

ORDINANCE NO. 2023-10829

AN ORDINANCE AMENDING PART II OF THE CITY OF IRVING LAND DEVELOPMENT CODE, “UNIFIED DEVELOPMENT CODE (UDC)” AS FOLLOWS: AMENDING SECTION 2.1.3 “ZONING DISTRICTS ESTABLISHED” TO INCLUDE THE CONDITIONAL USE PERMIT (CUP) OVERLAY; AMENDING SECTIONS 2.4.2 “RESIDENTIAL LAND USE TABLE” AND 2.5.2 “NON-RESIDENTIAL LAND USE TABLE” TO IDENTIFY USES ELIGIBLE FOR A CONDITIONAL USE PERMIT IN CERTAIN ZONING DISTRICTS; AMENDING SECTIONS: 2.5.4 “PROFESSIONAL OFFICE (P-O)”; 2.5.6 “NEIGHBORHOOD COMMERCIAL (C-N)”; 2.5.8 “COMMERCIAL OUTDOOR 1 (C-OU-1)”; 2.5.9 “COMMERCIAL OUTDOOR 2 (C-OU-2)”; 2.5.10 “COMMERCIAL OUTDOOR 3 (C-OU-3)”; 2.5.12 “FREEWAY (FWY)”; 2.6.6 “HERITAGE CROSSING DISTRICT (HCD)”; 2.3.3 “STATE HIGHWAY 161 OVERLAY”; AND 2.3.4 “STATE HIGHWAY 183 OVERLAY” TO ADD ADDITIONAL PERMITTED PRINCIPAL USES WITH A CUP; AMENDING SECTION 4.4 “PARKING AND LOADING” TO ESTABLISH A MINIMUM PARKING REQUIREMENT FOR A FARMERS MARKET; AMENDING SECTION 9.3 “DEFINITIONS” TO ADD AND AMEND DEFINITIONS FOR VARIOUS USES; PROVIDING FOR CONFLICT RESOLUTION, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, A PENALTY, AND AN EFFECTIVE DATE.

WHEREAS, on February 9, 2023, the Irving City Council approved ORD 2023-10704, creating Unified Development Code (UDC) Section 2.3.5 “Conditional Use Permit (CUP) Overlay” to add regulations for the creation and operation of a conditional use; and

WHEREAS, a conditional use permit provides flexibility necessary to achieve the goals and objectives of the comprehensive plan and allows compatible and orderly development of certain uses which have the potential to adversely impact surrounding property or the general public; and

WHEREAS, the Irving City Council may authorize the issuance of a CUP for uses as indicated in 2.4.2 (Residential Land Use Table) and 2.5.2 (Non-Residential Land Use Table); and

WHEREAS, city staff has identified a variety of uses that may be appropriate on a temporary or conditional basis in certain locations and presented recommendations for proposed amendments to the Unified Development Code; and

WHEREAS, on July 13, 2023, the Planning and Development Committee of the Irving City Council received a presentation of the proposed amendments, expressed support thereof, and provided additional feedback; and

WHEREAS, on August 7, 2023, the Irving Planning and Zoning Commission received a presentation of the proposed amendments, expressed support thereof, and provided additional feedback; and

WHEREAS, on September 14, 2023, the Irving City Council reviewed a draft of the proposed amendments, expressed support thereof, and provided additional feedback; and

WHEREAS, on October 2, 2023, the Irving Planning and Zoning Commission reviewed a draft of the proposed amendments, expressed support thereof, and provided additional feedback; and

WHEREAS, on October 16, 2023, after notice and public hearing, the Planning and Zoning Commission considered the proposed amendments and recommended Approval; and

WHEREAS, after notice and public hearing, and upon consideration of the recommendation of the Planning and Zoning Commission and of all testimony and information submitted during the public hearing, the City Council has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens that the zoning ordinance be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION 1. That Section 2.1.3 “Zoning Districts Established” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to add “Conditional Use Permit (CUP) Overlay” to the end of the list of districts.

SECTION 2. That Section 2.4.2 “Residential Land Use Table” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to add the following and the table shall be adjusted accordingly such that the uses in each subsection are in alphabetical order.

Add “Explanation of Table Abbreviations” to the top of the table. “P= Permitted by right; CUP= allowed with Conditional Use Permit; Blank cell= prohibited”

Create new column “Conditional Use Permit (CUP)”

Under the “Accessory Uses” subsection add “Community Home” and “Residential Assisted Living.” Add “P” under the “CUP” column for each to indicate the uses may be permitted in Residential Zoning Districts by Conditional Use Permit only.

SECTION 3. That Section 2.5.2 “Non-Residential Land Use Table” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to revise and/ or add the following and the table shall be adjusted accordingly such that the uses in each subsection are in alphabetical order.

Under the “Sales and Service” subsection add “Farmers Market” and add a “P” to the table under the C-N, C-C, and FWY columns to indicate the use is allowed in the districts. In the column for Additional Requirements, add “An office or pavilion with permanent public restroom facilities shall be constructed. CUP required when within 500 feet of an “R” Single Family District, measured property line to property line.”

Under the “Sales and Services” subsection add “Veterinarian clinic or hospital, with outside runs or boarding kennels” and add “CUP” under the columns for C-N, C-C, and FWY districts indicate the use is permitted in the districts by Conditional Use Permit only.

Under the “Auto-Oriented Services” subsection revise the use category “Public or private storage garages, yards or lots as outdoor storage” to read “Parking lot for passenger vehicles as a primary use” and add a “P” to the table under the C-OU-1 district and a “CUP” under the P-O, C-O, C-N, C-C, and FWY districts indicating the use may be permitted in the districts by Conditional Use Permit only.

Under the “Auto-Oriented Services” subsection revise the use category “Public storage garages” to read “Public or Private parking garage as a primary use” and add a “P” under the P-O, C-O, C-N, C-C, and FWY district to indicate the use is allowed in the districts.

Under the “Auto-Oriented Services” subsection revise the table for the existing use “Automobile washing business; automatic, coin-operated or moving line wash” to add “CUP” under the C-N, C-C, C-OU-1, C-OU-3, and FWY districts to indicate the use may be permitted in the districts by Conditional Use Permit only.

Under the “Agricultural” subsection revise the use category “Kennels” to read “Kennels, Outdoor” and add a “P” under the column for “CUP” to indicate to indicate the use may be permitted in Non-Residential Zoning Districts by Conditional Use Permit only.

SECTION 4. That Section 2.5.4 “Professional Office (P-O)” of Section 2.5 “Non-Residential Districts” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to add 2.5.4(a)(12-13) as follows:

2.5.4 Professional Office (P-O)

- a) Principal uses. The following uses shall be permitted as principal uses subject to the limitations indicated:
  - 12) Parking lot for passenger vehicles as a primary use by CUP only
  - 13) Public or Private parking garage

SECTION 5. That Section 2.5.6 “Neighborhood Commercial (C-N)” of Section 2.5 “Non-Residential Districts” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to add 2.5.6(a)(12-15) as follows:

2.5.6 Neighborhood Commercial (C-N)

- a) Principal uses. The following uses shall be permitted as principal uses subject to the limitations indicated:
  - 12) Automobile washing business; automatic, coin-operated or moving line wash; by CUP only
  - 13) Farmers’ Market, provided that an office or pavilion with permanent public restroom facilities shall be constructed. CUP required when within 500 feet of an “R” Single Family District, measured property line to property line.
  - 14) Veterinarian clinic or hospital with outside runs or boarding kennels; by CUP only
  - 15) Outdoor Storage as a primary use, provided that such storage shall be completely encompassed by a blind fence or wall at least seven (7) feet high and provided that materials stored shall be stacked no higher than one foot below the top of the fence or wall; by CUP only

SECTION 6. That That Section 2.5.8 Commercial Outdoor 1 (C-OU-1) of Section 2.5 “Non-Residential Districts” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to revise 2.5.8(a)(6) and add 2.5.8(a)(12-13) to read as follows:

2.5.8 Commercial Outdoor 1 (C-OU-1)

- a) Principal uses. The following uses shall be permitted as principal uses subject to the limitations indicated:
  - 6) Parking lot for passenger vehicles as a primary use
  - 12) Outdoor Storage as a primary use, provided that such storage shall be completely encompassed by a blind fence or wall at least seven (7) feet high and provided that materials stored shall be stacked no higher than one foot below the top of the fence or wall; by CUP only
  - 13) Automobile washing business; automatic, coin-operated or moving line wash; by CUP only

SECTION 7: That Section 2.5.9 – Commercial Outdoor 2 (C-OU-2) of Section 2.5 “Non-Residential Districts” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to add 2.5.9(a)(15) to read as follows:

2.5.9 Commercial Outdoor 2 (C-OU-2)

- a) Principal uses. The following uses shall be permitted as principal uses subject to the limitations indicated:
  - 15) Outdoor Storage as a primary use, provided that such storage shall be completely encompassed by a blind fence or wall at least seven (7) feet high and provided that materials stored shall be stacked no higher than one foot below the top of the fence or wall; by CUP only

SECTION 8: That Section 2.5.10 Commercial Outdoor 3 (C-OU-3) of Section 2.5 “Non-Residential Districts” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to add 2.5.10(a)(14-15) to read as follows:

2.5.10 Commercial Outdoor 3 (C-OU-3)

- a) Principal uses. The following uses shall be permitted as principal uses subject to the limitations indicated:
  - 14) Automobile washing business; automatic, coin-operated or moving line wash; by CUP only
  - 15) Outdoor Storage as a primary use, provided that such storage shall be completely encompassed by a blind fence or wall at least seven (7) feet high and provided that materials stored shall be stacked no higher than one foot below the top of the fence or wall; by CUP only

SECTION 9: That Section 2.5.12 “Freeway (FWY)” of Section 2.5 “Non-Residential Districts” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to add 2.5.12(a)(17-22) to read as follows:

2.5.12 Freeway (FWY)

- a) Principal uses. The following uses shall be permitted as principal uses subject to the limitations indicated:
- 17) Automobile washing business; automatic, coin-operated or moving line wash; by CUP only
  - 18) Farmers’ Market, provided that an office or pavilion with permanent public restroom facilities shall be constructed. CUP required when within 500 feet of an “R” Single Family District, measured property line to property line
  - 19) Parking lot for passenger vehicles as a primary use; by CUP only
  - 20) Public or Private parking garage as a primary use
  - 21) Veterinarian clinic or hospital with outside runs or boarding kennels; by CUP only
  - 22) Outdoor Storage as a primary use, provided that such storage shall be completely encompassed by a blind fence or wall at least seven (7) feet high and provided that materials stored shall be stacked no higher than one foot below the top of the fence or wall; by CUP only

SECTION 10: That Table 2 “Heritage Crossing District Land Use Table” in Subsection (e) “Schedule of Permitted Uses” of 2.6.6 “Heritage Crossing District (HCD)” of Section 2.6 “Mixed-Use Districts” of the City of Irving Unified Development Code is amended as provided below:

2.6.6 Heritage Crossing District (HCD)

e) *Schedule of Permitted uses*

*Applicability.* Due to the emphasis on urban form over land uses in the Heritage Crossing District, general use categories have been identified by character zone (Table 2)

Table 2. Heritage Crossing District Land Use Table

	Character Zones			
Uses	Transit Mixed-Use (TMU)	Corridor Mixed-Use (CMU)	Neighborhood Mixed-Use (NMU)	Additional Criteria

b. Commercial uses				
6. Commercial off-street parking as a primary use	CUP	CUP		New surface parking lots shall be permitted as an interim use of property if they are part of a phased development or providing public parking pending area development.
7. Construction sales and services office (not to include equipment or materials storage yard)	P	P		
23. Vehicle rentals	CUP	CUP		i. Drive through lanes, service bays, and/or gas station canopies shall meet the design standards in section (g), Building Design Standards of this code. ii. Outdoor storage of vehicles or other products sold shall NOT have direct frontage along pedestrian frontages. Outdoor storage of vehicles and/or other products sold shall be screened with a required street screen along General Streets (see subsection (h)(2) of this section for standards).
24. Vehicle Repair Services	CUP	CUP P/AC (east of Britain only)		
25. Vehicle sales	CUP	CUP P/AC (east of Britain only)		
26. Vehicle washing (of any type)	CUP	CUP P/AC (east of Britain only)		
31. Farmers' Market	P	P		An office or pavilion with permanent public restroom facilities shall be constructed.
d. Industrial Uses				
1. Manufacturing	CUP	CUP		
2. Warehousing	CUP	CUP		
3. Outside Storage	CUP	CUP		
4. Construction sales and services office with equipment or materials storage yard	CUP	CUP		

SECTION 11. That Section 2.3.3 “State Highway 161 Overlay” of Section 2.3 “Overlay Districts” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to revise 2.3.2(b)(1) to read as follows:

2.3.3 State Highway 161 Overlay

f) Use Regulations

Exceptions for properties with approved site plan zoning, a CUP, or PUD zoning.

- a. Properties with Detailed Site Plan (S-P-1), Generalized Site Plan (S-P-2), a Conditional Use Permit (CUP), or with an approved development plan in Planned Unit Development (PUD) districts shall comply with the requirements of their respective site plan zoning or development plan relative to any specific provisions for uses, setbacks, height, parking, landscaping, and/or signage.
- b. Unless specifically delineated or noted on an approved site plan, Conditional Use Permit, or development plan, the standards of the State Highway 161 overlay district shall take precedence over any other less-specific standard of the approved plan.

SECTION 12. That Section 2.3.4 “State Highway 183 Overlay” of Section 2.3 “Overlay Districts” of Chapter 2 “Zoning districts, uses, and standards” of the City of Irving Unified Development Code is amended to revise 2.3.3(i)(3) to read as follows:

#### 2.3.4 State Highway 183 Overlay

##### i) Permitted uses and area requirements.

- 3) Segments. Existing development along State Highway 183 includes many types of land uses ranging from low-density single-family to heavy industrial. Future development and redevelopment is expected to include a range of land uses, but in a different pattern. For this reason, this overlay district divides the State Highway 183 corridor into distinct segments, each with its own particular list of permitted uses, all of which are subject to the development standards listed in the previous subsections.

Uses are permitted in the various segments of the State Highway 183 overlay district in accordance with the following use chart. The uses permitted by the use chart take precedence over any uses permitted or not permitted by the base zoning of any particular property with the exception of properties zoned Detailed Site Plan (S-P-1) or Generalized Site Plan (S-P-2) (see subsection (i)(1) above), or with an approved Conditional Use Permit (CUP).

SECTION 13: That Section. 4.4.3(c) “Off-Street Parking Requirements” of Section 4.4 “Parking and Loading” of Chapter 4 “Development and Performance Standards” of the City of Irving Unified Development Code is amended to add 4.4.3(c)(32) to read as follows:

#### 4.4.3 Off Street Parking Requirements

- c) *Number of parking spaces required:* The minimum number of off-street parking spaces required shall be as follows:
  - 32) Farmer’s Market- 2 spaces per table or booth

SECTION 14. That Section 9.3 “Definitions” of Chapter 9 of the City of Irving Unified Development Code is amended to revise existing definitions and add new definitions to read as follows. All definitions shall be renumbered to retain their alphabetical order.

*Community Home* A licensed intermediate care facility within a residential structure for individuals with intellectual disabilities or related conditions as defined and regulated by Chapter 252 of the Texas Health and Safety Code.

*Residential Assisted Living* A licensed health facility within a residential structure as defined and regulated by Chapter 247 of the Texas Health and Safety Code.

*Farmers' Market* shall mean a permanent establishment or location providing individual spaces leased by farmers and other vendors for the offering for retail sale directly to the consumer of seasonal uncut fresh fruits and vegetables, flowers, herbs, or plants, processed food stuffs and nonperishable products such as jams, honey, pickled products, sauces, and baked goods. A Farmers' Market may include non-food artisanal items such as candles, woodworking, crafts, art, clothing, and other cottage foods and goods where the vendors are primarily individuals who have raised the produce or created the product. A farmers' market shall not include the sale of used household goods or operate as a "flea market". Farmers' markets operated on a temporary or seasonal basis shall be regulated by Section 1.19 of the Unified Development Code as a Temporary Use.

*Flea Market* shall mean an establishment or location providing individual spaces leased by vendors for the retail sale of new and used household goods, personal effects, tools, artwork, small household appliances, and similar merchandise, objects, or equipment in small quantities. Food service may be provided as an accessory use under regulations of Chapter 18 "Food and Food Establishments" of the City of Irving Code of Criminal and Civil Ordinances.

*Garage, Parking* shall mean a public or private parking garage provided as a primary building or portion thereof, constructed or used for the storage or parking of passenger motor vehicles and trucks of less than one-ton capacity only, where the rental of space is on an hourly, weekly or monthly basis.

*Parking* shall mean the short-term storage of two axle passenger vehicles in designated spaces. The display of motor vehicles for sale as part of a retail auto sales business is not considered or counted as "parking". Auto Sales inventory not on display to the public for sale, the long-term storage of intact (not wrecked, dismantled or parted out) passenger vehicles and commercial vehicles or vehicles with over two axles are considered outside storage.

SECTION 15. That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Irving, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION 16. Should any paragraph, sentence, 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 declared to be invalid, illegal, or unconstitutional, and shall not affect the validity of the comprehensive zoning ordinance as a whole.

SECTION 17. That nothing in this ordinance shall be constructed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION 18. That any person violating or failing to comply with any provisions of this ordinance shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each day any violation or noncompliance continues shall constitute a separate offense.

SECTION 19. That this ordinance shall take effect upon adoption and shall be published in accordance with the provisions of the Texas Local Government Code and the Irving City Charter.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS,  
on December 7, 2023.

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RICHARD H. STOPFER  
MAYOR

ATTEST:

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Shanae Jennings  
City Secretary/Chief Compliance Officer

APPROVED AS TO FORM:

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Kuruvilla Oommen  
City Attorney