



TO: Planning and Zoning Commission
FROM: Edie Sims, City Secretary
DATE: April 11, 2011
SUBJECT: Discuss and recommendation to revise the Comprehensive Zoning Ordinance by amending Section 11 by deleting said section in its entirety and replacing it with a new Section 11 entitled "Landscape Regulations"

ACTION: Discuss, approve or disapprove amending the Comprehensive Zoning Ordinance regarding Landscape Regulations

(III - D)

**CITY OF FARMERSVILLE
ORDINANCE # O-2011-_____-_____**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, AS HERETOFORE AMENDED, THROUGH THE AMENDMENT OF SECTION 11, "LANDSCAPE REGULATIONS," BY DELETING SAID SECTION IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 11 ENTITLED "LANDSCAPE REGULATIONS"; REPEALING ORDINANCES IN CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the City of Farmersville, Texas, has recommended the amendment of Section 11 of the Comprehensive Zoning Ordinance, entitled "Landscape Regulations" by deleting said section in its entirety and replacing it with a new Section 11 entitled "Landscape Regulations"; 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 and of all testimony and information submitted during said public hearings, the City Council is of the opinion and finds that the change of such zoning text will not be detrimental to the public health, safety, or general welfare of the citizens of the City, and will promote the best and most orderly development of the property affected thereby, and as well the owners and occupants thereof, and the City generally; **NOW, THEREFORE**,

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

SECTION 1. Findings Incorporated

All of the above premises are hereby found to be true and correct legislative and factual determinations of the City of Farmersville and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Amendment to Section 11, "Landscape Regulations," of the Comprehensive Zoning Ordinance by deleting said section in its entirety and replacing it with a new Section 11 entitled "Landscape Regulations"

From and after the effective date of this Ordinance, Section 11 of the Comprehensive Zoning Ordinance, entitled "Landscape Regulations" is hereby deleted in its entirety and replaced with a new Section 11 entitled "Landscape Regulations" to read as follows:

“SECTION 11: Landscape Regulations

11-A. PURPOSE: It is the purpose of this section to establish certain regulations pertaining to landscaping within the City of Farmersville. These regulations provide standards and criteria for new landscaping which are intended to promote the value of property, enhance the welfare, and improve the physical appearance of the City.

11-B. SCOPE: The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new construction or any existing development, which is altered by increasing the floor area by 30 percent or more of the originally approved floor area, either by a single expansion or by the cumulative effect of a series of expansions.

1. All existing structures, which are a conversion or change in use requiring the expansion of or significant improvements to meet parking standards shall upgrade landscaping on the site and meet these requirements to the extent practical. The Building Official or his designee shall have the ability to waive landscape requirements on a case-by-case basis if unique circumstances exist on the property that makes application of these regulations unduly burdensome on the applicant. These regulations may be waived only if there will be no adverse impact on current or future development and will have no adverse impact on the public health, safety, and general welfare.

2. Uses within the downtown CA - Central Area District shall be exempt from the landscape requirements set forth herein, unless it is determined by the Building Official that these standards are achievable and would contribute to the historic appearance and/or qualities that are inherent to the district.

11-C. ENFORCEMENT: The provisions of this section shall be administered and enforced by the Building Official or his designee.

1. If, at any time after the issuance of a Certificate of Occupancy, the approved landscaping is found to be in nonconformance to the standards and criteria as approved on the landscape plan, the Building Official shall issue notice to the owner, citing the violation and describing what action is required to comply with this section.

2. The owner, tenant, or agent shall make reasonable progress within thirty (30) days from the date of said notice to restore the landscaping as required and shall have ninety (90) days to completely restore the landscaping as required.

3. One thirty (30) day extension may be granted by the Building Official upon the applicant's request if a hardship due to extreme seasonal conditions can be demonstrated by the owner, tenant, and/or agent.

4. If the landscaping is not restored within the allotted time, such person shall be in violation of this Ordinance.

11-D. PERMITS

1. No permits shall be issued for building, paving, grading or construction until a Landscape Plan is submitted and approved by the Building Official or his designee. In the event that the proposed development requires an approved subdivision plat, site plan, or development plan, no final approval shall be granted unless a Landscape Plan is submitted and approved.

2. Prior to the issuance of a Certificate of Occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the Landscape Plan and a digital copy of the landscaping as installed shall be provided to the planning department for permanent record.

3. In any case in which a Certificate of Occupancy is sought at a season of the year in which the Building Official determines that it would be impractical to plant trees, shrubs, or grass, or to lay turf, a Certificate of Occupancy may be issued notwithstanding the fact that the landscaping required by the Landscape Plan has not been completed, provided the applicant deposits cash in an escrow account with the City in the amount equal to 120% of the estimated cost of installing such landscaping which escrow will remain in effect until the landscape plan is installed and accepted or approved by the City. Such escrow deposit shall be conditioned upon the installation of all landscaping required by the plan within six (6) months of the date of the application and shall give the applicant the right to draw upon the escrow deposit to complete the said landscaping.

4. Failure to timely install the landscaping required by the landscape plan within six (6) months of the date of the application shall be deemed a violation of this chapter and the Certificate of Occupancy may be revoked without liability to the City. The Building Official shall have the right to determine the landscaping required at the time the certificate of occupancy is issued.

11-E. LANDSCAPE PLANS: Prior to the issuance of a building, paving, grading or construction permit for any use other than uses within the downtown CA - Central Area District, a Landscape Plan shall be submitted to the City for approval. The Building Official or a designee, shall review such plans and shall approve same if the plans are in accordance with the criteria of these regulations. If the plans are not in accord, they shall be disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.

Landscape Plans shall be prepared by a landscape architect or landscape contractor who belongs to a bona fide nurseryman's association. Landscape Plans shall, at a minimum, contain the following information:

1. Minimum scale of one inch equals fifty feet or the same scale as the associated site plan;
2. The location, size, and species of all trees to be preserved and planted – tree stamps shall not be used unless they indicate the true size and location of trees;
3. The location of all plant and landscaping material to be used including plants, paving, benches, screens, fountains, statues, earthen berms, ponds (to include depth of water), or other landscape features (except that the location of plants and landscaping materials may be generalized on a conceptual landscape plan);
4. The species, size, spacing and quantities of all plant material to be used in a tabular form (except that conceptual landscape plans may provide general plant types in-lieu-of species);
5. An affidavit on the plan stating that all required landscape areas shall be provided with an automatic underground irrigation system with rain and freeze sensors and evapotranspiration (ET) weather based controllers and said irrigation system shall be designed by a qualified professional and installed by a licensed irrigator;
6. Layout and description of irrigation, sprinkler or water systems including placement of water sources;
7. Description of maintenance provisions for the Landscape Plan;
8. The person responsible for the preparation of the landscape plan, including affidavit of their qualifications to prepare said plan;
9. The mark indicating north;
10. The date of the landscape plan, including any revision dates;
11. The planting details percentage of total site in permanent landscaping;
12. The percentage of street yard in permanent landscaping;
13. The dimensions of all landscape areas;
14. The number of required trees and number of trees provided;
15. The location of all existing and planned overhead and underground utilities shall be shown on the landscape plan or on an accompanying utility plan drawn at the same scale, if necessary for clarity; and
16. Additional information as deemed necessary to adequately evaluate the landscape plan.

11-F. MAINTENANCE: The owner, tenant and his or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing of grass six inches (6") or higher, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials which die shall be replaced with plant material of similar variety and size within ninety (90) days.

11-G. GENERAL STANDARDS:

1. The following criteria and standards shall apply to landscape materials and installation. For the purposes of this section, the term "caliper" shall be defined as the diameter measurement of a tree trunk.

a. Quality. Plant materials used in conformance with the provisions of his section shall conform to the standards of the American Standards for Nursery Stock, or their equal. Grass seed, sod and other material shall be clean and free of weeds and noxious pests and insects.

b. Open Areas. Required landscaped open areas shall be completely covered with living plant material.

c. Ornamental Trees. Trees referred to in this section shall be chosen from the approved plant palette located in Table 1. Trees shall have an average spread or crown of greater than fifteen feet (15') at maturity. Trees having lesser average mature crown of fifteen feet (15') may be substituted by grouping the same so as to create the equivalent of fifteen feet (15') of crown width. At time of planting, ornamental trees shall be a minimum of two inches (2") in caliper, measured six inches (6") above the ground, and a minimum of eight feet (8') in height.

d. Canopy Trees. Canopy trees shall have a minimum spread of crown of 25 feet at maturity. Canopy trees shall be a minimum of four inches (4") in caliper as measured six inches (6") above the ground and twelve feet (12') in height at the time of planting.

e. Shrubs. Shrubs not of the dwarf variety shall be a minimum of two feet (2') in height when measured immediately after planting and shall be chosen from the approved plant palette located in Table 1. Shrubs acceptable for six foot (6') screening, where installed, shall be a minimum of three feet (3') in height when measured immediately after planting and shall be planted no further apart than three feet (3') on center unless otherwise approved by the Building Official, and maintained so as to form a continuous,

unbroken, solid visual screen which will be six feet (6') high within two (2) years after time of planting.

f. Hedges where installed for buffering or screening purposes shall be planted and maintained so as to form a continuous, unbroken, solid visual screen which will be three feet (3') high within one (1) years after time of planting.

g. Evergreen vines. Evergreen vines not intended as ground cover shall be a minimum of two feet (2') in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet screening requirements as specified herein and as approved by the Building Official. Vine material shall be chosen from the approved plant palette located in Table 1.

h. Ground Cover. Ground cover used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year of planting. Groundcover material shall be chosen from the approved plant palette located in Table 1.

i. Lawn Grass. Grass areas may be sodded, plugged, sprigged, hydro-mulched, or seeded except that solid sod shall be used in swales, berms, or other areas subject to erosion. Grass areas shall be established with 100% coverage and 70% density with an approved perennial grass prior to the issuance of a Certificate of Occupancy.

j. Credit for Existing Trees. Any trees preserved on a site meeting the specifications herein shall be credited toward meeting the tree requirement of any landscaping provision of this section. Trees of exceptional quality due to size, large canopy cover, trunk diameter, rareness, age or species may, at the discretion of the Building Official, be credited as two (2) trees to meet the minimum requirement.

2. All required landscape areas shall be provided with an automatic underground irrigation system, except for required landscaping in single-family or two-family developments. Any new irrigation system installed on or after September 1, 2007, must be equipped with rain and freeze sensors and an evapotranspiration (ET) weather based controller. Said irrigation system shall be designed by a qualified professional and installed by a licensed irrigator after receiving a permit, as may be required under the construction code. Irrigation systems shall comply with the City of Farmersville's Water Conservation Ordinance as it exists or may be amended.

3. Earthen berms shall have side slopes not to exceed 3:1 (three feet of horizontal distance for each one foot of height). All berms shall

contain necessary drainage provisions, as may be required by the Building Official.

4. No tree shall be planted closer than four feet (4') to a right-of-way line nor closer than eight feet (8') to a public utility line (water or sewer), unless no other alternative is available. Further, a landscape area in which trees are to be provided shall not conflict with a utility easement, unless no alternative is available.

5. No tree that has a mature height of twenty-five feet (25') or greater shall be planted beneath an existing or proposed overhead utility line. Where canopy trees are required adjacent to or underneath overhead utility lines, ornamental trees (a minimum of two inches (2") in caliper as measured six inches (6") above the ground) shall be provided instead of the required canopy trees.

6. All landscape areas shall be protected by a monolithic curb or wheel stops and remain free of trash, litter, and car bumper overhangs.

11-H. MINIMUM LANDSCAPING REQUIREMENTS:

1. For all non-residential and multiple family parcels, at least 15 percent of the street yard shall be permanent landscape area. The term "street yard" shall be defined as the area between the front property line and the minimum front set back line.

2. For all non-residential and multiple family parcels located at the intersection of two dedicated public streets (rights-of-way), a 30 foot corner clip shall be provided adjacent and parallel to the right-of-way dedication as a landscape buffer, which can be counted toward the 15 percent requirement.

3. For all non-residential and multiple family parcels, a minimum of 10 percent of the entire site shall be devoted to living landscape, which shall include grass, ground cover, plants, shrubs, or trees.

4. Landscape setbacks on thoroughfares shall comply with the following provisions:

a. *Landscape setbacks on minor thoroughfares.* For all non-residential and multiple family parcels, a minimum ten foot (10') landscape buffer adjacent to the right-of-way of any minor thoroughfare is required. If the lot is a corner lot, all frontages shall be required to observe the ten foot (10') buffer in addition to the 30 foot corner clip landscape buffer.

b. *Landscape setbacks on major thoroughfares.* For non-residential and multiple family parcels, a minimum twenty foot (20') landscape buffer adjacent to the right-of-way of any major thoroughfare is required. If the lot is a corner lot, all frontages shall be required to observe the twenty foot (20') buffer in addition to the 30 foot corner clip landscape buffer..

c. *Landscape setback reduction.* If unique circumstances exist which prevent strict adherence with this requirement, the Planning and Zoning Commission may consider granting a reduction during the site plan approval process to reduce the minimum twenty foot (20') landscape buffer to a minimum of ten feet (10'); provided that site design considerations have been incorporated to mitigate the impact of the waiver. Unusual circumstances include, but are not limited to: insufficient lot depth or size of the existing lot, existing structures and drives, and floodplain and existing trees to be preserved. A reduction may be granted if:

- (1) Unique circumstances exist on the property that makes application of this section unduly burdensome on the applicant;
- (2) The reduction will have no adverse impact on current or future development;
- (3) The reduction is in keeping with the spirit of the zoning regulations, and will have a minimal impact, if any, on the surrounding land uses; and
- (4) The reduction will have no adverse impact on the public health, safety and general welfare.

A financial hardship shall not be considered a basis for the granting of a reduction.

5. For all non-residential and multiple family parcels, developers shall be required to plant one canopy tree per 40 linear feet, or portion thereof, of street frontage. These required trees must be planted within the associated landscape setback along thoroughfares, unless otherwise approved by the Director of Planning. Trees may be grouped or clustered to facilitate site design.

6. Landscape areas within parking lots must be at least one parking space in size (162 square feet).

7. No landscape area counting toward minimum landscaping requirements shall be less than 25 square feet in area or less than five feet (5') in width.

8. For all non-residential and multiple family parcels, internal landscape areas shall:

- a. Have a landscaped area with at least one tree within 65 feet of every parking space; and
- b. Have a minimum of one tree planted in the parking area for every 10 parking spaces within parking lots with more than 20 spaces.

9. Within parking lots, landscape areas with curbs and gutters must be provided to define parking areas and assist in clarifying appropriate circulation patterns.

10. A landscape island shall be located at the terminus of each parking row, and should contain at least one canopy tree.

11. All existing trees that are to be considered for credit shall be provided with a permeable surface (a surface that does not impede the absorption of water) within a minimum five foot (5') radius from the trunk of the tree. All new trees shall be provided with a permeable surface within a minimum 2 ½ foot (2.5') radius from the trunk of the tree.

12. At least 75 percent (75%) of the frontage of parking lots, adjacent to a public right-of-way, within the street yard shall be screened from public streets with evergreen shrubs attaining a minimum height of three feet (3'), an earthen berm of a minimum height of three feet (3'), a low masonry wall of a minimum height of three feet (3'), or a combination of the above with a minimum combined height of three feet (3'). A wall used for parking lot screening should be accompanied with landscape planting in the form of low shrubs and groundcover to soften the appearance of the wall.

13. A minimum of 50 percent (50%) of the total trees required for the property shall be canopy trees as specified on the approved plant list (see the approved plant palette located in Table 1).

14. Necessary driveways from the public right-of-way shall be allowed through all required landscaping areas in accordance with City regulations. Shared driveways shall be allowed through perimeter landscape areas.

15. For all non-residential and multiple family parcels, whenever an off-street parking area or vehicular use area abuts an adjacent property line, a perimeter landscape area at least five feet (5') wide shall be maintained along and between the edge of the parking area and the adjacent property line.

16. Whenever a non-residential use, mobile home use, or multiple family use is adjacent to a property used or zoned for single-family or duplex residential uses, the more intensive land use shall provide a landscaped area of at least ten feet (10') in width along the common property line planted with one canopy tree for each 40 linear feet or portion thereof of adjacent exposure. These trees may not be clustered.

17. Multiple family residential uses shall provide a landscaped buffer of at least twenty feet (20') in width along all property lines planted with one canopy tree for each 30 linear feet or portion thereof of

adjacent exposure. The trees along the street frontage may be clustered, while the trees along all other property lines may not.

18. Evergreen shrubs (acceptable for six-foot screening) shall be provided around dumpster screening walls, and the plant materials must be a minimum of three feet (3') in height at the time of planting, unless not visible from public right-of-way or a public use area.

19. For all single-family and duplex parcels, builders shall be required to plant two canopy trees per lot, prior to obtaining a certificate of occupancy. At least one of the trees shall be located in the front yard. An existing quality tree of at least eight-inch caliper size located on the lot may be counted towards the requirement for a four-inch caliper tree, if appropriate tree protection measures have been followed.

20. For all townhome parcels a minimum of 20 square feet of useable open space shall be required per townhome unit. This additional open space shall not include the parkland dedication requirement as outlined in section 4.4 of the Subdivision Ordinance, any required landscape areas as outlined in this section, or any required spacing between buildings. Open space pockets shall be designed to be located over the entire site in order to break up density and serve the entire development. Open space pockets shall be required to be a minimum of 1,000 square feet and a maximum of 2,000 square feet for townhome developments over 50 units. The applicant may request an increase in the maximum allowed useable open space requirement with site plan approval.

11-I. TREE PRESERVATION:

(1) Any trees preserved on a site meeting the herein specifications may be credited toward meeting the tree requirement of any landscaping provision of this section for that area within which they are located, according to the following table:

<i>Caliper of existing tree</i>	<i>Credit against tree requirement</i>
6" to 8"	2 trees
9" to 15"	3 trees
16" to 30"	4 trees
31" to 46"	5 trees
47" or more	8 trees

For purposes of this section, caliper measurement shall be taken at a height of 4 ½ feet (4.5') above the ground, and shall be rounded to the nearest whole number.

(2) Existing trees may receive credit if they are not on the City's approved plant material list but approved by the Building Official or designee; however, trees must be located within the landscape area to which credit is applied.

(3) Any tree preservation proposed shall designate the species, size, and general location of all trees on the conceptual or general landscape plan. The species, size, and exact location shall be shown on the landscape plan.

(4) During any construction or land development, the developer shall clearly mark all trees to be maintained and may be required to erect and maintain protective barriers around all such trees or groups of trees. The developer shall not allow the movement of heavy equipment or the storage of equipment, materials, debris, or fill to be placed within the drip line of any trees. This is not intended to prohibit the normal construction required within parking lots.

(5) During the construction stage of development, the developer shall not allow cleaning of equipment or material under the canopy of any tree or group of trees to remain. Neither shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy of any tree or groups of trees to remain. No attachment or wires of any kind, other than those of a protective nature, shall be attached to any tree.

11-I. SIGHT DISTANCE AND VISIBILITY:

(1) Rigid compliance with these landscaping requirements shall not be such as to cause visibility obstructions and/or blind corners at intersections. Whenever an intersection of two or more streets or driveways occur, a triangular visibility area, as described below, shall be created. Landscaping within the triangular visibility area shall be designed to provide unobstructed cross visibility at a level between two feet (2') and seven feet (7'). Trees may be permitted in this area provided they are trimmed in such a manner that no limbs or foliage extend into the cross visibility area.

(2) In the event other visibility obstructions are apparent in the proposed landscape plan, as determined by the Building Official, the requirements set forth herein may be modified to eliminate the conflict.

**TABLE 1
PLANT PALETTE**

Overstory Trees: Range: 30' - 60'

Bald Cypress	<i>Taxodium distichum</i>
Cedar Elm	<i>Ulmus cressifolja</i>
Pecan	<i>Carya illinoensis</i>
Chinese Pistache	<i>Pistacia chinensis</i>
Bur Oak	<i>Quercus macrocarpa</i>
Shumard's Oak	<i>Quercus Shumardii</i>
Sweet Gum	<i>Liquidambar styraciflua</i>
Catalpa	<i>Catalpa bignoniodes</i>
Honey Locust Green	<i>Gleditsia triacanthos</i>
Ash	<i>Fraxinus pennsylvanica</i>
Live Oak	<i>Quercus virginiana</i>
Western Soapberry	<i>Sapindus drummondii</i>

Accent Trees: 10' - 20'

Redbud	<i>Cercis canadensis</i>
Crape Myrtle	<i>Lagerstroemia indica</i>
Yaupon Holly	<i>Ilex vomitoria</i>
Bradford Pear	<i>Pyrus calleryana 'Bradford'</i>
Texas Sophora	<i>Sophora affinis</i>
Wild Plum	<i>Prunus americana</i>
Crap Apple	<i>Malus angustifolia</i>
Deciduous Holly	<i>Ilex decidua</i>
Flameleaf Sumac	<i>Rhus Copallina</i>
Cherry-Laurel	<i>Prunus caroliniana</i>
Chaste Tree	<i>Vitex Agnus-castus</i>

Shrubs: Range: 3' - 5'

Dwarf Crape Myrtle	<i>Lagerstroemia indica nana</i>
Dwarf Burford Holly	<i>Ilex comuta 'Barfordii Nana'</i>
Dwarf Chinese Holly	<i>Ilex comuta 'Rotunda'</i>
Dwarf Yaupon Holly	<i>Ilex vomitoria 'Nana'</i>
Fraser's Photinia	<i>Photinia Fraseri</i>
Purple Sage	<i>Leucophyllum frutescens</i>
Purple Leaf Japanese Barberry	<i>Berberis Thunbergii</i>
	<i>'Atropurpurea'</i>
Pampas Grass	<i>Cortaderia Selloana</i>
Nandina	<i>Nandina domestica</i>
Juniper Supp.	<i>Juniperus chinensis</i>
Cattail	<i>Typha latifolia</i>

Ground Cover: Range: 18”

Juniper Supp.

Juniperus horizontalis
or procumbens

Periwinkle

Vinca major

Liriope

Liriope Muscari

Asian Jasmine

Trachyclopermum asiaticum

Vines:

Coral Honeysuckle

Lonicera sempervirens

Carolina Yellow Jessamine

Gelsemium semperviems

Lady Banksia Rose

Rosa Banksiae

Cross Vine

Bignonia Capreolata Clematis

Sweet Autumn Clematis

Paniculata

SECTION 3. Cumulative Repealer

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 4. 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 5. Severability

It is hereby declared to be the intention of the City Council of the City of Farmersville 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 should be declared unconstitutional by valid judgment or final decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 6. Governmental Immunity

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Farmersville in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

SECTION 7. Injunctions

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Farmersville in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Farmersville.

SECTION 8. 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 9. Penalty

Any person, firm or corporation violating any of the provisions or terms of this Ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Farmersville, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense.

SECTION 10. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

PASSED THIS _____ DAY OF _____, 2011 at a scheduled meeting 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 ____ DAY OF _____, 20____.

APPROVED:

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

ATTEST:

Edie Sims, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Alan D. Lathrom, City Attorney