

## Zoning Case 2023-012

**An Ordinance of the City of Plano, Texas, repealing certain sections and amending Article 4 (Amendments), Article 7 (Nonconformities), Article 10 (Nonresidential Districts), Article 12 (Planned Development Districts), Article 17 (Landscaping and Tree Preservation), and Article 23 (Exterior Wall Construction Standards) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as heretofore amended, pertaining to recent state legislative actions and to ensure compliance with state law; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.**

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 28th day of August, 2023, for the purpose of considering a change in the Zoning Ordinance; and

**WHEREAS**, the City Secretary of said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 28th day of August, 2023; and

**WHEREAS**, the City Council is of the opinion and finds that such change should be adopted, would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Subsection 4.300.1 of Section 4.300 (Planning & Zoning Commission Public Hearing) of Article 4 (Amendments) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, such portions of subsection to read as follows:

### **4.300 Planning & Zoning Commission Public Hearing**

- .1 Upon receipt of a complete written petition for zoning or for a change or an amendment to an existing provision of this Zoning Ordinance, the Planning Department staff will set a date for a public hearing before the Planning & Zoning Commission, consistent with applicable notice requirements.

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- .5** The Planning & Zoning Commission must provide written notice of each public hearing regarding any proposed adoption of or change to a zoning regulation or boundary under which a current conforming use of a property is a nonconforming use if the regulation or boundary is adopted or changed. The notice must:
- a.** Be mailed by United States mail to each owner of real or business personal property where the proposed nonconforming use is located as indicated by the most recently approved municipal tax roll and each occupant of the property not later than the 10th day before the hearing date;
  - b.** Contain the time and place of the hearing; and
  - c.** Include the following text in bold 14-point type or larger:

**“THE CITY OF PLANO IS HOLDING A HEARING THAT WILL DETERMINE WHETHER YOU MAY LOSE THE RIGHT TO CONTINUE USING YOUR PROPERTY FOR ITS CURRENT USE, PLEASE READ THIS NOTICE CAREFULLY.”**

- .6** Properties located within 500 feet of a proposed change in a zoning classification, which do not receive a notice as required by Section 4.300.4, a written courtesy notice will be sent to each owner of real property, as indicated by the most recently approved municipal tax roll, before the 20th day before the hearing. A courtesy notice shall also be sent to properties located within 500 feet of the property on which the change is proposed, which do not receive a notice as required by Section 4.300.4 where located in territory annexed to the municipality and not included on the most recently approved municipal tax roll. The courtesy notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.
- .7** The Planning & Zoning Commission shall hold a public hearing on any petition for any amendment or change prior to making its recommendation and report to the City Council. The Planning & Zoning Commission may establish such regulations and restrictions regarding the presentation of a zoning case at the public hearing as they may deem necessary.

**Section II.** Article 7 (Nonconformities) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, such portions of article to read as follows:

...

## **7.200 Continuance**

A person using a property in a manner considered to be a nonconforming use as a result of the adoption of or change to a zoning regulation or boundary may continue (for indefinite periods of time) to use the property in the same manner unless required by the city to stop the nonconforming use of the property.

**7.300 Change of Use**

The Director of Planning may grant a change of occupancy from one nonconforming use to another, providing the use is within the same, or higher or more restricted classification as the original nonconforming use. In the event a nonconforming use of a building may be changed to another nonconforming use of more restricted classification, it shall not later be changed to a less restrictive classification of use and the prior less restrictive classification shall be considered to have been abandoned.

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**Section III.** A portion of Subsection 10.900.3 (Area, Yard, and Bulk Requirements) of Section 10.900 (CB-1, Central Business-1 District) of Article 10 (Nonresidential Districts) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, such portion of subsection to read as follows:

Description	Residential Requirement	Nonresidential Requirement
Minimum Open Space	100 square feet per unit	None

**Section IV.** Part A (Miscellaneous) of Subsection 10.900.5 (Special District Requirements) of Section 10.900 (CB-1, Central Business-1 District) of Article 10 (Nonresidential Districts) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended to delete in its entirety Part A.viii, with adjoining subparts renumbered:

**A. Miscellaneous**

...

~~viii. Minimum usable open space must be calculated as follows:-~~

- ~~a. Standard Option: 200 square feet per unit-~~
- ~~b. Incentive Option: If utilizing the standards in Article 23, the minimum usable open space may be reduced to 100 square feet per unit.~~

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**Section V.** Subsection 10.1100.1 (Purpose) of Section 10.1100 (RC, Regional Commercial District) of Article 10 (Nonresidential Districts) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore

amended, is hereby further amended, such subsection to read in its entirety as follows:

**.1 Purpose**

The RC district is a cultural district intended for use in conjunction with an RE district in high visibility locations which are of regional cultural importance to the community due to its significance for generating economic investment. It provides for retail and service uses at appropriate nodes within the corridor of specified tollways and expressways serving Plano and surrounding communities, in addition to office and limited manufacturing uses. The district's standards are designed to ensure compatibility between various uses within a corridor and surrounding residential neighborhoods.

**Section VI.** Subsection 10.1200.1 (Purpose) of Section 10.1200 (RE, Regional Employment District) of Article 10 (Nonresidential Districts) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, such subsection to read in its entirety as follows:

**.1 Purpose**

The RE district is a cultural district intended to provide for office and limited manufacturing uses in high visibility locations which are of regional cultural importance to the community due to its significance for generating economic investment that are consistent with the regional status of certain tollways and expressways serving Plano and surrounding communities. Some retail uses are also appropriate when developed in conjunction with the primary uses. The district's standards are designed to ensure compatibility between the various uses within a corridor and surrounding residential neighborhoods.

**Section VII.** Subsection 12.100.5 of Section 12.100 (Purpose) of Article 12 (Planned Development Districts) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, such subsection to read in its entirety as follows:

- .5** To protect and enhance the aesthetic and visual quality of development by creating architectural and cultural districts intended to provide for unique locations which are of architectural and cultural importance to the community.

**Section VIII.** Part A of Subsection 17.100.1 (Landscaping along Street Rights-of-Way) of Section 17.100 (Nonresidential Landscaping Requirements) of Article 17 (Landscaping and Tree Preservation) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended to remove the incentive option, such portions of part to read as follows:

- A.** A landscape edge must be provided adjacent to all streets. The landscape edge must be a minimum width of 10 feet, exclusive of street rights-of-way. Within the landscape edge, 3 caliper inches of shade trees or 6 caliper inches of ornamental trees must be planted per 500 square feet of landscape edge

with a minimum tree size of 2-inch caliper. The number of required trees must be calculated solely on the area of the required landscape edge. See Figure 17-1.

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**Section IX.** Part B of Subsection 17.100.3 (Landscaping for Corner Lots) of Section 17.100 (Nonresidential Landscaping Requirements) of Article 17 (Landscaping and Tree Preservation) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, such part to read in its entirety as follows:

- B. For corner lots, a minimum 15-foot-wide landscape edge must be located along all street right-of-way lines beginning at the corner and extending 175 feet or to the closest driveway. Beyond this point, the landscape edge may be gradually reduced (over a distance of 25 feet) to 10 feet in width. Figure 17-3.

**Section X.** Subsection 17.100.6 (Landscaping along Internal Property Lines) of Section 17.100 (Nonresidential Landscaping Requirements) of Article 17 (Landscaping and Tree Preservation) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, deleting in its entirety Subsection 17.100.6.

~~**6 Landscaping along Internal Property Lines**~~

~~A landscape edge must be provided adjacent to all internal property lines which are not adjacent to a right-of-way or street easement as follows:-~~

~~A. Standard Option: A minimum 10-foot landscape edge must be provided. Within the landscape edge, 6 caliper inches of ornamental trees must be planted per 500 square feet of landscape edge with a minimum tree size of 2-inch caliper. The number of required trees must be calculated solely on the area of the required landscape edge.~~

~~B. Incentive Option: If utilizing the standards in Article 23, a landscape edge along internal property lines is not required.~~

**Section XI.** Part A of Subsection 17.200.1 (Multifamily, Retirement, and Supportive Housing Landscaping Requirements) of Section 17.200 (Residential Landscaping Requirements) of Article 17 (Landscaping and Tree Preservation) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, such part to read in its entirety as follows:

- A. A landscape edge must be provided adjacent to all streets. The landscape edge shall be a minimum width of 10 feet, exclusive of street rights-of-way. Within the landscape edge, one shade tree (3-inch caliper minimum) or an

approved ornamental tree shall be planted per 500 square feet of landscape edge. The number of required trees shall be calculated solely on the area of the required landscape edge.

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**Section XII.** Subsection 17.200.3 (Landscaping Along Internal Property Lines) of Section 17.200 (Residential Landscaping Requirements) of Article 17 (Landscaping and Tree Preservation) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, deleting in its entirety Subsection 17.200.3.

~~**.3 Landscaping Along Internal Property Lines**~~

~~A landscape edge must be provided adjacent to all internal property lines which are not adjacent to a right-of-way or street easement as follows:~~

~~**A. Standard Option:** A minimum 10-foot landscape must be provided. Within the landscape edge, 6 caliper inches of ornamental trees must be planted per 500 square feet of landscape edge with a minimum tree size of 2-inch caliper. The number of required trees must be calculated solely on the area of the required landscape edge.~~

~~**B. Incentive Option:** If utilizing the standards in Article 23, a landscape edge along internal property lines is not required.~~

**Section XIII.** Subsection 17.300.1 (Regulations for Specific Districts) of Section 17.300 (Overlay District Landscaping Requirements) of Article 17 (Landscaping and Tree Preservation) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended to remove the incentive option, such portions of subsection to read as follows with adjoining subsections renumbered:

**.1 Regulations for Specific Districts**

Development and redevelopment in the Preston Road, Dallas North Tollway, 190 Tollway/Plano Parkway, and State Highway 121 Overlay Districts must meet the regulations provided below.

**A.** A landscape edge must be provided as follows:

- i. A minimum 30-foot-wide landscape edge (as measured from the front property line exclusive of rights-of-way for thoroughfares Type C or above) must be provided. The landscape edge shall not apply to that portion of the overlay district zoned Central Business-1 at the time of development or redevelopment. This requirement is not intended to prohibit the placement of driveway openings as specified in the Thoroughfare Standards, Rules & Regulations. This landscape edge may be reduced by as much as 15 feet

if the combined width of the unpaved right-of-way and the landscape edge is at least 40 feet. Such modifications may be permitted to accommodate variations in unpaved rights-of-way along the respective roadways due to grade-separated interchanges, turning lanes, transit stops, drainage improvements, underground utilities, or related facilities. The 40-foot distance shall be measured from the back of the permanent curb of the roadways including those existing or planned acceleration and deceleration lanes, loop road, and ramps at grade-separated interchanges. Sidewalks shall be calculated as part of the 40-foot distance.

- ii. The landscape edge must consist of trees, shrubs, groundcover, berms, and related elements as follows, except for the Dallas North Tollway Overlay District which must comply with Section 17.300.3:
  - a. A minimum of one 3-inch caliper shade tree and one 3-inch caliper ornamental tree (7-foot planted height) must be placed per 50 feet of frontage exclusive of driveways.

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**Section XIV.** Subsection 17.300.6 (Parkway Overlay District) of Section 17.300 (Overlay District Landscaping Requirements) of Article 17 (Landscaping and Tree Preservation) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, such subsection to read in its entirety as follows:

**.6 Parkway Overlay District**

Development and/or redevelopment in a Parkway Overlay district must meet the following special landscaping requirements:

**Landscape Edge**

A minimum 15-foot-wide landscape edge (as measured from the front property line, exclusive of rights-of-way for thoroughfares Type C or above) must be provided. This requirement is not intended to prohibit the placement of driveway openings as specified in the Thoroughfare Standards, Rules & Regulations. With the exception of width, the landscape edge must comply with Article 17.

**Section XV.** Article 23 (Exterior Wall Construction Standards) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended to delete the Article in its entirety and reserve it for future use:

**Article 23 ~~Exterior Wall Construction Standards~~ [Reserved]**



### **23.100 — Introduction**

Exterior wall construction for structures must be in accordance with the standards of this article for consistency with community values of achieving high quality development and architectural compatibility. For the purposes of this article, exterior wall construction refers to the exterior material or finish of a wall assembly.

### **23.200 — Residential Structures**

The following shall apply to ensure architectural compatibility within the neighborhood. If these standards are not met by a minimum of 50% of the residential properties which share a lot line with the property, the standards may be waived by the Building Official, or designee. Right-of-way for streets 60 feet and smaller may be excluded in calculating shared lot lines so properties across streets and alleys are included.

- ~~.1 Exterior wall construction for residential structures and retirement and supportive housing must consist of a minimum of 80% masonry, 3-step stucco, and/or glass, with no single wall face of any structure containing less than 50% of its exposed surface of masonry construction. A maximum of 10% of any exposed exterior wall may consist of Exterior Insulation and Finish Systems (EIFS).~~
- ~~.2 Unless specified as part of a planned development district, the above masonry requirements shall not apply to UR or GR districts, and exterior plasters are not permitted in UR districts.~~
- ~~.3 For midrise residential structures, a maximum of 50% of any exposed exterior wall may consist of metal.~~

### **23.300 — Nonresidential Structures**

#### **.1 General**

Except for the LI-1 and LI-2 districts, and as otherwise regulated by this ordinance, exterior wall construction for nonresidential structures must consist of a minimum of 80% masonry, 3-step stucco, glass, or combination of these materials, with no single wall face of any structure containing less than 50% of its exposed surface of masonry construction. A maximum of 10% of any exposed exterior wall may consist of EIFS.

#### **.2 Metal Exterior Wall Construction**

Metal exterior wall construction within nonresidential zoning districts shall be permitted, provided that a maximum of 25% of any exposed exterior wall may consist of metal. This percentage may be exceeded in accordance with the following:



~~A. For buildings 55 feet in height and over, a maximum of 50% of any exposed exterior wall may consist of metal.~~

~~B. Within the LI-1 and LI-2 districts only, up to 100% of any exposed exterior wall may consist of metal with approval of a facade plan as part of the site plan review process by the Planning & Zoning Commission only under the following conditions:~~

~~i. The metal exterior wall is not visible from a public thoroughfare or residential zoning district.~~

~~ii. The lot containing the building is located at least 1,000 feet from any residential zoning district boundary line unless separated by a Type C or larger thoroughfare.~~

### ~~.3 **Special Requirements for Parking Structures**~~

~~Except in BG and CB-1 zoning districts, all exterior walls of parking structures must be architecturally designed to be integrated with the primary building on the site, including consistent architectural design elements and building materials between structures.~~

**Section XVI.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section XVII.** The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section XVIII.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section XIX.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section XX.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED** on the 28th day of August, 2023.

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John B. Muns, MAYOR

ATTEST:

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Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

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Paige Mims, CITY ATTORNEY