

Exhibit B – Land Use and Development Regulations – Ordinance No. 3585 – Page 1 of 11

Special Use Permit Case SUP 2019-05
Lots 1R1, Block AB, The Venue at Hometown
6020 Parker Boulevard, North Richland Hills, Texas

This Special Use Permit (SUP) must adhere to all the conditions of the North Richland Hills Code of Ordinances, as amended, and the base zoning district of TC Town Center, Neighborhood Core. The following regulations shall be specific to this Special Use Permit. Where these regulations conflict with or overlap another ordinance, easement, covenant or deed restriction, the more stringent restriction shall prevail.

- A. *Permitted use.* A Special Use Permit is authorized for a Farmers Market (“Market”) on the property. For the purposes of this Special Use Permit, a Farmers Market means a temporary outdoor market place where individual vendors offer produce, food, or other products for distribution or sale directly to consumers by the persons that have raised, grown, made, crafted, processed, or produced the products or approved foods as listed herein. Markets do not include flea markets or other gatherings or markets offering merchandise, personal effects, tools, or outdoor retail sale or promotion. A farmers market may also mean temporary open air market, produce market, or other similar terms.
- B. *Designation and responsibilities of Market Manager.* The property owner and/or operator of the Market must designate one or more individuals who will be responsible for:
 - 1. Market operations as defined herein,
 - 2. Market date and vendor selection. Notification to the City of North Richland Hills by email or posting on the Market operator’s website by 5:00 p.m. the Friday before a weekend’s Market date of the following:
 - a. Hours of operation for that weekend’s Market;
 - b. List of Market vendors for that weekend’s Market; and
 - c. Any known or planned Market cancellation.
 - 3. Notification to the City of North Richland Hills at least two (2) hours in advance of any unplanned cancellation due to weather or other unforeseen circumstances.
 - 4. The Market Manager or their designee must be present during all hours of market set up, market operation, and market take down.
- C. *Market Operation Standards.* The Market must comply with the following operational standards:
 - 1. Hours of Operation.
 - a. Business operations. A market may only be open for business on either a Saturday or Sunday of any given weekend or any Monday recognized as a national holiday for a period of not more than four consecutive hours between 8:00 a.m. and 8:00 p.m.
 - b. Market set up and take down. Market Manager(s) and vendor(s) may arrive up to two (2) hours prior to the advertised market hours to set up. The property must be cleared of all market activities no later than two hours after the market’s close.

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- c. Market Area reservation. The Market Area, including parking spaces and drive aisles not designated as fire lanes, may be reserved for use by the Market no earlier than 8:00 p.m. the evening before the market.
2. Restrooms. The Market must either have a standing, written agreement with an adjacent business for the use of restroom facilities or at least one portable toilet including a portable handwashing station with soap, paper towels, and potable running water must be present during the advertised hours of operation available for vendor use. Portable toilets may be delivered up to 24 hours in advance of the market and must be removed within 24 hours after completion of the Market.
3. Market Area. The Market Area is defined by the site plan exhibit attached as Appendix C and applies to a Market conducted on private property. The Market Area is the only area where vendors may conduct business operations and must be free of personal vehicles to the greatest extent possible. No Market or vendor activities may occur outside the Market Area.
 - a. The Market Area must not exceed 9,000 square feet of contiguous area.
 - b. All Market activities must be located on a concrete, asphalt, or other approved surface providing adequate drainage.
 - c. Once the Market has opened, no moving vehicles are allowed within the Market Area.
 - d. Gray water disposal. Dumping of liquid waste onto the pavement, ground, grass, or into any storm drainage system is prohibited. All gray water and liquid waste must be captured and disposed of off-site.
 - e. Trash. Sufficient trash receptacles must be provided and maintained. Trash must be removed from the site at the close of the Market.
 - f. At the close of the Market, the site must be returned to an equivalent or improved condition. All litter, tents, stalls, food, signs, merchandise, and other evidence of the Market must be removed within two (2) hours of the close of Market.
4. Signs.
 - a. Required Signage. Signs must be posted on site that convey the following rules apply within the Market Area:
 - i. The Market Area is a smoke- and drug-free environment.
 - ii. Pets must be on leash.
 - iii. Market vendors may sell products as a Texas Cottage Food Production Operation, which is exempt from the requirements of a food service establishment and does not have to comply with the Texas Food Establishment Rules. The NRH Health Department does not have

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regulatory authority to conduct inspections of a Texas Cottage Food Production Operation.

- b. Permitted Signage. The following signage associated with a Market is permitted.
 - i. Two (2) banner signs of not more than fifty (50) square feet in size each may be posted along the street frontage not more than 24 hours in advance of the advertised Market hours of business operations and must be removed by the end of the Market.
 - ii. No more than eight (8) signs may be erected on any public street frontage of the Market Area during the hours of business operation. Signs may be for purposes of promoting either the market or individual vendors of the market, subject to the discretion of the Market Manager. Total square footage of all signage combined per street frontage may not exceed 50 square feet.
 - iii. Any allowed sign must be located on private property and at least ten feet from the back of curb.
 - iv. Individual vendors may attach one sign to their respective booth. Sign must not exceed 24 square feet.
 - v. Up to six off-street “Market Parking” wayfinding signs of a maximum six square feet each may be permitted to allow the efficient flow of traffic.
 - vi. “No Market Parking” signage is permitted for areas designated by the Market Manager, property owner, and/or City of North Richland Hills.
- c. Prohibited Signage. The following signs are prohibited:
 - i. Signs that are held by or attached to a human being. A human sign includes a person dressed in costume for the purpose of advertising or otherwise drawing attention to an individual, business, commodity, service, activity, or product.
 - ii. Signs that move, flash, are animated or similar.
 - iii. Signs which cause obstructions to vehicular visibility.
 - iv. Signs which are painted or stenciled or constructed of paper, cardboard, or similar non-durable material.
 - v. Cloth, paper, banner, flag, balloon, device, or other similar advertising matter attached, suspended from, or allowed to hang loose from any sign, building, structure, motor vehicle, tree, shrub, bush, or light pole.

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5. Vendors.

- a. A maximum of 30 vendor spaces or booths, including tents, of 100 square feet each may be present at any market.
- b. Designation and allocation of Vendor spaces are the responsibility and at the discretion of the Market Manager, but must meet the conditions contained herein.
- c. Vendor Parking. Vendors and their employees must park their business or personal vehicles at least 250 feet from the Market Area and on the same property as the Market Area, on a public street, or on a property with an established and written shared parking agreement specific to the Market, unless the business vehicle is necessary for the health requirements contained herein.
- d. If a vendor is using a tent, it must be clean and securely anchored with a minimum of 20 lb. weight to prevent it from becoming loose due to wind and/or inclement weather. A vendor whose tent is found to be non-compliant will be asked to remove the tent by the Market Manager and/or the City.
- e. A minimum 60 percent of vendors present at any market must be vendors of food products not meant for immediate on-premises consumption, including those that sell the following:
 - i. Fruits, vegetables, honey, eggs, nuts, herbs, mushrooms, seeds, dairy products, prepared foods requiring time or temperature controls for safety, , prepackaged food from a licensed facility, prepared foods not requiring time or temperature controls for safety, beverages, meat, poultry, and fish: frozen, prepackaged and inspected by USDA or equal.
 - ii. Products of a Cottage Food Production Operation that meet the Texas Health and Safety Code (HSC), including approved items such as baked goods, candy, coated and uncoated nuts, unroasted nut butters, fruit butters, a canned jam or jelly, fruit pie, dehydrated fruit or vegetables, including dried beans, popcorn and popcorn snacks, cereal, including granola, dry mix, vinegar, pickles, mustard, roasted coffee or dry tea, or dried herb or dried herb mix. Foods not specifically allowed under the Texas Cottage Food Production Operation regulations are strictly prohibited.
 - iii. The following products or services are limited to only four (4) vendors per market:
 1. Food truck or concession food vendor who prepares, operates, offers, serves, or sells unpackaged, ready to eat foods, and foods

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requiring time or temperature control for safety, intended to be consumed on site at time of purchase.

If the Market Manager is unable to secure the required minimum 60 percent of the vendors as those listed above, the Market must be cancelled for that date.

- f. A maximum 40 percent of vendors present at any market may be vendors of:
 - i. Handcrafted items such as custom jewelry, leather, artwork, photography, pottery, woodcraft, small custom furniture, metalcraft, glassware, knitted, crocheted, embroidered, or quilted items, totes, and bags.
 - ii. Flowers, plants, herbs, succulents, and bonsai trees.
 - iii. Health and hygiene products such as soaps, candles, lotions, oils, and pastes.
 - iv. Pet foods, treats, and pet accessories.
 - v. Those listed as “Limited vendors” below.
- g. Limited vendors.
 - i. The following products or services are limited to only one vendor per market:
 - 1. Clothing, including t-shirts, dresses, and shoes.
 - 2. Shave ice, snow cones, ice cream, or other dessert concession food vendor meant for immediate consumption.
 - 3. Vendors soliciting off-site sales or services.
 - 4. Direct sale vendors of either single-level marketing or multi-level marketing, where a person makes money by buying products from a parent organization and selling them directly to either customers (single-level marketing) or by sponsoring new direct sellers for potential commission (multi-level marketing).
 - 5. Northeast Tarrant County municipal government agencies, or a non-profit or public partner agency designated by the City of North Richland Hills and approved by the Market Manager, for the purpose of providing outreach and education to the general public, advertise public programs, activities, and events, etc. This includes municipal animal shelters and their designated partner agencies that may allow domesticated pet adoptions on-site so long as five or fewer animals who have current rabies vaccinations are

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contained within the 100 square foot vendor space and secured within individual kennels.

h. Prohibited vendors. The following products and services are expressly prohibited from being sold or distributed at any Market:

- i. Any item or group of items that do not fit within a space of 100 square feet.
- ii. Any kinds of used or secondhand goods, wares, or merchandise.
- iii. Weapons, including hunting knives, swords, firearms, and ammunition. Pocket knives and knife sharpening are exempt from this prohibition.
- iv. Alcoholic beverages, including beers, wines, and spirits.
- v. Lingerie or any sexually-oriented products.
- vi. Raw milk and raw milk products.
- vii. Products containing cannabinoids such as CBD or THC.
- viii. Large furniture items such as sofas, beds, mattresses, dining tables and sets, bookcases, cabinets, etc.
- ix. Electronics.
- x. Cigarettes, cigars or other tobacco products or products or devices known as water pipes, hookahs, electronic cigarettes or electronic vaping devices, steam stones, hookah pens, or any comparable devices.
- xi. Any product or service that meets the definition of a “special personal service shop.”
- xii. Massage therapy, eyebrow threading, or any services typically provided at a salon.
- xiii. Any product or service not listed herein which is deemed by the Development Review Committee as being inconsistent with the original purpose and intent of this Special Use Permit for a Farmers Market.

D. Market Food Vendor Standards.

1. Food vendors desiring to participate in a Market must apply for a Recurring Event Food Vendor permit, which is valid for up to 16 separate event dates.
2. Vendors that offer, sell, sample or distribute foods requiring time or temperature controls for safety must have a person in charge that can show proof of successfully passing a Texas Department of State Health Services recognized certified food handler course.

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3. Vendors that offer, sell, or distribute only prepackaged foods not requiring time or temperature controls for safety and plants, nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption, are exempt from the certified food handler requirement.
4. Vendors that offer, sell, sample or distribute foods requiring time or temperature controls for safety must comply with the City of North Richland Hills Health Department Regulations and Texas Food Establishment Rules (TFER).
5. Vendors that offer, sell, sample or distribute foods requiring time or temperature controls for safety must comply it all regulations specified for food establishments in this chapter and Chapter 18, Article IV.
6. Vendors that offer, sell, sample or distribute foods requiring time or temperature controls for safety must submit a food vendor application accompanied by a non-refundable application fee, if required, before operating at the Market.
7. Unless operating under the Texas Cottage Food Production Operation regulations, vendors that offer, sell, sample, or distribute prepackaged foods must ensure prepackaged foods are labeled according to the Texas Food Establishment (TFER) requirements.
8. Unless operating under the Texas Cottage Food Operation Production Operation regulations, vendors that offer, sell, sample, or distribute prepackaged foods must possess Texas Department of State Health Services manufactured foods license if required.
9. Unless operating under the Texas Cottage Food Production Operation regulations, home preparation or storage of foods is not allowed.
10. Vendors that offer, sell, sample, or distribute foods as a Texas Cottage Food Production Operation must follow labeling practices as specified by the Texas Cottage Production Operation regulations.
11. Vendors selling products that are not approved under the Texas Cottage Food Production Operation regulations are not allowed to serve or sell unapproved items.
12. Yard/farm eggs must be labeled “ungraded.”

E. Food.

1. Preventing contamination.
 - a. Vending areas must be covered, except for those selling nuts in the shell and whole, raw fruits and vegetables intended for hulling, peeling, or washing by the consumer before consumption.
 - b. Food display. Except for plants, nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption, food on display must be protected from contamination

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by use of packaging; counter, service line, or sneeze guards that comply with National Sanitation Foundation (NSF) or equivalent personnel or staff, or by other means approved by the City of North Richland Hills Health Department.

- c. Approved source. Only food from an approved source as defined in the Texas Food Establishment Rules (TFER) or by Texas Cottage Food Production Operation regulations may be offered at a Market. Potable water as defined by TFER is required for all food preparation, food service, hand washing, and dish washing operations.
- d. Prohibited items. Fresh, non-frozen fish, foraged foods, game animals, gleaned foods, and non-pasteurized dairy items may not be sold, offered for sale, sampled, displayed, served, or consumed at a Market.
- e. Unpackaged food may not be in direct contact with undrained ice
- f. No open flames or frying under canopy. Any vendor cooking or reheating onsite is required to have a fire extinguisher as required by Fire Code.
- g. Gloves, tongs, or other second barrier required to handle open foods and/or sampled foods. Bare hand contact is strictly prohibited.
- h. Temperature requirements. Food temperatures must be in compliance with this ordinance. Equipment used to hold foods must maintain required temperatures for the duration of the hours of operation of the temporary open air market, including preparation.
 - i. Frozen meats, poultry, and seafood must be maintained at a frozen state for the duration of the market, including transportation to the market.
 - ii. Eggs and all other foods requiring time or temperature controls for safety, including refrigerated dairy items must be maintained at or below forty-one degrees (41°) Fahrenheit, or at or above one hundred thirty-five degrees (135°) Fahrenheit for the duration of the Market, including transportation to the Market.
- i. Sampling. Sampling is allowed in compliance with the following standards:
 - i. Sampled food must be offered to the consumer in individual servings and must not be offered on a self-service basis. Portions must be adequately protected from contamination as determined by the City of North Richland Hills Health Department.
 - ii. Only single-service articles (tooth picks, deli tissue, or single cups) may be given to the consumer for use.

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- iii. Foods requiring time or temperature controls for safety offered for sampling must follow proper time and temperature controls as outlined in the Texas Food Establishment Rules (TFER)
- iv. At least one (1) thermometer accurate to +/- two degrees (2°) Fahrenheit must be on-site for each piece of equipment used to hold proper temperatures.
- v. Hand wash facilities compliant with this ordinance are required for any vendor conducting sampling.

F. Functionality of equipment.

- 1. Equipment used to keep foods subject to this ordinance frozen or refrigerated must comply with TFER and be able to maintain required temperatures for the duration of Market operations.
- 2. Tables used within the Market Area must be made of non-porous material and be easily cleanable.
- 3. Utensils used for sampling must be made of non-porous material and must be disposable unless otherwise approved by the City of North Richland Hills Health Department.

G. Equipment, numbers, and capacities.

- 1. Hand wash facilities must be provided for each vendor conducting sampling operations. A portable hand sink with soap, paper towels, 100°F hot water, and a catch basin or other facilities or methods as approved by the City of North Richland Hills Health Department may be used if it satisfies the listed requirements.
- 2. Where a hand wash facility is required, a waste tank with a larger capacity than the potable source tank must be provided.
- 3. A hand wash facility is not required for vendors with only prepackaged products and plants, nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption.
- 4. Three basin setup to wash, rinse, and sanitize is required for vendors preparing open foods and/or sampling. Chemical test strips are required to ensure proper concentration of sanitizer.
- 5. The Market Manager must maintain a list of all participating food vendors. The list must be maintained for at least ninety (90) days from the date of the end of the Market. This list must include, at a minimum:
 - a. The name, address, and phone number of the vendor;
 - b. The date(s) the vendor operated at the Market;

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- c. A list of the food items offered by the vendor for each date operated at the Market;
 - d. A copy of any applicable permits held by the vendor; and
 - e. The address or location of each food item's origin, including information on where the food items were grown, cultivated, or otherwise obtained by the vendor.
- H. *Expiration.* This special use permit shall be considered a pilot/trial permit and shall expire eighteen (18) months from the effective date of this ordinance. After such time, the property owner and/or market operator may seek approval by City Council through the statutory process for Special Use Permit approval to continue market operations.
- I. *Revocation.* The City Manager or their designee may deny operations of a Market if:
 - 1. The proposed market will unreasonably disrupt the orderly flow of traffic, and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;
 - 2. Another market is approved and operated within one mile of the market and has the same or overlapping operating dates and times;
 - 3. The property owner, market operator, or Market Manager fails to adequately provide for:
 - a. The protection of vendors and attendees at the Market;
 - b. Maintenance of public order in and around the Market location;
 - c. Crowd security, taking into consideration the size of the Market; or
 - d. Emergency vehicle access.
 - 4. Repeated health and safety violations by one or more food vendors.
 - 5. The property owner, market operator, or Market Manager fails to comply with or violates this ordinance or any city ordinance or other applicable law, unless the prohibited conduct or activity would be allowed under this ordinance.
 - 6. The property owner, market operator, or Market Manager makes a false statement of material fact regarding the vendor selection for any Market or fails to properly notify the City of vendor selection for any Market.
 - 7. The property owner, market operator, or Market Manager fails to provide proof that the Market and its vendors possess or is able to obtain all licenses and permits required by this or another city ordinance or other applicable law.
 - 8. The applicant fails to pay any outstanding fees or fines assessed for the proposed Market or for a past Market.
 - 9. The City Manager or their designee determines that the Market would pose a serious threat to the public health, safety, or welfare.

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10. The property owner, market operator, or Market Manager is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed the property or market operator.
 11. The market operator fails to acquire or maintain approval from the property owner to operate the Market on the property identified by this Special Use Permit.
- J. **Appeal.** If the City Manager or their designee (“the City”) denies or revokes any permissions for the operations of a Market under the provisions of this Special Use Permit, the City shall send to the market operator and property owner by certified mail, return receipt requested, written notice of the denial or revocation and of the right to an appeal. The market operator or property owner may appeal the decision of the City to City Council by submitting a written request to the City within 10 business days after receipt of such denial or revocation. The decision of City Council shall be final.
- K. ***Penalty for Violation.*** Whenever in this Special Use Permit, or in any ordinance, rule or police regulation of the city, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in the Code the doing of any act is required or the failure to perform such act is declared unlawful, the violation of such provision of the Code or any such ordinance, rule or police regulation shall be punished by a fine not exceeding \$500.00; provided, however, that a penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, shall be a fine not exceeding \$2,000.00.
- L. ***Administrative Approval of Minor Amendments.*** The City Manager or their designee may approve minor amendments or revisions to the Special Use Permit standards provided the amendment or revisions does not significantly:
1. Alter the basic relationship of the proposed uses to adjacent uses;
 2. Change the uses approved;
 3. Significantly increase approved densities, height, site coverage, or floor areas;
 4. Significantly decrease on-site parking requirements;
 5. Reduce minimum yards or setbacks; or
 6. Change traffic patterns.