FARMERS BRANCH

ORDINANCE NO. 3283

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AS HERETOFORE AMENDED; BY AMENDING SECTION 3-100 TO ADD "BEER AND WINE SALES OVERLAY DISTRICT" TO THE LIST OF ZONING DISTRICTS ESTABLISHED PURSUANT TO THE COMPREHENSIVE ZONING ORDINANCE; AMENDING THE USE TABLE IN SECTION 8-107 "RETAIL AND SERVICE TYPE USES" TO ADD BEER AND WINE OVERLAY DISTRICT, ESTABLISH THE ZONING DISTRICTS IN WHICH "BEER AND WINE PACKAGE SALES ESTABLISHMENTS" AND "PRE-PACKAGED RETAIL SALES (DRIVE THROUGH)" MAY BE PERMITTED BY RIGHT, UPON APPROVAL OF A SPECIFIC USE PERMIT, OR PROHIBITED; BY AMENDING SECTION 8-400-1 "DEFINITIONS (ALCOHOLIC BEVERAGE SALES)" BY ADDING DEFINITIONS FOR "BEER AND WINE PACKAGE SALES ESTABLISHMENT," "PRE-PACKAGED RETAIL SALES (DRIVE THROUGH)," AND "PRE-PACKAGED FOOD AND BEVERAGES;" AND ADDING SECTION 8-410 "BEER AND WINE SALES OVERLAY DISTRICT" SETTING FORTH THE DESCRIPTION AND PURPOSE OF SUCH DISTRICTS, ESTABLISHING SUCH DISTRICTS WITHIN THE AREAS OF THE CITY MORE PARTICULARLY DESCRIBED IN SAID SECTION 8-410; AND PROVIING THAT CODE OF ORDINANCES SECTION 46-2 REGARDING THE PROHIBITION OF THE SALE OF BEER OR WINE IN RESIDENTIAL AREAS SHALL CONTROL IN CASE OF CONFLICT; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND ($2000.00) DOLLARS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Farmers Branch and the governing body of the City of Farmers Branch, in compliance with the laws of the State of Texas and the ordinances of the City of Farmers Branch, have given requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, the governing body, in the exercise of the legislative discretion, has concluded that the Comprehensive Zoning Ordinance and Zoning Map should be amended;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THAT:

Section 1. Article 3, Section 3-100 of the Comprehensive Zoning Ordinance of the City of Farmers Branch, Texas, is amended as follows:

A. The phrase "Nineteen (19) Zoning Districts" shall be changed to read "Twenty (20) Zoning Districts";

B. In the list titled "Abbreviated Designation," the abbreviation "BW" shall be added to the bottom of the list.

C. In the list titled "Zoning District," the phrase "Beer and Wine Sales Overlay District" shall be added to the bottom of the list across from the abbreviation "BW".

Section 2. Article VIII "Use Regulation Districts" of the Comprehensive Zoning Ordinance of the City of Farmers Branch, Texas, is amended as follows:

A. The use table in Section 8-107 "Retail and Service Type Uses" shall be amended as follows:

(1) The phrase "Alcoholic Beverage/Sale" shall be changed to read "Beer and Wine Package Sales Establishment".

(2) A column for the Beer and Wine Sales Overlay District "BW" shall be added.

(3) The zoning districts in which a Beer and Wine Package Sales Establishment shall be permitted, permitted following adoption of a specific use permit, or prohibited, shall be amended as follows:

TYPE USE	R-1	R-2	R-3	R-4	R-5	R-6	D-1	D-2	MF-1	MF-2	MF-3	MF-4	O	LR-1	LR-2	C	LI	HI	BW
Beer and Wine Package Sales Establishment[1]																	S	X	X

(4) Add a line to the Use Chart showing the zoning districts in which a Pre-Packaged Retail Sales (Drive Through) shall be permitted, permitted following adoption of a specific use permit, or prohibited, as follows:

TYPE USE	R-1	R-2	R-3	R-4	R-5	R-6	D-1	D-2	MF-1	MF-2	MF-3	MF-4	O	LR-1	LR-2	C	LI	HI	BW
Pre-Packaged Retail Sales (Drive Through)																			

(5) Add a Footnote 1 below the Use Chart which reads as follows:

"In no case shall a Pre-Packaged Retail Sales (Drive Through) which is also a Beer and Wine Package Sales Establishment be permitted in any zoning district, it being the intent of this ordinance to expressly prohibit the use and development of all Pre-Packaged Retail Sales (Drive Through) uses within the City."

B. Section 8-400-1 "Definitions (Alcoholic Beverage Sales) shall be amended by adding definitions of the phrases "Beer and Wine Package Sales Establishment," "Pre-Packaged Retail Sales (Drive Through)," "Pre-Packaged Food and Beverages" to read as follows:

"6. **Beer and Wine Package Sales Establishment** – An establishment engaged in the selling of beer and/or wine to the general public for off-site personal or household consumption and rendering services incidental to the sale of such goods.

7. **Pre-Packaged Retail Sales (Drive Through)** – A business whose primary activity is the retail sale of pre-packaged food and beverages, to the occupants of a motor vehicle for off-premise consumption, with a drive through facility, including a drive through building that allows the interior passage of motor vehicles or where vehicles may pull into the building, or any other means of conducting sales without requiring customers to exit their vehicle.

8. **Pre-Packaged Food and Beverages –** Food items and beverages sold to a consumer in the original container and include, but are not limited to, soft drinks, bottled water, beer, wine, milk and juices."

C. Add Section 8-410 to be title "Beer and Wine Sales Overlay District" shall be added to read as follows:

8-410 BEER AND WINE SALES OVERLAY DISTRICT

8-410-1 General Purpose and Description.

A Beer and Wine Sales Overlay District ("BW") is an area designated within the City where property located within the district's boundaries may be developed and used as a Beer and Wine Package Sales Establishment. Because the sale of alcoholic beverages has been prohibited in all zoning districts except in Heavy Industrial (HI) Districts by right and in Light Industrial ("LI") Zoning Districts by specific use permit since 1972, the Beer and Wine Sales Overlay District is intended, consistent with the Texas Alcoholic Beverage Code, to lessen the 1972 restrictions on the location of establishments which may sell beer and wine for off-premises consumption to specific areas within existing zoning districts where such establishments may be located in addition to the uses allowed within such zoning districts. The use and development of property located within a Beer and Wine Sales Overlay District shall continue to be subject to the applicable use and development regulations of the base zoning district, but may additionally be used and developed as Beer and Wine Package Establishment. The designation of a Beer and Wine Sales Overlay District is intended to substantially advance a legitimate governmental interest that includes enhancing the quality of life in City, to regulate the character of growth within the Beer and Wine Sales Overlay District, and to ensure the careful and orderly growth of such establishments.

8-410-2 Designated Beer and Wine Sales Overlay Districts

The following described areas of the City shall each constitute a Beer and Wine Sales (BW) Overlay District, each of which may consist of two or more subdistricts as described below:

Beer and Wine Sales (BW) Overlay District 1:

BW Subdistrict 1-A: Being an area bounded on the west by Interstate Highway 35E; on the north by the common city limit line between the City of Farmers Branch and the City of Carrollton; on the east by Denton Drive; and on the south by Valwood Parkway.

BW Subdistrict 1-B: Being all of Lot 1, Block 1, Daltex Addition, an area that is bounded on the north by Valwood Parkway; on the west by Interstate Highway 35E; on the east and south by Lot 2-A, Block 1, Daltex Addition No. 2.

BW Subdistrict 1-C: Being all of Lot 2-B, Block 1, Daltex Addition No. 2, an area that is bounded on the north by Valwood Parkway; on the east by Denton Drive; and on the west and south by Lot 2-A, Block 1 Daltex Addition No. 2.

BW Subdistrict 1-D: Being all of M&G Produce aka M.S. Subdivision No.1, and all of American Petrofina Subdivision, an area that is bounded on the north by Valwood Parkway; on the west by the DART rail right of way; on the east by Distribution Way;

and on the south by the north line of S.U.M Subdivision that is approximately 150 south of Valwood Parkway.

BW Subdistrict 1-E: Being Lot 1, Block 1, Valwood Distribution Industrial Park addition bounded on the north by Valwood Parkway; on the west by Distribution Way; on the south by K.D. Industrial Park Subdivision, and on the east by Lot 2, Block 1, Valwood Distribution Industrial Park addition.

Beer and Wine Sales (BW) Overlay District 2:

BW Subdistrict 2-A: Being an area bounded on the north by Valley View Lane; on the west by the DART rail right-of-way; on the east by Bee Street; and on the south by Pike Street.

BW Subdistrict 2-B: Being an area bounded on the north by Valley View Lane; on the west by Bee Street; on the south by Pepperwood Street and Krause-Braack Addition; and bounded on the east by Lot 1, Block 1, First Baptist Church Addition and Goodland Street.

Beer and Wine Sales (BW) Overlay District 3: Being an area bounded on the west by Josey Lane; on the east by Treeview; on the south by LBJ Freeway; and on the north by Maybrook Drive.

Beer and Wine Sales (BW) Overlay District 4 (Four Corners):

BW Subdistrict 4-A (Southwest corner): Being an area bounded on the north by Valley View Lane; on the east by Josey Lane; on the south by Tara Place Addition; on the west by a north/south line located approximately 660 feet west of Josey Lane that extends from the north line of said Tara Place Addition a distance of approximately 800 feet northward to a point on the south right of way line of Valley View Lane that is approximately 660 feet west of Josey Lane.

BW Subdistrict 4-B (Northwest corner): Being an area bounded on the south by Valley View Lane; on the west by Wilmington Drive and also bounded on the west by a 1.394 acre parcel of land at the northeast corner of Valley View Lane and Wilmington Drive known as Tract 1, J.C. Whitten Addition; and bounded on the north by Lots 1 through 11, Block B, Revised Parkway South addition; and also bounded on the north by a 0.938 acre tract of land conveyed to the City of Farmers Branch by deed recorded in Volume 71024, Page 0882, Deed Records, Dallas County, Texas; and bounded on the east by Josey Lane.

BW Subdistrict 4-C (the Northeast corner): Being an area bounded on the west by Josey Lane; on the south by Valley View Lane; on the east by Green Meadows Estates addition; and on north by Shelly Square Addition.

BW Subdistrict 4-D (the Southeast corner): Being an area bounded on the north by Valley View Lane; on the west by Josey Lane; on the east by Veronica Road, and also bounded on the east by a 0.9811 acre tract of land described in deed recorded as Instrument No. 201000048029, Deed Records, Dallas County, Texas, said tract being part of the Valley View Village Shopping Center addition; and bounded on the south by Lots 1 through 8, Block E, Valley View Estates No.1 Addition.

Beer and Wine Sales (BW) Overlay District 5 (The Beltline Corridor): Being an area within the city limits of the City of Farmers Branch, Texas, known as The Beltline Corridor, and being comprised of subdivisions and tracts of land generally having frontage on Belt Line Road, Webb Chapel Road, Marsh Lane, Venture Drive, Trend Drive, Enterprise Drive, Towerwood Road, and Garden Brook Drive, said area being more particularly described as follows:

Beginning at the intersection of south right of way line of Belt Line Road and east right of way line of Webb Chapel Road;

Thence in an easterly direction, along the south right of way line of Belt Line Road, a distance of approximately 9,500 feet to a point at the intersection of the south right-of-way line of Belt Line Road with the west right-of-way line of Marsh Lane;

Thence in a southerly direction along the west right of way of Marsh Lane to a point at the southeast corner of Mason Addition, an addition to the City of Farmers Branch, Dallas County, Texas as recorded in Volume 2004182, Page 0086 of the Deed Records, Dallas County, Texas;

Thence along the south line of said Mason Addition, a distance of 377.29 feet to the beginning of a curve to the left, said curve having a radius of 225.00 feet;

Thence along said curve to the left, a distance of 202.82 feet to a point for corner, said point being the most southerly southwest corner of said Mason Addition;

Thence in a northerly direction along the west line of said Mason Addition a distance of approximately 343 feet more or less to a point that is approximately 175 feet south of said Belt Line Road right of way;

Thence departing said west line of said Mason Addition, North 89 degrees 41 minutes West, a distance of approximately 375 feet to a point in the centerline of Venture Drive (a 60 foot wide ROW);

Thence in a southerly direction along said Venture Drive centerline a distance of approximately 240 feet to a point that is approximately 400 feet south of the south right of way line of said Belt Line Road;

Thence departing said Venture Drive centerline, parallel to and approximately 400 feet south of said Belt Line Road, in a westerly direction a distance of approximately 700 feet to a point in the center line of Trend Drive (a 60 foot wide ROW);

Thence in a southerly direction, along said center line of Trend Drive, a distance of approximately 108 feet to a point that is approximately 509 feet south of the south right of way line of said Belt Line Road;

Thence departing said Trend Drive centerline in a westerly direction, parallel to said Belt Line Road and at 30 feet passing the southeast corner of a 6.75 acre tract of land, and continuing along the south line of said tract a distance of approximately 578 feet to the southwest corner of said 6.75 acre tract, and continuing in a westerly direction a distance of 30 feet to a point in the center line of Enterprise Drive (a 60 foot wide ROW).

Beer and Wine Sales (BW) Overlay District 6:

BW Subdistrict 6-A: Being all of East Valley View at LBJ Addition, an area that is bounded on the north by Valley View Lane; on the south by LBJ Freeway; and on the west by Morans Valley View Addition.

BW Subdistrict 6-B: Being all of Greenbriar Midway Addition and Pace Addition Replat, an area that is bounded on the east by Midway Road; on the south by LBJ Freeway and Valley View Lane; on the north by Blue Lake Circle.

BW Subdistrict 6-A: Being all of Exxon No.6-3903 Addition and all of Midway Park Addition, an area that is bounded on the west by Midway Road; on the south by LBJ Freeway; and on the east by Lot 1, Block 5, Metropolitan Industrial Park Section 2 addition, aka the Freed Furniture property.

Beer and Wine Sales (BW) Overlay District 7:

BW Subdistrict 7-A: Being all of Lots 1 and 2, Block A, Great Indoors Addition, an area that is bounded on the north by Alpha Road; on the east by Inwood Road; on the west by Cambridge Concourse; and on the south by the south by Simonton Road

BW Subdistrict 7-B: Being a part of Lot 1, Block 1, Broadstone Galleria Addition that is bounded on the north by Simonton Road; on the south by Galleria Drive; on the east by Inwood Road; and on the west by a north/south line extending within a dedicated fire lane between the north right of way line of Galleria Drive and the south right of way line of Simonton Road from points on said rights of way that are respectively located approximately 345 feet and approximately 120 feet west of the west right of way line of Inwood Road.

BW Subdistrict 7-C: Being all of Lots 1, 2, 3, 4, and 5 of Inwood Parkway Office Park Addition, an area that is bounded on the north by Alpha Road; on the west by Inwood Road; on the east by the common city limit line of the City of Farmers

Branch and the City of Dallas; and on the south by Galleria Drive eastward extension to said city limit line.

Beer and Wine Sales (BW) Overlay District 8: Being an area bounded on the east by Inwood Road; on the west by a 54 foot wide rail right of way owned by the St. Louis Southwestern Railway; and bounded on the south and west by Lot A, Block 3, Metropolitan Industrial Park Sect 1 addition, and on the extreme south by Alpha Road.

Beer and Wine Sales (BW) Overlay District 9: Being an area that is bounded on the north by IH635 and on the west by Luna Road and being that same 7.105 acre tract of land described as Tract IV - Pac Trust in a Trustee's Deed to Graham Mortgage Corporation, recorded as Document No. 201100087228, in the Deed Records, Dallas County, Texas, said property also known as Lot 1, Block 1, Park West Phase 5 , in Volume 87007, Volume 3105, of the Deed Records of Dallas, Texas.

8-410-3 Residential Uses Within a Beer and Wine Sales Overlay District

Section 46-2 of the Code of Ordinances shall be controlling with respect to the sale of beer and wine in residential areas and on property used for residential purposes located within a Beer and Wine Sales Overlay District. Nothing in this Section 8-410 shall be construed as authorizing the development and use of property as a Beer and Wine Package Sales Establishment in a residential area or on property used for a residential purpose that is located in a Beer and Wine Sales Overlay District except where the sale of beer and wine does not constitute a violation of Section 46-2(a) of the Code of Ordinances as described in Section 46-2(c) of the Code of Ordinances.

SECTION 3. In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Farmers Branch and the provisions of this Ordinance as applicable to the use and development of the Property, the provisions of this Ordinance shall be controlling.

SECTION 4. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or 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 thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 5. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 6. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Farmers Branch, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars ($2,000) for each offense;

and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 7. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provide.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THIS THE 17th DAY OF JUNE, 2014.

ATTEST:

Angela Kelly, City Secretary

APPROVED:

William P. Clancy, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(kbl:6/17/14:66337)