



ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE CITY OF FARMERS BRANCH CODE OF ORDINANCES CHAPTER 94 ‘ZONING,’ BY AMENDING ARTICLE 2 “ZONING DISTRICTS AND USES” SECTION 2.6 “ALCOHOLIC BEVERAGE SALES IN RESTAURANTS AND PRIVATE CLUBS” SUBSECTION B “DEFINITIONS” BY AMENDING THE DEFINITION OF ‘QUALIFYING RESTAURANT’ AND SUBSECTION F. “FOOD SERVICE” BY AMENDING THE REGULATIONS FOR SERVICE OF ALCOHOLIC BEVERAGES; AND BY ADDING SECTION 2.10 TITLED “OUTDOOR SEATING AREAS” SETTING FORTH REGULATIONS RELATING TO THE DEVELOPMENT OF OUTDDOR SEATING AREAS FOR CERTAIN USES; BY AMENDING ARTICLE 3 “ZONING DISTRICT DIMENSIONAL STANDARDS” BY AMENDING SECTION 3.18 “LR-1 (LOCAL RETAIL DISTRICT-1),” SECTION 3.19 “LR-2 (LOCAL RETAIL DISTRICT-2),” AND SECTION 3.20 “C (COMMERCIAL DISTRICT),” TO ADD A NOTE TO AUTHORIZING OUTDOOR SEATING AREAS TO ENCROACH INTO A FRONT YARD SETBACK AREA, AND BY AMENDING THE NOTES FOLLOWING SECTION 3.21 “LI (LIGHT INDUSTRIAL DISTRICT)” AND SECTION 3.22 “HI (HEAVY INDUSTRIAL DISTRICT)” RELATING TO VARIOUS DEVELOPMENT STANDARDS; BY AMENDING THE MINIMUM OFF-STREET PARKING REGULATIONS RELATING TO “BAR OR TAVERN OR PRIVATE CLUB,” “BREWERY OR BREWPUB,” AND “DISTILLERY” USES AS SET FORTH IN ARTICLE 4 “SITE DEVELOPMENT STANDARDS,” SECTION 4.3 “PARKING AND LOADING” SUBSECTION 4 “NON-RESIDENTIAL USES”; AND BY AMENDING THE DEFINITION OF “RESTAURANTS, QUALFYING” AS SET FORTH IN ARTICLE 7 “DEFINITIONS,” SECTION 7.3 “DEFINITIONS OF USES”; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2000.00) DOLLARS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Farmers Branch and the governing body of the City of Farmers Branch, in compliance with the laws of the State of Texas and the ordinances of the City of Farmers Branch, have given requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity

thereof, the governing body, in the exercise of the legislative discretion, has concluded that the Comprehensive Zoning Ordinance and Zoning Map should be amended;

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

SECTION 1. Chapter 94 “Zoning” of the Code of Ordinances of the City of Farmers Branch, Texas, as previously amended, (i.e. the Comprehensive Zoning Ordinance) is hereby further amended as follows

A. The definition of “Qualifying Restaurant” as set forth in Article 2 “Zoning Districts and Uses,” Section 2.6 “Alcoholic Beverage Sales in Restaurants and Private Clubs” Subsection B “Definitions” Paragraph 2 is amended to read as follows:

2. Qualifying Restaurant: An existing or proposed eating establishment whose gross sale of food and non-alcoholic beverages shall constitute at least 40% of the establishment's combined gross sales of food, non-alcoholic and alcoholic beverages quarterly.

B. Article 2 “Zoning Districts and Uses,” Section 2.6 “Alcoholic Beverage Sales in Restaurants and Private Clubs” Subsection F “Food Service” is amended to read in its entirety as follows:

F. Food Service

1. Qualifying restaurants shall provide regular food service for their customers.
2. All qualifying restaurants shall receive from the sale of food at least ~~50~~40% of the restaurant's gross sales at that location which sales figures shall be accurately reflected on a quarterly basis, subject to verification by the City in accordance with Section 2.6.J.
- ~~3. Only attached patios or gardens that occupy an area greater than or equal to 50% of the total floor area occupied by the enclosed portion of a qualifying restaurant shall be included in the calculation of minimum required parking.~~
43. No drive-in, drive-through, or curb service of alcoholic beverages is permitted except when authorized by applicable provisions of the Texas Alcoholic Beverage Code.
54. The qualifying restaurant shall designate a portion of its total combined floor area for food preparation and storage adequate to service customers in a manner that permits and allows the qualifying

restaurant to maintain the prescribed food to alcoholic beverage sales ratio prescribed herein.

65. A private club or mixed beverage serving area located in a hotel or motel will be allowed in an area totally separate from the restaurant area subject to the following:

- a. The qualifying restaurant must be located within the same building as the hotel or motel.
- b. Not less than 2,000 square feet of floor area shall be occupied by qualifying restaurant facilities (total qualifying restaurant operations).
- c. The floor area devoted to the sale of alcoholic beverages within the qualifying restaurant does not exceed the floor area devoted to food service.
- d. The qualifying restaurant will designate a portion of its total combined floor area for food preparation and storage adequate to service customers in a manner that permits and allows the qualifying restaurant to maintain the prescribed food to alcoholic beverage sales ratio prescribed in this Chapter.
- e. The sale and consumption of alcoholic beverages may be permitted within the restaurant area.
- f. Pursuant to Texas Alcoholic Beverage Code § 28.01(b), the holder of a mixed beverage permit for a qualifying restaurant in a hotel zoned pursuant to this Chapter may deliver mixed beverages, including wine and beer, to individual rooms of the hotel or to any other location in the hotel building or grounds, except a parking area on the licensed premises or another alcoholic beverage establishment, without regard to whether the place of delivery is part of the licensed premises. A permittee in a hotel may allow a patron or visitor to enter or leave the licensed premises, even though the patron or visitor possesses an alcoholic beverage, if the beverage is in an open container and appears to be possessed for present consumption.

C. Article 2 “Zoning Districts and Uses” is amended to by adding Section 2.10 titled “Outdoor Seating Areas” to read as follows:

2.10 OUTDOOR SEATING AREAS

A. Purpose

The purpose of this section is to provide development standards for outdoor seating areas located within required front yards for specified uses allowed in the LR-1, LR-2, C, LI, HI, and in PD zoning districts with a base zoning of LR-1, LR-2, C, LI, or HI. The intent of these regulations is to encourage outdoor seating areas in the front or side of buildings with frontage along public streets that do not create obstruction to public safety.

B. Applicability

This article shall apply to all outdoor seating areas constructed within the required front yard setback associated with the use(s) listed below. Outdoor seating areas not located within the front yard shall not be subject to the requirements of this section, but shall comply with other applicable provisions of this chapter.

1. Restaurant, General;
2. Restaurant, Qualifying;
3. Brewery;
4. Brewpub;
5. Bar or Tavern; or
6. Distillery.

C. General Requirements. Outdoor seating areas described in Article 2.10.B shall comply with the following.

1. Outdoor seating areas may be covered. Covered areas may not exceed the height of the building or the maximum height permitted within the zoning district, whichever is less.
2. Outdoor seating areas may be partially or fully enclosed, with exterior perimeter fencing, facades and roofs or other overhead coverings using only materials intended and authorized for use as exterior building materials in accordance with the most current edition of the Farmers Branch Building Code adopted pursuant to Chapter 22 of this code. Materials used to enclose an outdoor seating area shall be maintained in good condition free from damage, including, but not limited to, tears, cuts, rips, holes, stains, cloudiness appearance, or other decay or disrepair.
3. Improvements within an outdoor seating area may include, but are not limited to, dining or seating furniture, lighting, misting fans, lawn games, outdoor firepits or fireplace, BBQ smokers, and umbrellas.

4. The area within an outdoor seating area developed in compliance with this Section 2.10 may be counted as part of the minimum required landscaped area required by Section 4.10 of this chapter for the property on which the outdoor seating area is located.

D. Placement. Outdoor seating areas shall be located as follows:

1. Outside the area of any public utility or drainage easements unless approved in writing by the Public Works Director and, if required, following execution of a license or encroachment agreement with the city setting forth the terms and conditions governing the encroachment within the easement; and
2. Shall not obstruct visibility at the street intersection and at driveway connections to adjacent streets.

D. Article 3 “Zoning District Dimensional Standards,” Section 3.18 “LR-1 (Local Retail District-1)” is amended by adding Note 4 to read as follows:

4. Outdoor seating areas may be allowed to encroach within the required front yard in compliance with Section 2.10.

E. Article 3 “Zoning District Dimensional Standards,” Section 3.19 “LR-2 (Local Retail District-2)” is amended by adding Note 4 to read as follows:

4. Outdoor seating areas may be allowed to encroach within the required front yard, in compliance with Section 2.10.

F. Article 3 “Zoning District Dimensional Standards,” Section 3.20 “C (Commercial District)” is amended by adding Note 4 to read as follows:

4. Outdoor seating areas may be allowed to encroach within the required front yard, in compliance with Section 2.10.

G. The Notes at the end of Article 3 “Zoning District Dimensional Standards,” Section 3.21 “LI (Light Industrial District)” are amended to read as follows:

1. Buildings may be built to any height not prohibited by other laws and ordinances.
2. Buildings constructed on a lot fronting on a street with a right-of-way ~~with a~~ width of 100 feet or greater must have a front yard setback of at least 30 feet, except for outdoor seating areas as allowed in Article 2.10. For corner lots, the frontage along ~~both streets are~~ each street is considered to be a front yards ~~and the more restrictive front yard setback shall apply to both front yards.~~

3. The area between the face of the building and the front property line must be kept free and clear of structures, parking areas, accessory buildings, fences, and other uses, unless allowed in other sections of this ordinance.

~~3.4.~~ Except a long secondary streets with a right-of-way width less than 100 feet, ~~where~~ automobile parking areas are allowed not less than ~~within~~ six (6) feet ~~of from~~ the front property line, ~~front yards must be kept free and clear of structures, parking areas, accessory buildings, fences, and other uses, unless allowed in other sections of this zoning ordinance.~~

4.5. Loading docks located on the front of the building must be set back not less than 60 feet from the front property line.

~~5.6.~~ The area between the lot line and the minimum side yard line must be kept free and clear of accessory buildings and storage areas, but may be paved and used as driveways.

~~6.7.~~ When retail, commercial, or industrial uses back to a common lot line with a residential district, a ten (10) foot ~~feet~~ rear setback is required unless another provision of this zoning ordinance requires a greater rear setback, in which case the ~~other~~ provision requiring the greater setback shall control.

~~7.8.~~ When commercial or industrial uses do not back upon an alley or easement with a width of at least twenty (20) feet, a ten (10) foot rear setback is required.

~~8.9.~~ Parking requirements shall comply with Section 4.3.

H. The Notes of Article 3 “Zoning District Dimensional Standards,” Section 3.22 “HI (Heavy Industrial District)” are amended to read as follows:

1. Buildings may be built to any height not prohibited by other laws and ordinances.

2. Gasoline pumps must be set back not less than 18 feet from the street right-of-way line.

3. Buildings constructed on a lot fronting on a street with a right-of-way ~~with a~~ width of 100 feet or greater must have a front yard setback of at least 30 feet, except for outdoor seating areas as allowed in Article 2.10. For corner lots, the frontage along ~~each street is both streets are~~ considered to be a front yards and the more restrictive front yard setback shall apply to both front yards.

4. The area between the face of the building and the front property line must be kept free and clear of structures, parking areas, accessory buildings, fences, and other uses, unless allowed in other sections of this chapter.

4.5. ~~Except a~~ long secondary streets with a right-of-way width of less than 100 feet, where automobile parking areas are allowed not less than within six (6) feet of from the front property line, ~~front yards must be kept free and clear of structures, parking areas, accessory buildings, fences, and other uses, unless allowed in other sections of zoning ordinance.~~

5.6. Loading docks located on the front of the building must be set back not less than 60 feet from the property line.

6.7. The area between the side lot line and the minimum side yard line must be kept free and clear of accessory buildings and storage areas but may be paved and used as driveways.

7.8. When retail, commercial, or industrial uses back to a common lot line with a residential district, a ten (10) foot rear setback is required unless another provision of this zoning ordinance requires a greater rear setback, in which case the ~~other~~ provision requiring the greater setback shall control.

8.9. When commercial or industrial uses do not back upon an alley or easement with a width of least twenty (20) feet, a ten (10) foot rear setback is required.

9.10. Parking requirements shall comply with Section 4.3.

I.H. Article 4 “Site Development Standards,” Section 4.3 “Parking and Loading” Subsection 4 “Non-Residential Uses” is amended by amending the table in paragraph a to read as follows with respect to the uses “Bar or Tavern or Private Club,” “Brewery or Brewpub,” and “Distillery”:

Use	Minimum Parking Spaces Required
Bar or Tavern or Private Club	One space per 400 sq. ft. of GFA <u>(excludes outdoor seating area)</u>
Brewery or Brewpub	One space per 600 sq. ft. of GFA <u>(excludes outdoor seating area)</u>
Distillery	One space per 600 sq. ft. of GFA <u>(excludes outdoor seating area)</u>

J. Article 7 “Definitions,” Section 7.3 “Definitions of Uses” is amended by amending the definition of “Restaurant, Qualifying” to read as follows:

Restaurant, Qualifying - An existing or proposed eating establishment whose gross sale of food and non-alcoholic beverages shall constitute at least ~~5~~40% of the establishment's combined gross sales of food, non-alcoholic and alcoholic beverages quarterly.

SECTION 2. In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Farmers Branch and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 3. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 4. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Farmers Branch, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provide.

**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH,
TEXAS, ON THIS THE ____ DAY OF _____ 2021.**

ATTEST:

APPROVED:

Amy Piukana, TRMC, City Secretary

Robert C. Dye, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(kbl:7/6/2021:123370)