

CITY OF FORNEY, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING CHAPTER 8, "OFFENSES AND NUISANCES" OF THE CODE OF ORDINANCES OF THE CITY OF FORNEY, TEXAS, BY AMENDING SECTION 8.01.004, "CONSUMPTION OF ALCOHOLIC BEVERAGE IN PUBLIC PLACE," EXPANDING THE EXEMPTIONS FOR SPECIAL EVENTS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION.

WHEREAS, the City of Forney, Texas (the "City"), is a home-rule municipality possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code and its Home Rule Charter; and

WHEREAS, the City adopted the Code of Ordinances, City of Forney, Texas ("Code"), for the protection of the public health and general welfare of the people of the City; and

WHEREAS, the City Council of the City of Forney, Texas (the "City Council") originally prohibited the consumption of alcoholic beverages in public places and public streets, rights-of-way and alleys; and

WHEREAS, the City's Code of Ordinances provides an exception to the prohibition against consumption of alcoholic beverages in public places when it is in conjunction with a Special Event;

WHEREAS, the City Council now desires to clarify and expand the exemption to include Special Events that may include areas of public streets, rights-of-way, or alleys; and

WHEREAS, The City Council further desires to provide authority to the chief of police or other police officers to enforce the exemption as to what alcoholic beverages are permitted for consumption in a public place during the Special Event; and

WHEREAS, the City Council finds and determines that it is in the best interest of the public health, safety and general welfare of the citizens of Forney, Texas, to amend certain provisions of Chapter 8, "Offenses and Nuisances" of the Forney Code as provided herein below.

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 legislative determinations and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. CHAPTER 1, CODE OF ORDINANCES AMENDED

From and after the effective date of this Ordinance, the Code of Ordinances, Chapter 8, "Offenses and Nuisances," is hereby amended by amending Article 8.01, "General Provisions," Section 8.01.004, "Consumption of alcoholic beverage in public place," in its entirety to hereafter read as follows:

Section 8.01.004 Consumption of alcoholic beverages in public place

- (a) Consumption in public place. It shall be unlawful for any person to consume any alcoholic beverage on any public place including any public street, right-of-way or alley or any place adjacent to any street, right-of-way or alley in the City. However, such consumption shall be lawful if:
- (1) Private clubs. The public place is a permitted private club holding a valid state alcoholic beverage commission (TABC) permit; or
 - (2) Special events.
 - (A) The alcoholic beverage is sold or dispensed by the holder of a valid state alcoholic beverage commission permit and any applicable city permit in conjunction with a special event approved by the city; and
 - (B) The area designated for alcohol dispensing and consumption is provided within an enclosure (barrier or sides) with secured ingress and egress and the area designated for the dispensing or service of alcohol shall be covered by a roof.
- (b) Penalty. Any person, firm or corporation who violates any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not in excess of \$2,000.00 and assessed court costs as provided by law.
- (c) Authority to make arrest. The chief of police or other police officers of the city or any peace officer within the limits of the city may arrest, without warrant, any person who violates the terms of this section, and the officer or person making the arrest is justified in adopting all of the measures which he might adopt in cases of arrest under warrant; provided further that, in all cases of arrest without warrant, the officer making the arrest shall without unnecessary delay take the person arrested or have him taken before the nearest or most accessible magistrate having jurisdiction.

Section 3. PENALTY PROVISION

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of not less than One Dollar (\$1.00) nor more than Two Thousand Dollars (\$2,000.00). The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

Section 4. 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 is 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 5. REPEALER CLAUSE

Any provision of any prior ordinance of the City, whether codified or uncodified, 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 uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section 6. EFFECTIVE DATE

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

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, this _____ day of _____, 2020.

Mary Penn, Mayor

ATTEST:

Dorothy Brooks, TRMC, CMC, City Secretary

APPROVED AS TO FORM:

Jon Thatcher, City Attorney