

**CITY OF FARMERSVILLE
PLANNING AND ZONING COMMISSION AGENDA
REGULARLY CALLED MEETING
June 17, 2013
6:30 P.M., COUNCIL CHAMBERS, CITY HALL**

I. PRELIMINARY MATTERS

- Call to Order, Roll Call, Prayer and Pledge of Allegiance
- Welcome guests and visitors and Citizen Comments: Anyone wanting to speak on any items that are not the subject of a Public Hearing on this agenda is asked to speak at this time, with an individual time limit of 3 minutes. This forum is limited to a total of 30 minutes. *(Please note that the Planning and Zoning Commission cannot respond to, discuss or take any action regarding citizen comments made hereunder because of the limitations established by the Texas Open Meetings Act, Texas Government Code Chapter 551, violations of which Act carry criminal penalties.)*

II. ITEMS FOR DISCUSSION AND POSSIBLE ACTION

- A. Consider, discuss and act upon minutes from May 20, 2013 P&Z Meeting
- B. Swear in newly appointed officials and reorganize the Commission:
 - 1. Election of Chairman
 - 2. Election of Vice-Chairman
 - 3. Election of Secretary
- C. Update and possible discussion regarding licensing of Game Rooms

III. PUBLIC HEARING

- A. Public Hearing to consider, discuss and act upon a request to amend Chapter 77, "Zoning," of the Code of Ordinances of the City of Farmersville, Texas, as heretofore amended, through the amendment of Article III "New Types of Land Use; Districts," by deleting existing Section 77-138, "Specific Use Permits," in its entirety and replacing said section with a new Section 77-138 that is also entitled "Specific Use Permits"; providing a penalty; providing for severability; providing a repealer clause; providing for publication; providing engrossment and enrollment; providing a savings clause; and providing an effective date

IV. ADJOURNMENT

- No action may be taken on comments received under "Recognition of Visitors".
- The Commission may vote and/or act upon each of the items listed in the Agenda.

The Planning and Zoning Commission reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters listed on the agenda, as authorized by the Texas Government Code, including, but not limited to, Sections 551.071 (Consultation with Attorney).

Persons with disabilities who plan to attend this meeting and who may need assistance should contact the City Secretary at 972-782-6151 or Fax 972-782-6604 at least two (2) working days prior to the meeting so that appropriate arrangements can be made. Handicap Parking is available in the front and rear parking lot of the building.

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted in the regular posting place of the City Hall building for Farmersville, Texas, in a place and manner convenient and readily accessible to the general public at all times, and said Notice was posted on June 14, 2013, by 5:00 P.M. and remained so posted continuously at least 72 hours proceeding the scheduled time of said meeting.



Tom Waitschies, Chairman

Dated this the 14th day of June, 2013.



Edie Sims, City Secretary





TO: Planning and Zoning Commission
FROM: Edie Sims, City Secretary
DATE: June 17, 2013
SUBJECT: Discuss, approve or disapprove minutes from May 20, 2013 Planning and Zoning Meeting

Minutes can be found at the -following website:

http://www.farmersvilletx.com/government/agendas_and_minutes/planning_and_zoning/index.jsp

ACTION: Approve, make changes or disapprove minutes

FARMERSVILLE PLANNING & ZONING COMMISSION
REGULAR SESSION MINUTES
May 20, 2013

The Farmersville Planning and Zoning Commission met in regular session on May 20, 2013 at 6:30 p.m. at the City of Farmersville Council Chambers with the following members present:, Bill Nerwich, Mark Vincent, Craig Overstreet, Lee Warren and Tom Waitschies. Betty Sergent and Bryce Thompson were absent. Staff members present was City Manager Ben White, City Attorney Alan Lathrom and City Secretary Edie Sims. Council Liaison Michael Carr was not present.

CALL TO ORDER AND RECOGNITION OF CITIZENS/VISITORS

Chairman Tom Waitschies called the meeting to order at 6:33pm. Edie Sims called roll and announced that a quorum was present. Craig Overstreet offered the invocation and the Pledge of Allegiance.

Item II – A) CONSIDER, DISCUSS AND ACT UPON MINUTES FROM APRIL 15, 2013 P&Z MEETING

Craig Overstreet motioned to approve the minutes as presented with Lee Warren seconding the motion. Motion carried unanimously.

Item II – B) DISCUSSION REGARDING REVISING THE SPECIFIC USE PERMIT PROCESS

City Attorney Alan Lathrom stated the Ordinance presented was modified to fit the City of Farmersville which will assist the Commission with the Specific Use Permit process. Zoning issues were removed that did not apply and a more detailed process was included. The Ordinance presented allows a process for abandoned uses and the City's right to rezone and/or to remove the Specific Use Permit.

Craig Overstreet questioned the need for a site plan or if a site plan can be waived regarding an existing building. A stipulation has been included that allows the site plan to be waived by the City Manager for existing buildings with existing conditions. The City Manager can determine if the site plan is essential.

Lee Warren questioned the abandonment of a Specific Use Permit. Mr. Lathrom indicated there are no reversionary clauses in the Zoning Enabling Act. The next closest right and ability for the city is to initiate a rezoning of the land. Eliminating the SUP can be accomplished through public hearings and notifications of area properties.

Lee Warren also questioned the permit prices. Mr. Warren was informed that the fees are in a different location through a different ordinance. The ordinance presented is solely to facilitate the SUP process. Game Rooms are a different process and will be in a different section of another ordinance. Game Rooms will still be required to go through the SUP process; however the SUP will run with the land and repeat sessions will not be required.

It was clarified for Craig Overstreet regarding the variance process through the Board of Adjustment so that the P&Z and Council have final ruling of the Specific Use Permits and the Board of Adjustment will not have jurisdiction.

Section 2 (10) closes any potential issues regarding private clubs since they are handled differently through the Texas Alcohol and Beverage Code. The Commission gave no recommendations to alter the ordinance as presented.

Item III – A) PUBLIC HEARING TO CONSIDER, DISCUSS AND ACT UPON AMENDING THE SIGN ORDINANCE REGARDING ELECTRONIC MESSAGING CENTER SIGNS

Chairman Waitschies opened the Public Hearing at 6:50pm and asked for those to come forward to speak in favor of the Sign Ordinance amendment. With no one coming forward, Chairman Waitschies asked for those opposing the Sign Ordinance amendment to come forward. With no one coming forward, Chairman Waitschies closed the Public Hearing at 6:50:30pm.

Lee Warren questioned if we will obtain the necessary equipment that will test the 0.3 foot-candle brightness level. City Manager Ben White indicated that the City will lease, purchase or make other arrangements to have said testing equipment available.

Questions were raised as to the term lumens versus foot-candles. Mr. White explained that both are commonly used terms and both are lighting measurement conversions.

Craig Overstreet motioned to recommend the Council to approve the ordinance as presented with Lee Warren seconding the motion. Motion carried unanimously.

Item IV) ADJOURNMENT

Lee Warren motioned to adjourn with Craig Overstreet seconding the motion. P&Z Commission adjourned at 6:55 p.m.

ATTEST:

Tom Waitschies, Chairman

Edie Sims, City Secretary



TO: Planning and Zoning Commission

FROM: Edie Sims, City Secretary

DATE: June 17, 2013

SUBJECT: Swear in newly appointed officials and reorganize the Commission:

1. Appoint Chairman
2. Appoint Vice-Chairman
3. Appoint Secretary

ACTION:

- 1) Daphne Hamlin, Finance Director, will swear in the newly appointed officials.
- 2) Once sworn in, the new officials will take their seats with the other members of the Commission.
- 3) Chairman Waitschies will ask for nominations for a Chairman and the Commission will take a vote for the Chairman. Once voting is completed, the newly elected Chairman will take over the meeting.
- 4) The new Chairman will ask for nominations for a Vice-Chairman and take a vote from the Commission.
- 5) The new Chairman will ask for nominations for a Secretary and take a vote from the Commission.



The City of Farmersville
205 South Main Street
Farmersville, TX 75442
972-782-6151

**CITY OF FARMERSVILLE
STATEMENT OF ELECTED/APPOINTED
OFFICER**

(Pursuant to Tex. Const. art. XVI, §1(b), amended 2001)

I, Todd Rolen, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.

Affiant's Signature

Date

Planning and Zoning Commission
City of Farmersville, TX

In the name and by the authority of

THE STATE OF TEXAS

OATH OF OFFICE

I, Todd Rolen do solemnly swear (or affirm), that I will faithfully execute the duties of the office of Planning and Zoning Commission of the City of Farmersville, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

Affiant

SWORN TO and subscribed before me by affiant on this _____ day of _____, 2013.

Notary Public

In the name and by the authority of

THE STATE OF TEXAS

OATH OF OFFICE

I, Lee Warren do solemnly swear (or affirm), that I will faithfully execute the duties of the office of Planning and Zoning Commission of the City of Farmersville, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

Affiant

SWORN TO and subscribed before me by affiant on this _____ day of _____, 2013.

Notary Public



The City of Farmersville
205 South Main Street
Farmersville, TX 75442
972-782-6151

**CITY OF FARMERSVILLE
STATEMENT OF ELECTED/APPOINTED
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UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.

Affiant's Signature

Date

Planning and Zoning Commission
City of Farmersville, TX



TO: Planning and Zoning Commission
FROM: Edie Sims, City Secretary
DATE: June 17, 2013
SUBJECT: Discussion regarding Game Room Licensing

- Commission will hold an open discussion for specifics to be included with the amended Game Room Licensing process.

ACTION: Open discussion to give direction to staff and City Attorney.



TO: Planning and Zoning Commission

FROM: Edie Sims, City Secretary

DATE: June 17, 2013

SUBJECT: Public Hearing to consider, discuss and act upon a request to amend Chapter 77, "Zoning," of the Code of Ordinances of the City of Farmersville, Texas, as heretofore amended, through the amendment of Article III "New Types of Land Use; Districts," by deleting existing Section 77-138, "Specific Use Permits," in its entirety and replacing said section with a new Section 77-138 that is also entitled "Specific Use Permits"; providing a penalty; providing for severability; providing a repealer clause; providing for publication; providing engrossment and enrollment; providing a savings clause; and providing an effective date

- Specific Use Permit Ordinance is attached for review

ACTION:

- a) Open the Public Hearing and call the time.**
- b) Ask for anyone to come forward and speak who is FOR the amendments to the Specific Use Permits**
- c) Ask for anyone to come forward and speak who OPPOSES the amendments to the Specific Use Permits**
- d) Close the Public Hearing and call the time.**
- e) Commission to discuss the matter and make recommendation to the City Council for approval.**

**CITY OF FARMERSVILLE
ORDINANCE # O-2013-0709-001**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FARMERSVILLE, TEXAS, AS HERETOFORE AMENDED, THROUGH THE AMENDMENT OF CHAPTER 77, "ZONING," THROUGH THE AMENDMENT OF ARTICLE III "NEW TYPES OF LAND USE; DISTRICTS," BY DELETING EXISTING SECTION 77-138, "SPECIFIC USE PERMITS," IN ITS ENTIRETY AND REPLACING SECTION 77-138 WITH A NEW SECTION 77-138 THAT IS ALSO ENTITLED "SPECIFIC USE PERMITS"; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING ENGROSSMENT AND ENROLLMENT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Farmersville adopted Ordinance No. 2004-01 establishing a Comprehensive Zoning Ordinance ("Zoning Ordinance") on February 10, 2004, in accordance with the requirements of the Texas Zoning Enabling Act, Texas Local Government Code Chapter 211; and

WHEREAS, the City desires to amend the provision regarding the consideration and granting of Specific Use Permits for certain uses identified in the Use Charts to the Zoning Ordinance as being permitted within a particular zoning classification upon the approval of a Specific Use Permit by the City Council of the City of Farmersville, Texas; and

WHEREAS, after notice and public hearing the Planning and Zoning Commission has recommended approval of the text amendment regarding Specific Use Permits to the City Council; and,

WHEREAS, all legal requirements, conditions, and prerequisites have been complied with prior to this recommended text amendment coming before the City Council of the City of Farmersville; and

WHEREAS, the City Council of the City of Farmersville, after notice and public hearing as required by law and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission of the City of Farmersville and of all testimony and information submitted during said public hearings, has determined that, in the public's best interest and in support of the health, safety, morals, and general welfare of the citizens of the City, the text amendment to the Zoning Ordinance regarding Specific Use Permits described herein is hereby adopted and the Zoning Ordinance is hereby amended to reflect the adoption of such changes in all things; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, THAT:

SECTION 1. INCORPORATION OF FINDINGS

All of the above premises are hereby found to be true and correct legislative and factual determinations of the City of Farmersville and are hereby approved and incorporated

into the body of this Ordinance and made a part hereof for all purposes allowed by law as if fully set forth herein.

SECTION 2. AMENDMENT OF CHAPTER 77, "ZONING," THROUGH THE AMENDMENT OF ARTICLE III "NEW TYPES OF LAND USE; DISTRICTS," BY DELETING EXISTING SECTION 77-138, "SPECIFIC USE PERMITS," IN ITS ENTIRETY AND REPLACING SECTION 77-138 WITH A NEW SECTION 77-138 THAT IS ALSO ENTITLED "SPECIFIC USE PERMITS."

From and after the effective date of this Ordinance, Chapter 77, "Zoning," is amended through the amendment of Article III "New Types of Land Use; Districts," by deleting existing Section 77-138, "Specific Use Permits," in its entirety and replacing Section 77-138 with a new Section 77-138 that is also entitled "Specific Use Permits" to read as follows:

"Sec. 77-138. Specific Use Permits.

The City Council by an affirmative vote may, after public hearing and proper notice to all parties affected, and after recommendations from the Planning and Zoning Commission that the use is in general conformance with the Master Plan of the City and containing such requirements and safeguards as are necessary to protect adjoining property, authorize the granting of a Specific Use Permit for those uses indicated by "S" in the schedule of uses to this Zoning Ordinance, according to the following criteria:

- (1) An application for a Specific Use Permit shall be accompanied by a site plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials, and locations of buildings; the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings, and fences; and the relationship of the intended use to all existing properties and land uses in all directions. A Specific Use Permit that will require the construction of a new structure shall be accompanied by said site plan. A site plan may not be required if a Specific Use Permit is applied for that will locate in an existing structure, if the City Manager or his designee determines that the existing site adequately addresses the above elements and a site plan is not necessary to evaluate the Specific Use Permit.
- (2) In recommending that a Specific Use Permit for the premises under consideration be granted, the Planning and Zoning Commission shall determine that such uses are harmonious with and adaptable to building structures and uses of abutting property and other property in the vicinity of the premises under consideration, and shall make recommendations as to requirements for the paving of streets, alleys and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate off-street parking, protective

screening and open space, heights of structures, and whether the building is compatible for the use under consideration.

- (3) Every Specific Use Permit granted under these provisions shall be considered as an amendment to the Zoning Ordinance and shall remain applicable to the property so long as all conditions imposed at the time of granting said permit continue to be met and no substantive change in the use of the property occurs. In the event the building, premises, or land use under the Specific Use Permit is voluntarily vacated for a period in excess of 180 days, the use of the same shall thereafter conform to the regulations of the original zoning district of such property unless a new and separate Specific Use Permit is granted for continuation of the same.
- (4) In granting a Specific Use Permit, the City Council may impose conditions that shall be complied with by the owner or grantee before a certificate of occupancy may be issued by the City for use of the building on such property pursuant to such Specific Use Permit. Such conditions are not precedent to the granting of a Specific Use Permit, but shall be construed as conditions precedent to the granting of the certificate of occupancy.
- (5) No Specific Use Permit shall be granted unless the applicant, owner, and grantee of the Specific Use Permit shall be willing to accept and agree to be bound by and comply with the written requirements of the Specific Use Permit, as attached to the site plan drawings and approved by the City Council.
- (6) A building permit shall be applied for and secured within six months from the time of granting the Specific Use Permit; provided, however, that the City Council may authorize an extension of this time upon recommendation by the Planning and Zoning Commission, except in the case of a private street development, which shall have no limit regarding the application and securing of a building permit. If a building permit has not been secured within six months from the time of granting the Specific Use Permit, or if a building permit has been issued but subsequently allowed to lapse, a City-initiated zoning change will be placed on the agenda of the Planning and Zoning Commission and City Council to consider the revocation of the Specific Use Permit.
- (7) No building, premises, or land used under a Specific Use Permit may be enlarged, modified, structurally altered, or otherwise significantly changed unless a separate Specific Use Permit is granted for such enlargement, modification, structural alterations, or change.
- (8) The board of adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the granting, extension, revocation, modification or any other action taken relating to such Specific Use Permit.

- (9) When the City Council authorizes granting of a Specific Use Permit, the official zoning district map shall be amended according to its legend to indicate that the affected area has conditions and limited uses, said amendment to indicate the appropriate zoning district for the approved use and suffixed by an "S" designation.
- (10) A Specific Use Permit issued by the City shall be transferable from one owner or owners of the subject property to a new owner or occupant of the subject property, and Subsection (5) of this Section shall be applicable to the new owner or occupant of the property. However, a Specific Use Permit issued for a private club shall not be considered a property right but a personal privilege of the permit holder in accordance with the Texas Alcoholic Beverage Code, and thus shall not be transferable or assignable from one owner or owners of the permitted property to a new owner or occupant of the permitted property."

SECTION 3. PENALTY

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Farmersville, Texas, shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 4. SEVERABILITY

It is hereby declared to be the intention of the City Council that the several provisions of this Ordinance are severable, and if any court of competent jurisdiction shall judge any provisions of this Ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this Ordinance which are not specifically designated as being illegal, invalid or unenforceable.

SECTION 5. REPEALER

This Ordinance shall be cumulative of all other Ordinances, resolutions, and/or policies of the City, whether written or otherwise, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Any and all ordinances, resolutions, and/or policies of the City, whether written or otherwise, which are in any manner in conflict with or inconsistent with this Ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION 6. PUBLICATION

The City Secretary of the City of Farmersville is hereby directed to publish in the Official Newspaper of the City of Farmersville the Caption, Penalty and Effective Date Clause of this Ordinance as required by Section 52.011 of the Texas Local Government Code.

SECTION 7. ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Farmersville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the City Council of the City of Farmersville and by filing this Ordinance in the Ordinance records of the City.

SECTION 8. SAVINGS

All rights and remedies of the City of Farmersville are expressly saved as to any and all violations of the provisions of any Ordinances 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. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by Texas law.

PASSED on first reading on the 25th day of June, 2013, and second reading on the 9th day of July, 2013, at properly scheduled meetings of the City Council of the City of Farmersville, Texas, there being a quorum present, and approved by the Mayor on the date set out below.

APPROVED THIS 9th day of July, 2013.

APPROVED:

BY: _____
Joseph E. Helmberger, P.E., Mayor

ATTEST:

Eddie Sims, City Secretary