

**ORDINANCE NO. 5403**

**AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY, BY GRANTING A CONDITIONAL USE PERMIT ON A CERTAIN 0.28 ACRE TRACT OF LAND LEGALLY DESCRIBED AS LOTS 13, 14, 15, 16, BLOCK 2, LAYNE'S ADDITION, DENISON, GRAYSON COUNTY, TEXAS, AS RECORDED IN THE REAL PROPERTY RECORDS OF GRAYSON COUNTY, TEXAS AS DOCUMENT NO. 2023-22497, COMMONLY REFERRED TO AS 728 WEST MAIN STREET, DENISON, TEXAS, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT "A", TO ALLOW AMUSEMENT, COMMERCIAL, WITH ALCOHOL SALES (INDOOR) AS A USE IN ITS ZONING CLASSIFICATION OF CENTRAL AREA DISTRICT AND HISTORIC OVERLAY DISTRICT; PROVIDING CONDITIONS FOR THE CONDITIONAL USE PERMIT TO REMAIN EFFECTIVE; PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING A PENALTY OF UP TO \$2,000 PER VIOLATION; FINDING THAT THE MEETING AT WHICH THIS ORIDNANCE WAS ADOPTED WAS LAWFULLY HELD IN ACCORDANCE WITH THE TEXAS OPEN MEETINGS ACT; PROVIDING NO VESTED INTEREST/REPEAL, UNLAWFUL USE OF PROPERTY, REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Denison, Texas (hereinafter referred to as "City") is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, the City Council of the City (the "City Council") adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the "Zoning Ordinance"); and

**WHEREAS**, F Marr Real Estate, LLC (the "Owner") owns a 0.28 acre tract of land legally described as Lots 13, 14, 15, 16, Block 2, Layne's Addition, Denison, Grayson County, Texas, as recorded in the Real Property Records of Grayson County, Texas as Document No. 2023-22497, commonly referred to as 728 West Main Street, Denison, Texas, and as more particularly described and depicted in **Exhibit "A,"** attached and incorporated as if fully set forth herein (the "Property"), and has made an application under the provisions of the Zoning Ordinance for a conditional use permit to allow an Amusement, *Commercial, with Alcohol Sales (Indoor)* use on the Property,

which has a zoning district classification of Central Area District and the Historic Overlay District; and

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

**WHEREAS**, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which the City Council considered the requested zoning change, the recommendation of the Planning and Zoning Commission, and among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the rezoning approved hereby accomplishes such objectives.

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

**SECTION 1. Findings Incorporated.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein, are found to be true, and are adopted a legislative findings of the City Council.

**SECTION 2. Conditional Use Permit Approved.** Chapter 28 of the Code of Ordinances of the City, the same being the City's Comprehensive Zoning Ordinance, is hereby amended to reflect the Conditional Use Permit ("CUP") authorizing *Amusement, Commercial, with or without Alcohol Sales (Indoor)* as a use is approved in the Central Area District, subject to all Applicable Regulations (defined below) and to the following conditions:

- A. Uses. The following use of *Amusement, Commercial, with Alcohol Sales (Indoor)* shall be permitted in accordance with the conditions of the CUP, with such use being defined as:

*Amusement, commercial, with or without alcohol sales (indoor): An amusement enterprise that is wholly enclosed within a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, and that provides activities, services and/or instruction for the entertainment of customers or members, but not including amusement arcades. Uses may include, but are not limited to, the following: bowling alley, ice skating rink, martial arts club, racquetball/handball club, indoor tennis courts/club, axe throwing, and other similar types of uses. If the premises is in a district which requires a conditional use permit for this use, the city shall designate the permit as "with" or "without alcohol".*

- B. Applicable Regulations. In addition to the specific requirements set forth in this Ordinance, this CUP shall be subject to all ordinances and regulations of the City applicable to the Property, including without limitation the Comprehensive Zoning Ordinance and those regulations governing the Central Area District and Historic Overlay

District (“Applicable Regulations”). The CUP granted by this Ordinance shall control in cases of conflict between this Ordinance and/or the Comprehensive Zoning Ordinance.

- C. Hours of Operation. Normal business hours of operation for the *Amusement, Commercial, with or without alcohol sales (indoor)* shall be from Monday through Friday, 10 AM to 8 PM, and Saturday through Sunday 10 AM to 10 PM; except for secure 24-hour access by members only. Alcohol and food shall not be served except for during normal business hours of operation.
- D. Acquisition and compliance with all necessary state and local permit requirements.
- E. Owner shall ensure the facility is insulated with spray foam insulation on all interior walls and ceiling spaces to reduce and control noise.

**SECTION 3. Failure to Comply/Expiration/Transferable.** All terms of this CUP shall be complied with prior to issuance of a certificate of occupancy. This CUP shall be declared null and void and of no force and effect and shall discontinue if or for any one or more of the following:

- A. Any failure to comply with any term or condition of this Ordinance or the applicable regulations, as they exist or may be amended; or
- B. Any improvements, the Property, uses or structures regulated by this CUP are enlarged, modified, structurally altered or otherwise significantly changed unless a separate conditional use permit or other required authorization is granted therefor; or
- C. A building permit for the construction of any new structure for which a use is authorized hereunder has not been approved within one (1) year of the date of approval of this Ordinance; or
- D. A certificate of occupancy for any existing structure for which a use authorized by this Ordinance is not applied for and issued within one hundred and eighty (180) days from the effective date of this Ordinance; or
- E. A use for which this CUP is granted ceases to operate for a continuous period of one hundred eighty (180) calendar days; or
- F. A structure for which this CUP is granted remains vacant for a continuous period of one hundred eighty (180) calendar days; or
- G. This CUP was obtained by fraud or deception; or

H. As otherwise permitted by law, this Ordinance and/or the City's Zoning Ordinance, as they exist or may be amended, including without limitation the requirements of Section 28.9 "Nonconforming Uses and Structures".

**SECTION 4. Zoning Map and Code Requirements.** The Zoning Map of the City, adopted by Section 28.3 of the Code of Ordinances, and on file in the office of the Director of Development Services is hereby amended to reflect the conditional use permit. The Property shall be developed and used in accordance with all applicable City, state, and federal laws, as they exist or may be in the future amended, including but not limited to building codes, fire codes, and all accessibility standards as required by law.

**SECTION 5. No Vested Interest/Repeal.** No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed or amended by the City Council in the manner provided for by law.

**SECTION 6. Unlawful Use of Property.** It shall be unlawful for any person, firm, association, entity or corporation to make use of the Property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person, firm, association, entity, or corporation to construct on said Property and building that is not in conformity with the permissible uses under the City's Zoning Ordinance and this Ordinance.

**SECTION 7. Severability.** Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional 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 hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, phrase or word thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases and words be declared unconstitutional or invalid.

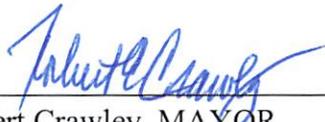
**SECTION 8. Savings/Repealing Clause.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution 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 9. Penalty.** Any person, firm, entity or corporation who violates 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 the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

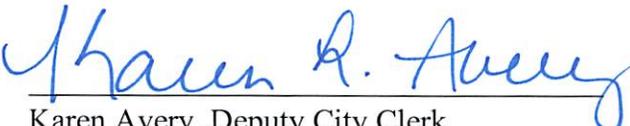
**SECTION 10. Publication and Effective Date.** This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

**SECTION 11. Open Meeting.** That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Section 551.041, Texas Government Code.

**PASSED AND APPROVED BY THE CITY COUNCIL ON THE 7<sup>TH</sup> DAY OF JULY 2025.**

  
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Robert Crawley, MAYOR

ATTEST:

  
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Karen Avery, Deputy City Clerk

**EXHIBIT "A"**  
**LEGAL DESCRIPTION AND DEPICTION**

Lots 13, 14, 15, 16, Block 2, Layne's Addition to the City of Denison, Texas, as shown by plat of record in Volume 25, Page 59, Deed Records, Grayson County, Texas.

