



ORDINANCE NO. 3663

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE CITY OF FARMERS BRANCH CODE OF ORDINANCES CHAPTER 94 ‘ZONING,’ ARTICLE 2 “ZONING DISTRICTS AND USES” SECTION 2.4 “PERMITTED USES” BY AMENDING SUBSECTION C. “USE TABLE” BY DELETING THE USE “HOOKAH/VAPOR LOUNGE”, ADDING THE USE “SMOKING ESTABLISHMENT” TO BE ALLOWED BY SPECIFIC USE PERMIT IN THE “ENTERTAINMENT OVERLAY DISTRICT”, ADDING THE USES “BANQUET HALL OR EVENTS CENTER”, “BAR OR TAVERN”, AND “DISTILLERY” TO BE ALLOWED BY RIGHT IN THE “ENTERTAINMENT OVERLAY DISTRICT”, AND ADDING FOOTNOTE RELATING TO THE DEVELOPMENT AND USE OF PROPERTY FOR “AMUSEMENT COMMERCIAL, INDOOR”, “BREWERY”, “BREW PUB”, “PRIVATE CLUB”, “RESTAURANT, GENERAL”, “RESTAURANT, QUALIFYING”, “TOBACCO STORE”, AND “THEATRE, INDOOR”, IN THE “ENTERTAINMENT OVERLAY DISTRICT”; ARTICLE 5 "SPECIAL DISTRICTS" BY ADDING SECTION 5.7 TITLED "ENTERTAINMENT OVERLAY DISTRICT" ESTABLISHING THE PURPOSE, REGULATIONS, AND BOUNDARIES OF THE ENTERTAINMENT OVERLAY DISTRICT; AND AMENDING ARTICLE 7 “DEFINITIONS” SECTION 7.3 “DEFINITIONS OF USES” BY DELETING DEFINITION OF “HOOKAH/VAPOR LOUNGES”, ADDING NEW DEFINITIONS AND AMENDING EXISTING DEFINITIONS; 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. The City of Farmers Branch Code of Ordinances Chapter 94 “Zoning” Article 2 “Zoning Districts and Uses” Section 2.4 “Permitted Uses” is amended by amending Subsection 2.C. “Use Table” as follows:

- A. Article 2 “Zoning Districts and Uses,” Section 2.4.C “Use Table” is amended by deleting the use “Hookah/Vapor Lounge”, adding the use “Smoking Establishment” to be allowed by Specific Use Permit in the “Entertainment Overlay District”, adding the uses “Banquet Hall or Events Center”, “Bar or Tavern”, and “Distillery” to be allowed by right in the “Entertainment Overlay District”, and adding footnote relating to the development and use of property for “Amusement Commercial, Indoor”, “Banquet Hall or Events Center”, “Bar or Tavern”, “Brewery”, “Brewpub”, “Distillery”, “Private Club”, “Restaurant, General”, “Restaurant, Qualifying”, “Tobacco Store”, and “Theatre, Indoor”, in the “Entertainment Overlay District” as follows:

USE	R-1	R-2	R-3	R-4	R-5	R-6	D-1	D-2	MF-1	MF-2	MF-3	MF-4	I-RU	O	LR-1	LR-2	C	LI	HI	Use Stds
Key: X = Use Permitted S = Specific Use Permit Required T = Temporary Use Blank Cell = Use Not Permitted																				
Commercial Type Uses																				
Brewery (includes Wineries) ²																S		X	X	
Brewpub ²																		X	X	
Distillery ²	Entertainment Overlay District Only																			
Recreational and Entertainment Uses																				
Amusement, Commercial (Indoors) ²																S	S	X	S	
Banquet Hall or Events Center ²	Entertainment Overlay District Only																			
Private Club ²												S		S	S	S	S	S	S	2.6
Theater, Indoor ²															S	S	S	S	S	
Retail and Service Type Uses																				
Bar or Tavern ²	Entertainment Overlay District and Alcoholic Beverage (On-Premise) Overlay Districts Only																			
Restaurant, General ²														S	X	X	X	X	X	
Restaurant, Qualifying ²															X	X	X	X	X	2.6
Smoking Establishment ²	Entertainment Overlay District Only with Specific Use Permit																			
Tobacco Store (Including E-Cigarette) ²																X	X	X	X	
*Use is allowed with a Specific Use Permit (SUP), except in the Eastside Business District.																				
¹ In no case shall a Pre-Packaged Retail Sales (Drive Through) which is also a Beer and Wine Package Sales Establishment be permitted in any zoning district, it being the intent of this ordinance to expressly prohibit the use and development of all Pre-Packaged Retail Sales (Drive Through) uses within the City.																				
² Refer to Article 5.7 Entertainment Overlay District. These land uses are allowed by right within the Entertainment Overlay District. Except, Smoking Establishments are allowed by Specific Use Permit (S) within the Entertainment Overlay District. Smoking Establishments are not allowed outside the boundary of the Entertainment Overlay District.																				

SECTION 2. The City of Farmers Branch Code of Ordinances Chapter 94 “Zoning” Article 5 “Special Districts” is amended by adding Section 5.7 titled “Entertainment Overlay District” to read as follows:

Section 5.7 ENTERTAINMENT OVERLAY DISTRICT

A. Purpose

The purpose of the Entertainment Overlay District is to allow for the development of property as destination venues that will be used to promote a vibrant and active East Side, thereby providing residents and employees opportunities to socialize and be entertained within the City. The Entertainment Overlay District is designed to encourage economic development through infill and redevelopment of underutilized properties and adaptive reuse of existing buildings to assist in the ongoing revitalization efforts. The balance of land uses for working, living, shopping, and entertainment will increase quality of life for residents of Farmers Branch and create a unique identity for the East Side.

B. Applicability

The regulations in this section shall apply to any property located within the Entertainment Overlay District.

C. Conflicts with Underlying Zoning

Except to the extent modified by this Section 5.7, property located within the Entertainment Overlay District shall be developed and used in accordance with the regulations applicable to the zoning district in which the property is located as shown on the Zoning District Map.

D. Location

The Entertainment Overlay District shall consist of the property located within the boundaries set forth below and as depicted on Diagram 5.7:

Beginning at a point at the intersection of the west right-of-way line of Inwood Road with the south right-of-way line of Spring Valley Road;

Then, in a westerly direction, along the south right-of-way line of Spring Valley Road to a point at the intersection of the south right-of-way line of Spring Valley Road with the east right-of-way line of Midway Road;

Then, in a southerly direction along the east right-of-way line of Midway Road to a point at the intersection of the north right-of-way line of Simonton Road with the east right-of-way line of Midway Road;

Then, in an easterly direction along the north right-of-way line of Simonton Road to a point at the intersection of the north right-of-way line of Simonton Road with the west right-of-way line of Welch Road;

Then, in a southerly direction along the west right-of-way line of Welch Road to a point at the intersection of the west right-of-way line of Welch Road with the north right-of-way line of McEwen Road;

Then, in an easterly direction along the north right-of-way line of McEwen Road to a point at the intersection of the north right-of-way line of McEwen Road with the west right-of-way line of Galleria Drive;

Then, in a northerly direction along the west right-of-way line of Galleria Drive and continuing in an easterly direction along the north right-of-way line of Galleria Drive to the City of Farmers Branch eastern city limit line;

Then, in a northerly direction along the City of Farmers Branch eastern city limit line to a point for corner located at the northeast corner of a 0.4837-acre tract of land described as Lot 1, Inwood Parkway Office Park Addition, an addition to the City of Farmers Branch, Texas, according to the plat thereof recorded in Volume 77180, Page 3083, Map Records, Dallas County, Texas;

Then, in a westerly direction along the north line of said Inwood Parkway Office Park Addition to a point at the intersection of the west right-of-way line of Inwood Road with the south right-of-way line of Alpha Road;

Then, in a northerly direction along the west right-of-way line of Inwood Road to a point at the intersection of the west right-of-way line of Inwood Road with the south right-of-way line of Spring Valley Road, being the Point of Beginning.

E. Uses Permitted

1. **Additional Permitted Uses:** In addition to the purposes for which the property may be developed and used in accordance with the Zoning District Map, property located within the Entertainment Overlay District may be developed and used by right for the following purposes:
 - a. Amusement Commercial, Indoor
 - b. Banquet Hall or Events Center
 - c. Bar or Tavern
 - d. Breweries (includes wineries)
 - e. Brewpub
 - f. Distillery
 - g. Private Club
 - h. Restaurant, General
 - i. Restaurant, Qualifying
 - j. Theatre, Indoor
 - k. Tobacco Store
2. **Additional Uses Requiring SUP.** In addition to the purposes for which property may be developed and used in accordance with the Zoning District Map, property located within the Entertainment Overlay District may be developed and used for as a Smoking Establishment following approval of a Specific Use Permit in accordance with Section 6.5.
3. **Alcoholic Beverage Sales and Service.**
 - a. Alcoholic beverages may be sold and/or served for on or off-premise consumption on property located within the Entertainment Overlay District that is developed and used as a banquet hall or events center, bar or tavern, brewery (including winery), brewpub, distillery, and/or indoor theatre subject to the terms of the permit or license issued to the owner or operator of the property by the Texas Alcoholic Beverage Code, as amended, without such use being a Qualifying Restaurant.

- b. Alcoholic beverages may be sold and/or served for on or off-premise consumption on property located within the Entertainment Overlay District developed and used for the following purposes is permitted without requiring prior approval of a specific use permit subject to the terms of the permit or license issued by the Texas Alcoholic Beverage Code, as amended, to the owner or operator of such property:
 - (1) Banquet Hall or Events Center
 - (2) Bar or Tavern
 - (3) Breweries (includes wineries)
 - (4) Brewpub
 - (5) Distillery
 - (6) Private Club
 - (7) Restaurant, Qualifying
 - (8) Theatre, Indoor

F. Performance Standards for Smoking Establishments

A Smoking Establishment located on property within the Entertainment Overlay District shall be constructed, and operated, in accordance with the following:

- 1. The building or space in which the Smoking Establishment is located shall be constructed and equipped with an adequate ventilation system as required by the International Building Code, as adopted and amended in Chapter 22, Article III of the Code of Ordinances, and Chapter 34, Article III, Division 2 of the Code of Ordinances;
- 2. The building or space in which the Smoking Establishment is located shall be constructed and equipped with an air filtration system that prevents the commingling of air from within the Smoking Establishment with other businesses, common areas, hallways and other nonsmoking areas;
- 3. With respect to Smoking Establishments located within a multi-tenant building or that shares a common wall with one or more other businesses, the tenant demising wall of the building or space in which the Smoking Establishment is located must terminate at the roof deck with all penetration sealed, and constructed in accordance with the International Building Code, as adopted and amended in Chapter 22, Article III of the Code of Ordinances;

4. The owner or operator of the Smoking Establishment must post a sign stating "this is a smoking establishment" conspicuously at all entrances to the establishment;
5. The Smoking Establishment, including a Smoking Establishment also operating as a bar or tavern, shall not be open for business to the public between 2:00 a.m. and 8:00 a.m. any day of the week;
6. An applicant desiring to operate a smoking establishment must indicate on the application for a Certificate of Occupancy that:
 - a. The property will be used and operated as a "Smoking Establishment"; and
 - b. The applicant acknowledges, understands, and agrees that the Smoking Establishment will be continuously operated in accordance with the standards required by this Section 5.7.F, including, but not limited to, the requirement that not less than 30% of its gross revenues of the establishment must come from:
 - (1) the sale of tobacco and/or tobacco products; and
 - (2) the sale or rental of smoking implements or smoking accessories.
7. Tobacco products consumed within the smoking establishment must be purchased from said smoking establishment; patrons are not allowed to bring their own tobacco products, smoking implements, or accessories to a smoking establishment for consumption or use; and
8. Such other terms and conditions as may set forth in the ordinance granting the Specific Use Permit for the Smoking Establishment.

G. Operating Hours for Bars or Taverns

Property located in the Entertainment Overlay District and developed and used as a bar or tavern shall not be open for business to the public between 2:00 a.m. and 8:00 a.m. any day of the week.

SECTION 3. Article 7 "Definitions" Section 7.3 "Definition of Uses" of Chapter 94 "Zoning" of the Code of Ordinances is amended by adding definitions for "Banquet Hall or Events Center" "Distillery", "Smoking Establishments", "Theatre, Indoor", and by amending the definition of Tobacco Store" to read as follows:

Banquet Hall or Events Center - A facility or hall which is rented by individuals or groups to accommodate private functions including, but not limited to, banquets, weddings, anniversaries, corporate events, and other similar celebrations. Such use may or may not include: 1) kitchen facilities for the preparation or catering of food; 2) the sale of alcoholic

beverages for on-premise consumption, only during scheduled events and not open to the general public; and 3) outdoor gardens or reception facilities.

Distillery – A facility where liquor is manufactured, bottled, labeled, packaged, and sold for on or off-premise consumption with a TABC distiller's or rectifier's permit.

Smoking Establishment – A business establishment where smoking occurs on the premises and the business establishment derives not less than 30% of its gross revenues from (i) the sale of tobacco and/or tobacco products and (ii) the sale or rental of smoking implements or smoking accessories. The term "smoking establishment" includes, but is not limited to, cigar lounges, hookah cafes, tobacco lounges, tobacco clubs, or tobacco bars.

Theater, Indoor – An enclosed structure used for motion pictures, cultural or performing arts, and may include food and alcoholic beverage sales.

Tobacco Store – A business establishment that derives 90% or more of its gross revenue from retail sale of tobacco products such as cigars, pipe tobacco, cigarettes and electronic cigarettes. May also contain an accessory lounge area not to exceed 15% of the total floor area of the store.

SECTION 4. 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 5. 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 6. 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 7. 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 8. 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.

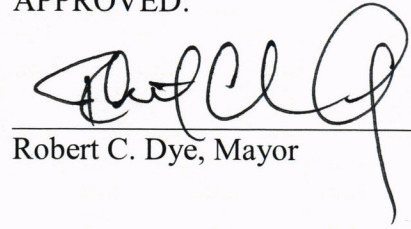
DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THIS THE 27TH DAY OF OCTOBER 2020.

ATTEST:



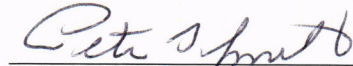
Amy Piukana, TRMC, City Secretary

APPROVED:



Robert C. Dye, Mayor

APPROVED AS TO FORM:



Peter G. Smith, City Attorney
(kbl:9/24/2020:118048)