

ORDINANCE NO. 23-3751

AN ORDINANCE AMENDING ORDINANCE NO. 19-3690 OF THE CITY OF PLAINVIEW, TEXAS BY AMENDING THE MAXIMUM SQUARE FOOTAGE ALLOWED FOR COMMERCIAL STRUCTURES LOCATED IN A NEIGHBORHOOD COMMERCIAL (“NC”) ZONING DISTRICT AS SET OUT IN TABLE 14.05.003 OF §14.05.003 OF THE CODE OF ORDINANCES; PROVIDING FOR A PENALTY OF UP TO \$2,000.00 FOR VIOLATIONS; PROVIDING AN EFFECTIVE DATE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council for the City of Plainview, Texas has jurisdiction under the constitution and laws of the State of Texas including, but not limited to, Article 11, Section 5 of the Texas Constitution as a home rule city and Texas Local Government Code Chapter 211, to set forth zoning ordinances and regulations for the public health, safety, morals, or general welfare, for protecting and preserving places and areas of historical, cultural, or architectural importance and significance and to promote a harmonious, convenient, workable relationship among land uses; and

WHEREAS, the City Council of the City of Plainview, Texas previously passed Ordinance 19-3690 on April 23, 2019, a comprehensive zoning ordinance, as amended and codified in Plainview Code of Ordinances Chapter 14 defining and establishing zoning districts and the regulations associated with such zoning districts; and

WHEREAS, § 14.02.002 of the Plainview Code of Ordinances established a zoning district known as the Neighborhood Commercial (“NC”) zoning district that allows limited and non-intrusive commercial uses within a .25 mile to .5 mile radius to residential neighborhoods so that citizens have the ability to obtain essential goods and services within both walking and biking distance to their homes or with office uses that create minor automobile traffic; and

WHEREAS, the buildings located in a Neighborhood Commercial (“NC”) zoning district are restricted to a maximum square footage of 15,000 square feet as detailed in Table 14.05.003 of § 14.05.003 of the Plainview Code of Ordinances; and

WHEREAS, there are several commercial buildings located within a Neighborhood Commercial (“NC”) zoning district that were constructed prior to the enactment of Ordinance 19-3690 that exceed the maximum square footage allowed for a commercial building in a Neighborhood Commercial (“NC”) zoning district but could otherwise be efficiently used for a Neighborhood Commercial (“NC”) zoning district purposes; and

WHEREAS, the City of Plainview staff believes that, in order to reduce waste and encourage utilization of existing commercial structures located in a Neighborhood Commercial (“NC”) zoning district, it would be beneficial to allow such commercial building structures constructed before the enactment of Ordinance 19-3690 that exceed the

maximum square footage be utilized for neighborhood commercial purposes as outlined Ordinance 19-3690; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on June 22, 2023, to consider amending Plainview’s Zoning Ordinance to allow commercial building structures constructed before the enactment of Ordinance 19-3690 that exceed the maximum square footage of 15,000 square feet as detailed in Table 14.05.003 of § 14.05.003 of the Plainview Code of Ordinances be utilized for neighborhood commercial purposes as such purposes are outlined Ordinance 19-3690 and at the conclusion of such hearing voted to recommend to the City Council to amend the Zoning Ordinance as outlined herein; and

WHEREAS, following the recommendation of the Planning and Zoning Commission, notice of the time and place of a public hearing on the proposal before the City Council was published in the *Plainview Daily Herald* at least fifteen (15) days prior to the date of the public hearing in accordance with §211.006(a) of the Texas Local Government Code; and

WHEREAS, on July 25, 2023, the City Council of the City of Plainview conducted a public hearing on this proposed change to the zoning ordinance of the Plainview Code of Ordinances at a regular council meeting and all interested persons were given an opportunity to speak on such recommendation; and

WHEREAS, the City Council of the City of Plainview finds that amending Ordinance 19-3690 to allow commercial building structures constructed before the enactment of Ordinance 19-3690 that exceed the maximum square footage of 15,000 square feet as detailed in Table 14.05.003 of § 14.05.003 of the Plainview Code of Ordinances be utilized for neighborhood commercial purposes as such purposes are outlined Ordinance 19-3690 is be reasonable and beneficial for the public health, safety, morals, general welfare and public interest of the citizens of Plainview and desires amend the ordinance and the Zoning Map of Plainview accordingly;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLAINVIEW HEREBY ORDAINS THAT:

SECTION 1. The recitals set forth above are hereby found to be true and correct and are incorporated into the body of this Ordinance for all purposes as if fully set forth herein.

SECTION 2. Ordinance 19-3690 as amended and codified in the Code of Ordinances of the City of Plainview Texas, is hereby amended by amending the “Notes” at the bottom of Table 14.05.003 of § 14.05.003 as follows (for reference purposes, amended portions are indicated as follows: deletions – strikeout; new additions - underlined and italicized):

Notes:

¹ Additional setback requirements are found in Sec. 14.05.004(b), *Alternative Setback Compliance: Setback Averaging*.

² Some accessory buildings and structures are exempt from the minimum setback requirements as shown here. Regulations for these setbacks may be found at Sec. 14.05.006, *Standards for Accessory Buildings and Structures*.

³ Maximum building height exceptions are found in Sec. 14.05.005, *Height and Area Exceptions*.

⁴ **Maximum Building Size in the Neighborhood Commercial (NC) District.** *For all* All buildings and structures in the NC District constructed after April 23, 2019, shall be either:

a. The size of the existing building footprint on a specific lot; or

b. A maximum of 15,000 square feet.

For any building or structure in a NC District constructed prior to April 23, 2019, the maximum square footage of such building shall not apply. All other restrictions related to the use of such building or structure in a NC District shall apply and the maximum square footage for any single limited and non-intrusive commercial use permitted in a NC District within such building or structure shall not exceed the lesser of the maximum square footage allowed for such use in Chapter 14 of the Plainview Code of Ordinances or 15,000 square feet.

SECTION 3. Penalty. A violation of any provision of this Ordinance shall be deemed a misdemeanor punishable in accordance with Section 1.01.009 of the Code of Ordinances of the City of Plainview, Texas.

SECTION 4. Civil Remedies. The City shall have the power to administer and enforce the provisions of this ordinance as may be required by governing law and any person found violating any provision of this ordinance is subject to any and all legal and equitable remedies available to the City including but not limited to injunctive relief and bringing civil action in a court with competent jurisdiction.

SECTION 5. Effective Date. This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 6. Conflicts. All other terms and provisions of the Code of Ordinances, City of Plainview, Texas not in conflict herewith and not hereby amended shall remain in full force and effect.

SECTION 7. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Plainview, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 8. Publication. The City Secretary of the City of Plainview is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

Passed and approved on first reading this 25th day of July, 2023.

Passed and approved on second reading this 3rd day of August, 2023.

Charles Starnes, Mayor

ATTEST:

Belinda Hinojosa, City Secretary

APPROVED AS TO CONTENT:

Jeffrey Snyder, City Manager

APPROVED AS TO FORM:

Matthew L. Wade, City Attorney