

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, DESIGNATING A CERTAIN AREA WITHIN THE TOWN OF PROSPER, TEXAS AS NEIGHBORHOOD EMPOWERMENT ZONE NUMBER 1 TO PROMOTE ECONOMIC DEVELOPMENT IN THE ZONE; ESTABLISHING THE BOUNDARY OF SUCH ZONE; PROVIDING FOR A WAIVER OF CERTAIN PERMIT AND IMPACT FEES; PROVIDING FOR THE CONSIDERATION OF THE REFUND OF MUNICIPAL PROPERTY AND SALES TAXES, REQUIRING A DEVELOPMENT AGREEMENT; MAKING FINDINGS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Prosper, Texas ("Town Council"), has investigated and determined that the promotion of economic development of the Downtown commercial areas is advantageous to the Town and its citizens; and

WHEREAS, Chapter 378 of the Texas Local Government Code authorizes municipalities in the State of Texas to establish Neighborhood Empowerment Zones; and

WHEREAS, the Town Council previously enacted Resolution No. 09-133 on November 10, 2009, which provided certain incentives to non-residential development through Neighborhood Empowerment Zone No. 1 and the incentives referenced therein; and

WHEREAS, Resolution 09-133 was in effect for a period of ten (10) years, is no longer in effect, and the Town Council desires to adopt a new Neighborhood Empowerment Number 1; and

WHEREAS, Neighborhood Empowerment Zone Number 1 provides for the waiver of certain permit fees and impact fees, and the consideration of the refund of municipal property and sales taxes for a specific period of time, subject to the execution of a development agreement between the Town and a property owner in regard to the adherence to architectural standards and building materials for non-residential structures constructed pursuant to Neighborhood Empowerment Zone Number 1, and

WHEREAS, Chapter 380 of the Texas Local Government Code provides that Texas Municipalities may create programs to promote economic development; and

WHEREAS, the Town Council finds that the creation of Neighborhood Empowerment Number 1 satisfies the requirements of Section 312.002 of the Tax Code.

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

Neighborhood Empowerment Zone Number 1 ("NEZ 1") is hereby created, as shown on the map attached hereto and incorporated herein as Exhibit A, and is subject to the following conditions:

1. NEZ 1 is solely applicable to property owners in the Downtown area for the construction of new, non-residential development. For the purpose of this Ordinance, the term, "new, non-residential development" shall also mean the demolition and/or the redevelopment of existing structure(s), when the demonstrated value of the new construction exceeds the value of the previous improvement by a minimum of fifty percent (50%), based on the most recent value determined by the Collin Central Appraisal District.

2. Prior to authorizing fee waivers or the consideration for requests for the refund of municipal property taxes or municipal sales taxes, a development agreement shall be executed between the Town and the property owner. The development agreement will be prepared by the Town and, among others, the owner shall agree to construction standards as established in the Zoning Ordinance, as it exists or is amended, and the "Old Town Architectural Standards, attached hereto and incorporated herein as Exhibit B.

3. Any development agreement executed by the Parties pursuant to this NEZ 1 shall be filed in the Collin County real property records.

4. The Town Manager is hereby authorized to execute development agreements which do not include a request for any refund of municipal property or municipal sales taxes.

5. Development agreements which include requests for the refund of municipal property taxes or municipal sales taxes shall require the approval by the Town Council.

6. Upon execution of a development agreement, the Town shall waive 75% of the cost of the following fees:

- a. building permit fees
- b. construction inspection fees
- c. structure demolition permit fees
- d. certificate of occupancy fees
- e. water, wastewater, and roadway impact fees

5. At its sole discretion, the Town Council may authorize the refund up to sixty percent (60%) of municipal sales tax and/or one-hundred percent (100%) of municipal property tax resulting from the new development in NEZ 1. The refund of any taxes shall not exceed a period of ten (10) years.

SECTION 3

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 for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 4

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 5

This Ordinance shall become effective and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Prosper, Texas.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 28TH DAY OF JANUARY, 2020.



APPROVED:

Ray Smith, Mayor

ATTEST:

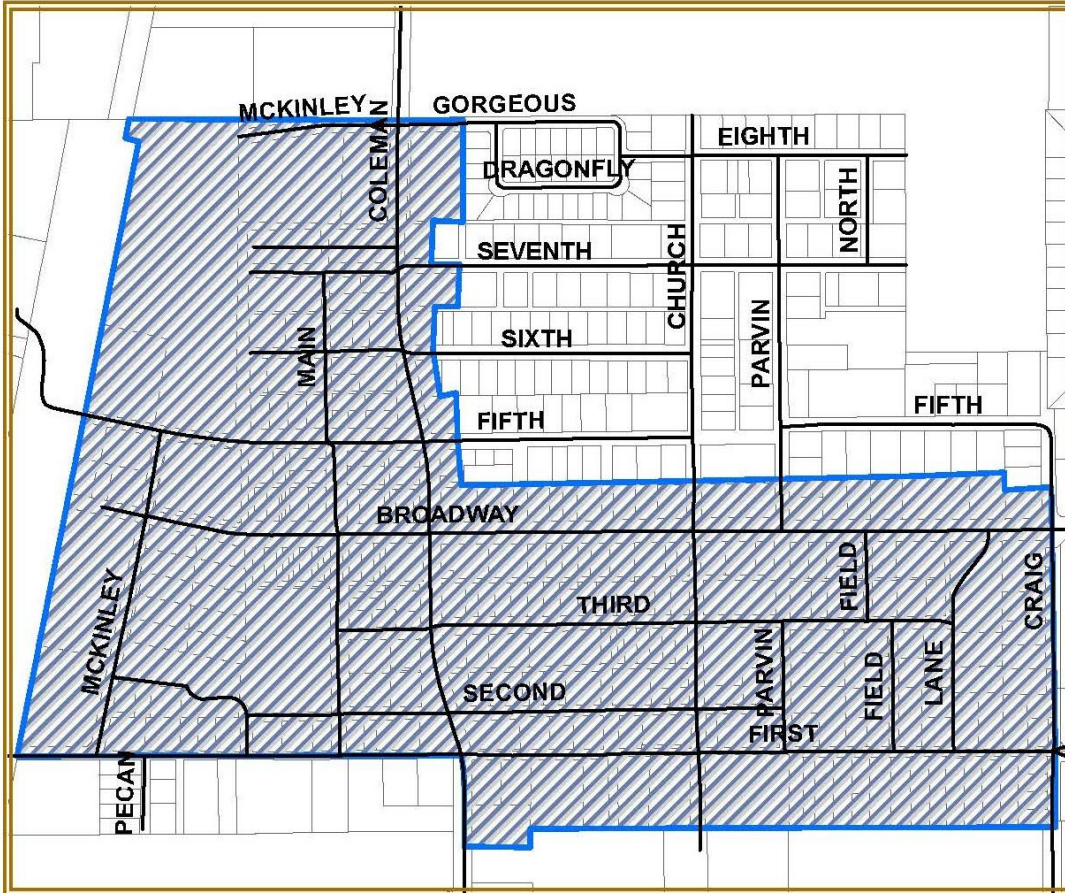
Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

EXHIBIT A

TOWN OF PROSPER
Neighborhood Empowerment Zone No. 1



Note: The provisions of this Neighborhood Empowerment Zone are restricted to Non-Residential Development.

0 305 610 1,220 Feet

Prepared 01/30/2020

Exhibit B

Prosper Old Town Architectural Standards

1. Old Town Architectural Standards

a. Intent

Old Town is a unique area of Prosper with a distinct architectural character created by existing buildings dating back to the early 1900's. The Old Town area is envisioned to be a pedestrian-oriented, commercial environment that provides opportunities for shops, restaurants, offices and entertainment venues to create a vibrant district. The reuse of existing buildings is encouraged, and new buildings are generally required to be of a character that is consistent with the existing architectural character of the area,



Example: Architectural Designs that establish unique building expressions

although proposals for architectural designs that establish unique building expressions while still fitting the overall context of Old Town can be considered. It is recognized that deviations from the requirements for exterior materials may be necessary to achieve unique building expressions in specific instances. The process for considering such requests is established within Chapter 4 of the Zoning Ordinance. The use of quality building materials will reinforce the character and

viability of the Old Town area long term. Exterior wall materials, articulation and rhythm is critical to creating the sense of place desired by the community. Tri-partite architectural design is required in order for buildings to respond appropriately to the pedestrian, while providing architectural interest by distinguishing the bottom, middle, and top of structures.

b. Building Articulation / Appearance

Where visible from a public street or open space:

- i. *Buildings shall demonstrate both horizontal and vertical articulation.*
- ii. *Buildings shall maintain a façade rhythm expressed by a change in building plane, stepping portions of facades in and out, utilizing balconies, windows, columns or pilasters that are distinctly set out from the façade, undulating the roof line by changing the*



Example: Façade Rhythm



Example: Undulating Roof Line

height of the parapet, or changing types or colors of materials in combination with other techniques.

- iii. *Balconies may extend over the sidewalk* if they maintain a minimum ten (10) feet of clearance above the sidewalk, minimum distance of five (5) feet from the back of curb, and do not interfere with street tree growth or utilities (above or below grade). Any encroachment of balconies over the street right-of-way will require a license agreement with the Town.
- iv. *Buildings shall be designed and constructed as tripartite architecture*, with a distinct base, middle and top. An expression line, setback or other architectural element will delineate the base and top.



Example: Balconies Extending Over Sidewalk



Example: Tripartite Architecture

- v. *Primary entrances to buildings shall be located on the street* along which the building is oriented. At intersections, corner buildings may have the primary entrances oriented at an angle to the intersection.
- vi. *All primary entrances to buildings shall be covered with awnings, canopies, or be inset behind the front façade a minimum four (4) feet.* A door shall not be permitted to swing into a public right-of-way or sidewalk area.
- vii. *Secondary and service entrances shall be located along alleys, or internal parking areas.*
- viii. *The ground floor level of buildings shall have a minimum of 45% and maximum of 65% of the façade comprised of window area.* A reduction of up to 10% may be granted if specific building design conditions warrant with approval of the Director of Development Services or his/her designee.
- ix. *Floors above the ground floor level shall have a minimum of 30% and a maximum of 60% of the façade comprised of window area.* A reduction of up to 10% may be granted if specific building design conditions warrant with approval of the Director of Development Services or his/her designee.
- x. *The base color for the primary façade shall be muted colors that would commonly occur in natural stone or clay fired brick.* Trim accents can be either a contrasting or harmonizing color, as long as the colors do not contrast so strongly that they do not



Example: Ground Floor Window Area – Façade

read as a part of the overall façade composition. The use of bright, high-intensity colors is subject to Director of Development Services or his/her designee approval.

c. Building Walls

i. Materials

Each exterior wall shall comply with the following materials requirements:

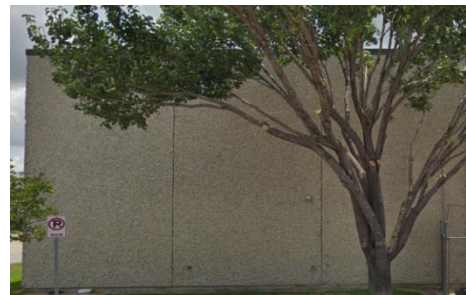
- a) Primary Materials ($\geq 75\%$)
 - 1) Clay-Fired Brick
 - 2) Natural Stone
- b) Secondary Materials ($\leq 25\%$) (Above Ground Floor only)
 - 1) Wood-based, high-pressure laminate (e.g. Compact Wood, Trespa, Prodema, or equal)
 - 2) Three-Coat Stucco
- c) Accent Materials ($\leq 10\%$)
 - 1) Pre-cast stone
 - 2) Metal Accents
 - 3) Tile
 - 4) Cement Board
 - 5) Other as permitted with approval of the Director of Development Services or his/her designee.

ii. Techniques and Configurations

- a) Blank facades are prohibited fronting along a street or public open space in lengths greater than twenty (20) linear feet. Design treatments to eliminate blank facades are subject to Director of Development Services or his/her designee approval based on the ability to enhance the pedestrian and visual environment and can include items such as transparent windows and doors, display windows and/or awnings.



Example: Blank Façade



- b) All elevations visible from the public open space or street shall be designed as building façades. Buildings occupying corner lots shall have two facades and each facade should be treated with equal design attention (e.g. parapet walls).
- c) Exterior façade material transitions from base to middle or middle to top should be made in one of two ways:
 - 1) Horizontally, through a shift in vertical plane toward the interior, or
 - 2) Vertically, through a change in building materials or the use of trim along a level line.
- d) In buildings which have more than one material, the “heavier” material should go below the “lighter” material (e.g. a three-coat stucco wall



Example: Corner Lot with Two Façades



Example: “Heavier” Materials below “Lighter” Materials (upper story with a stone or brick base).

d. Roofs and Parapets

The majority of existing roofs on the older commercial buildings in Old Town are flat with a parapet, creating a distinct architectural character. Roofs on new buildings in the Old Town area, while not required to be flat, shall have a similar look to the older commercial buildings. Provision for roof-top dining, entertaining, or outdoor gathering spaces is encouraged.

i. Materials

- a) Roofs may be constructed of any material that is permitted by applicable building codes.
- b) For flat roofs, “Green Roofs” are encouraged and may be used in lieu of any other roofing material with approval of the Director of Development Services or his/her designee.



Example: Roof-Top Dining and Entertaining

ii. *Techniques and Configurations*

a) Flat roofs

- 1) Cornices must be provided for flat roofs.
- 2) Cornices shall project horizontally a minimum of six (6) inches and maximum of twelve (12) inches beyond the facade of the building for each story up to the maximum height.



Example: Cornices

b) Pitched Roofs

- 1) If a pitched roof is provided, the highest point of the ridgeline shall be concealed from surrounding streets or open spaces by a parapet. The parapet shall not exceed six (6) feet in height.



Example: Ridgeline Concealed Behind Parapet

c) Eaves

- 1) If provided, eaves must overhang the principal building a minimum of eighteen (18) inches to a maximum thirty (30) inches for the initial two building stories. For additional building stories, eaves must overhang the principal building a minimum twenty-four (24) inches to maximum forty-two (42) inches.



Example: Overhanging Eaves

iii. *Roof Mounted Equipment*

- a) All roof-mounted equipment, including fans, vents, air conditioning units, and cooling towers, shall be screened to eliminate the view of the equipment.
- b) The height of the screening device shall equal the height of the tallest element of roof-mounted equipment.
- c) A parapet or architectural design element on a building shall screen mechanical equipment; however, the parapet or architectural design element shall be limited to maximum six (6) feet in height. Mechanical equipment taller than the parapet or architectural design element shall be screened by an additional screening device to achieve the required screening height.
- d) The outside of the screening device shall be painted or finished in a similar color to the building façade, trim or roof surface.
- e) Roof-mounted equipment and the inside of the screening device shall be painted similar to the color of the roof surface in order to minimize the visibility

of the equipment and screening mechanism from overhead views from adjacent properties.

e. Windows, Doors, Awnings and Canopies

Windows lining a building facade establish the scale and rhythm of the streetscape for pedestrians. This scale is controlled by the placement, type and sizes of windows. For commercial buildings, windows allow for goods and customers to be viewed, thus creating interaction between the building and public realm.

i. Windows

a) Materials

- 1) Anodized aluminum, wood, clad wood, vinyl or steel frame.
- 2) Ornamental glass (leaded, stained) may be allowed with approval of the Director of Development Services or his/her designee.
- 3) Mirrored glass is prohibited.
- 4) Window screens shall match the window frame material color or shall be dark anodized. Window screens shall be prohibited on ground floor of buildings.
- 5) Exterior solar screens shall not be allowed to cover windows or doors.
- 6) Windows shall not be made opaque by signage or other application treatments. However, movable interior sunscreens or blinds shall be permitted.
- 7) Black glass, opaque glass and other “false window” techniques are prohibited.



Example: False Window

- 8) At the ground floor level:
 - (a) Windows shall have a minimum 60% visible light transmittance.
 - (b) Windows having a visible light transmittance less than 60% may be allowed by the Director of Development Services or his/her designee in order for the windows to satisfy building code requirements related to energy efficiency, provided that the windows maximize, to the extent possible, the visible light transmittance desired for commercial uses at the ground floor level for urban streetscape environments to maximize the visibility of the interior activities of the building.

- (c) Operable windows including decorative overhead doors shall be permitted in restaurants and outdoor dining locations.
- b) Techniques and Configurations
 - 1) All Windows
 - (a) The horizontal dimension of window openings shall not exceed the vertical dimension without approval of the Director of Development Services or his/her designee.
 - (b) Horizontal groupings of windows not to exceed five (5) per group, where separated by a mullion, column, or wall section a minimum of seven (7) inches wide.
 - (c) Exterior shutters shall be sized and mounted appropriately for the window opening and will be one half the width of the adjacent window.
 - (d) Windows shall be a minimum of thirty (30) inches from building corners, unless separated by a corner mullion or column twice the width used in the grouping.



Example: Operable Windows and Overhead Doors

ii. Doors

- a) Materials
 - 1) Wood, clad wood, anodized aluminum, glass and/or steel.
- b) Techniques and Configurations
 - 1) Doorway entries shall be recessed four (4) feet or more behind the façade of the building. Where a four (4) foot setback is not possible due to existing constraints, the doorway shall have a canopy or awning.



Example: Canopy or Awning over Non-Recessed Door



Example: Recessed Door

- 2) Service, security or garage doors shall not be placed along street frontages or open spaces; however, these entries may be placed along alleys or internal parking areas.

iii. Awnings and Canopies

- a) Materials
 - 1) Metal, canvas, or tempered glass
- b) Techniques and Configurations

- 1) Awnings or canopy shall extend a maximum of eight (8) feet from the building facade over the sidewalk for at least 75% of the frontage of the building.
- 2) Minimum eight (8) foot clearance above sidewalks.
- 3) Shall be constructed in such a way as to be durable and consistent with the architectural character of the building.
- 4) When used, shall be located to provide shading for ground floor exterior windows and doors and shall cover the entire width of the window opening or groups of windows.
- 5) Shall be placed in such a manner as to emphasize the architectural features of the building.



Example: Awnings Highlighting Architectural Features

2. Definitions

For the purposes of this Ordinance, the following words shall have the following definitions ascribed to them. Words not defined in this Ordinance shall be given their common and ordinary meaning.

Cornice. An ornamental molding just below the roofline that frames or supports the upper façade and includes any eaves or other overhangs beneath the roof.

Eaves. The edges of a roof that project outward from the main structure of a building and overhang the wall.

Façade. The exterior walls of a structure that are visible to an observer from the outside, especially at the ground level.

Ground Floor. That portion of a building from the street-level finish floor elevation and extended twelve and one-half feet above the street-level finish floor elevation.

Green Roof. A building roof that is partially or entirely covered by greenery or vegetation, requiring the use of a growing medium in-between the structure and the plants above and providing insulation, shade, and aesthetic improvements for the structure's inhabitants.

Ridgeline. The peak of a roof where two or more sloped surfaces meet to form the top of the building or structure.

Solar Screen. A special window screen mesh, often opaque, that is specially designed for sun control.

Three-Coat Stucco. The traditional application of plaster or a plaster-like material, often composed of Portland cement, sand, and lime, in three coats to cure and strengthen the exterior of a building or structure.

Tri-Partite Architecture. The aesthetic division of a structure into three distinct parts, such as the base, shaft, and capital of a Classical column.

Visible Light Transmittance. The amount of light that is transmitted, and thus visible, through a window.

Window Screen. A screen, usually of wire mesh, designed to fit into a window frame and keep out insects when the window is open.