

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, APPROVING A VARIANCE REDUCING THE SEPARATION REQUIREMENT FROM 300 FEET TO 100 FEET BETWEEN TOWNEAST FOOD MART AND MESQUITE ACADEMY, A MESQUITE INDEPENDENT SCHOOL SERVING 6TH THROUGH 12TH GRADES, LOCATED AT 2704 MOTLEY DRIVE, TO ALLOW THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION AT A PROPOSED SERVICE STATION AND CONVENIENCE STORE LOCATED AT 3225 NORTH TOWN EAST BOULEVARD; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, Section 8-841 of the Mesquite City Code authorizes the City Council to grant variances from the alcohol spacing requirements prescribed by Section 8-840 of the Mesquite City Code; and

WHEREAS, an application was submitted for a wine and beer retailer's off-premise permit to authorize a proposed service station and convenience store to sell beer and wine for off-premises consumption pursuant to Chapter 26 of the Texas Alcoholic Beverage Code and the applicant is requesting a variance to the alcohol spacing requirements for property located at 3225 Town East Boulevard ("**Premises**") to reduce the spacing requirement from 300 feet to 100 feet from the Mesquite Academy, a school serving 6th through 12th grades, located at 2704 Motley Drive; and

WHEREAS, the City Council, after consideration of the health, safety and welfare of the public and the equities of the situation, finds that enforcement of the alcohol spacing requirements in this particular instance:

- (1) Is not in the best interest of the public;
- (2) Constitutes waste or inefficient use of land or other resources;
- (3) Creates an undue hardship on an applicant for an alcohol permit;
- (4) Does not serve its intended purpose; and
- (5) Is not effective or necessary.

WHEREAS, after giving the required notices and affording citizens an opportunity to express their voices at a public hearing, the City Council desires to grant the alcohol spacing variance, which is in the best interest of the community.

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

SECTION 1. The facts, findings, and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct and are incorporated and adopted as part of this ordinance for all purposes.

SECTION 2. The variance to the alcohol spacing requirements for a proposed service station and convenience store located at 3225 Town East Boulevard, being approximately 100 feet from the Mesquite Academy (“**School**”) property line is granted and the spacing separation requirement from Mesquite Academy is reduced from 300 feet to 100 feet, subject to the following conditions:

- (1) This alcohol spacing variance is valid only for a wine and beer retailer’s off-premises permit pursuant to the Texas Alcoholic Beverage Code in the location shown on the location map attached hereto as Exhibit A.
- (2) This alcohol spacing variance is valid for subsequent renewals of the alcohol permit.
- (3) The variance shall apply only to the proposed service station and convenience store and its square footage on the date the variance was approved; any relocation or expansion automatically voids the variance.

SECTION 3. Notwithstanding Section 2, on the sale or transfer of the Premises or the business on the Premises in which a new original license or permit is required for the Premises, the Premises shall be deemed to satisfy any distance requirements as if the issuance of the new original permit or license were a renewal of a previously held permit or license.

SECTION 4. All ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed; otherwise, they shall remain in full force and effect.

SECTION 5. Should any word, sentence, clause, paragraph, or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 6. That this ordinance shall take effect immediately from and after its passage in accordance with the Charter of the City of Mesquite.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 16th day of March 2025.

Daniel Alemán, Jr.
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Sonja Land
City Secretary

David L. Paschall
City Attorney

EXHIBIT A

“TABC” MEASUREMENT MAP

(to be attached)