

**TOWN OF FLOWER MOUND, TEXAS**

**ORDINANCE NO. 07-21**

**AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 32 “ENGINEERING DESIGN CRITERIA AND CONSTRUCTION STANDARDS,” BY ADDING SECTION 32-4 REQUIRING PERMITS AND PERMIT FEES FOR SITE DEVELOPMENT CONSTRUCTION; BY AMENDING VARIOUS PORTIONS OF CHAPTER 78 “ADMINISTRATION,” TO ADD A NEW SECTION 78-2 REGARDING INACTIVE PROJECTS, TO REPEAL SECTION 78-124 IN ITS ENTIRETY, AND TO ADD A NEW ARTICLE VII REGARDING AMENDMENTS TO APPROVED PLANS; AND BY AMENDING APPENDIX A ENTITLED “FEE SCHEDULE,” TO AMEND VARIOUS FEES RELATED TO LAND DEVELOPMENT WITHIN THE TOWN; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

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

**WHEREAS**, the Town Council of the Town of Flower Mound previously adopted Chapter 32, Engineering Design Criteria and Construction Standards, of Subpart A, General Ordinances, of the Town of Flower Mound Code of Ordinances, as amended, establishing engineering design criteria and construction standards in the Town land; and,

**WHEREAS**, the Town Council of the Town of Flower Mound previously adopted Chapter 78, Administration, of Subpart B, Land Development Regulations, of the Town of Flower Mound Code of Ordinances, as amended, establishing standards and requirements for administering the Town’s land development regulations; and,

**WHEREAS**, the Town Council of the Town of Flower Mound previously adopted Appendix A, of the Town of Flower Mound Code of Ordinances, as amended, establishing fees related to certain development applications and permits within the Town; and,

**WHEREAS**, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on \_\_\_\_\_, 2020, and the Town Council of the Town of Flower Mound, Texas held a public hearing on \_\_\_\_\_, 2020, with respect to the amendments described herein; and,

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

**WHEREAS**, the Town Council finds that the amendments to Chapters 32 and 78 as set forth herein are in the best interest of the Town of Flower Mound and will promote the health, safety, and general welfare of the citizens of the Town of Flower Mound and the general public; and,

**WHEREAS**, the Town Council finds and determines that Appendix A, "Fee Schedule," should be amended as set out herein and that the amendments proposed are in the best interest of and are necessary to protect the health, safety, and general welfare of the citizens of the Town and the general public;

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

### **SECTION 1**

Chapter 32 entitled "Engineering Design Criteria and Construction Standards," of Subpart A – "General Ordinances," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by adding a new Section 32-4 to read as follows:

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#### **"Sec. 32-4. Development Construction.**

- a) No person shall perform any construction activity related to mobilization, grading, utility and paving construction, geotechnics, or site landscape installation without first obtaining a construction permit from the Town. A completed application for a permit with all required information attached shall be submitted on forms supplied by the Town. Fees for permit application review and inspection shall be assessed in accordance with the provisions of appendix A of the Code of Ordinances of the Town of Flower Mound."

### **SECTION 2**

Chapter 78 entitled "Administration," of Subpart B – "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by adding Section 78-2 to read as follows:

#### **"Sec. 78-2. – Inactive projects.**

A development application, such as a plat, site plan or rezoning request, will be considered inactive, and therefore withdrawn, if there has been no activity by the applicant on the project for a period of 180 days.

- (a) For the purposes of this section, activity is defined as response to comments, payments of fees, or submittal of supporting documentation or studies.

- (b) To activate a development project that has been withdrawn, a new application must be submitted to the Town of Flower Mound in accordance with current standards and procedures at the time of submission.
- (c) Being withdrawn due to inactivity does not necessarily impact the vested rights of a property in accordance with Chapter 78, Article VI of the Code of Ordinances.

**Secs. 78-3 – 78-30. – Reserved.”**

### **SECTION 3**

Chapter 78 entitled “Administration,” of Subpart B – “Land Development Regulations,” of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by repealing Section 78-124 in its entirety, renumbering subsequent subsections accordingly, and listing the following sections as reserved:

**“Secs. 78-125 - 78-150. - Reserved.”**

### **SECTION 4**

Chapter 78 entitled “Administration,” of Subpart B – “Land Development Regulations,” of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by adding Article VII to read as follows:

#### **“ARTICLE VII. – Amendments to approved plans**

##### **Sec. 78-301. Application**

- a) Any person having a proprietary interest in any property within the corporate limits of the Town, requesting a change or amendment to any approved plan (Plan Amendment) of such property, shall file an application for such amendment with the Town, which is subject to the applicable fees listed in Appendix A of this Code.
- b) Any Plan Amendment shall be consistent with the zoning in which the property is located, the Town’s land development regulations, the Town’s comprehensive plan, and shall be subject to review and approval by the Town Manager, or their designee.
- c) Any Plan Amendment that proposes a waiver, modification, exception or deviation from the land development regulations, comprehensive master plan, or the zoning in which the property is located, or causes any of the circumstances listed in Section 82-37 to occur, cannot be submitted as a Plan Amendment. The applicant must file a new application with the Town, as determined by the Town Manager or their designee, and be subject to those application requirements and approval processes.

**Sec. 78-302. Plan Amendment required**

- a) Plan Amendments are required for substantive changes to approved plans. In this section, substantive changes are defined as those that require review and approval by more than one administrative department of the Town, or those that impact how or whether a site complies with minimum zoning or development standards. Any previous plan amendments approved for a site will be reviewed in conjunction with the current request to determine whether the combination of changes has become a substantive plan amendment or exceeded the limits of a plan amendment’s authority. Plan amendments can occur for the following:
  - 1. Non-residential site plans, landscape plans, hardscape plans, amenity plans and elevations;
  - 2. Residential subdivision landscape plans, including any hardscape and amenity plans, and;
  - 3. Changes to approved storm water detention/retention facilities and perimeter subdivision walls and entry features.

**Sec. 78-303. Submittal requirements**

- a) Submittal requirements for a Plan Amendment shall be determined solely by the Town based on the changes being requested, and are subject to any other amendment provisions of the land development regulations.

**Sec. 78-304. Approval process**

- a) Generally, Plan Amendments may be approved by the Town Manager or their designee.
- b) In the event that a Plan Amendment conflicts with Section 78-301(b) of this Article VII, or causes any of the circumstances in Section 82-37 to occur, the plan amendment may require approval by the Planning and Zoning Commission, or by the Town Council upon recommendation by the Planning and Zoning Commission, as dictated by those sections.”

**SECTION 5**

Appendix A, “Fee Schedule,” of the Code of Ordinances, Town of Flower Mound, Texas is hereby amended by adding to Chapter 32, “Engineering Design Criteria and Construction Standards,” a new Section 32-4, “Development Permit Fees,” to read as follows:

<b>“Chapter 32. Engineering Design Criteria and Construction Standards.</b>	
<i>Code Section Number</i>	<i>Description</i>

32-4	<i>Development permit fees:</i>
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- 1) A site development permit is required prior to mobilization, grading, utility and paving construction, and site landscape installation.
  - a) Site Development Permit (DEV) fee: \$500.00
  - b) Grading Permit fee: \$250.00
  - c) Geotechnical Permit fee: Included with DEV permit fee
  - d) Landscape plan inspection fee: \$250.00
  - e) Landscape plan reinspection fee: \$50.00”

**SECTION 6**

Appendix A, “Fee Schedule,” of the Code of Ordinances, Town of Flower Mound, Texas is hereby amended by replacing Chapter 78, “Administration,” in its entirety to read as follows:

<b>“Chapter 78. Administration.</b>	
<i>Code Section Number</i>	<i>Description</i>
78-1	<i>Application fees:</i>
78-84	<i>Appeals:</i>
78-125	<i>Outdoor lighting fees:</i>
78-263	<i>Vested rights petition:</i>
78-301	<i>Amendments to approved plans:</i>

- 1) Application Fees:
  - a. Plan review fees:
    - (1) Master Plan amendments, Zoning amendments, Specific Use Permits, and site plans: A nonrefundable plan review deposit of \$500.00 is due at time of application submittal. The plan review deposit will be applied toward the cost of the application.
    - (2) Plats, including development plans: A nonrefundable plan review deposit of \$250.00 is due at time of application submittal. The plan review deposit will be applied toward the cost of the application.

- (3) Multiple plan review fee: A \$250.00 additional plan review fee may be applied to any development application when thirty percent (30%) or more of the previously provided written comments are not addressed by the applicant, as determined by the Town Manager or their designee.
- (4) Development Agreement fee: A \$500.00 review fee is required for any application that requires a development agreement as determined by the Town Manager or their designee.

2) Appeals:

- a. Appeal of administrative decision (all): \$100.00

3) Outdoor lighting fees:

- a. Plan review fees: \$100.00
- b. Reinspection Fee\*: \$50.00

\* A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which the inspection is requested is not in compliance with all local codes or when requested corrections are not made. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

- 4) Vested rights petition: A \$1,500.00 review fee is required upon submittal of a petition for vested rights.

5) Amendments to approved plans:

- a. Plan amendment application fee: \$250.00
- b. Plan amendment inspection fee for landscape changes: \$100.00
- c. Plan amendment landscape reinspection fee: \$50.00”

**SECTION 7**

Appendix A, “Fee Schedule,” of the Code of Ordinances, Town of Flower Mound, Texas is hereby amended by adding Chapter 82, “Development Standards,” Section 82-31, “Site plan required,” to read as follows:

<b>“Chapter 82. Development Standards.</b>	
<i>Code Section Number</i>	<i>Description</i>
82-31	<i>Site plan required:</i>

- 1) Site plan fees:
  - a. All except multi-family: \$500 + \$25 per acre + property owner notice fees (PON), if applicable, of \$2.50 per PON.\*
  - b. Multi-family: \$500 + \$10 per dwelling unit + property owner notice fees, if applicable, of \$2.50 per PON.\*

\* There are property owner notification requirements for site plans with certain exceptions. Please contact Planning Services for further explanation.”

**SECTION 8**

Appendix A, “Fee Schedule,” of the Code of Ordinances, Town of Flower Mound, Texas is hereby amended by replacing Chapter 90, “Subdivisions,” in its entirety to read as follows:

<b>“Chapter 90. Subdivisions.</b>	
<i>Code Section Number</i>	<i>Description</i>
<i>90-31 et seq.</i>	<i>Development plan Fees:</i>
<i>90-91 et seq.</i>	<i>Platting fees:</i>
<i>90-446</i>	<i>Park development fee:</i>

- 1) Platting fees:
  - a. Development plans:
    - (1) Single-family residential: \$500 + \$10 per lot
    - (2) Multi-family and non-residential: \$500 + \$15 per acre
  - b. Record plats:
    - (1) Single-family residential: \$500 + \$15 per lot
    - (2) Multi-family and non-residential: \$500 + \$15 per acre
  - c. Replats:
    - (1) All types: \$350 + \$20 per lot lot + property owner notice (PON) fees, if applicable, of \$2.50 per PON.\*

\*Residential replats are subject to property owner notification requirements. Please contact Planning Services for further explanation.

d. Minor plats:

- (1) Single-family residential: \$250 + \$10 per lot
- (2) Multi-family and non-residential: \$300 + \$20 per acre

e. Amended plats:

- (1) Single-family residential: \$250 + \$10 per lot
- (2) Multi-family and non-residential: \$300 + \$20 per acre

f. Vacating plats:

- (1) All types: \$300

g. Park development fee: \$1,388.00 per unit”

**SECTION 9**

Appendix A, “Fee Schedule,” of the Code of Ordinances, Town of Flower Mound, Texas is hereby amended by replacing Chapter 94, “Vegetation,” in its entirety to read as follows:

<b>“Chapter 94. Trees.</b>	
<i>Code Section Number</i>	<i>Description</i>
94-23 & 94-24	Tree survey; development projects – Tree survey; residential lots
	Tree survey inspection fee: 1) 0 -10 specimen trees = \$100.00; 2) 11 – 50 specimen trees = \$200.00; 3) 51 – 100 specimen trees = \$300.00; 4) 101+ specimen trees = \$500.00
94-34	Tree removal permit:
	(1) Tree removal permit for protected trees is \$100.00 per tree not to exceed \$1,000.00 per permit application.
	(2) Tree removal permit fee for a specimen tree, or historic tree is \$250.00 per tree not to exceed \$1,000 per permit application.”

**SECTION 10**

Appendix A, "Fee Schedule," of the Code of Ordinances, Town of Flower Mound, Texas is hereby amended by replacing Chapter 98, "Zoning," in its entirety to read as follows:

<i>"Code Section Number"</i>	<i>Description</i>
98-1 et seq.	Zoning fees:

1) Miscellaneous:

a. Legal notifications: All notification fees are due no later than the Friday before the notice is to be mailed and sent to the newspaper. If the notification fees are not paid, the application will not be scheduled for the public hearing.

- (1) \$2.50 per property owner notice
- (2) \$40.00 per newspaper notice

2) Development Applications:

a. Annexation petition (all acreages): Cost of legal notices

b. Pre-application Development Review Committee (DRC) meetings: included with application.

c. Master plan amendments:

- (1) 0 to 5 acres: \$750.00 + \$25.00/acre + legal notices
- (2) 5+ acres to 20 acres: \$1,000.00 + \$25.00/acre + legal notices
- (3) 20+ acres to 50 acres: \$1,250.00 + \$20.00/acre + legal notices
- (4) 50+ acres: \$1,500.00 + \$15.00/acre + legal notices

d. Zoning Amendments:

- (1) 0 to 5 acres: \$500.00 + \$25.00/acre + legal notices
- (2) 5+ acres to 20 acres: \$750.00 + \$25.00/acre + legal notices
- (3) 20+ acres to 50 acres: \$1,000.00 + \$20.00/acre + legal notices
- (4) 50+ acres: \$1,250.00 + \$15.00/acre + legal notices

e. Single-family Planned Development (PD): Base zoning fee + \$200.00 + legal notices

- f. Multi-family and non-residential PD: Base zoning fee + \$500.00 + legal notices
  - g. Specific Use Permit (SUP): Same as zoning fee + legal notices
- 3) SMARTGrowth Reviews: Analyses performed within the previous 12 months may be counted towards current fee.
- a. SMARTGrowth application analysis:
    - (1) 0 to 5 acres: \$500.00
    - (2) 5+ acres to 20 acres: \$500.00
    - (3) 20+ acres to 50 acres: \$750.00
    - (4) 50+ acres: \$1,000
  - b. Environmental survey: Additional fees may be assessed if environmental protection plan required.
    - (1) 0 to 5 acres: \$100.00
    - (2) 5+ to 20 acres: \$200.00
    - (3) 20+ to 50 acres: \$300.00
    - (4) 50+ acres: \$500.00
  - c. Infrastructure analysis: Additional fees may be assessed, depending on scope of work.
    - (1) Transportation analysis (TA): \$2,500.00
    - (2) Water capacity analysis: \$550.00
    - (3) Wastewater analysis: \$550.00
  - d. Zoning variance request: \$250.00 + legal notices
  - e. Zoning verification letter: \$25.00 each
  - f. Zoning withdrawal (fee refund):
    - (1) Before public hearing notice: 50% refund
    - (2) After public hearing notice: No refund
- 4) Copies:
- a. Land Development Regulations:
    - (1) Paper: Actual cost

- (2) Digital format on CD or thumb drive: Actual cost
- b. Master Plan:
  - (1) Paper: Actual cost
  - (2) Digital format on CD or thumb drive: Actual cost
- c. SMARTGrowth Manual:
  - (1) Paper: Actual cost
  - (2) Digital format on CD or thumb drive: Actual cost
- d. Maps (land use, zoning, etc.): Actual cost”

**SECTION 11**

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

**SECTION 12**

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

**SECTION 13**

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

**SECTION 14**

All rights and remedies of the Town of Flower Mound, Texas, are expressly saved as to any and all violations of the provisions of the Code of Ordinances or any other ordinances affecting the matters regulated herein which have accrued at the time of the

effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 15**

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

**SECTION 16**

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

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS 1ST DAY OF FEBRUARY, 2021.**

**APPROVED:**

\_\_\_\_\_  
**Jim Engel, MAYOR PRO TEM**

**ATTEST:**

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