

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE SALE OF BEER AND WINE FOR OFF-PREMISE CONSUMPTION ONLY ON A CERTAIN AREA ANNEXED BY THE CITY, SPECIFICALLY DESCRIBED AS THE 25.464 ACRES OF LAND GENERALLY LOCATED AT THE SOUTHEAST CORNER OF IH-20 AND FM-741, IN THE MARTHA MUSIC SURVEY, ABSTRACT NO. 312, KAUFMAN COUNTY, TEXAS.

WHEREAS, the citizens of the City of Mesquite on May 14, 2011, voted in favor of a Local Option Election authorizing the legal sale of beer and wine for off-premise consumption only; such results certified and declared by Resolution No. 21-2011 on May 25, 2011; and

WHEREAS, the City of Mesquite (the "City") annexed 25.464 acres of land located within the extraterritorial jurisdiction of the City, generally located at the southeast corner of IH-20 and FM-741, in the Martha Music Survey, Abstract Mo. 312, Kaufman County, Texas, more particularly described in Exhibit "A," attached hereto and incorporated herein (the "Property") under Ordinance No. 4584 on July 16, 2018; and

WHEREAS, the Property annexed under Ordinance No. 4584 had an alcohol status of dry, prohibiting legal sale of beer and wine for off-premise consumption only on the date it was annexed by the City; and

WHEREAS, Section 251.725 of the Texas Alcoholic Beverage Code permits the governing body of a municipality to authorize, by ordinance, the sale of beer and wine for off-premise consumption only in an area annexed by the municipality after a local option election if the following three conditions are met:

- (1) the annexed area is not more than one percent of the total area covered by the municipality;
- (2) all of the land in the annexed area is zoned for commercial use only; and
- (3) the annexed area is not adjacent to residential, church or school property.

WHEREAS, the Property is not more than one percent of the total area of the City; and

WHEREAS, the Property is zoned commercial use only, designated as general retail under Ordinance No. 4589, passed and approved on August 20, 2018; and

WHEREAS, the Property is not adjacent to residential, church or school property; and

WHEREAS, the owners of the Property requested the City Council consider changing the status of the Property to reflect alcohol sales commensurate with the areas of the City incorporated prior to May 14, 2011.

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

SECTION 1. That the recitals set forth in the WHEREAS clauses of this ordinance are true and correct, and constitute findings and determinations by the City Council acting in its legislative capacity and are incorporated herein.

SECTION 2. That the territory annexed by the City of Mesquite on October 1, 2018, described in Exhibit "A," attached and incorporated herein, is authorized for the sale of beer and wine for off-premise consumption only, subject to the distance requirements specified under Chapter 8, Article XI of the Mesquite City Code.

SECTION 3. That the City Secretary is hereby directed to file with the County Clerk of Kaufman, Texas, a certified copy of this ordinance.

SECTION 4. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 5. That this ordinance shall take effect immediately upon its passage.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 20th day of May 2019.

Stan Pickett
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED:



David L. Paschall
City Attorney

EXHIBIT A

Metes and Bounds

BEING that certain tract of land situated in the Martha Music Survey, Abstract No. 312, in Kaufman County, Texas, and being part of that certain tract of land described in deed to CADG Kaufman 146, LLC, recorded in Volume 4363, Page 38, of the Deed Records of Kaufman County, Texas (DRKCT), and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set at the intersection of the southeast right-of-way line of Farm to Market Road No. 741 (called 90 foot R.O.W. at this point), and the northeasterly right-of-way line of Heartland Parkway (called 100 foot R.O.W. at this point), and being the west corner of said CADG Kaufman 146, LLC tract;

THENCE North 46°18'40" East, with said southeast right-of-way line of Farm to Market Road No. 741, said southeast right-of-way line according to Deed to the State of Texas recorded in Volume 454, Page 159, DRKCT, a distance of 428.96 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner at the west corner of that certain tract of land described as Tract 7 in deed to HW Heartland, L.P. recorded in Volume 3119, Page 142, DRKCT;

THENCE leaving said southeast right-of-way line of Farm to Market Road No. 741, and with the southwest and southeast lines of said Tract 7, the following bearings and distances to 1/2 inch iron rods with cap stamped "DAA" found for corner:

South 43°42'15" East, a distance of 207.45 feet;

And North 46°15'02" East, a distance of 146.43 feet;

THENCE North 15°07'57" East, continuing with said southeast line of Tract 7, a distance of 467.14 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner;

THENCE North 83°20'17" East, leaving said northwest line of Tract 7, and with the northerly line of said CADG Kaufman 146, LLC tract, a distance of 465.52 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner;

THENCE over and across said CADG Kaufman 146, LLC tract, the following bearings and distances to 5/8 inch iron rods with cap marked "PETITT-RPLS 4087" set for corner:

South 06°39'43" East, a distance of 222.01 feet;

South 68°43'31" East, a distance of 145.05 feet;

North 86°42'10" East, a distance of 198.45 feet;

South 07°44'02" East, a distance of 285.71 feet;

South 42°35'50" West, a distance of 477.61 feet;

South 15°12'36" West, a distance of 235.81 feet;

North 78°15'28" West, a distance of 65.47 feet;

And South 09°46'40" West, a distance of 165.00 feet, said iron rod being located on said northeasterly right-of-way line of Heartland Parkway (variable width R.O.W. at this point), and being the beginning of a non-tangent curve to the left;

THENCE with said northeasterly right-of-way line of Heartland Parkway, said right-of-way dedicated by Final Plat of Heartland Tract A, Phase 2B, recorded in Cabinet 3, Slide 38, of the Plat Records of Kaufman County, Texas, and with said curve having a central angle of 02°09'35", a radius of 790.00 feet, a chord which bears North 81°18'07" West, a chord distance of 29.78 feet, for an arc distance of 29.78 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner;

THENCE North 82°23'59" West, continuing with said northeasterly right-of-way line of Heartland Parkway, a distance of 23.30 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner, and being the beginning of a tangent curve to the right;

THENCE continuing with said northeasterly right-of-way line of Heartland Parkway, and with said curve having a central angle of 10°28'32", a radius of 300.00 feet, a chord which bears North 77°08'39" West, a chord distance of 54.77 feet, for an arc distance of 54.85 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner, and being the beginning of a tangent reverse curve to the left;

THENCE continuing with said northeasterly right-of-way line of Heartland Parkway, and with said curve having a central angle of 10°28'32", a radius of 300.00 feet, a chord which bears North 77°08'39" West, a chord distance of 54.77 feet, for an arc distance of 54.85 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner (called 100 foot R.O.W. at this point);

THENCE North 82°22'55" West, continuing with said northeasterly right-of-way line of Heartland Parkway, a distance of 172.65 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner, and being the beginning of a tangent curve to the right;

THENCE continuing with said northeasterly right-of-way line of Heartland Parkway, and with said curve having a central angle of 38°41'30", a radius of 950.00 feet, a chord which bears North 63°02'10" West, a chord distance of 629.41 feet, for an arc distance of 641.53 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner;

THENCE North 43°41'26" West, continuing with said northeasterly right-of-way line of Heartland Parkway, a distance of 249.59 feet to the POINT OF BEGINNING of herein described tract, containing 25.464 acres of land.