

**AGENDA**  
**Special City Council Meeting**  
**6:30 p.m. Monday, August 30, 2021**  
**City Hall, 101 E. Main Street, Forney, Texas 75126**  
**Council Chambers**

**I. CALL TO ORDER**

**II. PUBLIC HEARING ITEMS / ACTION ON PUBLIC HEARING ITEMS**

1. Conduct a public hearing and consider, on first reading, an ordinance imposing a moratorium on applications and plans for development, permits, plats, verifications, rezoning, site plans and new or revised certificates of occupancy for single-family and multi-family residential development within the corporate city limits of Forney, adopting written findings justifying the moratorium, providing for waivers and limited exceptions to the moratorium, and establishing an expiration date.

Documents:

[Item Summary - Ordinance Imposing a Moratorium.pdf](#)  
[Ordinance - Imposing a Moratorium.pdf](#)

**III. EXECUTIVE SESSION**

**PURSUANT TO THE OPEN MEETINGS ACT, CHAPTER 551, TEXAS GOVERNMENT CODE, THE CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION (CLOSED MEETING) TO DISCUSS THE FOLLOWING:**

1. Deliberate the purchase, exchange, lease, or value of real property (Tex. Gov't Code Section 551.072):
  - a. Project Closet
  - b. Project Scuba
  - c. Project Acute

**IV. RECONVENE INTO REGULAR SESSION**

**IN ACCORDANCE WITH TEXAS GOVERNMENT CODE, CHAPTER 551, THE CITY COUNCIL WILL RECONVENE INTO REGULAR SESSION TO CONSIDER ACTION, IF ANY, ON MATTERS DISCUSSED IN EXECUTIVE SESSION.**

**V. ADJOURNMENT**

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of the Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed session portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144

(c) and the meeting is conducted by all participants in reliance on this opinion.

I, Dorothy Brooks, City Secretary for the City of Forney, Texas, do hereby certify that this Agenda was posted at City Hall, in a place readily accessible to the general public at all times, on the 27th day of August, 2021, at 5:00 p.m. and remained so posted for at least 72 continuous hours preceding the scheduled time of said meeting.



# City Council Agenda Item Summary Report

**Meeting Date:** August 30, 2021

**Submitted by:** Jon Thatcher, City Attorney

<b>Consent</b>	<b>Public Hearing X</b>	<b>Action Item X</b>
----------------	-------------------------	----------------------

**Item Title:** Conduct a public hearing and consider, on first reading, an ordinance imposing a moratorium on applications and plans for development, permits, plats, verifications, rezoning, site plans and new or revised certificates of occupancy for single-family and multi-family residential development within the corporate city limits of Forney, adopting written findings justifying the moratorium, providing for waivers and limited exceptions to the moratorium, and establishing an expiration date.

**How this item ties-in with the City's Mission, Vision and Values:**

### Summary Statement

City Staff has been directed to schedule and initiate the proceedings under Chapter 212, Subchapter E of the Texas Local Government Code, for the City Council to consider imposing a moratorium.

Recent applications for new residential development have demonstrated that current regulations may be inadequate to control the impacts of such growth and development on the surrounding street network, water and wastewater facilities and other public facilities. During the period that the Council is considering imposing a moratorium on residential development, a temporary moratorium is necessary to maintain the status quo and suspend further residential development during a period that the City receives public input on whether a continuing moratorium should be imposed. If the City Council enacts a continuing moratorium, the City will have additional time to research and promulgate updates to its Comprehensive Master Plan, including its Land Use Plan, as well as plan for updated needs of the public facilities for the City of Forney.

The temporary moratorium is effective on the 5<sup>th</sup> business day after public notice of the requisite public hearings is published. The notice was published on Thursday, August 26, 2021 making the temporary moratorium effective on Thursday, September 2, 2021. The temporary moratorium will run until the City Council imposes a continuing moratorium or September 12, 2021, whichever comes first.

State law requires that the City consider a waiver procedure for the Council to consider applications for development during the period of the moratorium. Also, the moratorium can be for a period not to exceed 120 days unless otherwise extended by the City Council. It must be supported by specific findings demonstrating that the moratorium is necessary to prevent a shortage of specific public facilities.

The imposition of a moratorium requires two separate readings of an ordinance setting forth the findings, imposing the moratorium, providing a system for the consideration of waivers, and outlining the exceptions.

**Proposed schedule:**

- August 30, 2021 – City Council public hearing; First reading of the Ordinance
- September 2, 2021 – Planning and Zoning Commission public hearing
- September 7, 2021 – City Council second reading of the Ordinance

**CITY OF FORNEY, TEXAS**

**ORDINANCE NO. 21- \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, IMPOSING A MORATORIUM ON APPLICATIONS AND PLANS FOR DEVELOPMENT, PERMITS, PLATS, VERIFICATIONS, REZONINGS, SITE PLANS AND NEW OR REVISED CERTIFICATES OF OCCUPANCY FOR SINGLE FAMILY AND MULTIFAMILY RESIDENTIAL DEVELOPMENTS WITHIN THE CORPORATE CITY LIMITS OF FORNEY; ADOPTING WRITTE FINDINGS JUSTIFYING THE MORATORIUM; PROVIDING FOR WAIVERS AND LIMITED EXCEPTIONS TO THE MORATORIUM; AND ESTABLISHING AN EXPIRATION DATE.**

**WHEREAS**, the City Council (“City Council”) for the City of Forney, Texas (the “City”) seeks to provide for the orderly and safe development of land and use of property within its corporate limits, and to avoid development that may constitute a public nuisance, impose an unreasonable burden on public infrastructure, or unreasonably disturb and devalue adjoining properties; and

**WHEREAS**, the City Council seeks to preserve the health, safety and general welfare of the community by enacting comprehensive development, subdivision and zoning and land use regulations that provide for orderly growth and development; and

**WHEREAS**, the City Council and citizens of the City have concerns about the impacts of increased single-family and multifamily uses and development on essential public facilities, resulting in the creation of shortages, unplanned needs and other inadequacies of public infrastructure and facilities, including but not limited to that related to traffic management, street infrastructure, park and open space, police, fire, code enforcement and data systems as well as other operational and oversight systems; and

**WHEREAS**, the City Council and citizens of the City have concerns about the impacts of single-family and multifamily residential uses and developments creating a significant need for other public facilities, including but not limited to park and open space, police, fire, code enforcement and data systems as well as other operational and oversight systems and that the failure to provide these public facilities would result in an overcapacity of such public facilities or would be detrimental to the health, safety, and welfare of the residents of the City; and

**WHEREAS**, the Texas Local Government Code, Subchapter E, “Moratorium on Property Development in Certain Circumstances,” of Chapter 212, “Municipal Regulation of Subdivisions and Property Development,” authorizes a municipality to adopt a moratorium on property development after proper notice and two public hearings; and

**WHEREAS**, the Planning and Zoning Commission and the City Council, in compliance with Chapter 212, Subchapter E, of the Texas Local Government Code, have given requisite notice by publication and otherwise, and after holding public hearings to afford a full and fair hearing to all property owners generally and to all persons, and in exercise of its legislative discretion have concluded that a moratorium should be imposed on applications and plans for development, permits, plats, verifications, rezonings, site plans and new or revised certificates of occupancy for single-family and multifamily residential developments within the corporate city limits of Forney; and

**WHEREAS**, two public hearings were held on the following dates: City Council on August 30, 2021, and Planning and Zoning Commission on September 2, 2021; and

**WHEREAS**, the City Council finds that a moratorium is necessary and prudent in order to protect the *status quo* so that the City Council may study and adopt appropriate administrative and regulatory rules, procedures and ordinances; and

**WHEREAS**, the City Council desires to implement this moratorium for a stated and fixed time period of 120 days, and to include a waiver provision for cases of necessity and undue hardship.

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

**Section 1. FINDINGS INCORPORATED**

All of the above premises are found to be true and correct factual and legislative determinations of the City of Forney and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Section 2. MORATORIUM ADOPTED**

A moratorium is hereby adopted and imposed on applications and plans for development, permits, plats, verifications, rezonings, site plans and new or revised certificates of occupancy for single-family and multifamily residential developments within the corporate city limits of Forney. The moratorium will allow the Planning and Zoning Commission and the City Council to review the Comprehensive Plan, the Zoning Ordinance, the Code of Ordinances and other ordinances and regulations of the City to consider appropriate amendments, if any, to the existing regulations for single-family and multifamily residential developments, and whether to adopt any new ordinances or regulations to regulate such uses. No new, expanded or modified single-family or multifamily residential developments are to be allowed within the corporate city limits of Forney until said review is completed and the ordinances of the City are amended as necessary, or until this moratorium, including extensions, if any, shall have expired, whichever comes first.

**Section 3. REVIEW OF APPLICATIONS DURING THE MORATORIUM**

That except as otherwise provided herein, after the effective date of, and extending for the duration of this moratorium (including any extensions hereto), no City employee, officer, official, agency, department, board or commission of the City shall accept for filing any application or plan for development for permits, plats, verifications, rezonings, site plans and new or revised certificates of occupancy for new, expanded or modified single-family or multifamily residential developments within the corporate city limits of Forney. Any City employee, officer, official, agency, department, board or commission of the City in receipt of any such application or plan for development shall forward the same to the Director of Community Development (the "Director"), who shall review the application or plan for development to determine whether the application or plan for development is subject to the moratorium. Receipt of an application or plan for development for the limited purpose of such review shall not constitute filing or acceptance of the application or plan for development. In the event the Director determines that an application or plan for development is subject to the moratorium, the Director shall take no further action on the application or plan for development and shall reject the same, and shall return the application or plan for development to the person or entity attempting to file the same.

#### **Section 4.     **CONSIDERATION OF WAIVER****

An applicant for a development of single-family or multifamily residential development as described herein may apply for a waiver from this moratorium by submitting a written request for waiver to the City Council, which shall be voted on by the City Council within twenty-one (21) days after receipt of the request, or within ten (10) days after receipt if the request for waiver is based on reasons provided in Section 212.137 of the Local Government Code. The request shall be in writing and submitted to the City Secretary, who shall forward the request to the Director for processing and recommendation to the City Council. The City Council may authorize or deny the requested waiver, and if authorized, direct the applicable City official to accept a completed application and process the application subject to conditions necessary to ensure that the proposed development would not cause adverse effects to the surrounding property or the City's infrastructure and to carry out the spirit and purpose of this ordinance. The City Council should not release the applicant from the requirements of this ordinance unless the applicant first presents credible evidence from which the City Council can reasonably conclude that (1) the application of this ordinance to the applicant would be likely to deprive the applicant of rights protected by law; or (2) the proposed development is compatible with the land use in proximity to the proposed development and permitting the development to proceed would not cause adverse effects to surrounding property or the City infrastructure or be contrary to the spirit and purpose of this ordinance.

#### **Section 5.     **EXEMPTIONS****

The provisions of this ordinance do not apply to any new, expanded or modified development or use that is being constructed or is to be constructed pursuant to a Development Agreement with the City or any completed application or plan for development for a permit, plat, verification, rezoning, site plan or new or revised certificate of occupancy for any new, expanded or modified single-family or multifamily residential development that was filed prior to September 2, 2021, such date being the fifth business day after the date on which the City published notice of public hearings to consider this ordinance.

Additionally, the provisions of this ordinance do not apply to applications for roof, electrical, plumbing and mechanical permits for existing single-family or multifamily residential developments if the permits are required solely for property maintenance.

#### **Section 6.     **PERIOD OF MORATORIUM****

This ordinance shall expire upon one hundred and twenty (120) days after its adoption unless extended as allowed by applicable law.

#### **Section 7.     **TERMS DEFINED****

For purposes of this moratorium, the terms set forth herein shall have the same meanings assigned by Chapter 212, Subchapter E, of the Local Government Code, the Forney Zoning Ordinance and Code of Ordinances of the City, except as otherwise provided herein. "Permit" shall mean a license, certificate, approval, registration, consent, permit or other form of authorization required by law, rule, regulation, order or ordinance that a person must obtain to perform an action or initiate, continue or complete a project for which the permit is sought, including a verification, contract or agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated or controlled by a regulatory agency.

**Section 8. SAVINGS CLAUSE**

All rights and remedies of the City of Forney, Texas, are expressly saved as to any and all violations of the provisions of the Ordinance or any other ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 9. SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Section 10. REPEALER CLAUSE**

Any provision of any prior ordinance of the City, whether codified or uncoded, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncoded, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section 11. EFFECTIVE DATE**

This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED, APPROVED AND ADOPTED** on a second and final reading by the City Council of the City of Forney, Texas, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
**Amanda Lewis, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Dorothy Brooks, City Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Jon Thatcher, City Attorney**