

CITY OF FORNEY, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, ORDINANCE NO. 1085, AS AMENDED, BY AMENDING ARTICLE V, "DEVELOPMENT STANDARDS," SECTION 47, "SPECIAL REGULATIONS FOR CERTAIN TYPES OF USES," BY AMENDING SECTION 47.10, "FARMERS MARKET"; BY AMENDING ARTICLE V, "DEVELOPMENT STANDARDS," SECTION 49, "DEFINITIONS," BY AMENDING THE DEFINITION FOR "FARMERS MARKET"; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Forney, Texas ("City") is a home-rule city 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 the Home Rule Charter for the City of Forney, Texas; and

WHEREAS, the City Council of the City of Forney, Texas ("City Council"), pursuant to Chapter 211 of the Texas Local Government Code, as amended, possesses the power to regulate zoning and development in the City; and

WHEREAS, a public hearing was held before the Planning & Zoning Commission and a public hearing was held before the City Council, after due notice thereof was had in accordance with the Comprehensive Zoning Ordinance of the City of Forney, Texas ("Zoning Ordinance"); and

WHEREAS, at such public hearings all persons having any interest in doing so were afforded an opportunity to be heard concerning the proposed zoning text amendments; and

WHEREAS, the City Council further finds and determines that the proposed amendments to the Zoning Ordinance are in the best interest of the health, safety, morals, and general welfare of the City of Forney, Texas.

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

Section 1. FINDINGS INCORPORATED

The above recitals are hereby found to be true and correct legislative determinations and are hereby incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. AMENDMENT OF ARTICLE V, "DEVELOPMENT STANDARDS," SECTION 47, "SPECIAL REGULATIONS FOR CERTAIN USES," OF THE ZONING ORDINANCE BY ADDING SECTION 47.10, "FARMERS MARKET," TO CREATE SPECIAL REGULATIONS FOR A FARMERS MARKET

From and after the effective date of this Ordinance, Article V, "Development Standards," Section 47, "Special Regulations for Certain Uses," is hereby amended to read in pertinent part as follows:

"47.10 Farmers Market:

- A. Farmers market is an allowed use with approval of a Conditional Use Provision in the GR- General Retail District and the CBD- Central Business District. An application for a Conditional Use Provision must contain the following information:
 - 1. The name, address and telephone number of the applicant and of any other persons responsible for the conduct of the farmers market.
 - 2. The street address of the proposed location of the farmers market; the name, address and telephone number of the property owner; and a copy of a consent letter from the property owner.
 - 3. A description of the farmers market, including a proposed schedule of the dates and hours of operation for the market.
 - 4. The estimated number of vendors and attendees.
 - 5. A drawing showing the area to be used for the farmers market, along with proposed structures, tents, fences, barricades, signs, and banners.
 - 6. Details on where parking will be allowed.
 - 7. Details of how the applicant will clean up the property after each day.
 - 8. A description of each farmers market that the applicant conducted or sponsored, or participated in conducting or sponsoring, within the preceding two years.
 - 9. Any other information the Community Development Director or their designee determines necessary for a comprehensive evaluation of the farmers market proposal.
- B. A farmers market may only operate between the hours of 8 a.m. and 7 p.m. on any day of the week. Additional restrictions may be imposed by the City Council during consideration of the Conditional Use Provision.
- C. An applicant for a farmers market must execute a written agreement to indemnify the City and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the conduct of the market.
- D. Prior to consideration by the Planning and Zoning Commission and the City Council, the City Manager or his designee (Community Development Director) may deny a Farmers Market application if:
 - 1. A farmers market permit has been previously granted to another farmers market that is located within one mile of the proposed market;
 - 2. the proposed farmers market will unreasonably disrupt the orderly flow of traffic, and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;

3. the application does not provide for adequate emergency vehicle access or if the Police Chief or Fire Chief determines that the farmers market would pose a serious threat to the public health, safety or welfare;
 4. the applicant has had a farmers market permit revoked within the preceding 12 months;
 5. the applicant or a vendor at the applicant's market has committed, within the preceding 12 months, three or more violations or a provision of this chapter;
- E. All litter, food and merchandise must be removed from the premises at the end of each market day.
- F. Products that may be sold at a farmers market include, but are not limited to, the following:
1. Fruits, vegetables, honey, eggs, nuts, herbs, and mushrooms.
 2. Meats.
 3. Dairy Products.
 4. Prepared foods, including but not limited to baked goods, packaged foods and oils.
 5. Arts and crafts, including but not limited to jewelry, candles, natural skin care products, soaps, art, kitting, quilts and pottery.
- G. Health inspection permits and inspections are required. A Farmer's Market requires an annual food establishment permit, with quarterly inspections. The following requires a permit:
1. Offering any food and/or drink samples.
 2. Any food and/or drink on-site preparation.
 3. Offering any temperature sensitive food/drink items. This includes, but is not limited to, frozen meats, eggs, and cottage bill foods (as defined by the State of Texas Department of Health Services).
 4. Any other requirement as set forth by the State of Texas Department of Health Services.
- H. At least one half of the participating vendors must sell produce or other food items, unless otherwise approved with the Conditional Use Permit.
- I. All products distributed, offered for sale, or sold at a farmers market must have been raised, grown, made, crafted, processed, or produced by the vendor in a Texas County completely or partially located within a 150-mile radius of Kaufman County, unless otherwise approved by the Community Development Director. No products may be offered for resale.
- J. Live animals may not be distributed, offered for sale, or sold at a farmers market. The only exception to this is animal adoptions by the City of Forney Animal Shelter."

Section 3. AMENDMENT OF ARTICLE V, "DEVELOPMENT STANDARDS," SECTION 49, "DEFINITIONS," OF THE ZONING ORDINANCE BY

**ADDING A DEFINITION FOR “FARMERS MARKET” AND PROVIDING
SUBSEQUENTIAL NUMBERING FOR ALL DEFINITIONS THAT
FOLLOW THE ADDED DEFINITION**

From and after the effective date of this Ordinance, Article V “Development Standards,” Section 49, “Definitions,” of the Zoning Ordinance is hereby amended to read in in pertinent part as follows:

“49.1.(91.) **FARMERS MARKET** – An outdoor marketplace on private property where produce, merchandise, food or other products that are distributed, offered for sale, or sold directly to consumers by the persons that have raised, grown, made, crafted, processed, or produced the products. A Farmers Market is separate from a Special Event and must follow the regulations set forth in Section 47.10 of this Zoning Ordinance.

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Section 4. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the words, phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any word, 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 words, phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of any such unconstitutional word, phrase, clause, sentence, paragraph or section.

Section 5. SAVINGS CLAUSE

The Comprehensive Zoning Ordinance of the City of Forney, Texas, Ordinance No. 1085, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 6. 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 7. PENALTY CLAUSE

Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and upon conviction, shall be fined a sum not to exceed \$2,000.00 for each offense, and each and every violation or day such violation shall continue or exist, shall be deemed a separate offense.

Section 8. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such cases provide.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Forney, Texas, on this the ____ day of _____, 2020.

Mary Penn, Mayor

ATTEST:

Dorothy Brooks, TRMC, CMC, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Jon Thatcher, City Attorney