

ORDINANCE NO. {{item.sequential_number}}
(FY-24-51-ZC)

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, APPROVING A CONDITIONAL USE PERMIT TO ALLOW RETAIL SALES OF ALL ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION AT 2204 WEST AVENUE M, SUITE A, CITY OF TEMPLE, BELL COUNTY, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant has requested a Conditional Use Permit (CUP) for a package store in an existing retail building on the corner of West Avenue M and South 43rd Street - the property is zoned Commercial (C), which allows for a package store, subject to approval of a CUP;

Whereas, the store initially opened upon receiving its Texas Alcoholic Beverage Commission (TABC) permit, but when notified by City Staff, it closed immediately and submitted the CUP application - the same owner operates the convenience store in the adjacent suite, which was opened around the same time;

Whereas, under the C zoning, the sales of beer and wine occurring at the adjacent convenience store are permitted by right - the Site Plan is attached as Exhibit A and the applicant has also provided Exhibit B, showing the internal division between the liquor store and convenience store;

Whereas, Chapter 4 of the City Code of Ordinances, “Alcoholic Beverages”, establishes distances for alcohol sales from certain protected uses - the sale of alcohol is prohibited within 300 feet of a church, public or private school, or public hospital, or 1,000 feet of a private school if the City Council receives a request from the governing body of the private school;

Whereas, the retail property is not within the regulated distance of any protected uses listed in Chapter 4 - applicable standards for package stores are listed in Section 5.3.17 of the Unified Development Code (UDC);

Whereas, UDC Section 3.5 provides evaluation criteria for CUPs - additionally, the UDC allows the City Council to deny or revoke a CUP if it affirmatively determines that the issuance of the permit is:

- a. Incompatible with the surrounding uses of property; or
- b. Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants; and
- c. Per UDC Section 3.5.5, the Planning and Zoning Commission (PZC) may recommend, and the City Council may impose, additional conditions of approval.

Whereas, at its October 21, 2024 meeting, the PZC voted 4 to 1 to recommend disapproval, with one abstention;

Whereas, City Staff's original recommendation was to approve the requested CUP, subject to the conditions outlined below - however, based on new information provided by concerned neighbors who spoke at the October 21, 2024 PZC meeting against the proposed package store due to concerns about current alcohol consumption issues in nearby alleys by transients, Staff determined that further review of the Temple Heights Neighborhood Plan was necessary;

Whereas, after closer evaluation of citizen input for the Temple Heights Neighborhood Plan, which identified "Public Safety" as the highest priority within the neighborhood, Staff is changing its recommendation from "approval with conditions" to disapproval - however, if approval is granted by City Council, then retail sales of all alcoholic beverages for off-premises consumption shall be subject to the following conditions:

1. Requiring compliance with the Site Plan, attached hereto and incorporated herein as Exhibit A;
2. Requiring compliance with Chapter 4 of the City Code of Ordinances related to alcoholic beverages;
3. Requiring compliance with UDC Section 5.3.17 related to sales of alcohol for off-premises consumption;
4. In accordance with TABC regulations, store hours shall be limited to Monday through Saturday from 10:00 a.m. to 9:00 p.m.; the store shall be closed on Sundays, Thanksgiving Day, Christmas Day, and New Year's Day; when Christmas or New Year's Day falls on a Sunday, the store shall be closed the following Monday; and
5. Significant changes to use of the property related to the sales of alcoholic beverages shall require additional review and approval by City Council.

Whereas, UDC Section 2.4.4 establishes the requirement to overrule a recommendation for denial - a minimum 75 percent vote of all the members of the City Council is required to overrule a recommendation by the PZC that a proposed UDC Text Amendment, Zoning District Map Amendment, Planned Development, or Conditional Use Permit be denied; and

Whereas, the City Council has considered these matters and deems it in the public interest to authorize these actions.

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

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

Part 2: The City Council approves a Conditional Use Permit to allow retail sales of all alcoholic beverages for off-premises consumption at 2204 West Avenue M, Suite A, City of Temple, Bell County, Texas, subject to the following conditions:

1. Requiring compliance with the Site Plan, attached hereto and incorporated herein as Exhibit A;
2. Requiring compliance with Chapter 4 of the City Code of Ordinances related to alcoholic beverages;
3. Requiring compliance with UDC Section 5.3.17 related to sales of alcohol for off-premises consumption;

4. In accordance with TABC regulations, store hours shall be limited to Monday through Saturday from 10:00 a.m. to 9:00 p.m.; the store shall be closed on Sundays, Thanksgiving Day, Christmas Day, and New Year's Day; when Christmas or New Year's Day falls on a Sunday, the store shall be closed the following Monday; and
5. Significant changes to use of the property related to the sales of alcoholic beverages shall require additional review and approval by City Council.

Part 3: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any section, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such section, paragraph, sentence, clause, or phrase.

Part 5: This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 7th day of **November, 2024**.

PASSED AND APPROVED on Second and Final Reading on the 21st day of **November, 2024**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney