

ORDINANCE NO. O-2015-020-15

AN ORDINANCE AMENDING ORDINANCE NO. O-2002-032-15, AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF HALTOM CITY, TEXAS, BY ADOPTING REGULATIONS FOR DAY LABORER HALLS; PROVIDING FOR THE CLASSIFICATION OF DAY LABORER HALLS IN CERTAIN ZONING DISTRICTS; PROVIDING LOCATIONAL RESTRICTIONS FOR DAY LABORER HALLS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Haltom City is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Haltom City heretofore adopted Ordinance No. O-2002-032-15, as amended, the Zoning Ordinance of the City of Haltom City, Texas, which Ordinance regulates and restricts the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and

WHEREAS, after appropriate notice and public hearing, the Planning and Zoning Commission of the City of Haltom City, Texas has forwarded a recommendation to the City Council for amendment of the City's zoning ordinance as set forth herein; and

WHEREAS, notice has been given and public hearings held as required for amendments to the zoning ordinance.

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

SECTION 1.

Section 28, "Definitions" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by adding the following definitions:

Day Laborer Hall or Temporary Common Worker Employer: Any profit or non-profit public or private entity, whose business involves securing temporary unskilled or agricultural employment for a client through the use of a hiring hall or indoor facility where unskilled workers gather to await employment.

Unskilled Worker: An individual who performs labor involving physical toil that does not require persons engaged in a particular occupation, craft, or trade. An unskilled worker includes a temporary common worker as defined by state law.

SECTION 2.

Section 9, "Matrix of Uses" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by adding the following to the table of uses:

KEY:

- P = Permitted
- C = Conditional
- SE = Special Exception

H. Commercial uses:	SF-1	SF-2	D	MF-1	MF-2	MHD	TH	O	C-1	C-2	C-3	C-4	C-5	M-1	M-2
Day Laborer Hall											P**	P**	P**	P**	P**

** Refer to Sec. 29.Y and Z for supplementary district regulations

SECTION 3.

Section 29, "Supplementary District Regulations" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by adding the following:

Y. DAY LABORER HALLS: It is the purpose and intent of this subsection to regulate day laborer halls so as to protect and promote the health, safety, and general welfare of the citizens of the City and visitors thereto, and to establish reasonable and uniform regulations that locate day laborer halls near existing public transportation systems for safe and reliable transportation and employment of all potential workers of a day laborer hall. A day laborer site or facility that allows unskilled workers to gather outdoors to await temporary unskilled or agricultural employment is not permitted. These regulations are intended to balance the right of the citizens of the City to maintain a decent moral society and, on the other hand, the right of individuals to work freely in accordance with the guidelines of the Constitution of the United States and United States Supreme Court rulings pursuant thereto.

These regulations are also intended to deter property uses and activities which directly or indirectly cause adverse secondary effects, including the depreciation of property values, on the immediate neighborhood surrounding the day laborer hall. It is not the purpose or intent of these regulations to restrict or deny lawful access by individuals to work or to deny employers access to workers but rather to designate a safe and reasonable location to facilitate the operation of a day laborer hall. A person commits an offense if he or she causes or permits the operation or establishment of a day laborer hall in violation of any of the following restrictions:

1. A day laborer hall shall not be located more than 1,000 feet from a transportation authority's designated bus stop existing at the time of the adoption of this ordinance. Measurement of the distance from a day laborer hall to a transportation authority's bus stop shall be in a direct line along the property lines of the street front and from front door of the day laborer hall to the transportation authority's bus stop marker, and in a direct line across intersections. Measurement of the 1,000-foot distance requirement shall recognize any transportation authority's bus stop, which is located in an adjacent city. A certified survey prepared by a licensed surveyor or licensed engineer showing distance measurements in accordance with this subsection shall be submitted to the Zoning Administrator as part of the application for a building permit or certificate of occupancy. Any certificate of occupancy issued for a building or facility used to conduct a day laborer hall without submission of the required survey shall be null and void.
2. A day laborer hall shall not be located north of Fossil Drive or south of NE 28th Street. The purpose of this regulation is to:
 - a. Preserve the residential character of property that is located north of Fossil Drive and south of NE 28th Street.
 - b. Encourage lower intensity commercial development providing a uniform set of standards for convenience retail shopping, services, and professional offices principally serving neighborhood needs, and compatible in scale, character and intensity with residential development in close proximity to the area.
3. A day laborer hall shall not be located on any property that does not have direct ingress from and egress to N. Beach Street.
4. No more than one day laborer hall shall be located in the same building or on the same property.
5. A day laborer hall must have a lobby or waiting room with a floor area of not less than the greater of 500 square feet or 50 percent of the total floor area of the premises.
6. No person shall operate a day laborer hall in the City unless he or she possesses a current and valid temporary common worker employer license issued by the Texas Department of Licensing and Regulations (TDLR) for each location at which the employer operates. Any City employee knowledgeable of a person operating a day laborer hall in violation to this subsection shall notify his or her supervisor and the City Manager and report such violation as a complaint to the TDLR.

7. No person shall operate a day laborer hall unless the following items are posted in a conspicuous place on the licensed premises for inspection:
 - a. A temporary common worker employer license; and
 - b. A notice of any charge permitted under this section that the license holder may assess against a common worker for equipment, tools, transportation, or other work-related services.

For purposes of this subsection, "conspicuous place" means a location that is in open view to the general public.

8. A day laborer hall shall provide adequate facilities for a worker waiting for a job assignment. The facilities must include:
 - a. restroom facilities for both men and women;
 - b. drinking water;
 - c. sufficient seating; and
 - d. access to vending refreshments and vending food.
9. A person operating a day laborer hall may not charge a temporary common worker for:
 - a. safety equipment, clothing, or accessories required by the nature of the work, either by law, custom, or the requirements of the user of temporary common workers;
 - b. uniforms, special clothing, or other items required as a condition of employment by the user of temporary common workers;
 - c. the cashing of a check or voucher;
 - d. the receipt by the temporary common worker of earned wages; or
 - e. transportation services to and from the work place.

Any City employee knowledgeable of a person operating a day laborer hall in violation to this subsection shall notify his or her supervisor and the City Manager and report such violation as a complaint to the Texas Department of Licensing and Regulation.

10. A day laborer hall operating under a certificate of occupancy for any land use other than a day laborer hall on the effective date of this subsection that is in violation of the location requirements of this subsection shall be deemed in violation of this subsection.
11. A day laborer hall lawfully operating on the effective date of this subsection that is in violation of the location requirements of this section shall be deemed a nonconforming use, subject to the provisions of Section 34.
12. A day laborer hall lawfully operating as a conforming use is rendered a nonconforming use if, subsequent to the grant or renewal of the day laborer hall certificate of occupancy, an existing bus stop of a transportation authority is relocated or abolished.

Z. MAINTAINING ORDER AT DAY LABORER HALLS.

1. **Duty to Maintain Order:** The owner, lessee or operator of any day laborer hall shall maintain quiet and good order upon the premises and shall not permit disorderly or immoral conduct or loitering thereon, nor shall he or she cause or permit any noise or nuisance on the parking area and other premises of the day laborer hall that causes a breach of peace or interferes with the reasonable use and enjoyment of surrounding properties.
2. **Alcoholic Beverages on Premises:** It shall be unlawful for any person to bring on the premises of any day laborer hall any alcoholic beverage or to consume or attempt to consume alcoholic beverages on the premises.
3. **Urinating or Defecating in Public:** It shall be unlawful for any person to urinate or defecate in any place which is visible from a public place where such place has not been designated as a restroom. In this subsection, public place shall mean any place to which the public or a substantial group of the public has access and includes, but is not limited to streets, sidewalks, and the common areas of nonresidential property.
4. **Leaving Unattended, Racing In; Loitering:**
 - a. The following acts or conduct are declared to be unlawful on the premises of any day laborer hall:
 - (1) Leaving any motor vehicle unattended without getting the consent of the operator of said day laborer hall; in which event the vehicle may be impounded.
 - (2) Cruising or racing a motor vehicle upon the premises of a day laborer hall, or utilizing said premises as a short-cut to any other street or adjacent property.

- (3) For three or more persons to congregate and linger or loiter on the premises of any day laborer hall other than inside a building associated with the day laborer hall or in a legally parked motor vehicle.
 - b. Any motor vehicle found unattended upon the premises of any day laborer hall in violation of this subsection, in the absence of actual knowledge of the identity of the person responsible for leaving said motor vehicle, shall be presumed to have been left unattended by the person in whose name such motor vehicle is registered or by any person having been observed operating said motor vehicle on more than one occasion within a period of time not more than one week preceding said violation, and such persons shall be held prima facie responsible for such violation.
5. **Disorderly Conduct:** It shall be unlawful for any person while on the premises of any day laborer hall, to provoke a breach of peace or disorderly conduct as stated in Title 9, Chapter 42 of the Texas Penal Code.
6. **Additional Conditions of Operation:** No day laborer hall shall be open for business except during the following hours:
 - a. Sunday through Thursday from 7:00 a.m. to 6:00 p.m.; and
 - b. Friday and Saturday from 7:00 a.m. to midnight.
7. **Penalties:** In addition to any other remedies authorized under this ordinance, the City may institute any appropriate action or proceeding in any court of appropriate jurisdiction to restrain, correct, or abate a violation of this subsection. The City may also invoke civil remedies provided by the laws of the state, which shall be cumulative of other enforcement actions.
8. **Maintenance Standards in General:** Every person who owns, manages or operates any day laborer hall in the City shall at all times keep and maintain the hall, the premises it is on, and the signage, lighting, security cameras, and other crime preventing environmental design features on the premises in a thoroughly clean and sanitary condition.
9. **Camping:** Overnight sleeping or camping is prohibited on any premises of a day laborer hall.

SECTION 4.

Section 31.D, "Schedule of Minimum Parking Spaces" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by adding the following to the schedule of minimum parking spaces:

KEY:

Use	Number of Spaces	Required for Each	Additional Requirements
Commercial:			
Day Laborer Hall	1	300 square feet of floor area with a minimum of four parking spaces	1 bicycle rack per 100 square feet of floor area

SECTION 5.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Haltom City, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 6.

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

SECTION 7.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 8.

All rights and remedies of the City of Haltom City are expressly saved as to any and all violations of the provision of the Zoning Ordinance of the Code of Ordinances of the City of Haltom City, Texas, as amended, or any other ordinances regulating zoning and land use that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 9.

The City Secretary of the City of Haltom City is hereby directed to publish in the official newspaper of the City of Haltom City, the caption, penalty clause, publication clause and effective date clause of this ordinance one (1) time within ten (10) days after the first reading of this ordinance as required by Section 10-01 of the Charter of the City of Haltom City.

SECTION 10.

This ordinance shall be in full force and effect from an after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON FIRST READING THIS 28th DAY OF SEPTEMBER, 2015.

PASSED AND APPROVED ON SECOND READING THIS 12th DAY OF OCTOBER, 2015.






MAYOR

ATTEST:



CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:



CITY ATTORNEY