

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 013-050

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN BY AMENDING APPENDIX A – ZONING THEREOF, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE, BY AMENDING ARTICLE XX (SPECIAL USES), SECTION 1, SUBSECTION A, BY ADDING TO THE LIST OF SPECIAL USES A MICROBREWERY IN ANY DISTRICT OTHER THAN A PLANNED DEVELOPMENT DISTRICT AND IN ANY PLANNED DEVELOPMENT DISTRICT WHERE A MICROBREWERY IS ALLOWED (NEW SUBSECTION A.(39)), SUBJECT TO THE ADOPTION OF AN ORDINANCE AUTHORIZING THE SAME, ALL IN ACCORDANCE WITH THE TERMS, CONDITIONS AND RESTRICTIONS SET FORTH IN THIS ORDINANCE AND IN ANY OTHER ORDINANCE OF THE TOWN AND WITH APPLICABLE LAWS, RULES AND REGULATIONS; AMENDING SECTION XXX (DEFINITIONS) BY ADDING THERETO A DEFINITION OF MICROBREWERY; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the comprehensive Zoning Ordinance (the “Zoning Ordinance”) of the Town of Addison, Texas (the “City”), was adopted and made effective on October 13, 1964 pursuant to Ordinance No. 66 of the City, and with the subsequent codification of the ordinances of the City was thereafter included as (and is currently found in) Appendix A – Zoning to the City’s Code of Ordinances (the “Code”); and

WHEREAS, the City Council is authorized, pursuant to Chapter 211, Tex. Loc. Gov. Code, as amended, and Article XXIX of the Zoning Ordinance, to amend, supplement, or change by ordinance the regulations of the Zoning Ordinance; and

WHEREAS, during the regular session of the 83rd Texas Legislature (2013), the Legislature adopted legislation pertaining to the craft brewing industry, including provisions (included in Senate Bills 516 and 517) that authorize brewers and manufacturers that produce less than 125,000 barrels of beer and ale annually to obtain a self-distribution license and/or permit and sell up to 40,000 barrels annually direct to retailers, and provisions (included in Senate Bill 518) that authorize brewers and manufacturers who produce no more than 225,000 barrels annually to sell no more than 5,000 barrels annually of malt beverages produced on the brewery premises to visitors of the brewery to drink on site; and

WHEREAS, the Zoning Ordinance, as adopted by the said Ordinance No. 66, included a provision allowing certain uses, if at all, in certain zoning districts and only by the adoption of an ordinance authorizing such uses, such uses being referred to as “special uses”; and

WHEREAS, the provision in the Zoning Ordinance regarding special uses was continued as a part of the codification of the ordinances of the City with the inclusion of the Zoning Ordinance as Appendix A – Zoning to the Code; and

WHEREAS, in 1987 the Texas Legislature added Section 109.57 to the Texas Alcoholic Beverage Code, which Section, as amended, provides in part that (i) an ordinance promulgated by a governmental entity of the state may not impose stricter standards on premises or businesses required to have a license or permit under the Alcoholic Beverage Code than are imposed on similar premises or businesses that are not required to have such a license or permit, (ii) the Alcoholic Beverage Code exclusively governs the regulation of alcoholic beverages in the state and, except as permitted by the Alcoholic Beverage Code, a governmental entity of this state may not discriminate against a business holding a license or permit under the Alcoholic Beverage Code, and (iii) neither Section 109.57 nor Section 1.06 of the Alcoholic Beverage Code affects the validity or invalidity of a zoning regulation that was formally enacted before June 11, 1987, and that is otherwise valid, or any amendment to such a regulation enacted after June 11, 1987, if the amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee; and

WHEREAS, the City Council desires by the adoption of this Ordinance to amend the special use provisions (Article XX) of the Zoning Ordinance by adding “microbrewery” (as defined herein) to the list of special uses that may be authorized by ordinance, with a microbrewery, if so authorized, being a use that will allow the sale of beer and ale produced on the premises of the microbrewery for on-premises consumption subject to certain conditions, and such amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee as set forth in Section 109.57(c) of the Alcoholic Beverage Code; and

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with State law and the ordinances of the City, have given the required notices and have held the required public hearings regarding amending the Zoning Ordinance as set forth herein and as hereinafter described; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at the said public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City recommended to the City Council the amendment to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing conducted by the City Council and all other relevant information and materials received by the City Council, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety and welfare.

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

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Amendment. The Code of Ordinances of the Town of Addison, Texas is hereby amended by amending Appendix A – Zoning, the same being the City’s comprehensive Zoning Ordinance, in part as follows (additions are underlined; deletions are ~~struck through~~; where asterisks (*****) are used, the same represents text that is not included herein and is not amended or modified by this Ordinance):

A. Article XX, Special Uses, of the said Appendix A – Zoning is amended by amending Section 1 (Special uses in specified districts) thereof by adding to subsection A. of Section 1 a new paragraph (39) to read as follows:

ARTICLE XX. SPECIAL USES

Section 1. Special uses in specified districts.

A. The city council may, after public hearing and proper notice to all parties affected, and, after recommendation from the planning and zoning commission containing such requirements and safeguards as are necessary to protect adjoining property, authorize by ordinance the location of any of the following in the following specified districts:

* * * * *

(39) Microbrewery in any district other than a planned development district; in a planned development district, a microbrewery may be authorized if such use is specifically allowed in the ordinance establishing the planned development district.

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B. Article XXX, Definitions, of the said Appendix A – Zoning is amended by amending Section 1 (Terms defined) thereof by adding a new subsection 72.1 to read as follows:

ARTICLE XXX. DEFINITIONS

Section 1. Terms defined.

Certain words in this appendix are defined for the purpose hereof as follows:

* * * * *

72.1 *Microbrewery* means an establishment:

- (a) located at premises and that holds at those premises:

(i) both a valid brewer's self-distribution permit and a valid manufacturer's self-distribution license issued by the State of Texas, and whose annual production of beer and ale, combined, at the premises does not exceed 125,000 barrels, and whose sales of beer and ale, combined, at the same premises does not exceed 40,000 barrels annually; and/or

(ii) both a valid brewer's permit and a valid manufacturer's license, and whose annual production of beer and ale, combined, at the premises does not exceed a total of 225,000 barrels, and whose total combined sales of beer and ale produced on the same premises under the said permit and license to ultimate consumers on the premises for responsible consumption on the premises does not exceed 5,000 barrels annually, and whose sale to such ultimate consumers takes place only between 8 a.m. and midnight on any day except Sunday and between 10 a.m. and midnight on Sunday; and

(b) that is in compliance at all times with the applicable permits and licenses described in subsection (a) and with all applicable laws, rules and regulations of the State and with the Charter and ordinances of the town, and that promptly provides to the town information requested, and in form and format determined, by the town to determine such compliance.

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Section 3. Purpose. The amendment to zoning herein made has been made in accordance with the comprehensive plan of the City for the purpose of promoting the health, safety and welfare of the community, and with consideration of the reasonable suitability for the particular use and with a view of conserving the value of the buildings and encouraging the most appropriate use of land within the community.

Section 4. No Other Amendment; Savings. Except for the amendment and change made herein, Appendix A - Zoning of the City's Code of Ordinances is not otherwise amended hereby, and all other provisions thereof shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.


Section 5. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 6. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid, void, unlawful or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares

that it would have passed such remaining portions of this Ordinance despite such invalidity, voidness, unlawfulness or unconstitutionality, which remaining portions shall remain in full force and effect.

Section 7. Effective date. This Ordinance shall become effective from and after its passage and approval and after publication as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 10th day of December, 2013.



Todd Meier, Mayor

ATTEST:

By: 

Matt McCombs, City Secretary

APPROVED AS TO FORM:

By: 

John Hill, City Attorney