

**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), SUBSECTION 4.04.08 (PARKING REQUIREMENT BASED ON USE) OF SECTION 4 (SITE DEVELOPMENT REQUIREMENTS) AND SUBSECTION 7.01 (TERMS AND WORDS DEFINED) OF SECTION 7 (DEFINITIONS); DESIGNATING THE LAND USES DEFINED AS "BREWERY," "DISTILLERY" AND "WINERY" AS CONDITIONAL USES IN THE OTC – ORIGINAL TOWN COMMERCIAL DISTRICT AND THE H – HIGHWAY DISTRICT AND AS PERMITTED USES IN THE I – INDUSTRIAL DISTRICT; ESTABLISHING CONDITIONAL DEVELOPMENT STANDARDS AND PARKING REQUIREMENTS APPLICABLE TO BREWERIES, DISTILLERIES AND WINERIES; DEFINING THE TERMS BREWERY, DISTILLERY AND WINERY; 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), Subsection 4.04.08 (Parking Requirement Based on Use) of Section 4 (Site Development Requirements) 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 uses defined as "Brewery," "Distillery" and "Winery" as Conditional Uses in the OTC – Original Town Commercial District and the H – Highway District and as permitted uses in the 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 uses defined as "Brewery," "Distillery," and

“Winery” as Conditional Uses in the OTC – Original Town Commercial District and the H – Highway District and as permitted uses in the 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
...										
<b>Brewery</b>				(38)	(38)				P	7A
...										
<b>Distillery</b>				(39)	(39)				P	7A
...										
<b>Winery</b>				(40)	(40)				P	7A
...										

...

**Subsection 3.02.01. Conditional Development Standards**

...

**(38) Brewery**

- a. Specific Use Permit required.
- b. A traffic circulation study, compliant with Engineering Standards Section 2.12.C.1, shall be submitted at the time of filing of the Specific Use Permit application and must be approved prior to the issuance of a Specific Use Permit and shall be included as an exhibit to the ordinance approving the Specific Use Permit.
- c. All components of manufacturing, brewing, bottling, canning, packaging and labeling should be contained completely within the primary structure. If outdoor components of manufacturing, brewing, bottling, canning, packaging and/or labeling are proposed, the applicant shall submit, at the time of filing of the Specific Use Permit application, an exhibit detailing the following:
  - 1. Compliance with Section 2.06.05 Nonresidential District Development Standards;

2. Compliance with Section 4.03.05(A) Outdoor Storage and Display Requirements; and
3. Proximity of proposed outdoor components to the closest residential zoning district.

These exhibits shall be used in the evaluation of the application, but any such outdoor components must be expressly approved for use in an ordinance approving the Specific Use Permit.

d. Permitting and Licensing.

1. Breweries shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections. Breweries shall obtain any other permits and/or licenses as required by the Texas Alcoholic Beverage Commission for any ancillary activities related to the sale of alcoholic beverages on and/or off-premises. These ancillary uses shall also comply with the regulations of this ordinance.
2. Breweries shall not be located within the following:
  - (i) Three hundred (300) feet from a church, public school, private school or public hospital. However, Breweries 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
  - (ii) 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.
  - (iii) Measurement of the distance between the Brewery 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 Brewery and a public or private school shall be:
    - (A) In a direct line from the property line of the public or private school to the property line of the Brewery, and in a direct line across intersections; or
    - (B) If Breweries 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 Brewery, in a direct line across intersections, and vertically up the building at the property line to the base floor on which the Brewery is located.

- (iv) In accordance with Texas Alcoholic Beverage Code Section 109.33, in this section, “private school” means a private school, including a parochial school, that:
  - (A) Offers a course of instruction for students in one or more grades from kindergarten through grade twelve; and
  - (B) Has more than one hundred (100) students enrolled and attending courses at a single location.
- (v) 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.

- e. The most recent edition of the Recommend Fire Code Protection Practices for Distilled Spirits Beverage Facilities, as published by the Distilled Spirits Council of the United States, a copy of which shall be kept on file in the office of the City Secretary, shall be used as a guide for application of local codes for the construction of all installations of distilled spirits production plants, including storage and warehouse facilities.

(39) **Distillery**

- a. Specific Use Permit required.
- b. A traffic circulation study, compliant with Engineering Standards Section 2.12.C.1, shall be submitted at the time of filing of the Specific Use Permit application and must be approved prior to the issuance of a Specific Use Permit and shall be included as an exhibit to the ordinance approving the Specific Use Permit.
- c. All components of manufacturing, brewing, bottling, canning, packaging and labeling should be contained completely within the primary structure. If outdoor components of manufacturing, brewing, bottling, canning, packaging and/or labeling are

proposed, the applicant shall submit, at the time of filing of the Specific Use Permit application, an exhibit detailing the following:

1. Compliance with Section 2.06.05 Nonresidential District Development Standards;
2. Compliance with Section 4.03.05(A) Outdoor Storage and Display Requirements; and
3. Proximity of proposed outdoor components to the closest residential zoning district.

These exhibits shall be used in the evaluation of the application, but any such outdoor components must be expressly approved for use in an ordinance approving the Specific Use Permit.

d. Permitting and Licensing.

1. Distilleries shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections. Distilleries shall obtain any other permits and/or licenses as required by the Texas Alcoholic Beverage Commission for any ancillary activities related to the sale of alcoholic beverages on and/or off-premises. These ancillary uses shall also comply with the regulations of this ordinance.
2. Distilleries shall not be located within the following:
  - (i) Three hundred (300) feet from a church, public school, private school or public hospital. However, Distilleries 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
  - (ii) 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.
  - (iii) Measurement of the distance between the Distillery 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 Distillery and a public or private school shall be:
    - (A) In a direct line from the property line of the public or private school to the property line

of the Distillery, and in a direct line across intersections; or

- (B) If Distilleries 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 Distillery, in a direct line across intersections, and vertically up the building at the property line to the base floor on which the Distillery is located.
  - (iv) In accordance with Texas Alcoholic Beverage Code Section 109.33, in this section, “private school” means a private school, including a parochial school, that:
    - (A) Offers a course of instruction for students in one or more grades from kindergarten through grade twelve; and
    - (B) Has more than one hundred (100) students enrolled and attending courses at a single location.
  - (v) 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.
- e. The most recent edition of the Recommend Fire Code Protection Practices for Distilled Spirits Beverage Facilities, as published by the Distilled Spirits Council of the United States, a copy of which shall be kept on file in the office of the City Secretary, shall be used as a guide for application of local codes for the construction of all installations of distilled spirits production plants, including storage and warehouse facilities.

(40) **Winery**

- a. Specific Use Permit required.
- b. A traffic circulation study, compliant with Engineering Standards Section 2.12.C.1, shall be submitted at the time of filing of the Specific Use Permit application and must be approved prior to the issuance of a Specific Use Permit and shall be included as an exhibit to the ordinance approving the Specific Use Permit.

- c. All components of manufacturing, brewing, bottling, canning, packaging and labeling should be contained completely within the primary structure. If outdoor components of manufacturing, brewing, bottling, canning, packaging and/or labeling are proposed, the applicant shall submit, at the time of filing of the Specific Use Permit application, an exhibit detailing the following:
  - 1. Compliance with Section 2.06.05 Nonresidential District Development Standards;
  - 2. Compliance with Section 4.03.05(A) Outdoor Storage and Display Requirements; and
  - 3. Proximity of proposed outdoor components to the closest residential zoning district.

These exhibits shall be used in the evaluation of the application, but any such outdoor components must be expressly approved for use in an ordinance approving the Specific Use Permit.

- d. Permitting and Licensing.
  - 1. Wineries shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections. Wineries shall obtain any other permits and/or licenses as required by the Texas Alcoholic Beverage Commission for any ancillary activities related to the sale of alcoholic beverages on and/or off-premises. These ancillary uses shall also comply with the regulations of this ordinance.
  - 2. Wineries shall not be located within the following:
    - (i) Three hundred (300) feet from a church, public school, private school or public hospital. However, Wineries 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
    - (ii) 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.
    - (iii) Measurement of the distance between the Winery 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 Winery and a public or private school shall be:

- (A) In a direct line from the property line of the public or private school to the property line of the Winery, and in a direct line across intersections; or
  - (B) If Wineries 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 Winery, in a direct line across intersections, and vertically up the building at the property line to the base floor on which the Winery is located.
- (iv) In accordance with Texas Alcoholic Beverage Code Section 109.33, in this section, “private school” means a private school, including a parochial school, that:
- (A) Offers a course of instruction for students in one or more grades from kindergarten through grade twelve; and
  - (B) Has more than one hundred (100) students enrolled and attending courses at a single location.
- (v) 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.
- e. The most recent edition of the Recommend Fire Code Protection Practices for Distilled Spirits Beverage Facilities, as published by the Distilled Spirits Council of the United States, a copy of which shall be kept on file in the office of the City Secretary, shall be used as a guide for application of local codes for the construction of all installations of distilled spirits production plants, including storage and warehouse facilities.

...”

**SECTION 3: Amendment to Subsection 4.04.08 (Parking Requirement Based on Use)**

of Section 4 (Site Development Requirements) of the Zoning Ordinance. Subsection 4.04.08 (Parking Requirement Based on Use) of Section 4 (Site Development Requirements) of the Zoning Ordinance is hereby amended as follows:

**“Subsection 4.04.08. Parking Requirement Based on Use**

(A) Off-Street Parking Requirements

...

(7A) Brewery, Distillery or Winery

One (1) space per one thousand (1,000) square feet of gross floor area that is used for warehousing, manufacturing and distribution. One (1) space per one hundred (100) square feet of gross floor area dedicated to the consumption by the ultimate consumer of product brewed, distilled and/or fermented on-site.

...”

SECTION 4: 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 terms “Brewery,” “Distillery” and “Winery” as follows:

**“Subsection 7.01. Terms and Words Defined**

...

Brewery

An establishment holding a “Brewer’s Permit or a Brewer’s Self-Distribution Permit” issued by the Texas Alcoholic Beverage Commission in accordance with the Texas Alcoholic Beverage Code, as amended.

...

Distillery

An establishment holding a “Distiller’s and Rectifiers Permit” issued by the Texas Alcoholic Beverage Commission in accordance with the Texas Alcoholic Beverage Code, as amended.

...

Winery

An establishment holding a “Winery Permit” issued by the Texas Alcoholic Beverage Commission in accordance with the Texas Alcoholic Beverage Code, as amended.

...”

SECTION 5: 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 6: 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 7: 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 8: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

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DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this 21st day of April, 2020.



Jeff Cheney  
Jeff Cheney, Mayor

ATTESTED TO AND  
CORRECTLY RECORDED BY:

Kristi Morrow  
Kristi Morrow, City Secretary

APPROVED AS TO FORM:

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

Dates of Publication: April 24, 2020 and May 1, 2020, Frisco Enterprise