

CITY OF BALCH SPRINGS, TEXAS

ORDINANCE NO. 2064-08

AN ORDINANCE OF THE CITY OF BALCH SPRINGS, TEXAS, AMENDING SECTIONS 90-1 "DEFINITIONS", 90-92 "USE REGULATIONS", AND 90-411 "USE REGULATIONS", OF CHAPTER 90 "ZONING", OF THE CODE OF ORDINANCES OF THE CITY OF BALCH SPRINGS, TEXAS, TO PROVIDE THE DEFINITION OF CONVENIENCE STORE; TO PROVIDE REVISIONS TO USE REGULATIONS REGARDING CONVENIENCE STORES AND MORTUARIES; PROVIDING FOR CONFLICTING PROVISIONS; SEVERABILITY; EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Balch Springs, Texas, in accordance with state law, and all applicable ordinances of the City, have given the required notices and have held the required public hearings regarding the amendments of Chapter 90, Zoning of the Code of Ordinances of the City of Balch Springs, Texas; and

WHEREAS, after due notice of the proposed amendment as required by law and the required public hearings held before the Planning and Zoning Commission and the City Council of the City of Balch Springs, Texas, on November 6, 2008, and November 10, 2008, respectively, the City Council is of the opinion that said Chapter 90 of the Code of Ordinances should be amended as herein stated; and

WHEREAS, the City Council of the City of Balch Springs, Texas, after determining that all legal requirements of notice and hearing have been met, have determined that the following amendments to the zoning laws would provide for and would be in the best interests of the health, safety, morals and general welfare of the City to amend Chapter 90 of the Code of Ordinances as herein described;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCH SPRINGS, TEXAS, that:

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Chapter 90, Zoning, Article I. In General, Section 90-1. Definitions. of the City of Balch Springs Code of Ordinances is hereby amended to add in alphabetical order a definition for "convenience store" to read as follows:

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CHAPTER 90

ARTICLE I. IN GENERAL

Sec. 90-1. Definitions.

Convenience store means a store whose in-store inventory primarily includes containerized or dispensed drinks, fast foods, snack foods, and similar type items.

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SECTION 3. Chapter 90, Zoning, Article II. Administration, Division 3. Special Use Permits, Section 90-92. Use regulations. subsection (a) of the City of Balch Springs Code of Ordinances is hereby amended to add “convenience stores” to read as follows:

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CHAPTER 90

ARTICLE II. ADMINISTRATION

DIVISION 3. SPECIAL USE PERMITS

Sec. 90-92. Use regulations.

(a) The following use may be authorized by special use permit within any district, except where stated otherwise, upon compliance with all requirements of this section and all other applicable ordinances:

- (1) Airports and airport facilities.
- (2) Commercial amusement parks and facilities and racetracks.
- (3) Baseball fields, athletic fields, stadiums, golf driving ranges, arcades, riding stables, rodeo arenas, miniature golf facilities, commercial recreation parks, recreation parks and facilities owned or operated by non-profit associations or entities, gun clubs and ranges, skeet shoots, and target ranges.
- (4) Country clubs and golf courses.
- (5) Movie theaters and drive-in theaters.
- (6) Churches and institutions of religious worship. A church may not be excluded in any district and, therefore, an application for a special use permit may not be denied. In issuing special use permits, there shall be imposed only those reasonable conditions and regulations as are necessary to protect the public health, safety and general welfare of the community and surrounding properties. Parking, whether on-site or off-site, shall be identified in the site plan submitted with the application for special use permit. Unless otherwise modified by the ordinance granting the special use permit classification, all setback and structural requirements contained in the base zoning classification applicable to the property shall be met.
- (7) Private schools.

- (8) Day care center, day nursery, or child care center.
- (9) Group homes for the disabled.
- (10) Dog kennels and veterinary facilities.
- (11) Hospitals and rehabilitation centers.
- (12) Halfway houses and penal or correctional institutions.
- (13) Radio, television, and microwave towers and antennae.
- (14) Public utilities and buildings, structures and premises for public utility service and public service corporations including but not limited to ground storage and elevated water supply or storage tanks, utility pump stations, electrical power substations, telephone equipment buildings, and waste water treatment facilities.
- (15) Sexually-oriented businesses, as described in and subject to the requirements of chapter 18 and article VI of this chapter. This use is permissible by special use permit only in areas zoned CIM, commercial industrial manufacturing district.
- (16) Establishments which derive at least 75 percent of the establishment's gross revenue from the on-premises sale of alcoholic beverages. This use is permissible by special use permit only in the LR, C-1 and CIM districts and only where the place of business is not within 300 feet of a church, public school or public hospital.
- (17) Establishments which hold and have been issued a private club registration permit or other private club permits under the Texas Alcoholic Beverage Code, chapter 32 or chapter 33, as amended, if:
 - a. The establishment derives at least 35 percent of its gross revenues from the on-premises sale or service of alcoholic beverages;
 - b. The premises of the establishment are located in a dry area; and
 - c. The permit is not issued to a fraternal or veterans organization or the holder of a food and beverage certificate issued by the state alcoholic beverage commission.
- (18) Vehicle and car washing facilities.
- (19) New and used car and truck dealerships.
- (20) Automobile and automotive repair garages and automobile painting facilities.
- (21) Storage, display and sale of automobile and automotive parts and accessories. The storage, display and/or sale of new or used automobile and automotive parts must be conducted entirely within an enclosed permanent building, situated on a concrete foundation with electrical and plumbing connections and service. In no event shall such sales occur within a motor vehicle wrecking or salvage yard.
- (22) Bus terminal and bus and truck storage. Bus terminals are permissible in the CIM commercial industrial manufacturing district only. A special use permit zoning classification is required for businesses and establishments whose primary operation is the storage of buses and trucks. As used herein, "bus terminal" shall mean a facility, the primary use of which is for passengers to board and/or disembark from buses, whether or not buses are stored or parked on site.
- (23) Greenhouses and nurseries.
- (24) Motels and hotels.
- (25) Concrete and asphalt batching plants and batch mixing facilities.
- (26) Any structure, not designed to be occupied, in excess of 30 feet in height, other than standard telephone poles, standard lighting poles and standard or residential television receiving antennas.
- (27) Flea markets and open air retail sales, whether temporary or permanent.

- (28) Pallet businesses and yards. Businesses involved in the construction, repair, sale (retail or wholesale), or storage of wooden pallets may be allowed only in the CIM districts, subject to such location, height, area, parking, signage and intensity/floor area ratio regulations as may be reasonably imposed.
- (29) Trailer park, trailer court, trailer subdivision or mobile home park subdivisions on sites of 20 acres or more in any district.
- (30) Carting, express, hauling and parking of commercial vehicles and storage of sand and gravel.
- (31) RV (recreational vehicle) park (temporary occupancy)
- (32) Box and crate manufacturing, other than paper.
- (33) Motor freight terminal and truck stop.
- (34) Mortuary.
- (35) Convenience Stores.

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SECTION 4. Chapter 90, Zoning, Article V. Zoning Map and Districts, Division 4. LR Local Retail District, Section 90-411. Use regulations. of the City of Balch Springs Code of Ordinances is hereby amended to delete “Convenience store” and “Mortuary” to read as follows:

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CHAPTER 90
ARTICLE V. ZONING MAP AND DISTRICTS
DIVISION 4. LR LOCAL RETAIL DISTRICT

Sec. 90-411. Use regulations.

In the LR local retail district within the city, no land shall be used and no building shall be used, erected for or converted to any use other than the following:

- (1) Reserved.
- (2) Ambulance service.
- (3) Antique shop.
- (4) Aquarium.
- (5) Art gallery.
- (6) Automobile seat covers and covering.
- (7) Automotive parts and accessories (new only).
- (8) Bakery, retail sales only.
- (9) Bank, office, wholesale sales office or sample room.
- (10) Barbershop and beauty shop.
- (11) Bird and pet shop, retail.
- (12) Book or stationery store.
- (13) Camera shop.
- (14) Candy, cigars and tobacco, retail sales only.
- (15) Car wash (full service of coin operated).

- (16) Caterer and wedding service.
- (17) Copier and printer shop.
- (18) Department store, novelty or variety shop, retail sales only.
- (19) Drugstore, retail sales only.
- (20) Dry cleaners and laundry.
- (21) Electric substation.
- (22) Electrical repairing, domestic equipment and automobiles, retail sales only.
- (23) Exterminating company, retail.
- (24) Feed store.
- (25) Film developing and printing.
- (26) Fix-it shop, bicycle repair, saw filing, lawn mower sharpening, retail only, but without an outside garage.
- (27) Florist, retail sales only.
- (28) Furniture repairs and upholstering, retail sales only, and where all Storage and display is within the building.
- (29) Furniture store, retail sales only.
- (30) Grocery store, retail sales only.
- (31) Hardware, sporting goods, toys, paint, wallpaper, clothing, retail sales only.
- (32) Household and office furniture, furnishings and appliances, retail sales only.
- (33) Jewelry, optical goods, photographic supplies, retail sales only in the home, where custom laundering and finishing may be done. The shop shall not exceed 6,000 square feet in area, and there shall be no pickup and delivery operations.
- (34) Job printing.
- (35) Library, rental.
- (36) Meat market, retail sales only.
- (37) Movie theatre.
- (38) Nursery, retail sale of plants and trees.
- (39) Office building.
- (40) Parking lot, without a public garage, or other automobile facilities for the parking of passenger cars and trucks of less than one-ton capacity only.
- (41) Pawn shops.
- (42) Photographer or artist studio.
- (43) Piano and musical instruments, retail sales only.
- (44) Plumbing shop, retail sales only, without warehouse facilities, including storage for ordinary repairs, but not storage for contracting work.
- (45) Restaurant without curb or drive-in service, and service shall be entirely within the building.
- (46) Restaurant with drive-in facilities, provided that no food or drink may be served to vehicles parked on the public street.
- (47) Retail service station primarily engaged in the retail sale of petroleum products, as long as such station requires an attendant to be on the premises.
- (48) Retail store/shop for custom work or the making of articles to be sold for retail on the premises.
- (49) Seamstress, dressmaker or tailor.
- (50) Shoe repair shop, retail sales only.
- (51) Studios, dance, music, drama, health and fitness center.

- (52) Studio for the display and sale of glass, china, art objects, cloth and draperies.
- (53) Washateria, equipped with automatic washing machines of the type customarily found in a home, and where the customers may personally supervise the washing and handling of their laundry.
- (54) Accessory buildings and uses customarily incidental to the uses set forth in subsections (1)--(57) of this section.

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SECTION 5. All provisions of the ordinances of the City of Balch Springs in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Balch Springs not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6. 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 Code of Ordinances as a whole.

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 cases provide.

SECTION 8. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

DULY PASSED AND ADOPTED by the City Council of the City of Balch Springs, Texas, on the 10th day of November, 2008.

APPROVED:

Cedric Davis, Mayor

ATTEST:

Cindy Gross, City Secretary