

**AN ORDINANCE OF THE CITY OF VAN ALSTYNE, TEXAS AMENDING THE ZONING ORDINANCE TO CHANGE THE EXISTING ZONING CLASSIFICATION BY ADDING A SPECIFIC USE OF CHILD CARE CENTER ONTO THE EXISTING ZONING CLASSIFICATION OF SINGLE-FAMILY RESIDENTIAL DISTRICT (SF-1) ON A 0.5218 ACRE TRACT OF LAND DESCRIBED AS PART OF THE ASHLEY MCKINNEY SURVEY, ABSTRACT NO. 851, CITY OF VAN ALSTYNE, GRAYSON COUNTY, TEXAS; GENERALLY LOCATED ON THE SOUTH SIDE OF COBB AVENUE AND APPROXIMATELY 170 FEET EAST OF STATE HIGHWAY 5 (SOUTH WACO STREET), IN THE CITY OF VAN ALSTYNE, GRAYSON COUNTY, TEXAS; PROVIDING REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; PROVIDING A PENALTY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

WHEREAS, the City Council of the City of Van Alstyne, Texas (the “City Council”) has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Van Alstyne, Texas (“Van Alstyne”) to rezone the Property to add a Specific Use of Child Care Center to the existing SF-1, Single Family Residential District, as set forth below; and

WHEREAS, the City of Van Alstyne, Texas (“Van Alstyne”) has received a request from Carey Pitts, owner, to amend the zoning to add a Specific Use of Child Care Center to the existing SF-1, Single Family Residential District; and

WHEREAS, the 0.5218 acre tract of land being described as part of the Ashley McKinney Survey, Abstract No. 851, Grayson County, Texas, and generally located on the south side of Cobb Avenue and approximately 170 feet east of State Highway 5 (South Waco Street) and being more particularly described in Exhibit “A” attached hereto and incorporated herein for all purpose (the “Property”); and

WHEREAS, the City Council has determined that the facts contained in the request are true and correct; and

WHEREAS, the Planning and Zoning Commission and the City Council, in accordance with state law and the City of Van Alstyne Zoning Ordinance No. 557, as codified, (“Zoning Ordinance”), have given the required notices and have held the required public hearings and made a recommendation regarding the zoning of the Property.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VAN ALSTYNE, TEXAS THAT:**

**SECTION 1: Findings Incorporated.** The findings set forth above are incorporated as if fully set forth herein.

**SECTION 2: Zoning Reclassification Granted.** Van Alstyne's Zoning Ordinance is hereby amended to reflect that the Property is hereby rezoned SF-1-SUP to add a Specific Use of Child Care Center to the existing SF-1, Single Family Residential District.

**SECTION 3. Exhibits:** The attached exhibits are incorporated into this ordinance in their entirety as though set forth fully in the text of this ordinance. The exhibits are as follows:

Exhibit A: Legal Description of Property

Exhibit B: Zoning Exhibit

**SECTION 4. Zoning Map.** The Zoning Map of the City shall be amended to reflect this zoning reclassification. The Property shall be developed and used in accordance with all applicable City, state, and federal laws, as they exist or may be in the future amended, including but not limited to building codes, fire codes, and all accessibility standards as required by law.

**SECTION 5: No Vested Interest/Repeal.** No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the City Council in the manner provided for by law.

**SECTION 6: Unlawful Use of Property.** It shall be unlawful for any person, firm, entity or corporation to make use of the Property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person, firm, entity, or corporation to construct on said Property and building that is not in conformity with the permissible uses under the City's Zoning Ordinance and this Ordinance.

**SECTION 7: Penalty.** Any person, firm, corporation, or entity violating the Ordinance, or any provision of Van Alstyne's Zoning Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing days' violation under this Ordinance shall not preclude Van Alstyne from filing suit to enjoin the violation. Van Alstyne retains all legal rights and remedies available to it pursuant to local, state, and federal law.

**SECTION 8: Severability.** 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. Van Alstyne 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 or invalid.

**SECTION 9: Savings/Repealing Clause.** Van Alstyne Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other ordinance. 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 ordinances, nor shall the repeal prevent a 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 10: Effective Date.** This Ordinance shall become effective from and after its adoption and publication as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VAN ALSTYNE, TEXAS** on the 10<sup>th</sup> day of August, 2021.

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Jim Atchison, Mayor

**ATTESTED TO AND  
CORRECTLY RECORDED BY:**

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Jennifer Gould, City Clerk

*Date of Publication: August 20, 2021, Van Alstyne Leader*

## EXHIBIT A

### Legal Description

**SITUATED** in the City of Van Alstyne, County of Grayson, State of Texas, being a part of the Ashley McKinney Survey, Abstract No. 851, and being all of the 0.43 acre tract of land conveyed by Special Warranty Deed from Mark Wallis to WILLU, LP on February 22, 2006 as recorded in Volume 4011, Page 376, Official Public Records, Grayson County, Texas and being more particularly described by metes and bounds as follows to-wit:

**BEGINNING** at a 1/2 inch capped rebar set in the South line of a 20 ft. wide strip of land conveyed to the City of Van Alstyne in Vol. 1733, Pg. 118, Deed Records, Grayson County, Texas (*known as Cobb Street*), at the Northeast corner of the Carey Pitts 0.73 acre tract in Vol. 4291, Pg. 842, said Official Public Records and the Northwest corner of said WILLU 0.43 ac.;

**THENCE** North 42 deg. 24 min. 19 sec. East, with the South line of said 20 ft. strip and Cobb Street, a distance of 97.87 ft. to a 1/2 inch capped rebar set at the Northwest corner of the Theresa Marie Boyd Gilson 0.84 acre tract (Exhibit "B") in Vol. 4786, Pg. 427, said Official Public Records and the Northeast corner of said WILLU 0.43 ac.;

**THENCE** South 47 deg. 33 min. 20 sec. East, with the West line of said Gilson 0.84 ac., passing a 1/2" capped rebar found, stamped "RPLS 4488" at 5.42 ft. and continuing and passing through a chain link fence at 70.58 ft. and continuing now generally along said fence for a **TOTAL** distance of 190.20 ft. to the Southeast base of a chain link fence corner post in the North line of the Hazel Nance 2.057 acre tract in Vol. 4146, Pg. 546, said Official Public Records, at the Southwest corner of said Gilson 0.84 ac. and the Southeast corner of said WILLU 0.43 ac., **SAID** post being South 42 deg. 24 min. 19 sec. West, 147.31 ft. from a 1/2 inch rebar found at the Southeast corner of said Gilson 0.84 ac.;

**THENCE** South 42 deg. 24 min. 19 sec. West, generally along a chain link fence and with the North line of said Nance 2.057 ac., a distance of 98.01 ft. to a 1/2 inch rebar found at said chain link fence, at the Southeast corner of said Pitts 0.73 ac. and the Southwest corner of said WILLU 0.43 ac.;

**THENCE** North 47 deg. 30 min. 51 sec. West, generally along a chain link fence and with the East line of said Pitts 0.73 ac., passing the end of said fence at 133.47 ft. and continuing for a **TOTAL** distance of 190.20 ft. to the **PLACE OF BEGINNING** and containing **0.43 ACRES** of land.

## EXHIBIT B Zoning Exhibit

