

## **CITY OF BALCH SPRINGS, TEXAS**

### **ORDINANCE NO. 3051-13**

**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 LANGUAGE FOR LIQUOR STORES 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:**

*Liquor (adult/Alcoholic beverage) store* means an establishment with a floor area of no less than 3,000 square feet or 2,500 square feet for existing buildings or remodels seeking conversion principally for the retail sale of sealed containers of liquor beverages for consumption off-

premise. For this definition, liquor as defined by the Texas Alcoholic Beverage Code means any alcoholic beverage containing alcohol in excess of four percent by weight, unless otherwise indicated. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, rum, ale, malt liquor, tequila, mescal, habanero, or barreteago is prima facie evidence that it is liquor.

*Drive-up* means a window at a store or restaurant where one can be served without needing to leave your vehicle.

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

**(39) Liquor (adult/alcoholic beverage) 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 liquor 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 liquor 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.
- d. To the extent allowed by applicable law, as it exists and as it may be amended, any use or business which operates as a liquor store shall be no closer than 1000ft to a liquor or beverage store. The measurement of the distance between the place of business of liquor stores and beverage stores shall be from the nearest property line to property line.
- e. Existing beverage stores and/or buildings requesting conversion to a liquor store shall be installed with a two (2) hour fire barrier separation wall.
- f. Remodels or existing buildings seeking conversion for operation as a liquor store constructed prior to the adoption of this ordinance shall have a minimum floor area or building square footage of 2,500.

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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.

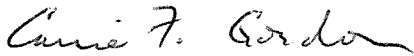
**SECTION 4.** Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided 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.

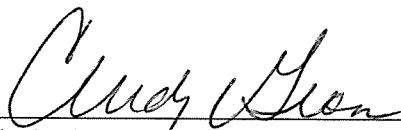
**SECTION 6.** It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**DULY PASSED AND ADOPTED** by the City Council of the City of Balch Springs, Texas, on the 28<sup>th</sup> day of January, 2013.

APPROVED:

  
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Carrie F. Gordon, Ph.D, Mayor

ATTEST:

  
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Cindy Gross, City Secretary