical services.

n. Identification of additional roadway needs, including improvements necessary to adequately access and service the site. In reviewing such a proposal, the City may require the preparation of a Transportation Impact Study, at the applicant's expense, to identify the traffic impacts and problems which are likely to be generated by the proposal and to identify all improvements required to insure safe ingress and egress from the proposed development, elimination of hazards, and the maintenance of adequate street capacities.

o. The proposed phasing of construction for the project, if applicable, including:

   (1) The approximate date when construction of each phase of the project is anticipated.
   (2) The order in which the phases of the project will be built.
   (3) The minimum area and the approximate location of common open space and public improvements that will be required at each stage.

p. A legal description of the property proposed for the development.

3. Drainage Plan (Required if the proposed project will increase the non-pervious area):

   a. Contours of the site with elevations of the pre-developed site and the proposed finished grades at two foot (2') intervals.

   b. The size of the watershed.

   c. Calculations of the storm water run-off (for existing and proposed conditions) and retention/detention needs based upon the Engineering Design Standards of Forney.

   d. Proposals for the management and retention/detention of storm water drainage.

Application Materials Submitted for the Record: All plans, architectural drawings, renderings, photographs, reports, or other documents, materials, or visual aids either initially submitted as part of the formal application or presented at a later
date shall become part of the permanent record of any decision and shall not be returned to the applicant.

1.06  **Approval Process:**

The Design Guidelines utilizes a point system, to evaluate a building's construction and site design plans. The required point total, or degree of compliance for a given project, varies depending on the nature of the proposed improvements.

A.  **Pre-Application Conference:** Prior to filing an application for Site Development Plan approval, the prospective applicant may request a pre-application conference with City staff to conduct a preliminary calculation of design and site planning points. Two copies of all required submittals must be provided in order for this review to be performed. Points will be re-calculated at the time of the final review, and may differ from those calculated during the preliminary review if dimensions, features, details, or specifications have been altered or in any way modified.

B.  **Formal Application:** Upon submission of the formal application, site development plan, and all other required materials to the Planning Department:

1.  A calculation of the construction and site design planning points will be calculated by the Department staff, the results of which shall be reported to the applicant. If a project does not meet the point requirements set forth by this Ordinance, the applicant shall, prior to the issuance of a Building Permit or a Certificate of Occupancy Permit, modify the submittals so as to achieve the required number of points.

C.  **Burden of Proof:** In presenting any application for Site Development Plan approval, the burden of proof shall rest with the applicant to provide the necessary evidence required to clearly show that the proposed plan meets the minimum design standards listed in this Ordinance.

D.  **Certificate of Approval:** Following final approval by the Administrative Official, three (3) sets of the submitted plans will be stamped with the Certificate of Approval and signed by the Administrative Official. The plans will then be distributed as follows:

1.  One (1) set to the applicant.

2.  One (1) set to the City of Forney Building Department

3.  One (1) set to the City of Forney Planning Department

E.  **Approval and Concurrent Building Permit Plan Review:** Following approval of the Site Development Plan, the applicant may then make application for Building Permit Plan Review. The applicant may request a concurrent Building Permit Plan Review and submit proposed building plans for the project along with the required Site Development Plan, provided that the applicant recognizes that modifications to the Site Development Plan resulting from the calculation of construction and site design planning points by the Department Staff may,
concomitantly, require modifications to the submitted building plan before a building permit on the proposed project may be issued.

F. Project Development Contract: Following approval of the Site Development Plan, but prior to the issuance of a Building Permit or Use and Occupancy Permit, as may be applicable, submit to the City a proper performance guarantee, if required, and pay all development fees.

H. Maintenance of Approved Plans: Following approval of the Site Development Plan, issuance of the Building Permit, and the initiation of construction, the applicant's copy of the approved plans shall be maintained by the applicant at all times upon the site of the construction for use and reference of the City's Inspectors, as necessary. Failure by the applicant or his contractor to maintain the approved plans upon the site shall be considered a violation of this Ordinance.

1.07 Minimum Standards of Design:

The purpose of the Design Guidelines is to preserve and promote good quality design within the City of Forney. Although this Ordinance does not require strict adherence to a particular design style, it does encourage respect for general design qualities and characteristics.

The Design Guidelines utilizes a point system to evaluate a project's architectural and site design plan. These design standards are itemized by design element, such as site preparation, parking areas and traffic circulation, building form and materials, landscaping, fences and screening, and signage. Within each of these categories, are two sub-categories of design standards: mandatory requirements and optional requirements.

Mandatory requirements are those design standards that must be met by all projects. Meeting the mandatory requirements yields a set point total for the entire category. Failure to meet any mandatory requirement results in the automatic denial of the application.

The optional requirements sub-category provides a variety of approaches to the respective design elements, along with a sliding point scale. Within the optional requirements, an applicant can choose to meet some requirements, and not others, provided the overall total number of points accumulated for the project as a whole is equivalent to two hundred and fifty (250) points.

A. Site Preparation:

1. Sight Triangle: On a corner lot in any district or the entry point of a private driveway or street to a public street, new developments shall conform to the requirements of the sight triangle.

   a. The areas of property on both sides of the intersection of an alley access way and public right-of-way shall have a triangular visibility area with two (2) sides of each triangle being a minimum of ten feet
(10’) in length from the point of intersection and the third side being a line connecting the ends of the other two (2) sides.

b. The areas of property located at a corner formed by the intersection of two (2) or more public rights-of-way (or a private driveway onto a public road) shall have a triangular visibility area with two (2) sides of each triangle being a minimum of twenty-five feet (25’) in length along the right-of-way lines (or along the driveway curb line and the road right-of-way line) from the point of the intersection and the third side being a line connecting the ends of the other two (2) sides.

c. Off-Site Improvements: Where off-site roadway or utility improvements are required as a result of the proposed development, those improvements shall be the responsibility of the applicant, and shall be constructed or installed prior to any final inspection or the issuance of an Occupancy Permit.

d. Utilities: All utilities and services shall be located underground.

e. Engineering Plans: All grading plans, storm water drainage plans, plans for the provision of storm water detention, and the engineering construction plans for roadway and utility improvements shall be reviewed and approved by the City Engineer. All plans shall be prepared in accordance with the Engineering Design Standards of the City of Forney.

2. Optional Requirements:

a. In order to minimize storm water runoff, the amount of the site in impervious surface, such as roofs and pavement, should be minimized.

(1) Less than 50 percent in impervious surface -- 30 points
(2) 50 to 65 percent in impervious surface -- 20 points
(3) 66 to 75 percent in impervious surface -- 10 points
(4) 76 to 85 percent in impervious surface -- 0 points
(5) More than 85 percent in impervious surface is strictly prohibited.

B. Parking and Traffic Circulation:

1. Mandatory Requirements:

a. Generally:

(1) To maintain a sense of natural surroundings and a consistent streetscape, parking and service areas should be screened from public view or surrounded by landscape
buffers.

(2) Parking areas should be organized as a series of small parking bays with planted islands separating them.

(A) Entrances and exits to the site shall be so located such that parking spaces and traffic aisles do not conflict with entering and exiting traffic.

(B) Properties shall have clearly defined entrances and exits. Unlimited access to parking areas along the entire frontage of a property is prohibited.

(C) Industrial/Truck Entrance -- Radius curb cut or curb return size based upon the accepted standard utilizing truck turning templates

b. Parking Areas>Loading Areas --

(1) All areas used for access, maneuvering, standing, parking, or display of motorized vehicles, trailers, boats, recreational vehicles, or manufactured or mobile homes; whether for customer or business purposes, shall be hard surfaced of either a minimum of 5" of NCTCOG Class C concrete or asphaltic concrete (providing equal traffic life to concrete), maintained adequately for all-weather use, and so drained as to avoid the flow of water across sidewalks. Fire Lanes must be constructed using concrete per the current Subdivision Regulations and EDS.

(2) All required parking spaces shall be provided on the subject site. On-street parking is prohibited.

(3) The number of required parking spaces shall be in conformance with the requirements of Section 38 Off-Street Parking and Loading Requirements of the Comprehensive Zoning Ordinance for the City of Forney.

(4) Parking spaces that back directly into the adjacent street are prohibited.

(5) All vehicular parking areas shall be delineated by white, reflectorized pavement striping and shall meet the following dimensional requirements:

(A) If ninety (90) degree parking,

    stall depth -- 20' 0"
    stall width -- 9' 0"
    aisle width -- 24' 0"
(B) If sixty (60) degree parking,

- stall depth -- 20' 0"
- stall width -- 9' 0"
- aisle width -- 24'0" (or less if not a Fire Lane)

(C) If forty-five (45) degree parking,

- stall depth -- 20' 0"
- stall width -- 9' 0"
- aisle width -- 24'0" (or less if not a Fire Lane)

(D) If parallel parking,

- stall depth -- 8' 0"
- curb length -- 23' 0"
- aisle width -- 12' 0," or if adjacent to angle parking, use the largest width (If a Fire Lane 24' must be maintained)

(6) Loading Areas shall be hard surfaced of either a minimum of 5" of NCTCOG Class C concrete or asphaltic concrete (providing equal traffic life to concrete), and shall be scaled to the loading demand created by the use of the property and the size of the delivery vehicles used. Such loading areas shall not be visible from any adjoining public street. Fire Lanes must be constructed per the current Subdivision Regulations and EDS.

(7) Lighting – A lighting plan for all exterior lighting shall be submitted with the required Site Development Plan complying with the following standards and specifications:

(A) Private streets, driveways, parking lots, walks and service areas shall be kept properly and adequately lighted at all times so that the area will be safe for occupants and visitors. Lighting levels should be as even as possible, not exceeding an average of 1.0 foot candles for commercial developments provided that such lighting may not cast light beyond the property’s boundaries. All entrances and exits to both the subject property and any proposed structures shall be lighted.

(B) Lighting fixtures within commercial and multiple-family developments, whether mounted upon a building or independently upon a light standard, shall not exceed twenty-five feet (25’) in height.
Lighting fixtures within industrial developments may exceed twenty-five feet (25') in height, except in those instances where the subject property adjoins any residentially zoned property.

(C) All luminaires (the complete lighting unit, consisting of the light source and all necessary mechanical, electrical and decorative parts) shall be a "cut-off type" luminaire, with elements such as shields, reflectors, or refractor panels which direct and cut-off the emitted light at a specific angle). All luminaires shall have a cut-off angle of ninety (90) degrees or less.

(D) The lighting from any luminaire shall be shielded, shaded, or directed to prevent either direct or reflected light from being cast upon any adjacent residential property, and to prevent glare and other objectionable problems to surrounding areas.

(E) No exterior lighting fixture of any kind shall be so placed or directed such that the direct or reflected light therefrom shall interfere with the operation of automotive vehicles on any adjacent street.

(F) No exterior light shall have any blinking, flashing, or fluttering light, or other illuminating device which has a changing light intensity or brightness of color.

(G) All exterior lighting fixtures shall be either high pressure sodium or metal halide fixtures.

(H) Lighting fixtures shall be compatible in style with the architecture of their associated buildings.

(8) Fire lanes-Fire Lanes must be constructed per the current Subdivision Regulations and EDS and the approval of the Fire Chief.

(9) Rear Access to Buildings – Vehicular access shall be provided along the rear of all buildings for emergency access purposes unless otherwise approved by the Fire Chief.

(10) Curbing and Wheel Stops -- All parking areas and loading areas shall be provided with a permanent NCTCOG Class C Concrete curb with a minimum 28 day strength of 3,600 psi. In addition, all landscaped areas that can been encroached upon by a motor vehicle, shall be protected by a wheel stop constructed of NCTCOG Class A Concrete with a minimum
28 day strength of 3,000 psi, appropriately anchored to the pavement, and set a minimum of two feet (2’) back from the curb to restrict the destruction of landscape materials by vehicles.

c. Pedestrian Circulation:

(1) Where the subject property does not already provide a public sidewalk, a five foot (5’) wide sidewalk shall be constructed along the entire street frontage of the property. The sidewalk shall be constructed to align with existing sidewalks on adjacent properties.

(2) Where a property or development borders more than one street, sidewalks will be constructed along the entire frontage of all streets which the property or development borders. Where the sidewalk intersects a driveway access point to the property or development, the sidewalk will not be required to cross the driveway, provided that appropriate handicapped access ramps are provided on either side of the driveway access.

(3) Sidewalks shall be a minimum of five feet (5’) in width, except along arterial streets which may require additional width, as determined by the City Engineer.

(4) Sidewalk materials should blend with the natural landscape, avoiding slick concrete. Examples of acceptable finishes are broom finished, colored, or exposed aggregate concrete. Asphalt sidewalks are prohibited.

(5) Handicapped Access: Handicapped access ramps, complying with the requirements of Federal law, shall be provided for both sidewalks adjacent to public streets, as well as sidewalks provided internally within the development.

(6) Crosswalks: Crosswalks shall be provided both internally and externally to the development as identified by the City Engineer. Public crosswalks shall be striped in conformance with the latest edition of the Manual on Uniform Traffic Control Devices. Crosswalks on private property, internal to the site, shall either be delineated by white, reflectorized pavement striping or may be delineated by materials of a different color and texture from the surrounding parking lot, otherwise conforming to the overall color scheme of the development.
e. Street Signs and Traffic Control Devices: When, as a result of the proposed project, street signs, traffic signals, or traffic regulatory signs are required, the applicant shall be responsible for the installation of all such devices and signs at the approval of the Public Works Director.

f. Continuing Maintenance of Overall Traffic, Parking, Loading, and Pedestrian Facilities: The driveways, private streets, parking areas, traffic aisles, fire lanes, loading areas, exterior lighting, signage, internal crosswalks, curb stops, pedestrian facilities, and such other transportation related improvements depicted upon the approved Site Development Plan, shall be considered as binding elements of the project in the same manner as the proposed buildings, landscaping, and other details. The applicant, his successors, assigns, and/or subsequent owners and their agents shall be responsible for the continued maintenance of all such private improvements in accordance with the approved Site Development Plan. The parking areas shall be maintained in a clean manner with all litter and other debris removed daily. Grass shall be removed from all curbs and sidewalk areas. Potholes in the parking lot surface, cracks in the pavement or sidewalks, and all other signs of the physical deterioration of all approved improvements shall be repaired or replaced within thirty (30) days following notification by the City.

2. Optional Requirements:

a. Exterior Lighting Fixtures --

Points

10 Building mounted artificial light sources are shielded from public view, except for low intensity decorative lighting not exceeding forty-five (45) watts per bulb.

10 Use of antique, pierced, ceramic, pierced metal, or other decorative fixtures when compatible with the overall architectural style of the building (submit sample and specifications for approval).

b. Pedestrian Circulation --

Points

20 At least one continuous five foot (5') wide pedestrian walkway is provided from the street to the building entry with a landscape area directly adjacent to the walkway along more than fifty percent (50%) of its length. Traffic aisles between parking areas may be
provided through the non-landscaped portion of the sidewalk, provided that the sidewalk is continued at the same grade as the traffic aisle in a different, contrasting, material from the traffic aisle, such as brick, pavers, or stamped concrete.

10 At least one continuous five foot (5’) wide pedestrian walkway is provided from the street to the building entry with a landscape area directly adjacent to the walkway along less than or equal to fifty percent (50%) of its length. Traffic aisles between parking areas may be provided through the non-landscaped portion of the sidewalk, provided that the sidewalk is continued at the same grade as the traffic aisle in a different, contrasting, material from the traffic aisle, such as brick, pavers, or stamped concrete.

A pedestrian walkway is not provided meeting the standards set forth above

Materials

20 Brick, pavers, tile, stone, washed aggregate concrete

10 Stamped concrete,

0 Flat Concrete

The use of asphalt, cinders, gravel, or no walkways being provided is strictly prohibited.

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b. Bicycles –

Points

5 Provide bicycle parking facilities within the commercial site. Facilities to be located such that they do not interfere with pedestrian facilities.

C. Building Form and Materials:

1. Mandatory Requirements:

   a. Generally:

      (1) Multi-family structures shall be designed to be compatible with the character of single-family residential structures within the community. Commercial and office structures shall be designed to be compatible with the character of single-family residential structures within the community in those instances where the subject property or overall development adjoins residentially zoned land. In all such cases, the compatibility of the multi-family, commercial, or office project shall be determined by comparing the consistency of the design elements, colors, materials, and landscaping of the proposed buildings with the existing
design elements, colors, materials, and landscaping of the adjoining residential structures.

(2) Building facades of an individual structure on a single lot should generally be oriented parallel to the streets they face, such that their main entrances are visible as a means of creating continuous streetscapes. Within office or commercial complexes, buildings shall be clustered so as to create plaza or pedestrian mall areas. Where the clustering of buildings cannot be achieved due to the size or shape of the lot, link the building pads together with pedestrian walkways that are defined by separate paving textures and accented by landscape areas.

(3) "Stage-set" facades are prohibited. The continuity of design goes beyond the primary elevation of the building. The materials and colors of the street face shall continue on the sides and rear of the building.

b. Building Setbacks -- Building setbacks shall conform to the applicable zoning district requirements of the designated zoning district.

c. Building Height -- Building heights shall conform to the applicable zoning district requirements of the designated zoning district.

d. Building Massing -- With the exception of industrial uses, the maximum, unbroken facade plane shall be: 50 feet for residential uses; and, 70 percent (70%) of the length of the Front Façade of any commercial use and office use. The wall of any such building shall be interrupted through the use of projections or recesses, portals, courtyards, plazas, or other appropriate architectural convention. The design of off-setting wall plane projections or recesses on buildings other than residential buildings and industrial uses with frontage of 80 feet or more shall have a minimum depth of four feet (4'). The design of off-setting wall plane projections or recesses on all other buildings shall have a minimum depth of two feet (2'). Multi-story buildings with over 20,000 square feet of gross floor area shall be designed with either off-setting wall planes or upper story setbacks of at least six feet (6') in depth. In addition, on buildings of three stories or less, the horizontal line of a flat roof (or parapet wall) along any Front Façade (a façade facing a public street or residentially-zoned district) shall vertically by a minimum of two feet (2') up or down so that no more than sixty-six percent (66%) of the roofline is on the same elevation.

e. Exterior Surfaces -- No flat-faced cement block or metal surfaces shall be visible upon the exterior of any building. Metal exterior construction is prohibited on any structure save and except as follows:
1. Structures located on a through lot that both front and back onto a public street, with a rear façade located more than 1,000 feet from the public street, may use metal exterior construction on the rear façade upon approval of the Site Plan; and,

1 Structures may use metal on up to twenty percent (20%) of the façade as architectural accents upon approval of the Site Plan.

The use of any type of metal for exterior building construction shall be clearly shown on the Site Plan and shall only be allowed with Site Plan approval. The exterior finish of metal used in exterior construction shall be of a permanent, maintenance free nature such as a baked-on finish unless approved otherwise on the Site Plan. The use of corrugated, galvanized, aluminum-coated, zinc-coated, unfinished, or similar metal surfaces shall be prohibited unless approved otherwise on the Site Plan.

f. Pitched Roofs – Where pitched roofs are utilized, the primary roof form shall be on a slope of no less than 6/12 (unless compatibility with surrounding structures warrants a change in pitch). Porches shall be on a slope of not less than 3/12. Pitched roofs shall be shingled in accordance with the materials list contained under the “Optional Requirements” of this section.

g. Parapet Facades: Parapet facades may be used when of unified construction with the primary surface of the wall and of the same material and color. The parapet shall be designed such that the reverse side of all elements shall not be visible to public view. False mansards are prohibited. Canopies are permissible provided they are an integrated part of the overall building design, are not used to create the impression of a false mansard, and are not used as a location or support for wall-mounted signage.

i. Colors – No more than three (3) painted or applied colors may be used on the exterior of any building.

2. Optional Requirements:

a. Predominate Exterior Surface Material -- Building materials should suit the architectural style of the building, and should be consistent or complementary throughout the structure or total project. The use of high quality construction materials is important for long term durability and appearance. For the purposes of these standards, "predominate" means having the most publicly visible surface
The term "walls" shall be any exterior surface on a building that are either vertical, or have a slope steeper than one half (½) foot of horizontal run for every twelve feet (12') of vertical rise.

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<tr>
<th>Points</th>
<th>Non-single family Residential</th>
<th>Commercial</th>
<th>Industrial</th>
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<tbody>
<tr>
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<td>Stucco (100%)</td>
<td>Pre-Cast Concrete Panels with a finished, decorative face.</td>
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<td>Pre-Cast Concrete Panels with a flat face.</td>
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<td>Dryvit, EIFS, or STOWE*</td>
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*Dryvit, EIFS, or STOWE may only be used in those areas of the building not accessible to either pedestrian or vehicular traffic.*
The use of Flat-Faced Concrete Block or Mirrored Glass Curtain wall is strictly prohibited.

c. Color of Predominate Exterior Surface Material -- should be subdued, with natural tones and predominating.

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<tr>
<th>Points</th>
<th>Residential</th>
<th>Commercial</th>
<th>Industrial</th>
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</table>
• Use of the following colors is strictly prohibited: High Intensity Colors, Metallic Colors, Gloss Colors, Finish Primary Colors, Red and Black Colors, Fluorescent and Full Chroma Colors.
• The use of uncolored pre-cast concrete panels or “tilt-up” slabs are strictly prohibited.

c. Exterior Surface Design

Points

10 Wall surfaces appear monolithic with at least seventy-five percent (75%) of the total wall area, one material and one color. Nonsolar fenestration, window and door awnings, applied trim and accent materials, colors and decorative bands, with the exception of stucco, masonry, or concrete control joints are used in such a way that they do not give a panelized or pre-fabricated appearance, or produce checkerboard patterns. Differing shades of the same general hue shall not be considered different colors. Fenestration and/or accent colors on wall surfaces under portals or canopies having a horizontal depth of at least six feet (6’) shall be exempt from area calculations.

0 Wall surfaces do not meet the criteria set forth above.

10 The building is designed such that all loading docks, overhead doors, and truck parking are positioned upon the subject property to not be visible from the public street.

0 Where the building design does not meet the criteria set forth above or the building design does not incorporate loading docks and overhead doors.

d. Doors and Windows -- An essential characteristic of architecture is a traditional appearance of buildings, walls and openings. Walls define the overall form of buildings, while openings give them a human scale and the appearance of being occupied.

Standard Points

Treatment 30 One hundred percent (100%) of the doors, windows, and glazed surfaces, with the exception of steel fire doors on the rear elevation of the building and doors, windows, and glazed surfaces which are located under portals or canopies with a depth of six inches (6”) or more, have one or more of the following:

1) Frames recessed a minimum of four inches (4”)
2) Encased with trim
3) Have divided lights
4) Have exposed or otherwise articulated lintels

20 More than fifty percent (50%) but less than one hundred percent
(100%) of the doors, windows, and glazed surfaces, with the exception of steel fire doors mounted on the rear elevation of the building and doors, windows and glazed surfaces which are located under portals or canopies having a depth of six inches (6") or more, have one or more of the above-referenced elements.

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<tr>
<td>Glazing</td>
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<td>Less than fifty percent (50%) of the doors, windows, and glazed surfaces meet the requirements set forth above.</td>
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<tr>
<td>10</td>
<td>All glazing is clear, tinted neutral gray, leaded, frosted, or decorative glass</td>
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<td>0</td>
<td>Any use of colored glazing</td>
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<td>The use of mirrored glazing is strictly prohibited.</td>
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**Door Material**

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<td>Doors with divided lights</td>
</tr>
<tr>
<td>20</td>
<td>Solid wood paneled doors, metal panel doors, decorative paneled bronze doors</td>
</tr>
<tr>
<td>10</td>
<td>Paneled metal doors or wood frame doors</td>
</tr>
<tr>
<td>0</td>
<td>Glass doors or flat-faced metal doors</td>
</tr>
</tbody>
</table>

**e. Architectural Features --** Design points are allotted for the use of each feature.

<table>
<thead>
<tr>
<th>Points</th>
<th>Feature</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Use of arches for more than fifty percent (50%) of all doorways, windows, or portals, with a spring point of at least six feet (6') above the ground.</td>
</tr>
<tr>
<td>5</td>
<td>Use of decorative trim around the roof perimeter, all doors windows, and signs.</td>
</tr>
<tr>
<td>5</td>
<td>Decorative wrought iron used as gates, fencing, windows, and railings.</td>
</tr>
<tr>
<td>5</td>
<td>Architectural decorative accents. Use of architectural decorative accents in complimentary materials including portal windows, stained glass, carved stone cantera, or plaster.</td>
</tr>
<tr>
<td>5</td>
<td>Decorative use of brick, stucco, or stone accents around walls, columns, rooflines, doors and windows, including crown molding.</td>
</tr>
</tbody>
</table>

**f. Roof Standards --** Roof design should be appropriate for the architectural style of the building.

<table>
<thead>
<tr>
<th>Standard</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Material</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>10</td>
</tr>
</tbody>
</table>
parapets (flat, built-up, or pitched roofs), wood textured composition shingles, architectural shingles

5 Non-textured composition shingles

The use of plastic, fiberglass, other metal, or glass, visible to public view is strictly prohibited.

Color

15 Browns, Earth tones, copper metal, grays, dark subdued green, hunter green, forest green, and terra cotta

10 All surfaces concealed from public view by parapets, low intensity, flat colors

0 White

*The use of bright, high intensity colors is strictly prohibited*

D. Landscaping: Landscaping is used in parking areas to reduce heat radiated from paving, improve auto circulation and safety, and to screen parked automobiles from public view. To accomplish these goals, the following design standards are promulgated.

1. Mandatory Requirements:

   a. Methods: All landscaping shall be installed in conformance with the current edition of the "American Standard for Nursery Stock," and the accepted standards of the American Association of Nurserymen. Soil free of lime rock, pebbles, or other construction debris shall be provided.

   b. Consistency: A consistent landscape treatment along public streets enhances the appearance of the public domain, and provides an attractive, unified setting for variations among individual developments. Landscaped areas should dominate the frontage of any site where entries are the only interruption. Although the type and nature of the landscaping between individual properties may vary, the design and depth of landscape areas shall be consistent as they transition from one property to another.

   c. Perimeter Landscaping – A minimum of one (1) large, deciduous shade tree for every thirty-five (35) lineal feet of street frontage, or portion thereof, shall be planted upon the subject property within the area five feet (5’) behind the street right-of-way line up to said street right-of-way line. Said trees may be clustered or arranged within the setback, and need not be placed at a uniform thirty-five foot (35’) interval. To provide a more immediate effect and to offset the larger scale of structures, street trees shall be three to three and one-half (3-3½”) inches caliper in size as measured six inches (6”) above the ground.
d. Interior Landscaping --

(1) There shall be a minimum of twenty (20) square feet of interior landscaped area provided within the parking area for each parking space. The landscaping shall be in one or more areas so as to minimize and reduce the apparent size of the parking area.

(2) Parking areas shall be organized as a series of small parking bays with landscape islands separating them. A landscape island shall be placed for each one hundred (100) lineal feet of parking, as follows:

(A) Single Loaded Parking Rows -- A raised island, not less than six inches (6") in height, five feet (5') wide by twenty feet (20') in length shall be located at both ends of every single loaded parking row and for every one hundred (100) lineal feet of parking. The island shall contain a minimum of one (1) medium deciduous shade tree, two (2) to two and one-half (2½") inches in caliper, as measured six inches above the ground, and low shrubs at least eighteen inches (18") high.

(B) Double Loaded Parking Rows -- A raised island, not less than six inches in height, five feet wide by forty feet (40') in length shall be located at both ends of every double loaded parking row and for every one hundred (100) lineal feet of parking. The island shall contain a minimum of two (2) medium deciduous shade trees, two (2") to two and one-half (2½") inches in caliper, as measured six inches (6") above the ground, and low shrubs.

(3) Trees planted for the purpose of complying with the perimeter landscaping requirements shall not be double counted for compliance with the interior landscaping requirements.

e. Ground Cover -- Areas adjacent to streets and pedestrian walkways, as well as interior landscape areas, shall be treated with grass and/or other types of vegetative ground cover. Such areas shall be sod or established lawn prior to building occupancy.

f. Irrigation -- In order to present a healthy, neat and orderly appearance, landscaped areas shall be provided with adequate irrigation for the maintenance of grass, shrubs, and trees by utilizing a sprinkler system or hose bibs.
g. Maintenance of Existing Trees --
   
   (1) Whenever possible, healthy existing trees should be retained, as they are an amenity that increases the value of property and requires many years to replace. The Development Plan must identify all existing trees eight inches in caliper, as measured three feet above the ground, or larger, as well as which such trees shall be retained and which such trees shall be removed. The applicant must submit a justification for any such trees proposed for removal.
   
   (2) Existing Tree Credit -- For every existing tree eight inches in caliper, maintained as a part of the proposed development, the applicant shall receive a credit on a 1:1 basis against the tree requirement of the perimeter or interior landscaping standards, dependant upon the location of the existing tree(s) on the site. (The maintenance of existing trees shall only be considered a credit against the perimeter street tree requirement if the existing tree(s) to be maintained lie within the subject site, but also within reasonable proximity to the street right-of-way line.)
   
   h. Continuing Maintenance of Overall Landscape Plan -- The trees, shrubs, and other landscaping materials depicted upon the Site Development Plan approved by the Planning Department shall be considered as elements of the project in the same manner as parking, building, materials, and other details. The applicant, his successors, assigns, and/or subsequent owners and their agents shall be responsible for the continued maintenance of all landscaping materials. All landscaping shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as initially approved. Plant material which exhibits evidence of insects, disease, and/or damage shall be appropriately treated. Dead plants shall be removed and replaced within thirty (30) days following notification by the City.

2. Optional Requirements:
   
   a. Maintenance or Replacement of Existing Trees –
   
<table>
<thead>
<tr>
<th>Points</th>
<th>Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Five points shall be awarded for every existing tree eight (8) inches in caliper or greater, preserved upon the site, up to a maximum of twenty-five (25) points</td>
</tr>
<tr>
<td>5</td>
<td>In those instances where existing trees are removed, five (5) points shall be awarded for every tree, eight inches (8&quot;) in caliper or larger, that is replaced upon the site by a tree of the same caliper or in an appropriate multiple; i.e., if an 8&quot; caliper tree</td>
</tr>
</tbody>
</table>
is removed, and then replaced by two 4" caliper trees or four 2" caliper trees.

**NOTE:** In each case, whether maintaining or replacing existing trees, such trees shall be in addition to the other landscaping requirements of this Ordinance, and shall not be double-counted.

E. Fences and Screening:

1. Mandatory Requirements:

   a. Transitional Buffer yards -- Transitional screening is required where commercial, industrial, or multi-family uses adjoin single-family residential areas or uses, and within Planned Unit Developments with similar use relationships.

      (1) General Standards:

         (A) Location: Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, along side and rear property lines. Buffer yards shall not be located on any portion of a public or private street right-of-way.

         (B) Use of Buffer yards: A buffer yard may be used, in part, for some of passive recreation, such as pedestrian, bike, or equestrian trails, provided that:

            i. No required plant material is eliminated.

            ii. The total depth/width of the buffer yard is maintained.

            iii. All other requirements of this Section are met.

            In no event, however, shall the following uses be allowed in buffer yards: accessory buildings, sheds, garages, playfields, stables, swimming pools, tennis courts, or similar forms of active recreation.

         (C) Ownership of Buffer yards: Buffer yards may remain in the ownership of the owner of the property upon which it is located. Buffer yards may be subjected to deed restrictions and subsequently be freely conveyed. They may be transferred to any consenting grantees, such as home owners associations, adjoining land owners, or conservation group, provided that any such conveyance guarantees the protection and
maintenance of the buffer yard.

(D) Determination of Buffer yard Standards: The buffer yard requirements for a specific use, property, development, or project, shall be determined by referring to the Buffer yard Table and the additional requirements of this Section.

(E) Railroad Right-Of-Way: Any lot or site which is adjacent to an active railroad right-of-way, and where the structure(s) located on the property have been designed for a direct rear railway track connection for loading and unloading purposes, shall be exempt from any buffer yard requirement along the common property line with such right-of-way.

(F) Buffer yards for Planned Districts: For all Planned Districts, the requirements of this Section shall serve as the baseline requirements against which any proposed modifications shall be compared. The buffer yard requirements for each Planned District shall be as approved within the Project Text and Preliminary Development Plan.

(G) Changes in Intensity: A use, property, development, or project may continue to comply with the buffer yard requirements in effect at the time of the issuance of its initial approval, regardless of whether an adjacent lot, site, or common development is rezoned to a less intense district, requiring additional buffer yard area or screening.

(H) Plant Types: All landscaping shall be in accordance with the approved plant list contained in Section 50 of the City of Forney Comprehensive Zoning Ordinance.

(2) Specific Provisions:

(A) The layout, design, and arrangement of the prescribed numbers and types of landscape materials within a buffer yard shall be in accordance with this section.

(B) Ground Cover: Buffer yard areas shall be treated with grass and/or other types of vegetative ground cover. Such areas shall be sod or established lawn prior to building occupancy.
(C) Irrigation: In order to present a healthy, neat and orderly appearance, buffer yard areas shall be provided with adequate irrigation for the maintenance of grass, shrubs, and trees by utilizing a sprinkler system or hose bibs.

(3) Opaque Barrier: In those buffer yards which require the construction of an opaque barrier, it shall take one of the following forms:

(A) A decorative masonry wall of brick, Cementuous stucco, or natural stone, a minimum of six (6) feet in height, with support columns no further apart than ten (10) feet. Decorative wrought iron may be used in conjunction with any of the above listed materials, provided that it is also used in conjunction with landscaping of sufficient density to maintain the integrity of the wall as an effective visual barrier.

(B) A landscaped earthen berm with a maximum slope of 3:1, rising no less than six (6) feet above the existing grade, as measured at the lot line between the subject parcel and adjacent properties. Landscape materials to be included on the berm shall be as required for each buffer yard type.

(C) In residential to residential applications, a solid wooden fence, a minimum of six (6) feet in height. The finished, good, or attractive side of the fence shall face the adjoining property or street if the appearance of the structure is not the same on both sides. In commercial and industrial applications, the use of wooden fencing is strictly prohibited.

(D) The use of chain-link, chain-link with slats, wire, barbed or razor wire, vinyl, plastic, or metal panels is strictly prohibited for buffering purposes.

The landscape materials required for each buffer yard type shall be planted on the side of the opaque barrier which faces the less intense zoning district or development.

(4) Buffer yard Dimensional Requirements: The following table, "Buffer yard Requirements," shall be used to determine the buffer yard requirements of a use, property, development, or project.

(5) Buffer yard Design Types: The design standards for each type of transitional buffer yard, as referenced in the "Buffer yard Requirements" table shall be as follows:
(A) Buffer yard Type "20": Transitional buffer yard type 20 shall consist of a landscaped area a minimum of twenty feet in width, landscaped as follows:

One (1) large deciduous tree (ultimate height 50± feet) for every seventy-five (75) lineal feet of buffer yard. PLUS

Three (3) medium evergreen trees (planted on a 25 foot triangular staggered spacing) and one (1) small ornamental tree for every seventy-five (75) lineal feet of buffer yard.

(B) Buffer yard Type "25": Transitional buffer yard type 25 shall consist of a landscaped area a minimum of twenty-five feet in width, landscaped as follows:

An opaque barrier, as required by this Article.

One (1) large deciduous tree (ultimate height 50± feet) and two (2) small ornamental deciduous trees (spaced 30 feet on center) for every sixty (60) lineal feet of buffer yard.

(C) Buffer yard Type "30": Transitional buffer yard type 30 shall consist of a landscaped area a minimum of thirty (30) feet in width, landscaped as follows:

An opaque barrier, as required by this Article

One (1) large deciduous tree (ultimate height 50± feet) for every sixty (60) lineal feet of buffer yard. PLUS

One (1) medium evergreen tree (planted on a triangular staggered spacing) for every fifteen (15) lineal feet of buffer yard.

(D) Buffer yard Type "35": Transitional buffer yard type 35 shall consist of a landscaped area a minimum of thirty-five (35) feet in width, landscaped as follows:

An opaque barrier, as required by this Article

One (1) large deciduous tree (ultimate height 50± feet) and one (1) small ornamental deciduous tree for every sixty (60) lineal feet of buffer yard. PLUS

One (1) medium evergreen tree (planted on a triangular staggered spacing) for every fifteen (15)
lineal feet of buffer yard.

(E) Buffer yard Type "40": Transitional buffer yard type 40 shall consist of a landscaped area a minimum of forty feet in width, landscaped as follows:

An opaque barrier, as required by this Article.

One (1) large deciduous tree (ultimate height 50± feet) and one (1) small ornamental deciduous tree for every sixty (60) lineal feet of buffer yard. PLUS

One (1) medium evergreen tree (planted on a triangular staggered spacing) for every ten (10) lineal feet of buffer yard.

(F) Buffer yard Type "50": Transitional buffer yard type 50 shall consist of a landscaped area a minimum of fifty feet in width, landscaped as follows:

An opaque barrier, as required by this Article.

One (1) large deciduous tree (ultimate height 50± feet) and one (1) small ornamental deciduous tree for every fifty (50) lineal feet of buffer yard. PLUS

One (1) medium evergreen tree (planted on a triangular staggered spacing) for every ten (10) lineal feet of buffer yard.

(6) Landscape Materials Specifications:

(A) At Initial Planting: "Large" deciduous trees shall be three (3") to three and one-half (3½") inches in caliper, as measured six inches above the ground, at planting. "Medium" and "small" deciduous trees shall be two (2") to two and one-half (2½") inches in caliper at planting. All evergreen trees shall be a minimum of six feet in height at planting.

(B) At Mature Growth: "Large" deciduous trees shall be a minimum of fifty feet tall at mature growth. "Medium" deciduous trees shall be a minimum of fifteen to twenty feet tall at mature growth. "Small" deciduous trees shall be a minimum of eight to ten feet tall at mature growth. "Large" evergreen trees shall be a minimum of eighty to one hundred feet tall at mature growth. "Medium" evergreen trees shall be a minimum of twenty to forty feet tall at mature growth.

(7) Maintenance of Existing Trees:
(A) Existing Tree Credit -- Every existing tree, a minimum of eight inches in caliper or larger, that are maintained as a part of the proposed development may be used as a credit on a 1:1 basis against the buffer yard tree requirement, dependent upon the location of the existing tree(s) to be maintained upon the subject property. The maintenance of existing trees shall only be considered as a credit against the buffer yard tree requirement if the existing tree(s) to be maintained lie within the subject site, and within the buffer yard area of the site.

(B) Replacement: When the site layout makes it necessary to remove an existing tree from the site's buffer yard area having a caliper of eight inches or more, the tree must be replaced upon the site as near as possible to the where the original tree was removed. Replacement must match the original tree's caliper or by an equivalent multiple; e.g., a twenty-four inch caliper tree could be replaced by three (3") eight (8") inch caliper trees or by six (6) four (4") inch caliper trees or by eight (8) three (3") inch caliper trees. This replacement requirement shall apply in addition to the normal buffer yard landscaping requirements.

(8) Maintenance of Overall Landscape Plan: The trees, shrubs, and other landscaping materials located within the buffer yard area shall be considered binding elements of the project in the same manner as parking, building, materials, and other details. The applicant, his successors, assigns, and/or subsequent owners and their agents shall be responsible for the continued maintenance of all landscaping materials. All landscaping shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as originally approved. Plant material which exhibits evidence of insects, disease, and/or damage shall be appropriately treated. Dead plants shall be removed and replaced within thirty (30) days following notification by the City.
### Buffer Yard Requirements

**Zoning of Adjacent Platted or Developed Land**

<table>
<thead>
<tr>
<th>Zoning of Subject Property</th>
<th>Residential</th>
<th>Commercial</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>AG SF-20 SF-15 SF-11 SF-8 SF-PH 2F SFA MF-15 MH O NS GR CBD C M/U LI PD</td>
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</tr>
<tr>
<td>AG</td>
<td>* * * * * * 20 20 20 25 25 25 30 30 35 40 50 +</td>
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<td>SF-20</td>
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<td>SF-15</td>
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<tr>
<td>PD</td>
<td>+ + + + + + + + + + + + + + + + + + + +</td>
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</tr>
</tbody>
</table>

* NO BUFFER YARD REQUIRED
# NO BUFFER YARD REQUIRED, OPAQUE BARRIER REQUIRED
+ AS APPROVED IN THE PROJECT TEXT AND PRELIMINARY DEVELOPMENT PLAN

Note: Buffer yard requirements are in terms of the average width of the buffer yard along a common boundary of an adjacent property.

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b. Nuisance Screening -- To reinforce the natural environment and a consistent streetscape, service and utility functions shall be
Garbage Collection Areas -- Garbage collection areas shall be located at the rear of buildings and shall be enclosed on all sides by a gated solid wall, conforming to the previously stated requirements for opaque barriers. The following criteria shall apply:

(A) Dumpster enclosures shall be located on a concrete pad, of such size as recommended by the disposal company.

(B) The approach to the dumpster area shall be paved of a specification sufficient to support the weight and continual use of the garbage collection vehicle per the Engineering Design Standards of the City of Forney.

(C) The screening on all enclosed dumpsters shall be a minimum of at least two (2) feet taller than the dumpster.

(D) For compaction units, a floor drain shall be provided which ties to the sanitary sewer.

(E) Either the dumpster enclosure must be constructed of sufficient size to accommodate all refuse materials to be recycled, such as grease barrels for restaurants and used oil barrels for automotive uses, or a separate enclosed pad of the same specification provided.

(F) The use of wooden fences or chain-link fences with slats as a screening device for garbage collection areas is strictly prohibited.

Parking Areas -- Where parking areas adjoin public streets, an opaque barrier, a minimum and maximum of three feet above the elevation of the adjacent parking area shall be provided between the parking area and the street right-of-way line, for the length of the parking area, to obscure parked vehicles within these areas from public view, and to prevent the lights from parked vehicles encroaching upon the public street. The opaque barrier shall meet one of the following standards:

(A) A decorative masonry wall of brick or natural stone, a minimum and maximum of three feet in height, with support columns no further apart than ten feet. The wall shall be planted on the street frontage at intervals with low shrubbery, a minimum of three (3) gallon size, from the approved plant list contained...
in Appendix A, for the purpose of preventing a stockade appearance.

(B) An earthen berm with established ground cover. In those instances where space limitations dictate, a one-half (½) berm with a retaining wall on the parking lot side may be proposed.

(C) Dense shrubbery, a minimum and maximum height of three feet, of sufficient density to present an uninterrupted vegetative wall.

(3) Wall and Fence Standards --

(A) The minimum height of a wall or fence shall be six feet, with the exception of front yard setback areas as designated by the Zoning Ordinance. Within front yard setback areas, walls and fences shall not exceed a maximum of three feet in height.

(B) Walls and fences shall not impede or divert the flow of storm water.

(C) Walls and fences shall not block access to any above ground, pad mounted transformer, and shall provide a minimum clear access to the transformer doors, as required by the utility company.

(D) Solid walls and fences shall not create a stockade appearance. This can be accomplished by undulating the plane the fence. Fences over eighty feet long shall have no more than fifty percent (50%) of their length on a continuous line. The remaining length shall be set back a minimum of six feet, with evergreen landscaping within the setback area.

c. Retaining Walls: Retaining Walls shall be constructed to conform to the requirements of the Building Code, and the following specifications:

(1) All permits for construction of a retaining wall shall contain an engineered construction plan prepared by a registered civil engineer licensed to do business within the State of Texas.

(2) Retaining walls less than three feet (3') tall may be constructed of treated timbers, split-faced concrete block, flat-faced concrete block, or poured-in-place concrete with either a flat or decorative face.
Retaining walls three (3) feet or more in height shall only be constructed of split-faced concrete block or poured-in-place concrete with a decorative face.

2. Optional Requirements:

(A) Screening --

Points

10 Mechanical, communications, and service equipment, including satellite dishes and vent pipes, are totally screened from public view by parapets or walls.
5 All building mounted equipment set forth above is either screened by parapets, walls, and/or is painted to visually match adjacent surfaces.

(B) Fence Color

Points

10 Browns, Earth tones, Wrought Iron (black or green)
5 Pastel, White, Low Intensity Colors

The use of high intensity or bright colors is strictly prohibited.

1.10 Appeals and Variances:

A. Appeals: Any person or persons aggrieved by any decision of the Administrative Official where it is alleged there is an error in such order, requirement, decision, or determination made by the Administrative Official in the administration or implementation of this Ordinance as applicable, may appeal such decision to the Board of Adjustment for the City of Forney per Section 9 of the City of Forney Comprehensive Zoning Ordinance

B. Variances: The Board of Adjustment may, following a request by the applicant, hear requests for such variances from the terms of this Ordinance per Section 9 of the City of Forney Comprehensive Zoning Ordinance

1.11 Contractual Agreement, Violations, and Penalties:

A. The filing of a proposed Site Development Plan for approval constitutes an agreement by the owner and applicant, their successors and assigns, that if the Site Development Plan is approved, permits issued for the improvement of the property(ies), and the activities subsequent thereto, shall be in conformance with the approved Site Development Plan.

B. An approved Site Development Plan authorizes only the arrangement and construction set forth in such approved plan and application. Arrangement and construction different from the approved Site Development Plan, or any approved modifications thereto, shall constitute a violation of this Ordinance.

C. Any violation of Site Development Plan is grounds for the Administrative Official to issue stop work orders, withhold further permits, and void current permits. The
City Attorney is also authorized to take such other actions in law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violations of this Ordinance.

1.12 **Period of Validity:**

A. **Expiration:** Site Development Plan Approval expires under the following conditions:

1. If a Building Permit is not applied for within six (6) months (180 calendar days) following the date of Development Plan Approval (where not applied for concurrently).

2. If work on the project is not commenced within six (6) months following the date of issuance of the Building Permit.

3. If work on the project is not completed within two (2) years following the date of issuance of the Building Permit.

B. **Effect of Additional Approvals:** In the event that some additional approval is required by another governmental authority or agency (i.e., State Highway Department, County Health Department, City Planning Commission, etc.), approval of the Site Development Plan shall not become effective until written notice of that approval is received by the Planning Department.

C. **Extensions:** Upon request of the applicant, and after good cause is shown, the Administrative Official may grant one (1) extension of the initial thirty (30) day period within which a Building Permit must be issued for an additional thirty (30) day period. Any further extensions will require the review and approval of the Planning Commission.

D. **Effect of Expiration:** If the period of validity expires, the Administrative Official shall file with the records of the Department a certificate of noncompliance, and no Building Permit or Certificate of Occupancy Permit shall be issued until a new application for a Site Development Plan is approved.

1.13 **Modifications to an Approved Development Plan:**

A. An approved site development plan may be amended upon written application to the Planning Department.

B. The Administrative Official shall review the proposed modifications to certify that they comply with all applicable City standards and requirements, and to re-calculate the construction and site design points to determine if the proposed modifications do not alter the project's compliance with this Ordinance.

C. If, as a result of the proposed modification, the project does not meet the point requirements set forth in this Ordinance, the requested modification shall not be approved by the Administrative Official, and the original approved development plan shall remain in effect.
C. If the Administrative Official finds that the proposed modification complies with all of the City’s standards and requirements, as well as the point requirements of this Ordinance, he shall approve the modification, and it shall supersede the original development plan approval.

**NOTE:** The approval of any requested modification shall not take effect, nor work proceed, until the applicant has submitted to the Planning Department a complete set of revised plans, incorporating all approved modifications, to replace the previously approved plans currently on file.

### 1.14 Performance Guarantee:

In those instances where a project is essentially complete, with the exception of some individual elements of the approved development plan that cannot be completed due to unusual and unique circumstances, and that otherwise prevent the occupancy of the land and/or building, the Administrative Official may allow the deposit by the applicant with the City of Forney in the form of cash, certified check, or irrevocable letter of credit drawn on a bank located within the City of Forney, an amount sufficient to insure performance of the applicant to make those remaining improvements, whether public or private, at a later date as provided for herein. The option of providing a performance guarantee shall be at the discretion of the City Manager and the Director of Planning. In no case, however, shall the option of providing a performance guarantee be made available to delay the completion of any improvement directly relating to the public health or safety.

**A. Generally:** The performance guarantee shall:

1. Be prepared on forms approved by the City Attorney and submitted in completed form to the Planning Department for approval.

2. Insure or guarantee the construction and completion of the remaining improvements, as set forth in the approved development plan over a period not to exceed six (6) months.

3. Be in an amount equivalent to one hundred percent of the estimated cost of completion of the remaining improvements (both public and private). Such estimate shall be prepared by the applicant and submitted to the City Engineer for review and approval. The applicant's submission shall consist of either an engineer's estimate of cost, or the actual contracted cost of the work. In both instances, the cost shall be itemized and shall include the unit costs used to determine the final cost. It shall be at the discretion of the City Engineer to accept the validity of the applicant's submittal, or adjust it as necessary to achieve a more realistic cost figure.

4. Provide for the release of all of the monies so obligated, upon the demand of the City, without further condition or requirement for legal action, in accordance with the requirements of this Ordinance.

**B. Type:** Performance guarantees securing the construction of the proposed improvements shall be secured to the City by one of the following methods or combination thereof:
1. Cash, deposited with the City, or deposited in a local bank in an account assigned to the City.

2. Cashier’s check deposited with the City.

3. Certificates of deposit assigned to the City.

4. An irrevocable letter of credit from a local bank, and assigned to the City.

5. An escrow account set up in a local bank, such funds to be held in a special account and only distributed by the bank with the approval of the City, and subject to audit by the City.

The City expressly reserves the right to reject, at the discretion of the Administrative Official, any guarantee it considers to be inadequately secured. The submitted performance guarantee shall not be in the form of a surety bond.

C. Term: The term of the performance guarantee, whether cash, a cashier’s check, an irrevocable letter of credit, or escrow account shall extend a minimum of three months longer than the approved construction period required for installation of the subject improvements.

D. Issued by Whom:

1. Extent: The performance guarantee submitted shall insure or guarantee, to the extent specified by the City Engineer in his estimate of cost, the construction and completion of all remaining improvements, both public and private, proposed by the approved development plan.

2. Business Interests: In no event shall the company or bank securing the performance guarantee have any material or other property interest in the proposed project to which the performance guarantee relates, nor have any other business relationship with the applicant in any other development or project that would, from the standpoint of the City, be considered a conflict of interest. The company or bank shall attach to the performance guarantee a notarized disclosure statement fully disclosing all current and impending business relationships with the applicant.

E. Release of Guarantee:

1. Inspection: Prior to termination of the applicant's obligation to the City, all of the required improvements shall be constructed under the observation and inspection of the applicable inspecting agency, and shall be either accepted for maintenance, in the instance of public improvements, or given final approval by the Administrative Official, in the instance of private improvements.

2. Release of Performance Guarantee, Procedure:

(A) The applicant may, from time to time, request partial release of the obligated sum contained in the performance guarantee as work
progresses. Such a request shall be in writing, addressed to the Administrative Official, and shall specify the work that has been completed as well as the work that remains to be completed. The amount requested for release shall be determined by using current market values for materials and labor, and shall not exceed the ratio of work completed to the entire amount of improvements secured.

(B) Upon receipt of such request, the Administrative Official shall direct the applicable inspecting agencies to verify the actual level of completion and prepare a report on the requested release for presentation to the Administrative Official. The report may recommend release of the amount requested, or recommend some other amount which, based upon their investigation, more accurately reflects the actual level of completion in relation to the entire amount of improvements secured.

(C) Upon receipt of the reports from the applicable inspecting agencies, the Administrative Official may take action on the applicant's request. The Administrative Official may approve the applicant's request, approve the amount recommended by the various inspecting agencies, approve the release of some other amount which the Administrative Official feels more accurately reflects the actual level of completion, or deny the request. In no instance shall the Administrative Official approve an amount greater than the amount requested by the applicant.

(D) Following action on the requested release, the Administrative Official shall notify, in writing, the surety holding the performance guarantee authorizing the specific release. Until such time as the Administrative Official shall, by such written authorization addressed to the surety, release the specified amount, the surety shall continue to hold the obligated sum as established in the agreement.

(E) In no case shall more than ninety (90) percent of the total performance guarantee be released over the term of the guarantee. The final ten (10) percent of the performance guarantee shall only be released after the Administrative Official certifies that all improvements have been completed in their entirety, constructed in accordance with the approved development plan, and meet all of the City's required standards and specifications.

3. Failure to Complete: If, at the end of the performance period, all of the improvements secured by the performance guarantee have not been completed, the Administrative Official shall:

(A) require the surety to perform on the guarantee and pay to the City such amount as shall be required to complete the improvements; or,
require the applicant to submit a new performance guarantee for a period not to exceed six (6) additional months, and which has been recalculated in order to allow for inflation as a result of the extended period.

1.15 Amendments:
The City Council shall have the authority to amend, supplement, change, modify, or repeal by Ordinance the text of the Design Guidelines and the Minimum Standards of Design, in accordance with the provisions of this Appendix A.6.”