

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING SUBPART E OF SUBSECTION 5.2, "LOCATION OF REQUIRED SCREENING," OF SECTION 5, "SCREENING FENCES AND WALLS," OF CHAPTER 4, "DEVELOPMENT REQUIREMENTS," OF THE ZONING ORDINANCE OF THE TOWN OF PROSPER; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council"), has investigated and determined that the Zoning Ordinance should be amended; and

WHEREAS, after public notice and public hearing as required by law, the Planning & Zoning Commission of the Town of Prosper, Texas, has recommended amending the Town's Zoning Ordinance to encompass those amendments as set forth herein; and

WHEREAS, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of said Planning & Zoning Commission and of all testimony and information submitted during said public hearing, the Town Council of the Town of Prosper, Texas, has determined that it is in the public's best interest and in furtherance of the health, safety, morals, and general welfare of the citizens of the Town to amend the Town's Zoning Ordinance as set forth herein.

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

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, existing Subpart E of Subsection 5.2, "Location of Required Screening," of Section 5, "Screening Fences and Walls," of Chapter 4, "Development Requirements," of the Zoning Ordinance of the Town of Prosper Texas, is hereby amended to read as follows:

"CHAPTER 4 DEVELOPMENT REQUIREMENTS

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SECTION 5. SCREENING FENCES AND WALLS

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5.2 Location of required screening.

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E. Trash and recycling collection area requirements are as follows:

1. Trash and recycling collection areas shall be located to minimize visibility.
2. Trash and recycling collection areas shall not be located between a building and street unless approved by the Director of Development Services, or his/her designee.
3. Collection area enclosures shall contain permanent walls on three sides with the service opening not directly facing any public right-of-way or any residentially zoned property, unless setback a minimum of 250 feet from the right-of-way or residentially zoned property. The fourth side will incorporate a metal gate of a height equal to the height of the wall to visually screen the dumpster or compactor. The metal gate shall be closed at all times unless the container(s) are being serviced.
4. Screening enclosures shall be visually and aesthetically compatible with the overall project.
5. Trash and recycling receptacles shall be screened with a minimum eight-foot clay fired brick or stone wall of sufficient height to entirely screen the container(s) and of a color that is consistent with the color of the primary building.
6. Trash compactors shall be screened with a minimum eight-foot clay fired brick or stone wall of sufficient height to entirely screen the container(s) and of a color that is consistent with the color of the primary building.
7. Enclosure sizes and specifications shall be determined by the Town's trash and recycling contractor, subject to approval by the Director of Development Services, or his/her designee.
8. A row of Nellie R. Stevens Holly, or other evergreen species as approved by the Director of Development Services, or his/her designee, that is a minimum four feet in (4') height at the time of planting and has a mature height of a minimum six feet (6'), shall be planted in a minimum five-foot (5') wide landscaped area that borders the three permanent walls of the enclosure. If this required landscape area is located on the perimeter of the property, the perimeter landscape area may be used towards this requirement and will not need to be widened, provided that it is a minimum five feet (5') in width and can accommodate the required plantings. The required landscape area shall be irrigated.

9. The path used from the business door to the collection area enclosure shall remain clear of debris and food residue at all times.”

SECTION 3

Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 4

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5

Any person, firm, corporation, or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of two thousand dollars (\$2,000.00), and each and every day such violation shall continue shall constitute a separate offense.

SECTION 6

This Ordinance shall become effective after its adoption and publication as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 9TH DAY OF JANUARY, 2024.

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney