

ORDINANCE NO. 4161
Zoning Text Amendment No. 2011-02

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY PROVIDING CERTAIN ADDITIONS AND DELETIONS UNDER SECTIONS 3-200 AND 6-100 THEREBY ADDING DEFINITIONS FOR BEVERAGE BARN AND PRE-PACKAGED BEVERAGES; AND PROHIBITING BEVERAGE BARNS IN ALL ZONING DISTRICTS; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, a beverage barn is a specific drive-through design concept used to sell pre-packaged beverages to patrons without leaving their vehicles; and

WHEREAS, in urban areas the beverage barn concept is often accomplished by the inexpensive conversion of vacant, old or underperforming gasoline stations, car washes, mini-storage buildings and similarly designed structures, and the commercially-zoned corridors in the City of Mesquite are populated with structures that would be conducive to such conversions; and

WHEREAS, the City's land use policies and goals of Project Renewal call for the complete redevelopment of the older and underperforming properties within the commercial corridors in order to maximize the economic potential of commercial frontage, improve the aesthetics of the community's gateways and attract development of the highest quality, and the conversion of existing structures does not achieve those ends; and

WHEREAS, the beverage barn is an auto-centric concept with a structure and site design that caters to vehicles as the exclusive means for delivering goods to the customer, requires extensive internal circulation, stacking and multiple avenues of ingress and egress to the property, all of which fail to create and support a safe and active street front for pedestrians; and

WHEREAS, the Mesquite Zoning Ordinance currently prohibits auto-centric uses including drive-through and drive-up establishments in several zoning districts where the long-term objective is to revitalize an aging commercial corridor or ensure that all new development is pedestrian-oriented and creates walkable urbanism; and

WHEREAS, although measures might be crafted to mitigate some of the traffic safety and aesthetic impacts of beverage barns, a comprehensive set of regulations cannot be devised without running the risk of adversely affecting the structural and site functionality of retail or service establishments that are not used as beverage barns or without compromising other regulatory standards already in place; and

WHEREAS, enacting a prohibition on beverage barns does not prevent the sale and distribution of pre-packaged beverages within the City of Mesquite, but instead requires businesses to conduct such transactions in a manner that are more closely aligned with the

purposes of Project Renewal to improve the image of the community, ensure development of the highest quality and protect the value of adjacent development; and

WHEREAS, the Planning and Zoning Commission did give public notice and did hold a public hearing regarding the proposed amendments to the regulations governing and has recommended amendments to the Mesquite Zoning Ordinance; and

WHEREAS, the City Council did give public notice and did hold a public hearing regarding the proposed amendments.

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

SECTION 1. That the Mesquite Zoning ordinance adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended by providing certain additions and deletions under Sections 3-200 and 6-100 to read as follows, said Ordinance in all other respects to remain in full force and effect:

(1) *Section 3-203.* Amend by adding a new Section 3-203, SIC 549(c) to read as follows:

c. *Beverage Barns.* Not permitted in any zoning district in the City of Mesquite.

(2) *Sections 6-102.* Amend by adding definitions for “beverage barn” and “pre-packaged beverages” to read as follows:

Beverage barn: A building enclosed on two or more sides where vehicles may pull into or through the building and where pre-packaged beverages are sold to the occupants of the vehicle.

Pre-packaged beverages: Beverages sold to the consumer in the original container and include, but are not limited to, soft drinks, beer, wine, bottled water, milk and juices.

SECTION 2. That 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. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph, phrase or section of this ordinance be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional and shall not affect the validity of the Mesquite Zoning Ordinance as a whole.

SECTION 4. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and subject to the same penalty as provided for in the Mesquite Zoning Ordinance, as amended, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense.

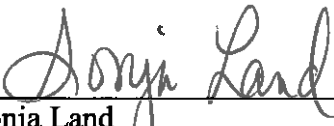
SECTION 5. That this ordinance shall be effective immediately from and after its passage.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 5th day of July, 2011.




John Monaco
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney