Subchapter 12 – General Regulations.

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35.12.1 Purpose.

The purpose of this Subchapter is to ensure that development will not negatively impact the use and enjoyment of adjacent and neighboring properties. The intent is to ensure that new development will contribute to the overall attractiveness of the City and to increase the design compatibility between abutting properties and land uses.

35.12.2 Yard Measurements.

All yard measurements to and between buildings or structures or for the purpose of computing coverage or similar requirements shall be made from the edge of the foundation.

A. If there are dwellings or accessory buildings on both abutting lots (even if separated by an alley or private way) with yards less than the required depth for the district, the yard for the lot may be reduced to the average of the yards of the abutting structures.

B. If there is a dwelling or accessory building on one (1) abutting lot with a yard of less than the required depth for the district, the yard may be reduced to a depth one-half (1/2) the distance between the depth of the abutting lot and the required yard depth.

C. Non-habitable, unenclosed architectural projections, such as porches, stairs, stoops, and awnings, shall not extend more than seven and a half (7 1/2) feet into a required front yard setback, or twenty-four (24) inches into a required side or rear yard setback. Architectural projections of window sills, bay or box windows, belt courses, cornices, and other projecting architectural features, except for roof overhangs and eaves, shall not extend more than twelve (12) inches into the required front, side or rear yard setback.

D. Ramps, lifts and access facilities for the handicapped may project into a required setback area.

35.12.3 Utilities.

The erection, construction, alteration, or maintenance by public utility or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, towers (except for Telecommunication Towers), wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police equipment and accessories in connection therewith, but not including buildings and satellite disc antennas, shall be permitted in any district, subject to the normal permit process. Utility transmission and distribution lines, poles and towers may exceed the height limits otherwise provided for in this Chapter, except in the Airport Overlay District.
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35.12.4 Accessory Buildings and Structures.

A. Accessory buildings and structures shall comply with all requirements for the principal use except where specifically modified by this Subchapter and shall comply with the following limitations as set forth in Figure - 1:

1. Mechanical equipment shall be subject to the provisions of this Section. Such equipment shall not be located between the main structure on the site and any street adjacent to a front or side yard, and every attempt shall be made to place such equipment so that it is not visible from adjacent public streets. Mechanical equipment may be placed in a side yard abutting a side street if there are lot or building constraints from placing it in the other side yard and the equipment is screened with a fence or landscaping. Any installation of mechanical equipment shall require a building permit.

2. A swimming pool on a lot with a single family home may be constructed no closer than five (5) feet from any other buildings and structures on the same lot.

3. A swimming pool on a lot with a single family home may be constructed no closer than three (3) feet from the side and rear lot line and the swimming pool shall not encroach on an easement. All other provisions of Subchapter 12 not inconsistent with this amendment shall remain in full force and effect.

B. General Regulations

1. The combined square footage of the principal structure and accessory structure(s) shall not exceed the zoning district maximum lot coverage specified in Subchapter 5.

2. Accessory structures, with the exception of non-residential detached carports, gas station canopies, gas station car wash facilities, and security/entry booths, are prohibited in front or side yards.
Accessory structures on a kindergarten, elementary, middle or high school property may be located in side yards, but are prohibited from being located in front yards.

3. Accessory structures shall be set back a minimum of three (3) feet from all property lines associated with its permitted location.

4. No portion of an accessory structure may be located in, or encroach upon, any easement.

5. All accessory structures that require a building permit shall be architecturally compatible with its associated principal structure or screened from view of abutting properties and public rights-of-way. In this context, the term “architectural compatibility” includes, but is not limited to, consistency in: roof pitch, exterior construction materials, exterior color, and architectural design and detail.

6. Guest quarters shall be located on the same lot as an existing detached single-family use and may be attached to the principal building, or be located within a detached accessory building.

7. No more than one (1) guest quarters per lot shall be allowed.

8. Guest quarters shall not be used as rental units or as a permanent secondary dwelling unit.

9. Guest quarters shall be served by the same utility meters as the primary dwelling.

10. Except as stated in 35.12.4.B.3, accessory structures that are located in a kindergarten, elementary, middle or high school’s corner lot side yard that is adjacent to a street shall be set back in compliance with the zoning district’s minimum side yard setback requirement.

35.12.5 **Minimum Floor Area Requirements.**

The minimum heated floor area requirements for single-family dwellings, including modular homes, or any manufactured home in any zoning district is 900 square feet per unit. Multifamily and accessory dwelling must have at least 500 square feet or floor space per unit. The minimum floor area required does not include porches, patios, garages, or carports.

35.12.6 **Maximum Persons Occupying a Dwelling.**

No single dwelling unit shall have more than four (4) unrelated person residing therin, nor shall any “family” have, additionally, more than four (4) unrelated persons residing with such family. Hotels, Motels, Bed and Breakfast establishments, Boarding Houses, Fraternity or Sorority Houses, and Dormitories are excepted from this requirement. Additionally, any organization or institutional group that receives federal or state funding for the care of individuals is excepted from this requirement.

35.12.7 **Outside Storage.**

A. In addition to complying with all EPA regulations, the International Fire Code, and all other applicable ordinances, statutes, rules and regulations, outdoor storage:

1. Shall be confined to the side or rear yard only, and shall be opaquely screened from public view, using screening materials that are in conformance with Sections 35.13.8 and 35.13.9;

2. Shall not be stacked higher than eight (8) feet; and

3. Shall be setback at least five (5) feet from the property line, and maintained so as to not create a nuisance to the public or any adjoining property.

B. Industrial zoned properties and all industrial uses that are legally permitted, are exempted from the requirements of 1-3 above.

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1 Cross reference – Outdoor display of objects, items, products, or other merchandise for immediate sale, rental or special order, Code Chapter 17 (Denton Property Maintenance Code).
35.12.8 **Wireless Telecommunications Facilities.**

A. **Purpose.** The purpose of this section is to establish guidelines regulating the location of telecommunication towers and antennas with the objective of minimizing their number, to protect and promote public safety, and to mitigate any adverse visual impacts on the community while promoting the provision of telecommunications service to the public.

B. **Compliance with Telecommunications Act.** The regulations contained in this ordinance have been developed under the following general guidelines as provided in the federal Telecommunications Act of 1996:

1. Cities have local authority over “placement, construction, and modification” of cellular telephone facilities and other personal wireless telecommunication service facilities.
2. Regulations “shall not unreasonably discriminate among providers of functionally equivalent services.”
3. Regulations “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.”
4. “Denial shall be in writing and supported by substantial evidence.”
5. Cities may not “regulate the placement, construction, and modification of personal wireless service facilities on the basis of environmental or radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission regulations concerning such emissions.”

Notwithstanding any other provision of this ordinance, telecommunications towers and antennas, when permitted by federal law and the laws of the State of Texas, shall be regulated and governed by the following use regulations and requirements.

C. **Goals.** The goals of these regulations are to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
2. Encourage the location of towers in non-residential areas;
3. Minimize the total number of towers throughout the community;
4. Encourage the joint use of new and existing tower sites as a primary option, rather than construction of additional single-use towers;
5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
6. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact through careful design, siting, landscape screening, and innovative camouflaging techniques;
7. Enhance the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; and
8. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

35.12.8.1 **Definitions.**

**Alternative Mounting Structure.** A man-made tree, clock tower, church steeple, bell tower, utility pole, light standard, identification pylon, flagpole, or similar structure, designed to support and camouflage or conceal the presence of telecommunications antennas.

**Antenna.** A structure or device used to collect or radiate electromagnetic waves, including directional antennas, such as panels, wireless cable and satellite dishes, and omni-directional antennas, such as whips, but not including satellite earth stations.

**Antenna Array.** An arrangement of antennas and their supporting structure.
Antenna, Dish. A parabolic bowl shaped device that receives and/or transmits signals in a specific directional pattern.

Antenna, Panel. An antenna which receives and/or transmits signals in a directional pattern.

Antenna, Stealth. A telecommunications antenna that is effectively camouflaged or concealed from view.

Antenna, Telecommunications. An antenna used to provide a telecommunications service. This excludes lightning rods, private mobile radio systems, amateur radio antennas less than 50 feet (15 meters) in height and whip antennas less than 4 inches (10 cm) in diameter and less than 10 feet (3 meters) in height.

Antenna, Whip. An omni-directional dipole antenna of cylindrical shape which is no more than 6 inches (15 cm) in diameter.

Co-location. A single telecommunications tower and/or site used by more than one telecommunications service provider.


FAA. Federal Aviation Administration or any successor agency.

FCC. Federal Communications Commission or any successor agency.

Height. When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or structure, including the base pad and any antenna.

Identification Pylon. A permanent ground mounted sign consisting solely of a single monolithic structure used to identify a development.

Structure. An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, poles, water towers, cranes, smokestacks, earth formations, and overhead transmission lines.

Telecommunications. The transmission, between or among points specified by the user, of audio and/or visual information of the user’s choosing, without change in the form or content of the information as sent and received.

Telecommunications Service. The offering of telecommunications for a fee directly to the public, or to such classes of users to be effectively available directly to the public, regardless of the facilities used.

Tower, Electric Transmission. A self-supporting structure in excess of 50 feet (15 meters) in height designed to support high voltage electric lines. This does not include local utility or distribution poles (with or without transformers) designed to provide electric service to individual customers.

Tower, Guyed. Any telecommunications tower supported in whole or in part by cables anchored to the ground.

Tower, Height. The distance measured from grade to the highest point of any and all components of the structure, including antennas, hazard lighting, and other appurtenances, if any.

Tower, Monopole. A self-supporting telecommunications tower which consists of a single vertical pole fixed into the ground and/or attached to a foundation.

Tower, Self-supporting Lattice. A telecommunications tower which consists of an open network of metal braces forming a tower which is usually triangular or square in cross-section.

Tower, Telecommunications. A self-supporting or guyed structure more than 20 feet (6 meters) in height, built primarily to support one or more telecommunications antennas.

35.12.8.2 Applicability.

A. New Towers and Antennas. All new towers and antennas within the corporate limits of the City shall be subject to these regulations, except as provided in Sections 35.12.8.2.b through c, inclusive.

B. Amateur Radio Station Operators/Receive Only Antennas. This ordinance shall not govern any tower or installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
C. **Pre-existing Towers or Antennas.** Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this ordinance, except the requirements of Section 35.12.8.4.a, b, and h.

### 35.12.8.3 General Provisions.

A. **Applications.** All applications for rezoning or a Special Use Permit (SUP) for a telecommunications tower, antenna, or other facility to provide a telecommunications service shall include a completed supplemental information form provided by the City regarding said facilities. In addition to any information required for applications for a SUP pursuant to this chapter, applicants for a SUP for a telecommunications tower or antenna or other such facility shall submit the following information:

1. A detailed master antenna plan, clearly indicating the location of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, and other information deemed necessary by the Director.
2. A legal description of the property and leased land, if applicable.
3. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
4. The separation distance from other towers shown on an updated site plan or map.
5. A landscape plan showing specific landscape materials.
6. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.

B. **Platted Lots.** Unless an exception is granted by the Planning and Zoning Commission, telecommunications facilities requiring rezoning or a SUP, including towers and related equipment buildings, shall be located on a platted lot.

C. **Technical Assistance.** When a rezoning or SUP is required to comply with the provisions of this section, and when the technical information provided by the applicant is beyond the technical capacity of City staff to review, the applicant, in addition to the usual application fee, shall reimburse the City for the actual cost to the City for the services of a technical expert to review the application and/or information supplement, up to a maximum of $5,000.

D. **Pre-application Meetings.** Prior to leasing or purchasing facilities, the telecommunications service provider is encouraged to meet with the Director of Planning or his or her designee to determine if the location will require a SUP or other approvals, and to review the merits of potential locations.

E. **Master Antenna Plan.** To facilitate co-location and coordination of telecommunication sites, the City shall, within 30 days of its effective date, notify the providers of telecommunications services, as that term is defined by federal law, of the enactment of this ordinance. Said providers shall, within 90 days of the date of such notice, provide the City with their respective master antenna plans. Said plans shall include detailed maps, showing the locations and characteristics of all telecommunications towers and antennas serving any portion of the City and indicating coverage areas for current and, to the extent possible, future telecommunications towers and antennas. Providers shall also provide the City with any updates to the above documents within 90 days of their creation.

### 35.12.8.4 Telecommunications Tower Standards.

A. **Applicable Federal and State Standards.** All telecommunications towers and antennas shall be erected and operated in compliance with current FCC and FAA rules and regulations and other applicable federal, state, and local standards. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency.

B. **Structural Standards.** Telecommunications tower structures must conform to the most current revision of EIA 222 standards. Guyed telecommunications towers shall be designed and located so that if the structure should fall it would avoid habitable structures and public streets. To insure structural integrity, the owners of the tower shall ensure that it is maintained in compliance with all applicable provisions of Chapter 28 “Building and Building Regulations” and all applicable state or local building codes and safety
regulations, as well as the regulations published by the Electronic Industries Association (EIA) as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have 30 days to bring the tower into compliance with these standards.

C. Co-location. Towers shall be designed and built to accommodate a minimum of two cellular or PCS providers, if over 75 feet (23 meters) in height. The owner of the tower must certify to the City that the tower is available for use by other telecommunications service providers on a reasonable and nondiscriminatory basis.

D. Fencing. Security fencing shall be installed by a wrought iron or steel chain link fence with evergreen hedge, or a masonry wall, each not less than 6 feet (1.8 meters) in height. The exterior of equipment buildings and/or metal equipment cabinets visible from residential areas or public rights-of-way must have a neutral aggregate finish or be painted to reflect the color and character of adjoining structures or blend with adjacent landscaping and other surroundings.

E. Setbacks. All telecommunication towers as well as guys and guy anchors shall be located within the buildable area of the lot and not within the front, rear, or sideyard building setbacks. Telecommunication towers in excess of 400 feet (120 meters) in height shall be set back a minimum of 2,600 feet (800 meters) from the right-of-way of all controlled access federal and state roadways designated as freeways to provide unobstructed flight paths for helicopters.

F. Signage. Except as otherwise permitted in this ordinance, no signage, lettering, symbols, images, or trademarks in excess of 200 square inches (1,290 square cm) shall be placed on or affixed to any part of a telecommunications tower, antenna, antenna array, equipment building, or security fencing other than as required by FCC regulations or other applicable law.

G. Lighting. Except as otherwise permitted in this ordinance, no signals, lights, or illumination of any kind shall be permitted on or directed toward any tower unless required by the FCC, the FAA, or other appropriate public authority.

H. Abandonment. In the event the use of any Wireless Communication Facility, which would include any telecommunications tower or other antenna support structure, has been discontinued for a period of 360 days, the antenna support structure shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Building Official, who shall have the right to request documentation from the owner/operator regarding the issue of usage.

   Upon the termination of abandonment, the owner/operator of the antenna support structure shall remove same within 90 days of receipt of notice from the Building Official notifying the owner/operator of such abandonment. If said antenna support structure is not removed within 90 days, the Building Official may cause it to be removed at the owner’s expense.

35.12.8.5 Tower Location Standards

A. Historical/Cultural. Except for compatible alternative mounting structures that effectively camouflage or conceal the presence of telecommunications antennas, telecommunications facilities should not be located on or within 300 feet (90 meters) of property zoned historic or property included in a national or local historic district. In addition, said facilities should, wherever possible, be located so as to ensure that historic or culturally significant vistas, and landscapes are protected and that the views of and vistas from architecturally and/or historically significant structures are not impaired or diminished.

B. Residential Zoning. Except as provided in Section 35.12.8.7, telecommunications towers are not permitted in any residential zoning district and must be a minimum of a 3 to 1 distance to height ratio from a single family residential use and 1 to 1 distance to height ratio from a multifamily use.

C. Towers Permitted by Right. Free standing monopole telecommunications towers 85 feet (26 meters) or less in height are permitted except as provided in Section 35.12.8.7, except for Central Business District and other applicable sections of this Subchapter.

D. Towers Requiring a Special Use Permit (SUP). All telecommunication towers to be located in the Central Business District are permitted with a SUP. Telecommunication towers in excess of 50 feet (15 meters) in
height and monopole towers in excess of 85 feet (26 meters) in height are permitted, except as provided in Section 35.12.8.7.

E. Tower Spacing. Any new telecommunications tower in excess of 180 feet (55 meters) in height must be located a minimum of 1 mile (1.6 km) from any existing tower in excess of 180 feet (55 meters) in height.

F. Alternative Mounting Structures.
   1. New Alternative Mounting Structures 100 feet (30 meters) or less in height are permitted, except as provided in Section 35.12.8.7, and other applicable sections of this Subchapter.
   2. New Alternative Mounting Structures in excess of 100 feet (30 meters) in height are permitted, except as provided in Section 35.12.8.7, and other applicable sections of this Subchapter.
   3. Alternative Mounting Structures must be similar in color, scale, and character to adjoining buildings or structures or blend with the landscaping and other surroundings immediately adjacent to them so as to generally avoid the creation of unique visual objects that stand out in the environment.

35.12.8.6 Antenna Mounting Standards

The purpose of this section is to promote public safety and maintain order and harmony within the City’s business, cultural, and residential districts by restricting the size and location of telecommunication antennas. The objective is to avoid the creation of visual distractions, prevent obstructions to the view of pedestrians and motorists on public thoroughfares, and to insure the structural integrity of supporting structures.

A. Whip and Panel Antenna Mounting Standards.
   1. Individual telecommunications antennas are allowed on existing electric utility poles, light standards, and telecommunication towers in excess of 40 feet (12 meters) in height, provided that the total length of any antenna does not exceed 15 percent of the height of the structure. The height of a telecommunications tower is determined by the highest point of any and all components of the structure, including antennas.
   2. Telecommunications antennas and arrays are allowed by right on existing electric transmission towers.
   3. Existing structures in excess of 50 feet (15 meters) in height may, as a matter of right, be rebuilt, if necessary, to support or contain a new antenna, provided that the new structure is the same height and substantially the same in appearance as the structure it replaces.
   4. Building mounted panel antennas are permitted on non-residential buildings and multi-family dwellings in all zoning districts, provided that they are mounted flush with the exterior of the building and that they do not project above the roof line, nor more than 30 inches (75 cm) from the surface of the building to which they are attached. The antenna’s appearance shall be such that its color and texture blends with the surrounding surface of the building.
   5. Whip antennas are permitted on non-residential buildings and multi-family dwellings in all zoning districts, provided that the total length of said whip antennas, regardless of mounting method or location, does not exceed 15 percent of the height of the building.
   6. Only one building/roof mounted antenna support structure, less than 100 square feet (9 square meters) in area, is permitted per 5,000 square feet (450 square meters) of building floor area.

B. Dish Antenna Mounting Standards.
   1. Dish antennas shall not be permitted in any front setback area or sideyard setback adjacent to any roadway.
   2. Ground mounted dish antennas in excess of 5 feet (1.5 meters) in height shall be screened from roadways and adjacent property by a minimum 6 foot (1.8 meter) high screening fence, evergreen hedge, or masonry wall.
   3. Dish antennas in excess of 10 feet (3 meters) in height or more than 10 feet (3 meters) in diameter are permitted except as provided in Section 35.12.8.7.
4. Building/roof mounted dish antennas 1 meter or less in diameter are permitted except as provided in Section 35.12.8.7, and other applicable regulations of this Subchapter.

5. Building/roof mounted dish antennas 2 meters or less in diameter are permitted on all buildings in excess of 5,000 square feet (450 square meters) of building floor area except as provided in Section 35.12.8.7, and other applicable regulations of this Subchapter.

6. Only one building/roof mounted dish antenna, 2 meters or less in diameter, is permitted per 5,000 square feet (450 square meters) of building floor area except as provided in Section 35.12.8.7, and other applicable regulations of this Subchapter.

7. Building/roof mounted dish antennas in excess of 2 meters in diameter may be permitted on buildings in excess of 100,000 square feet (9,000 square meters) of building floor area except as provided in Section 35.12.8.7, and other applicable regulations of this Subchapter.

8. Building/roof mounted dish antennas in excess of 1 meter in diameter in residential zoning districts shall be painted to have an appearance that blends with the building on which they are located or to be located so that they are not visible from any adjacent roadway.

9. Building/roof mounted dish antennas in excess of 2 meters in diameter in non-residential districts shall be painted or screened with enclosures so as to have an appearance that blends with the building on which they are located or to be located so that they are not visible from any adjacent roadway.
### 35.12.8.7 Telecommunications Use Chart

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<td>P&lt;sup&gt;2&lt;/sup&gt;</td>
<td>P</td>
<td>P</td>
<td>P&lt;sup&gt;5&lt;/sup&gt;</td>
<td>P&lt;sup&gt;5&lt;/sup&gt;</td>
<td>P&lt;sup&gt;5&lt;/sup&gt;</td>
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<tr>
<td>Roof Mounted Arrays</td>
<td>P&lt;sup&gt;5&lt;/sup&gt;</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P&lt;sup&gt;1&lt;/sup&gt;</td>
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<tr>
<td>Dish Antenna Mountings</td>
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<tr>
<td>Building/Roof Mounted under 1m dia.</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building/Roof Mounted under 2m dia.</td>
<td>P&lt;sup&gt;3&lt;/sup&gt;</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P&lt;sup&gt;3&lt;/sup&gt;</td>
<td>P&lt;sup&gt;3&lt;/sup&gt;</td>
<td>P&lt;sup&gt;3&lt;/sup&gt;</td>
<td>P&lt;sup&gt;1&lt;/sup&gt;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building/Roof Mounted over 2m dia.</td>
<td>P&lt;sup&gt;5&lt;/sup&gt;</td>
<td>P&lt;sup&gt;3&lt;/sup&gt;</td>
<td>P&lt;sup&gt;5&lt;/sup&gt;</td>
<td>P&lt;sup&gt;3&lt;/sup&gt;</td>
<td>P&lt;sup&gt;5&lt;/sup&gt;</td>
<td>P&lt;sup&gt;3&lt;/sup&gt;</td>
<td>P&lt;sup&gt;3&lt;/sup&gt;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ground Mounted under 3m dia.</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ground Mounted over 3m dia.</td>
<td>P</td>
<td>P</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P&lt;sup&gt;4&lt;/sup&gt;</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
1. Stealth
2. Stealth, Non-residential and multi-family structures only.
3. Non-residential and multi-family structures only.
4. Non-residential structures in excess of 5000 sq. ft. of floor area.
5. Non-residential structures in excess of 100,000 sq. ft. of floor area.
35.12.8.8 Structural Certification
Prior to the installation of any building/roof mounted telecommunications antenna, antenna array, or support structure the City’s Building Official shall be provided with an engineer’s certification that the structure will support and not be adversely affected by the proposed antenna and associated equipment.

35.12.8.9 Appeal
Any entity that desires to erect or utilize telecommunication facilities that wishes to present evidence that such entity would be limited by the current ordinances or regulations of the City dealing with zoning and land use may apply for such use under this section. The City Council shall, upon a showing that strict application of regulations would prohibit or have the effect of prohibiting personal wireless service, as defined by federal law, modify the subject regulations, consistent with the spirit and intent of this chapter and section, to the extent necessary to prevent the prohibition.

35.12.9 Temporary Uses.

A. Purpose
The purpose of this subsection is to allow certain uses on a temporary basis with conditions. The Building Official may permit temporary uses in accordance with Table 35.12.9 of this code.

B. Revocation. The Building Official may revoke a temporary use permit if it is determined that:
1. The applicant has misrepresented any material fact on his or her application, or supporting materials;
2. The temporary use fails or ceases to comply with applicable standards or criteria for issuance of a permit;
3. The operation of the temporary use violates any applicable statute, law, ordinance or regulation; or
4. The operation of the temporary use constitutes a nuisance or poses a real or potential threat to the health, safety or welfare of the public.

C. Conditions. The Building Official may prescribe reasonable conditions upon a temporary use permit to protect the public health, safety and general welfare of the community, with particular attention to areas proximately located to the permitted temporary use. Such conditions may include specific performance standards, noise mitigation measures, lighting restrictions, restrictions on hours of operation, odor control measures, off-street parking requirements, traffic restrictions, and other standards designed to minimize adverse impacts on surrounding areas.

D. General Provisions.
1. Upon expiration or revocation of a temporary use permit, the applicant shall clean the site of all debris, whether generated by the temporary use or not.
2. Neither the granting of a temporary use permit, nor the permittee’s compliance with its terms, shall constitute a defense to prosecution under any law or ordinance, other than as stated in this subsection. A temporary use permit serves only to conditionally permit the temporary use of property, provided that the permittee strictly complies with all permit requirements and restrictions.
3. The Building Official may condition issuance of a temporary use permit upon either or both of the following:
   a. applicant’s demonstration of full compliance with all applicable permitting, licensing, surety, insurance and performance standards of any governmental, administrative or regulatory body exercising jurisdiction over the requested temporary use; and
   b. applicant’s posting of bonds or other securities in an amount, and of a type, reasonably sufficient to remediate, repair and restore any public lands, infrastructure, or easements, or any public or private floodplains or environmentally sensitive areas, which could foreseeably suffer damage, directly or
indirectly, as a consequence of the requested temporary use, regardless of whether such damages are actually caused by the applicant or by third-party participants in the temporary activity.

4. The applicant shall post the permit issued by the City in a prominent location on the site.

5. All temporary uses, except occasional sales, shall comply with the following:
   a. Temporary uses shall comply with applicable setback requirements listed in Subchapter 5, Zoning Districts and Limitations. In situations where temporary storage containers and other portable storage units are used for loading and unloading purposes and the only placement location is on an existing driveway, temporary storage containers and other portable storage units may encroach into a required setback;
   b. Display, sales, and other temporary use-related activities shall be conducted on private property and not on public land or rights-of-way unless specifically permitted in writing by the Building Official;
   c. Vehicular access points, public roads and rights-of-way, and pedestrian or bicycle paths shall not be damaged or obstructed. Public roads may be closed for a temporary special event where specifically authorized by the City Council;
   d. Hours of operation shall be compatible with the adjacent land uses;
   e. Devices shall be of a temporary nature, movable, and shall not block visibility for vehicles or pedestrians on or off the lot so as to create a safety hazard;
   f. The applicant shall guarantee that all trash and debris generated by the temporary use will be removed within 24 hours at no expense to the City; and
   g. Signs shall comply with all Code requirements.

E. Uses.

1. Temporary Storage Containers and Other Portable Storage Units
   a. Temporary storage containers and other portable storage units shall be located on an improved surface, but may not be located in any part of a fire lane, required parking space, maneuvering lane, public right-of-way, or visibility triangle.
   b. The property where the temporary storage container is located shall contain a principal structure and the storage container will be considered an accessory to the principal structure.
   c. Storage containers that are located in a rear yard, that are exempted from obtaining a building permit, and are screened from public view are not required to obtain a temporary use permit.

2. Farmer's Market and Open Air Market

3. Christmas Tree and Pumpkin Sales

4. Occasional Sales
   a. No more than three occasional sales may be allowed upon the premises of a residential dwelling in any twelve-month period (limited to one sale every four months), with a limit of three days per time per lot.
   b. Occasional sale signs indicating the location and date of the occasional sale may not exceed six square feet in area. No more than one such sign may be located upon the premises of the occasional sale, and no more than three such signs may be located off premises. No such signs may be set out more than 24 hours in advance of the sale and all must be removed within 24 hours after the final day of the sale.
   c. No such occasional sale signs may be attached to any public property, including, but not limited to, any light pole, utility pole, signal pole, sign pole, nor may they be placed or located upon any median of any public street, road or highway.
5. Special Events
   a. Permitting decisions shall be made without regard to the content of protected speech.
   b. Permit criteria. The Building Official may grant a temporary use permit if the applicant demonstrates that the temporary use will comply with all applicable laws, ordinances and regulations.

6. Field or Construction Office
   a. Field or construction offices may only be approved for licensed contractors working on construction projects for which permits have been issued. They shall be located on the same property and within the same project area where the work is being done and shall not encroach into any public right-of-way. Field construction or offices shall be required to meet all applicable state and local building and set-up codes.
   b. Field or construction offices may not be used as residences.

7. Temporary Concrete or Asphalt Batching Plants
   a. General requirements.
      i. Applicants for a permit to operate a temporary concrete or asphalt batching must submit a letter from the Texas Commission on Environmental Quality (TCEQ) indicating that the proposed facility is exempt from the permitting procedures under the standard exemption, as adopted and amended from time to time.
      ii. All stockpiles shall be sprinkled with water or dust suppressant chemicals, or both, as necessary to achieve maximum control of dust emissions. The stockpile sprinkler system shall be operable at all times.
      iii. The facility shall be operated in a manner which eliminates unnecessary dust, noise and odor (including, with limitation, covering trucks, hoppers and chutes, loading and unloading devices, mixing operation and maintaining driveways and parking areas free of dust).
      iv. The facility must produce concrete or asphalt for the specific subdivision or project site upon which it is located, and may not produce concrete or asphalt for any other unrelated subdivision or project.
      v. Spilled cement and fly ash used in the batch shall be cleaned up immediately and contained or dampened to minimize dust emissions due to wind erosion and vehicle traffic.
      vi. All open-bodied vehicles transporting material from a dry batch plant to the paving mixer shall be loaded with a layer of sand on top, and the truck shall be covered with a tarp to minimize the emission of dust under existing conditions.
      vii. Temporary concrete batching plants (including associated stationary equipment and stockpiles) shall be located at least three hundred (300) feet from any recreational area, school, residence or other structure not occupied or used solely by the owner of the property upon which the facility is located. This distance limitation does not apply to structures within the boundaries of the project for which the facility is to pour concrete, provided that the facility is located on or contiguous to the project.
      viii. Temporary asphalt batching plants shall be located at least one-half (1/2) mile from any recreational area, school, or residence, or any other structure not occupied or used exclusively by the owner of the property upon which the facility is located.
      ix. Applicant shall clear the site of all equipment, material and debris upon completion of the project.
   b. Hours of operation. The facility may operate only between the hours of 6:00 am and 8:30 pm, Monday through Friday, from June 1 to September 30; 7:00 am and 8:30 pm, Monday through Friday October 1 to May 31; 8:00 am and 8:30 pm on Saturdays; and 1:00 pm and 8:30 pm on Sundays.
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c. Revocation of permit. In addition to the reasons enumerated above, the building official may terminate or revoke a permit for any of the following reasons:

i. The facility fails to comply with any of the requirements as listed in this section; or

ii. The facility violates any of the standards as listed on the standard exemption list adopted by the Texas Natural Resources Conservation Commission as amended from time to time.

F. Permit Renewal.

An applicant may renew, or receive a new permit for the same activity on the same lot in accordance with the following limitations:

1. **Temporary Storage Containers and Other Portable Storage Units**: May not exceed three (3) permits per calendar year, with a limit of 30 days per permit per lot within residential uses or zoning districts. Temporary storage containers and other portable storage units located within a non-residential zoning district are allowed one (1) permit a calendar year, with a limit of 180 days per lot. Properties that have existing temporary storage containers and other portable storage units prior to the effective date of this Ordinance will be required to obtain a temporary use permit.

2. **Farmer’s Market and Open Air Market**: Maximum of 9 months per calendar year per lot.

3. **Christmas Tree and Pumpkin Sales**: Maximum of 30 days per calendar year per event.

4. **Special Events**: Maximum of 21 days per calendar year per event.

5. **All other uses not specifically addressed**: Maximum of 30 days per calendar year per lot. Applicants may not obtain a permit for a temporary use for the same lot if that site has exceeded the time limitation for that calendar year.
Table 35.12.9 Temporary Uses

<table>
<thead>
<tr>
<th>Temporary Use</th>
<th>Permitted Zoning</th>
<th>Setback Requirements</th>
<th>Number of Permits Allowed per Year</th>
<th>Number of days per Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temporary Storage Containers and Other Portable Storage Units</td>
<td>All Zoning Districts*</td>
<td>Setback requirements by zoning district (see Subchapter 5)**</td>
<td>3</td>
<td>30 days</td>
</tr>
<tr>
<td>Farmer's Market and Open Air Market</td>
<td>Non-residential Zoning Districts</td>
<td>Setback requirements by zoning district (see Subchapter 5)</td>
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<td>9 months</td>
</tr>
<tr>
<td>Christmas Trees and Pumpkin Sales</td>
<td>Non-residential Zoning Districts</td>
<td>Setback requirements by zoning district (see Subchapter 5)</td>
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<td>30 (per event)</td>
</tr>
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<td>Occasional Sales</td>
<td>Residential Zoning Districts</td>
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<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Special Events</td>
<td>Non-residential Zoning Districts</td>
<td>Setback requirements by zoning district (see Subchapter 5)</td>
<td>N/A</td>
<td>21 days (per event)</td>
</tr>
<tr>
<td>Field or Construction Office</td>
<td>All Zoning Districts</td>
<td>Setback requirements by zoning district (see Subchapter 5)</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Temporary Concrete or Asphalt Batching Plant</td>
<td>All Zoning Districts</td>
<td>Setback requirements by zoning district (see Subchapter 5)</td>
<td>3</td>
<td>60</td>
</tr>
</tbody>
</table>

* Temporary storage containers and other portable storage units located within a non-residential zoning district are allowed one (1) permit per calendar year, with a limit of 180 days per lot.

** Temporary storage containers and other portable storage units may encroach into a required setback.

***Field or construction offices may be approved no sooner than 30 days prior to the start of construction and shall be removed within 30 days after completion of the work for which the construction permit has been issued.
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35.12.10 Home Occupations.

The following provisions apply to home occupations:

A. Dwelling.

A home occupation shall be permitted only when it is an accessory use to a detached single-family dwelling unit.

B. Restriction on Sales.

A home occupation shall not involve any external structural alteration of the single-family dwelling unit.

C. Employees.

Only one employee other than occupants of the residence may be employed in the home occupation. A person who receives a wage, salary or percentage of the profits directly related to the home occupation shall be considered an employee for the purposes of this Subchapter, provided that this definition shall not include the coordination or supervision of employees who do not regularly visit the dwelling for purposes related to the business.

D. External Display of Products.

There shall be no external display of products or any other externally visible evidence whatsoever of the occupation, business or profession.

E. Outdoor Storage.

No outdoor storage of materials, goods, supplies or equipment shall be allowed.

F. Signage.

A person who engages in a home occupation shall not place an advertisement, sign, or display on or off the premises.

G. Patrons.

A home occupation shall not involve more than four (4) patrons on the premises at one time.

H. Outdoor Activities.

Any outdoor activities associated with a home occupation shall be screened from the neighboring property by a solid fence of at least six fee (6') in height.

I. Product Sales.

A home occupation may include the sale of products on the premises provided compliance is maintained with all other conditions specified herein.

J. Definition of “On the Premises.”

“On the premises,” as it pertains to home occupations, shall be defined as the single-family dwelling unit plus the lot on which such structure is located.

K. Nuisance.

A home occupation shall produce no offensive noise, vibration, smoke, electrical interference, dirt, odors or heat in excess of those normally found in residential areas. No toxic, explosive, flammable, combustible, corrosive, radioactive, or other hazardous materials shall be used or stored on the site for business purposes.

L. Prohibited Equipment and Materials.

There shall be no chemical, mechanical or electrical equipment on the premises other than that normally found in a single-family dwelling unit.
M. Parking and Business-Related Vehicles (vehicles either marked or equipped commercially).

No on-street parking of business-related vehicles shall be permitted at any time. No business vehicles larger than a van, panel truck, or pickup truck shall be permitted to park overnight on the premises. The number of business-related vehicles shall be limited to one.

N. Sale of Garden Produce.

The above-listed requirements of a home occupation shall not be construed to restrict the sale of garden produce grown on the premises within the R (Rural) District, provided this exception shall not extend to allow the operation of a commercial greenhouse or nursery or the existence of stands or booths for display of such produce.

O. Allowable Home Occupations.

The following uses are allowable as home occupations without the approval of a Special Use Permit:

1. Registered Family Homes (in-home childcare) or Adult Day Care, but not more than six children or adults at a time, including the caregiver’s own preschool-aged children or adult family member.
2. Tutoring of all types, but limited to four pupils at one time.
3. Arts and crafts.
5. Contractor offices (i.e., painting, cleaning, yard maintenance, building).
6. Attorneys.
7. Accountants.
8. Real estate agents.
10. Counselors, psychological therapists.
11. Tailor.
12. Chimney Cleaning.
13. Home marketing, mail order products or services and e-mail.
14. Laundering services.
15. Registered massage therapists.
16. Any use determined by the Director to be an Allowable Home Occupation.

P. Home Occupations Requiring an Specific Use Permit

The following uses are allowable home occupations with the approval of a Specific Use Permit.

1. Catering establishments (i.e., business providing contract services consisting of food and banquet preparations prepared internally and delivered to customers off the premises).
2. Musician’s and artist’s studio.
3. Barber and beauty shops, provided that the use is conducted by family members who live in the residence (no outside employees permitted). The business shall consist of no more than one beauty/barber chair, and no more than two (2) customers shall be permitted at one time. Said business shall operate only between the hours of 8:00 a.m. and 8:00 p.m..

Q. Occupations Not Allowed.

The following uses are examples of home occupations which are not allowed:

1. Antique sales.
2. Medical doctors, or any practice of physical and/or medical application, including chiropractors.
3. Dentists.
4. Vehicle repair/mechanic’s garages and automobile detailing.
5. Commercial greenhouses or nurseries.
35.12.11 Industrial Performance Standards.

Performance standards for industrial uses in all zoning districts shall be as follows:

A. **Reserved.**

Editor's note – Ord. No. 2014-084, Section 1, adopted March 18, 2014, repealed subsection A., which pertained to noise. Existing noise provisions, which can be found in Section 17-20 of the Denton Code, may be charged instead, at the discretion of prosecutor, as appropriate to the facts sworn to by the complainant.

Cross reference – Noise, Section 17-20 of Denton Code

State law reference – Texas Penal Code Section 42.01(a)(5).

B. **Smoke and Particulate Matter.**

No industrial operation or use shall cause, create or allow the emission for more than three (3) minutes in any one (1) hour of air contaminants which at the emission point or within the bounds of the property are:

1. As dark or darker in shade as that designated as No. 2 on the Ringlemann Chart as published by the United States Bureau of Mines Information Circular 7118.

2. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed in this Subchapter, except that, when the presence of uncombined water is the only reason for failure to comply or when such contaminants are emitted inside a building which prevents their escape into the outside atmosphere the standards in B.1. and 2. shall not apply.

3. The emission of particulate matter from all sources from an industrial use shall not exceed 0.5 pounds per acre of property within the plant site per any one (1) hour.

4. The open storage and open processing operations, including on-site transportation movements which are the source of wind or airborne dust or other particulate matter or which involves dust or other particulate air-contaminant generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage or sand blasting, shall be so conducted that dust and other particulate matter so generated are not transported across the boundary line of the tract on which the use is located in concentrations exceeding four (4) grains per one thousand (1,000) cubic feet of air.

C. **Odorous Matter.**

1. No industrial use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the bounding property line or any point beyond the tract on which such use or operation is located which when diluted with an equal volume of odor-free air exceeds the odor threshold (two (2) odor units).

2. The odor threshold as set forth shall be determined by observation by a person. In any case, where uncertainty may arise or where the operator or owner of an odor-emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures specified by American Society for Testing Materials A.S.T.M.D. 1391-57 entitled Standard Method for Measurement of Odor in Atmospheres shall be used and a copy of A.S.T.M.D. 1391-57 is hereby incorporated by reference.

D. **Fire or Explosive Hazard Material.**

1. No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted in the Industrial Districts except that chlorates, nitrates, perchlorates, phosphorous and similar substances and compounds in small quantities for use by industry, school laboratories, pharmacists or wholesalers may be permitted if such use is in conformance with all other ordinances of the City and has been approved by the fire department.
2. The storage and use of all flammable liquids and materials such as proxylin plastics, nitrocellulose film, solvents and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the fire department.

E. **Toxic and Noxious Matter.**

No industrial operation or use shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed ten (10) percent of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the state department of health in Threshold Limit Values Occupational Health Regulation No. 3, a copy of which is hereby incorporated by reference and is on file in the office of the building official.

F. **Vibration.**

No industrial operation or use shall at any time create earth-borne vibration which when measured at the bounding property line of the source operation exceeds the limits of displacement set forth in the following table in the frequency ranges specified:

<table>
<thead>
<tr>
<th>Frequent Cycles per Second</th>
<th>Displacement in inches</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>IC-E &amp; IC-G District</td>
</tr>
<tr>
<td>0 to 10</td>
<td>0.002</td>
</tr>
<tr>
<td>10 to 20</td>
<td>0.0016</td>
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<tr>
<td>20 to 30</td>
<td>0.001</td>
</tr>
<tr>
<td>30 to 40</td>
<td>0.0006</td>
</tr>
<tr>
<td>40 and over</td>
<td>0.0005</td>
</tr>
</tbody>
</table>

G. **Open Storage.**

No open storage of materials or commodities shall be permitted with any industrial use except as an accessory use to a main use located in a building. No open storage operation shall be located in front of the main building and no storage use shall constitute a wrecking, junk or salvage yard.

H. **Glare.**

No use or operation in the Industrial Districts shall be located or conducted so as to produce intense glare or direct illumination across the bounding property line from a visible source of illumination, nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

### 35.12.12 **Salvage Yards & Industrial Operations.**

A. Before a Specific Use Permit for the use of property as a salvage yard can be granted, plans and specifications showing the location of premises, grading plan, existing and proposed drainage, proposed operational details including noise levels, hours of operation, errant dust and truck access shall be submitted to, and approved by, the City Council.

B. In reviewing the application, the Planning and Zoning Commission may consider the most appropriate use of the land, distances from property lines, the protection of pedestrians and vehicles, the prevention of the collection and stagnation of water at all stages of the operation.

C. A bond may be required to ensure performance.

D. Any expansion of a nonconforming salvage yard shall require a Specific Use Permit.
A. Before a Specific Use Permit for the commercial excavation and removal of earth products can be granted, plans and specifications showing the location of premises, grading plan, existing and proposed drainage, proposed operational details including noise levels, hours of operation, errant dust and truck access, and details of regarding and revegetation of the site shall be submitted to, and approved by, the City Council.

B. In reviewing the application, the Planning and Zoning Commission may consider the most appropriate use of the land, distances from property lines, the protection of pedestrians and vehicles, the prevention of the collection and stagnation of water at all stages of the operation, and the rehabilitation of the land upon termination of operation.

C. A bond may be required to ensure performance.

D. Any expansion of a nonconforming commercial excavation shall require a Specific Use Permit. An expansion is defined as removal of additional undisturbed topsoil or vegetation or otherwise enlarging the area which had been mined, commonly referred to as the quarry face or active quarry area.

(Amended Ord. No. 2002-040, 02/05/2002)
(Amended Ord. No. 2006-201, 07/18/2006)
(Amended Ord. No. 2006-349, 12/12/2006)
(Amended Ord. No. 2009-082, 04/07/2009)
(Amended Ord. No. 2009-148, 06/16/2009)
(Amended Ord. No. 2012-155, 07/17/2012)
(Amended Ord. No. 2012-172, 08/07/2012)
(Amended Ord. No. 2013-197, 08/06/2013)
(Amended Ord. No. 2014-084, 03/18/2014)