

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO'S ZONING ORDINANCE, ORDINANCE NO. 11-04-09, AS AMENDED, SUBSECTION 3.02 (USE CHART) OF SECTION 3 (LAND USES) AND SUBSECTION 7.01 (TERMS AND WORDS DEFINED) OF SECTION 7 (DEFINITIONS); DESIGNATING THE LAND USE DEFINED AS "BREW PUB" AS A CONDITIONAL USE IN THE FOLLOWING NONRESIDENTIAL ZONING DISTRICTS ONLY: O-1-OFFICE-1 DISTRICT, O-2-OFFICE-2 DISTRICT, R-RETAIL DISTRICT, OTC-ORIGINAL TOWN COMMERCIAL DISTRICT, H-HIGHWAY DISTRICT, C-1-COMMERCIAL-1 DISTRICT, C-2-COMMERCIAL-2 DISTRICT, IT-INFORMATIONAL AND TECHNOLOGY DISTRICT AND I-INDUSTRIAL DISTRICT; ESTABLISHING CONDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BREWPUBS; DEFINING THE TERM BREWPUB; PROVIDING A PENALTY CLAUSE, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that Subsection 3.02 (Use Chart) of Section 3 (Land Uses) and Subsection 7.01 (Terms and Words Defined) of Section 7 (Definitions) of the Zoning Ordinance, Ordinance No. 11-04-09, as amended ("Zoning Ordinance"), of the City of Frisco, Texas ("Frisco") should be amended to designate the land use defined as "Brewpub" as a Conditional Use in the following nonresidential zoning districts only: O-1-Office-1 District, O-2-Office-2 District, R-Retail District, OTC-Original Town Commercial District, H-Highway District, C-1-Commercial-1 District, C-2-Commercial-2 District, IT-Informational and Technology District and I-Industrial District, as provided herein; and

WHEREAS, Frisco has complied with all legal notices and public hearings as required by law; and

WHEREAS, the City Council finds that it will be advantageous, beneficial and in the best interest of the citizens of Frisco to amend the Zoning Ordinance as set forth below.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to Subsection 3.02 (Use Chart) of Section 3 (Land Uses) of the Zoning Ordinance. Subsection 3.02 (Use Chart) of Section 3 (Land Uses) of the Zoning Ordinance is hereby amended to designate the land use defined as "Brewpub" as a Conditional Use in the following nonresidential zoning districts only: O-1-Office-1 District, O-2-Office-2

District, R-Retail District, OTC-Original Town Commercial District, H-Highway District, C-1-Commercial-1 District, C-2-Commercial-2 District, IT-Informational and Technology District and I-Industrial District, as follows:

“Subsection 3.02. Use Chart

...

USE TYPE	O-1-Office -1 District	O-2-Office-2 District	R-Retail District	OTC- Original Town Commercial District	H – Highway District	C-1 – Commercial-1 District	C-2 – Commercial-2 District	IT – Information and Technology District	I – Industrial District	Parking Requirement Based on Use
...										
Brewpub	(37)	(37)	(37)	(37)	(37)	(37)	(37)	(37)	(37)	(37)
...										

...

Subsection 3.02.01. Conditional Development Standards

...

(37) Brewpub

- a. Brewpubs shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.
- b. A Brewpub meeting applicable requirements established by the Texas Alcoholic Beverage Code and the Texas Alcoholic Beverage Commission to sell malt liquor, ale or beer to qualified retailers, private clubs, distributors, wholesalers or others for off-premises consumption shall conform to the following:
 1. All components of manufacturing, brewing, bottling, canning, packaging and labeling shall be contained completely within the primary Brewpub structure; and
 2. The primary Brewpub structure shall provide a minimum of one (1) loading space, in accordance with Subsection 4.04.04 Off-Street Loading Space: All Districts.
- c. Brewpubs shall not be located within the following:

1. Three hundred (300) feet from a church, public school, private school or public hospital. However, Brewpubs may be located within three hundred (300) feet of a private school if minors are prohibited from entering the place of business, as required by Section 109.53 of the Texas Alcoholic Beverage Code, as amended; and
 2. One thousand (1,000) feet from a private school if the City Council receives a request for this additional spacing requirement from the board of the private school, and the City Council adopts the additional spacing requirements by resolution. But the City Council may not adopt this additional spacing requirement if minors are prohibited from entering the place of business engaged in Alcoholic Beverage Sales, pursuant to Section 109.53 of the Texas Alcoholic Beverage Code, as amended.
- f. Measurement of the distance between the Brewpub and the church or public hospital shall be along the property line of the street fronts, from front door to front door, and in a direct line across intersections. Measurement for the distance between the Brewpub and a public or private school shall be:
1. In a direct line from the property line of the public or private school to the property line of the Brewpub, and in a direct line across intersections; or
 2. If Brewpubs are located on or above the fifth (5th) story of a multistory building, in a direct line from the property line of the public or private school to the property line of the Brewpub, in a direct line across intersections, and vertically up the building at the property line to the base floor on which the Brewpub is located.
- g. In accordance with Texas Alcoholic Beverage Code Section 109.33, in this section, “private school” means a private school, including a parochial school, that:
1. Offers a course of instruction for students in one or more grades from kindergarten through grade twelve; and
 2. Has more than one hundred (100) students enrolled and attending courses at a single location.
- h. If at any time an original alcoholic beverage permit or license is granted by the Texas Alcoholic Beverage Commission to an establishment, place of business or person and the establishment, place of business or person satisfies the requirements regarding the distance requirements in this section, then the same shall be deemed to satisfy the distance requirements for all subsequent renewals of the license or permit. This shall not be the case if the Texas Alcoholic Beverage Commission revokes the license or permit.

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SECTION 3: Amendment to Subsection 7.01 (Terms and Words Defined) of Section 7 (Definitions) of the Zoning Ordinance. Subsection 7.01 (Terms and Words Defined) of Section 7 (Definitions) of the Zoning Ordinance is hereby amended to add the term “Brewpub” as follows:

“Subsection 7.01. Terms and Words Defined

...

Brewpub

An establishment holding a “brewpub” license issued by the Texas Alcoholic Beverage Commission in accordance with the Texas Alcoholic Beverage Code, as amended, permitting the license holder to manufacture, brew, bottle, can, package, and label malt liquor, ale and beer; sell or offer without charge, on the premises of the brewpub, to ultimate consumers for consumption on or off those premises, malt liquor, ale or beer produced by the license holder, in or from a lawful container, to the extent the sales or offers are allowed under the license holder’s other permits or licenses; which license holder must also hold with another TABC permit or license authorizing on-premises consumption. Total production of malt liquor, ale and beer cannot exceed 10,000 barrels for each licensed brewpub.

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SECTION 4: Savings/Repealing. The Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 6: Penalty. Any person, firm, corporation or entity violating any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Each continuing day’s violation

shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

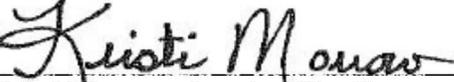
SECTION 7: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this 18th day of September, 2018.




Jeff Cheney, Mayor

**ATTESTED TO AND
CORRECTLY RECORDED BY:**


Kristi Morrow, Interim City Secretary

APPROVED AS TO FORM:


Abernathy Roeder Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys

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