

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 IV, "USE REGULATIONS," SECTION 37, "USE REGULATIONS (CHARTS)," BY ADDING "FOOD TRUCK/TRAILER" AS A TYPE OF LAND USE; BY AMENDING ARTICLE V, "DEVELOPMENT STANDARDS," SECTION 47, "SPECIAL REGULATIONS FOR CERTAIN TYPES OF USES," BY ADDING SECTION 47.13, "FOOD TRUCK/TRAILER"; BY AMENDING ARTICLE V, "DEVELOPMENT STANDARDS," SECTION 49, "DEFINITIONS," BY ADDING A DEFINITION FOR "FOOD TRUCK/TRAILER"; 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 IV, "USE REGULATIONS," SECTION 37, "USE REGULATIONS (CHARTS)," OF THE ZONING ORDINANCE BY ADDING "FOOD TRUCK/TRAILER" AS A TYPE OF LAND USE.

From and after the effective date of this Ordinance, Article IV, "Use Regulations," Section 37, "Use Regulations (Charts)," is hereby amended to read in pertinent part as follows:

Types of Land Uses	AG	SF-20	SF-15	SF-11	SF-8	SF-6	SF-PH	2F	SFA	MF-15	MH	O	NS	GR	CBD	C	MU	LI
Food Truck/Trailer (see Sec. 47.13)												C	C	C	C	C	C	C

Section 3. AMENDMENT OF ARTICLE V, "DEVELOPMENT STANDARDS," SECTION 47, "SPECIAL REGULATIONS FOR CERTAIN USES," OF THE ZONING ORDINANCE BY ADDING SECTION 47.13, "FOOD TRUCK/TRAILER."

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:

47.13 Food Truck/Trailer:

- A. A Food Truck/Trailer may operate as part of a temporary special event (with a temporary food permit), as part of an approved Farmer's Market, or with the approval of a Conditional Use Permit. If operating with an approved Conditional Use Permit, the use must follow regulations as set by Section 37.2 and by this Section.
- B. The Food Truck/Trailer shall be located on private property where an existing business is currently operating with a valid Certificate of Occupancy (CO). The Food Truck/Trailer shall preferably be located on an improved surface (i.e. concrete or asphalt). Operation within the public right-of-way is prohibited.
- C. Conditional Use Permit approval for a Food Truck/Trailer is limited to a maximum of sixty (60) days for each approval.
- D. Once a Conditional Use Permit has expired, a minimum of sixty (60) days is required before a Food Truck/Trailer may operate on the same property.
- E. Food Trucks/Trailers shall only operate between the hours of 7:00 a.m. and 10:00 p.m. and the Food Truck/Trailer shall be required to be removed from the property during non-operation hours (i.e. overnight storage on the site is prohibited).
- F. The Food Truck/Trailer must pass a special event inspection or must obtain an annual mobile food establishment permit, which includes a health and fire inspection.

- G. The Food Truck/Trailer shall be equipped with trash receptacles and the outside storage of trash shall be prohibited. Water and/or wastewater may not be discharged onto the ground.
- H. The Food Truck/Trailer shall have permanent restrooms available within 300 feet of the facility. Portable restroom facilities are not permitted to meet this requirement.
- I. The Food Truck/Trailer shall have access to a minimum of two (2) dedicated parking spaces and shall not reduce the required parking for the existing building/land use.
- J. All noise and lighting shall be subject to the requirements of the City of Forney Code of Ordinance and the Comprehensive Zoning Ordinance. In addition, no lights associated with the operation of a Food Truck/Trailer may be directed towards an adjacent property or onto a public right-of-way.
- K. All signage must be attached to the Food Truck/Trailer, with the exception of one freestanding menu board no greater than eight (8) square feet placed adjacent to the Food Truck/Trailer.
- L. A Food Truck/Trailer may operate on City of Forney owned property at any time with written approval of the City Manager. This request will not require a Conditional Use Permit, but does require the appropriate food permit and inspection, and payment of a \$25 administrative fee.

Section 4. AMENDMENT OF ARTICLE V, “DEVELOPMENT STANDARDS,” SECTION 49, “DEFINITIONS,” OF THE ZONING ORDINANCE BY ADDING A DEFINITION FOR “FOOD TRUCK/TRAILER” 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 and affected terms shall be renumbered accordingly:

“49.1.(100.) **FOOD TRUCK/TRAILER** – A food truck or trailer is a mobile food vendor that sells food and/or beverages that are either pre-packaged or prepared in the confines of a portable truck/trailer, which can be moved from place to place, but is typically in a fixed location for extended periods of time.

* * * ”

Section 5. 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 6. 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 7. 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 8. 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 9. 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 _____, 2021.

Mary Penn, Mayor

ATTEST:

Dorothy Brooks, TRMC, CMC, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Jon Thatcher, City Attorney