

ORDINANCE NO. 4635

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 8 OF THE CODE OF THE CITY OF MESQUITE BY ADDING A NEW SECTION 8-841 THEREBY ESTABLISHING A PROCESS FOR VARIANCES FROM THE SEPARATION REQUIREMENTS FOR SALES OF ALCOHOLIC BEVERAGES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE AND PROVIDING AN EFFECTIVE DATE THEREOF.

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

SECTION 1. That Chapter 8 of the Code of the City of Mesquite, Texas, is hereby amended by adding a new Section 8-841 to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

Sec. 8-841. Variance.

- (a) In accordance with Section 109.33(e) of the Texas Alcoholic Beverage Code, the City Council may allow a variance to Section 8-840 if it determines that the enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary, or for any other reason the City Council determines, after consideration of the health, safety and welfare of the public and the equities of the situation, that the variance is in the best interest of the community.
- (b) No variance may be granted under this section except after a public hearing for which notice has been given. Notice of a request for a variance from Section 8-840 shall be given to owners of property within three hundred feet (300') of the property line of the place of business. The notice shall be sent via regular United States mail not fewer than 10 days before the date set for hearing, to all such owners as the ownership appears on the last approved City tax roll.
- (c) The Miscellaneous Planning Appeal Fee provided in Ordinance No. 4568 – Schedule of Administrative Fees, as amended, applies to an application for a variance requested under this section and shall be paid to the Director of Planning and Development Services when the application is filed.

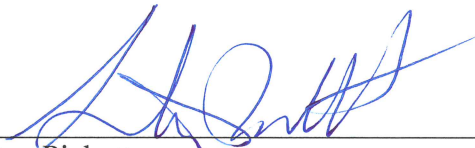
SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. 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 4. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Five Hundred (\$500.00) Dollars for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

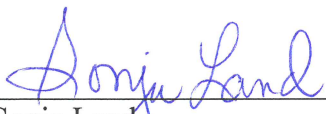
SECTION 5. That this ordinance shall take effect and be in force from and after five days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 17th day of December 2018.



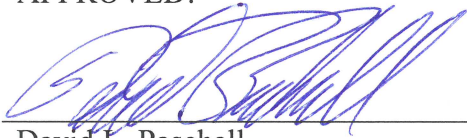
Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



David L. Paschall
City Attorney