

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 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 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