

**CITY OF BALCH SPRINGS, TEXAS  
ORDINANCE NO. 3028-12**

**AN ORDINANCE OF THE CITY OF BALCH SPRINGS, TEXAS, AMENDING CHAPTER 90, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF BALCH SPRINGS, TEXAS; PROVIDING FOR ADDITIONAL DEFINITIONS AND USES FOR SPECIAL USE PERMITS; PROVIDING FOR CONFLICTING PROVISIONS; SEVERABILITY; EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.**

**WHEREAS**, the City Council of the City of Balch Springs (“City”) wishes to update its Zoning Ordinances to add additional definitions and regulate uses which may be allowed with a Special Use Permit; and

**WHEREAS**, the Planning and Zoning Commission of the City, after public hearing, has heard and made recommendation on the additional definitions and regulation of uses under the Special Use Permit provisions; and

**WHEREAS**, the City Council of the City is authorized under Chapter 211 of the Texas Local Government Code to adopt or amend the zoning regulations pursuant to the provisions set out in Chapter 211, Texas Local Government Code and the City’s Code of Ordinances, Chapter 90; and

**WHEREAS**, the changes contained within this Ordinance are made pursuant to such authority and for the good government of the City;

**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 of the Code of Ordinances of the City of Balch Springs is hereby modified with additions and shall read as follows:

**CHAPTER 90, ZONING, ARTICLE I, IN GENERAL, Section 90-1, Definitions, shall have the following definitions added:**

*Convenience store* means a business that is primarily engaged in the retail sale of convenience goods, or both convenience goods and gasoline. For purposes of this definition, convenience goods mean food, beverage, household, personal care, and pharmaceutical items. A gasoline pump is not considered a drive-in or drive-through service. If use has drive-in or drive-through

Balch Springs Code of Ordinance  
Zoning 90-1, 90-411 and 90-92

services and has less than 10,000 square feet of floor area, the use shall be classified as a convenience store with drive-through.

*Convenience store with drive-through* means a business that is primarily engaged in the retail sale of convenience goods, or both convenience goods and gasoline, that has drive-in or drive-through service and has less than 10,000 square feet of floor area. For purposes of this definition, convenience goods mean food, beverage, household, personal care, and pharmaceutical items. A gasoline pump is not considered a drive-in or drive-through service.

*Beverage (package) store-* An establishment principally for the retail sale of sealed containers of alcoholic beverages for consumption off-premise. For this definition, alcoholic beverage as defined by the Texas Alcoholic Beverage Code means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

*Retail store* means a business with a floor area of 3,500 square feet or less for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, drugs, auto parts and accessories, and similar consumer goods. The term “food store” includes a grocery store, delicatessen, and specialty foods store.

*Retail store* means a business with a floor area greater than 3,500 square feet but less than 100,000 square feet for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, drugs, auto parts and accessories, and similar consumer goods. The term “food store” includes a grocery store, delicatessen, and specialty foods store.

**CHAPTER 90, ZONING, ARTICLE II, DIVISION 3, SPECIAL USE PERMITS, Section 90-92 – Use Regulations, shall have the following added:**

**(35) Convenience store.** This use is permissible by special use permit only in Local Retail (LR), Commercial One (C-1), and Commercial Industrial Manufacturing (CIM) Districts. The following standards shall be considered during the review of the SUP and shall be attached as conditions to the include development and design standards including conceptual site plan, landscaping plan, masonry building materials, screening of adjacent lots, screening of refuse/enclosure facilities shall be of aesthetic material, lighting, revocation, review of police reports of no later than 5years dated, etc.

**(37) Convenience store with drive-through.** This use is permissible by special use permit only in Local Retail (LR), Commercial One (C-1), and Commercial Industrial Manufacturing (CIM) Districts. The following standards shall be considered during the review of the SUP and shall be attached as conditions to include development and design standards including conceptual site

plan, landscaping plan, masonry building materials, screening of adjacent lots, screening of refuse/enclosure facilities shall be of aesthetic material, lighting, revocation, review of police reports of no later than 5years dated, etc.

37.1) Convenience store with drive-through, in operation prior to the adoption of this ordinance, shall only be permitted on the side of the building provided the use is not a corner lot and provided the building has a minimum square footage of 3,000sf.

37.2) A convenience store may operate a drive through window to an otherwise completely enclosed convenience store if specifically granted by a special use permit. However, a “drive through” convenience store whereby a customer’s vehicle drives substantially through the building shall be prohibited due to traffic and safety concerns. Restaurants that include drive-through windows shall be excluded from this provision. Accessory pass-out windows, drive through and/or delivery to customers while still in their motor vehicles shall be permitted upon approval of this ordinance.

**(38) Beverage (package) store.** This use is permissible by special use permit only in Local Retail (LR), Commercial One (C-1), and Commercial Industrial Manufacturing (CIM) Districts

- a. Shall only be permissible where the place of business containing the Beverage store is not within three hundred (300) feet of a church, colleges and universities, learning center or library, public or private school or daycare, or hospital.
- b. The following standards shall be considered during the review of the SUP and shall be attached as conditions to include development and design standards including conceptual site plan, landscaping plan, masonry building materials, screening of adjacent lots, screening of refuse/enclosure facilities shall be of aesthetic material, lighting, revocation, compliance with state and local licensing agency, review of police reports of no later than 5years dated, etc.
- c. The measurement of the distance between the place of business of beverage stores shall be from the nearest property line of a church, colleges and universities, learning center or library, public or private school or daycare, or hospital to the nearest doorway by which the public may enter the place of business, along street lines and in a direct line across intersections and as in compliance with the Texas Alcohol Beverage Commission (TABC) distance requirements.

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**SECTION 3.** 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 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 Code of Ordinances as a whole.

**SECTION 5.** 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 6.** 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 9<sup>th</sup> day of April, 2012.

APPROVED:

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Carrie F. Gordon, PhD, Mayor

ATTEST:

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Cindy Gross, City Secretary