

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING SUBPART 3, "GAS PUMPS," OF SUBSECTION 1.4, "CONDITIONAL DEVELOPMENT STANDARDS," OF SECTION 1, "USE OF LAND AND BUILDINGS," OF CHAPTER 3, "PERMITTED USES AND DEFINITIONS," OF THE TOWN'S ZONING ORDINANCE; AMENDING SUBPART 17, "CONVENIENCE STORE WITH GAS PUMPS," OF SUBSECTION 1.4, "CONDITIONAL DEVELOPMENT STANDARDS," OF SECTION 1, "USE OF LAND AND BUILDINGS," OF CHAPTER 3, "PERMITTED USES AND DEFINITIONS," OF THE TOWN'S ZONING ORDINANCE; 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 3, "Gas Pumps," of Subsection 1.4, "Conditional Development Standards," of Section 1, "Use of Land and Buildings," of Chapter 3, "Permitted Uses and Definitions," of the Town's Zoning Ordinance, is hereby amended to read as follows:

"CHAPTER 3 PERMITTED USES AND DEFINITIONS

SECTION 1. USE OF LAND AND BUILDINGS

* * *

1.4 CONDITIONAL DEVELOPMENT STANDARDS

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3. **Gas Pumps.** Gas pumps shall be subject to the following development standards:
- a) Gas Pumps are permitted only within 200 feet of the right-of-way lines of intersecting major thoroughfares. When Gas Pumps are associated with a minimum 50,000 square foot grocery store or Big Box, the gas pumps may be a distance greater than 200 feet from the right-of-way lines of intersecting major thoroughfares;
 - b) Gas Pumps are permitted at a maximum of two corners at an intersection of two major thoroughfares;
 - c) Canopies shall have pitched roofs;
 - d) Canopy support columns shall be entirely masonry encased;
 - e) A raised landscape planter of the same material as the masonry columns shall be provided at both ends of all pump islands. Raised landscape planters shall be between 18 inches and 24 inches tall and a minimum of four feet wide and four feet long;
 - f) Raised planters shall be landscaped with a combination of shrubs and ground cover as approved by the Director of Planning, or his/her Designee.
 - g) Landscape island(s) totaling a length equal to 50 percent of the canopy perimeter and a minimum of six feet wide shall be provided for screening and traffic flow purposes. These areas shall have a minimum of one ornamental tree per 12 linear feet or portion thereof and one five-gallon shrub per one linear foot arranged as approved by the Director of Planning, or his/her Designee.
 - h) Use shall be removed if closed for more than six months; and
 - i) The canopy band face shall be of a color consistent with the main structure or an accent color and may not be backlit."

SECTION 3

From and after the effective date of this Ordinance, existing Subpart 3, "Gas Pumps," of Subsection 1.4, "Conditional Development Standards," of Section 1, "Use of Land and Buildings," of Chapter 3, "Permitted Uses and Definitions," of the Town's Zoning Ordinance, is hereby amended to read as follows:

"CHAPTER 3 PERMITTED USES AND DEFINITIONS

SECTION 1. USE OF LAND AND BUILDINGS

* * *

1.4 CONDITIONAL DEVELOPMENT STANDARDS

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17. **Convenience Store With Gas Pumps.** Convenience Stores with Gas Pumps shall be subject to the following development standards:
- a) Permitted in the designated districts only within 200 feet of the right-of-way lines of intersecting major thoroughfares. When the Convenience Store with Gas Pumps is associated with a minimum 50,000 square foot grocery store or Big Box, the gas pumps may be a distance greater than 200 feet from the right-of-way lines of intersecting major thoroughfares;
 - b) Gas Pumps are permitted at a maximum of two corners at an intersection of two major thoroughfares;

- c) The distance requirement from any residential zoning district as established in Section 9.11 of Chapter 4 shall apply.
- d) Canopies shall have pitched roofs;
- e) Canopy support columns shall be entirely masonry encased;
- f) The canopy band face shall be a color consistent with the main structure or an accent color and may not be backlit; and
- g) Use shall be removed if closed for more than six months.”

SECTION 4

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 5

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 6

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 7

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 23RD 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