

**DATE:** December 4, 2012  
**TO:** Honorable Mayor & City Council  
**FROM:** Chris Caso, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of December 3, 2012

**AGENDA ITEM NO. 5**  
**PUBLIC HEARING: ZONING CASE 2012-30**  
**APPLICANT: CITY OF PLANO**

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), and Subsection 3.109 (Farmers' Market) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations), and related sections of the Zoning Ordinance regarding farmers' markets. Tabled on November 5, 2012 and November 19, 2012.

**APPROVED:** 8-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**STIPULATIONS:**

Recommended for approval with the following: (Additions are indicated in underlined text and deletions are shown as strike through text)

Amend Section 1.600 (Definitions) of Article 1 (General Regulations) to include the following definition for farmers' market use:

Farmers' Market

The retail sale of farm produce by A farmers' market is an establishment or location used by farmers and other individual vendors within a covered lease space, for the primary purpose of selling fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers, and honey. Sale of any type of meat, fish or poultry, eggs, refrigerated dairy products, and home canned or packaged items shall be prohibited primarily for retail sale of food products that meet all applicable federal, state, and local laws regulating the preparation and sale of such products.

Amend Subsection 2.502 (Schedule of Permitted Uses) of Article 2 (Zoning Districts and Uses) to allow farmers' market by right in the Retail zoning district, and with Specific Use the Permit in the Central Business-1 and the Urban Mixed-Use zoning districts as follows:

**Nonresidential Zoning Districts**

Permitted Uses	Category														
		O-1 - Neighborhood Office													
		O-2 - General Office													
		R - Retail	P												
		BG - Downtown Business/Government	S												
		LC - Light Commercial	P												
		CE - Commercial Employment													
		CB-1 - Central Business-1	IS												
		LI-1 - Light Industrial-1	S												
		LI-2 - Light Industrial-2	S												
		RE - Regional Employment													
		RC - Regional Commercial													
		RT - Research/Technology Center													
		CC - Corridor Commercial	P												
		UMU – Urban Mixed-Use	IS												
<u>Farmers' Market</u>	Retail														

Amend Subsection 3.109 (Farmers' Market) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) as follows:

- ~~1.~~ All farmers' market shall be located in a covered space providing shelter for vendors and customers.
- ~~1.~~ ~~2.~~ All vendor facilities shall be located on a concrete or asphalt surface providing adequate drainage.
- ~~2.~~ ~~3.~~ A maximum of 20% of the vendor stalls may be leased to vendors of non-food products.

**FOR CITY COUNCIL MEETING OF:** January 14, 2013 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

BM/sf

CITY OF PLANO  
PLANNING & ZONING COMMISSION

December 3, 2012

**Agenda Item No. 5**

**Public Hearing:** Zoning Case 2012-30

**Applicant:** City of Plano

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**DESCRIPTION:**

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), and Subsection 3.109 (Farmers' Market) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations), and related sections of the Zoning Ordinance regarding farmers' markets.

**REMARKS:**

On September 22, 2012, the Planning & Zoning Commission called a public hearing to consider amendments to the Zoning Ordinance regarding farmers' markets, including amending the definition, supplementary regulations where necessary, and schedule of permitted uses (use charts) to determine appropriate districts in which to allow the use.

Currently, the Zoning Ordinance defines farmers' market as "the retail sale of farm produce by individual vendors within a covered lease space, for the primary purpose of selling fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers, and honey. Sale of any type of meat, fish or poultry, eggs, refrigerated dairy products, and home canned or packaged items shall be prohibited".

Section 3.109 (Farmers' Market) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) of the Zoning Ordinance also requires all farmers' markets to be located in a covered space providing shelter for vendors and customers. Vendor facilities are to be located on a concrete surface providing adequate drainage. Additionally, a maximum of 20% of the vendor stalls could be leased to vendors of non-food articles.

Farmers' markets are currently allowed by right in the Light Commercial (LC) and Corridor Commercial (CC) zoning districts. They are allowed with a specific use permit (SUP) in the Light Industrial-1 (LI-1), Light Industrial-2 (LI-2), and Downtown Business/Government (BG) zoning districts.

## Proposed Amendments

### Definition:

The challenge with the current farmers' market definition is that it specifies the food items that can be sold at a farmers' market. This is difficult from a zoning and land use perspective to enforce since the monitoring of items sold would be performed by the Property Standards Department since they enforce zoning regulations. Additionally, whether produce, meats, flowers, hay bales, or nuts are sold does not affect the overall land use compatibility of a farmers' market with surrounding land uses. Staff recommends a definition that does not stipulate items to be sold at farmers' markets since food items and food safety issues are regulated by the Health Department and the city Code of Ordinances. Therefore, staff recommends a broader definition that regulates the land use aspect of farmers' markets, and allows the Health Department and Code of Ordinances to regulate the specific food items that are sold at farmers' markets. Staff recommends the farmers' market definition be amended as follows:

The retail sale of farm produce by A farmers' market is an establishment or location used by farmers and other individual vendors within a covered lease space, for the primary purpose of selling fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers, and honey. Sale of any type of meat, fish or poultry, eggs, refrigerated dairy products, and home canned or packaged items shall be prohibited primarily for retail sale of food products that meet all applicable federal, state, and local laws regulating the preparation and sale of such products.

### Zoning Districts:

Currently farmers' markets are prohibited in the Retail (R) zoning district. Since farmers' markets are a retail use allowing for the retail sale of food products similar to grocery stores, it is appropriate that a farmers' market be allowed by right in the R zoning district. In addition, farmers' markets are an allowed use with an SUP in the BG zoning district, however the use is not allowed within the Central Business-1 (CB-1) district. Since the CB-1 district permits businesses similar to the BG district and both districts allow for urban mixed-use development where it could be appropriate to have a farmers' market, it is proper to allow farmers' market in the CB-1 district with the approval of an SUP. In addition, staff also believes that farmers' markets would be appropriate with an SUP in the newly created Urban Mixed-Use (UMU) zoning district. Staff recommends that farmers' markets be allowed by right in the R zoning district, and with an SUP in the CB-1 and the UMU zoning districts. Staff recommends the following changes to the use chart:

## Nonresidential Zoning Districts

Permitted Uses	Category	O-1 - Neighborhood Office	O-2 - General Office	R - Retail	BG - Downtown Business/Government	LC - Light Commercial	CE - Commercial Employment	CB-1 - Central Business-1	LI-1 - Light Industrial-1	LI-2 - Light Industrial-2	RE - Regional Employment	RC - Regional Commercial	RT - Research/Technology Center	CC - Corridor Commercial	UMU – Urban Mixed-Use
<u>Farmers' Market</u>	Retail			<u>P</u>	<u>S</u>	<u>P</u>		<u>IS</u>	<u>S</u>	<u>S</u>				<u>P</u>	<u>IS</u>

### Supplementary Regulations:

As stated previously, Section 3.109 (Farmers' Market) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) of the Zoning Ordinance includes additional regulations that require farmers' markets to be covered, located on concrete surfaces, and allowances for the sale of non-food items. Open air farmers' markets are common place in many cities and throughout the country. As such, staff recommends that the covered space requirement be removed from the supplementary regulations. In addition, since asphalt is an accepted pavement type for parking areas within the city, staff recommends that asphalt be an allowed surface for farmers' markets in addition to concrete surfaces. Staff proposes the following amendments to the current farmers' market supplementary regulations:

- ~~1. All farmers' market shall be located in a covered space providing shelter for vendors and customers.~~
1. 2. All vendor facilities shall be located on a concrete or asphalt surface. ~~providing adequate drainage.~~
2. 3. A maximum of 20% of the vendor stalls may be leased to vendors of non-food products.

### **RECOMMENDATION:**

Recommended for approval subject to the following: (Additions are indicated in underlined text and deletions are shown as strike through text)

Amend Section 1.600 (Definitions) of Article 1 (General Regulations) to include the following definition for farmers’ market use:

**Farmers’ Market**

The retail sale of farm produce by A farmers’ market is an establishment or location used by farmers and other individual vendors within a covered lease space, for the primary purpose of selling fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers, and honey. Sale of any type of meat, fish or poultry, eggs, refrigerated dairy products, and home-canned or packaged items shall be prohibited primarily for retail sale of food products that meet all applicable federal, state, and local laws regulating the preparation and sale of such products.

Amend Subsection 2.502 (Schedule of Permitted Uses) of Article 2 (Zoning Districts and Uses) to allow farmers’ market by right in the Retail zoning district, and with Specific Use the Permit in the Central Business-1 and the Urban Mixed-Use zoning districts as follows:

**Nonresidential Zoning Districts**

Permitted Uses	Category														
		O-1 - Neighborhood Office	O-2 - General Office	R - Retail	BG - Downtown Business/Government	LC - Light Commercial	CE - Commercial Employment	CB-1 - Central Business-1	LI-1 - Light Industrial-1	LI-2 - Light Industrial-2	RE - Regional Employment	RC - Regional Commercial	RT - Research/Technology Center	CC - Corridor Commercial	UMU – Urban Mixed-Use
<u>Farmers’ Market</u>	Retail			P	S	P		S	S	S				P	S

Amend Subsection 3.109 (Farmers’ Market) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) as follows:

1. ~~All farmers’ market shall be located in a covered space providing shelter for vendors and customers.~~
1. 2. All vendor facilities shall be located on a concrete or asphalt surface, ~~providing adequate drainage.~~

2. ~~3.~~ A maximum of 20% of the vendor stalls may be leased to vendors of non-food products.

## Zoning Case 2012-30

**An Ordinance of the City of Plano, Texas, amending Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), and Subsection 3.109 (Farmers' Market) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations), and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, regarding farmers' markets; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.**

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 14th day of January, 2013, for the purpose of considering a change in the Zoning Ordinance; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 14th day of January, 2013; and

**WHEREAS**, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Section 1.600 (Definitions) of Article 1 (General Regulations) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended to amend the definition for farmers' market, such portion of the section to read as follows:

1.600 Definitions

Farmers’ Market

A farmers’ market is an establishment or location used by farmers and other individual vendors primarily for retail sale of food products that meet all applicable federal, state, and local laws regulating the preparation and sale of such products.

**Section II.** Subsection 2.502 (Schedule of Permitted Uses) of Article 2 (Zoning Districts and Uses) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended to allow farmers’ market by right in the Retail zoning district, and with Specific Use Permit in the Central Business-1 and the Urban Mixed-Use zoning districts as follows:

**Nonresidential Zoning Districts**

Permitted Uses	Category													
		O-1 - Neighborhood Office												
		O-2 - General Office												
		R - Retail	P											
		BG - Downtown Business/Government	S											
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		RE - Regional Employment												
		RC - Regional Commercial												
		RT - Research/Technology Center												
		CC - Corridor Commercial	P											
		UMU – Urban Mixed-Use	S											
<u>Farmers’ Market</u>	Retail													

**Section III.** Subsection 3.109 (Farmers’ Market) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended, such subsection to read in its entirety as follows:

3.109 Farmers’ Markets

1. All vendor facilities shall be located on a concrete or asphalt surface.
2. A maximum of 20% of the vendor stalls may be leased to vendors of non-food products.

**Section IV.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section V.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section VI.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VII.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VIII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**DULY PASSED AND APPROVED THIS THE 14TH DAY OF JANUARY, 2013.**

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY