

RECOMMENDATION RESOLUTION

From: Conditional Use Permit Joint City Council / Planning and Zoning Commission Committee

WHEREAS, in October 2022 City Council and the Planning and Zoning Commission appointed members to a Joint Conditional Use Permit Committee (Committee); and

WHEREAS, the Committee established the following purpose statement: Consider what types of uses require Conditional Use Permits (CUP), with an initial focus on permits for on-premise consumption of alcoholic beverages, and the associated processes, regulations, standards, and enforcement associated with Conditional Use Permits; and

WHEREAS, from July 2024 through April 2025 the Committee held 10 meetings focused on permits for on-premise consumption of alcohol in accordance with the purpose statement.

NOW, THEREFORE, BE IT RESOLVED that the Conditional Use Permit Committee recommends the San Marcos City Council consider the following amendments to the San Marcos Development Code:

1. Add definitions for Sound Amplifying Equipment, Amplified Sound, Acoustic Sound, Background Sound, and Plainly Audible which will assist with enforcement of the noise section of the Code. (Exhibit A)
2. Provide clarity that the Planning and Zoning Commission may approve a CUP for up-to three years and that a 3-year approval is not guaranteed. (Exhibit B)
3. Reference the Health Codes in the section which requires kitchen equipment. (Exhibit B)
4. Clarify that an eating establishment must serve food for a total of eight (8) hours and that this time not required to be consecutive. (Exhibit B)
5. Require an eating establishment always have a posted menu on their website and social media platforms. (Exhibit B)
6. Add a BYOB (Bring Your Own Beverage) section.

The Committee also recommends the San Marcos City Council support the efforts of the City's Code Compliance Division, Police Department, and Planning Division efforts to bring conditional use permit holders into compliance with city codes.

The Committee discussed, and does not recommend modifying the number of bars and restaurants downtown or changing the 2 a.m. closing time for businesses which serve alcoholic beverages.

Date of Approval: April 30, 2025

Record of the vote:

5 in favor: Council members Alyssa Garza and Matthew Mendoza, Planning and Zoning Commissioners William Agnew, Michele Burleson, and Amy Meeks

1 absent: Council member Saul Gonzales

Attest: _____
Amanda Hernandez, staff liaison



City of San Marcos
Joint City Council / Planning & Zoning Commission
Conditional Use Permit Committee Recommendation
Exhibit A - Music Definitions

- Sound Amplifying Equipment: any electronically powered, operated, or assisted device used for the enhancement or amplification of the human voice, music, or any other sound including, but not limited to, amplifiers (amps), microphones, speakers, sound systems, or other similar devices.
- Amplified sound: instrumental, digital, or vocal sounds which are made louder using sound amplifying equipment.
- Acoustic sound: instrumental or vocal sounds which are not amplified using sound amplifying equipment.
- Background Sound: amplified sound intended to enhance the ambiance of the business in which it is being played, and which is not plainly audible at the property line of the associated business.
- Plainly Audible: any amplified or acoustic sound which can be detected by the average person without the aid of hearing devices.

Exhibit B - San Marcos Development Code

4. Where an eating establishment includes the sale of alcohol for on premise consumption the following standards shall apply:

a. **Permit.** The establishment must hold for the premises a valid Conditional Use Permit for the on-premise sale and consumption of alcohol issued and effective under Section 2.8.3.1, this Section 5.1.5.5E and any conditions of such permit.

b. **Downtown CBA Boundary.** Where an eating establishment including the sale of alcohol is located in the downtown CBA boundary the following additional standards apply:

Clarify this is "up-to" not "guaranteed for" 3-years

1. Permits for an eating establishment including alcohol sales in the downtown CBA boundary are valid for three years from date of issuance. A renewal permit for a current permit holder may be administratively issued under Sec.2.8.3.7.

Reference Health Code

2. The business must have a kitchen and food storage facilities of sufficient size to enable food preparation. The kitchen must be equipped with, and must utilize, a commercial grill, griddle, fryer, oven, or similar heavy food preparation equipment.

Clarify 8 hours / does not need to be consecutive

3. The business must serve meals to customers during at least two meal periods each day the business is open. A meal must consist of at least one entree, such as a meat serving, a pasta dish, pizza, a sandwich or similar food in a serving that serves as a main course for a meal. At least three entrees must be available during each meal period. A meal period means a period of at least four hours.

Add website and social media posting requirement

4. The business must be used, maintained, advertised and held out to the public as a place where meals are prepared and served.



FIGURE 5.3 DOWNTOWN CBA BOUNDARY

5. The business must be used, maintained, advertised and held out to the public as a place where meals are prepared and served.
6. The number of active restaurant permits in the central business area zoning district shall not exceed 25. If there are 25 active restaurant permits, any further applications for restaurant permits in the district shall be placed on a waiting list and individually referred to the commission for consideration within 45 days, in the same order as submitted, when the number of restaurant permits is less than 25.
7. The business shall be responsible for maintaining the sidewalk, gutters, parking lot, all areas within 50 feet of any exit, and all areas of the permitted property in a clean and sanitary condition, free from litter and refuse at all times.

Do not modify the number of permits

- b. **Downtown CBA Boundary.** In the Downtown CBA boundary the total number of bars is limited to 14. If the maximum number of active bars has been met, or may be met if any one or more pending applications are approved, any further applications in the Central Business Area shall be placed on a waiting list and individually referred to the Planning and Zoning Commission for consideration within 45 days, in

(Ord. No. 2020-60, 9-1-2020)