



CITY OF SAN MARCOS
NEIGHBORHOOD ENHANCEMENT
Code Compliance & Environmental Health

MEMORANDUM

TO: Planning and Development Services (PADs)

REF: Conditional Use Permit Renewal Proposal

Balcon Comedor & Bar
c/o Project LL, LLC
407 S Stagecoach Trl. #201
San Marcos, TX 78666

March 09, 2026

Good Morning Staff:

I am writing *In Support* of the proposed *6-month* approval for **CUP 26-08**, for the on-premises consumption and sale of alcohol for a local establishment, identified as *Balcon Comedor y Bar*, located at 407 S. Stagecoach Trl. Suite 201. I am basing this recommendation on the continuous delinquency in payment of utilities, permit fees, and late submission of documents by the permit holder.

I became familiar with the establishment due to having a delinquent CUP for over 1 year (January 2024) and lack of response to emails and letters sent by city staff to renew the permit and to pay their utilities to avoid interruption in services. Beginning June 2025, I learned the establishment had delinquent fees and was facing disconnecting of utility services.

On August 12, 2025, at the time of renewal, the permit holder spoke to the Planning & Zoning Commission, and stated this was a “*learning lesson*” and they were “*hoping to move forward.*” Upon completion of their application and hearing, the CUP was approved for a 6-month period from August 2025 through February 2026.

Due to their patterns of negligence, I began monitoring their utility services and noticed disconnections prior and after our first encounter. Below is a timeline of violations by the establishment documented since their first **CUP (23-01)** expiration:

Balcon Comedor y Bar Timeline

- **January 2024**
 - **EXPIRED** CUP (23-01)
 - Failure to renew application
 - Failure to respond to emails and letters sent by PADs
- **June 2024**
 - *Notice of expired* CUP sent by PADs
- **August 2024**
 - *Notice of expired* CUP sent by PADs
- **December 2024**
 - **SUSPENDED** Food Permit (FE 23-2485)
 - Failure to pay permit fees
 - Establishment *closed* due to a suspended permit
- **February 2025**
 - **DISCONNECTED Utilities (Feb 27th)**
 - Failure to pay outstanding bills and fees
 - **FAILURE** to notify Health Authority
 - **VIOLATION** of U.S. Food & Drug Administration; Food Code (2022): Section 8-304 CONDITIONS OF RETENTION
 - 8-304.11 Responsibilities of the Permit Holder
 - (A) Upon acceptance of the permit issued by the regulatory authority, the permit holder in order to retain the permit shall:
 - a. Post the permit in a location in the food establishment that is conspicuous to consumers;
 - b. Comply with the provisions of this Code including the conditions of a granted variance as specified under § 8-103.12, and approved plans as specified under § 8-201.12;
 - c. If a food establishment is required under § 8-201.13 to operate under a Hazard Analysis Critical Control Point (HACCP) Plan, comply with the plan as specified under § 8-103.12;
 - d. Immediately contact the regulatory authority to report an illness of food employee or conditional employee as specified under 2-201.11(B);
 - e. *Immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist as specified under § 8-404.11;*

- f. Allow representatives of the regulatory authority access to the food establishment as specified under § 8-402.11;
 - g. Replace existing facilities and equipment specified in § 8-101.10 with facilities and equipment that comply with this Code if:
 - i. The regulatory authority directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted,
 - ii. The regulatory authority directs the replacement of the facilities and equipment because of a change of ownership, or
 - iii. The facilities and equipment are replaced in the normal course of operation;
 - h. *Comply with directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the regulatory authority in regard to the permit holder's food establishment or in response to community emergencies;*
 - i. Accept notices issued and served by the regulatory authority according to law; and
 - j. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Code or a directive of the regulatory authority, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.
 - k. Notify customers that a copy of the most recent establishment inspection report is available upon request by posting a sign or placard in a location in the food establishment that is conspicuous to customers or by another method acceptable to the regulatory authority.
- **VIOLATION of U.S. Food & Drug Administration; Food Code (2022): Section 8-404 IMMINENT HEALTH HAZARD**
 - i. *8-404.11 Ceasing operations and reporting*
 - (A) Except as specified in paragraph (B) and (C) of this section, a permit holder *shall* immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as a fire, flood, *extended interruption of electrical or water service*, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.

- (B) A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.
- (C) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to continuing operations in the event of an extended interruption of electrical or water service if:
 1. A written emergency operating plan has been approved;
 2. Immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and
 3. The regulatory authority is informed upon implementation of the written emergency operating plan.

ii. 8-404.12 Resumption of operations

(A) If operations are discontinued as specified under paragraph (1) of this subsection or otherwise according to law, *the permit holder shall obtain approval from the regulatory authority before resuming operations.*

o **VIOLATION of U.S. Food & Drug Administration; Food Code (2022): Section 3-501.19 TIME AS A PUBLIC HEALTH CONTROL**

(A) Except as specified under ¶ (D) of this section, if time without temperature control is used as the public health control for a working supply of time/temperature control for food safety before cooking, or for ready-to-eat time/temperature control for safety food that is displayed or held for sale or service:

1. Written procedures shall be prepared in advance, maintained in the food establishment and made available to the regulatory authority upon request that specify:
 - a) Methods of compliance with Subparagraphs (B)(1)-(4) or (C)(1)-(5) of this section; and
 - b) Methods of compliance with § 3-501.14 for food that is prepared, cooked, and refrigerated before time is used as a public health control.

(B) If time without temperature control is used as the public health control up to a maximum of 4 hours:

1. *Except as specified in (B)(2), the food shall have an initial temperature of 5°C (41°F) or less when removed from cold holding temperature control, or 57°C (135°F) or greater when removed from hot holding temperature control;*
2. The food may have an initial temperature of 21°C (70°F) or less if;
 - a) It is a ready-to-eat fruit or vegetable that upon cutting is rendered a time/temperature control for safety food as defined in ¶1-201.10(B), or
 - b) It is a ready-to-eat hermetically sealed food that upon opening is rendered a time/temperature control for safety food a defined in ¶1-201.10(B),

- c) The food temperature does not exceed 21°C (70°F) within a maximum time period of 4 hours from the time it was rendered a time/temperature control for safety food; and
 - d) The food is marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is rendered a time/temperature control for safety food as specified in subpart (B)(2)(a) and (b) of this section.
3. The food shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is removed from temperature control.
 4. *The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within 4 hours from the point in time when the food is removed from temperature control;* and
 5. The food in unmarked containers or packages or marked to exceed a 4-hour limit shall be discarded.

- **June 2025** [Sent by PADs for compliance to Code Enforcement CE-18641]
 - **DISCONNECTED** Utilities (June 3rd) [*Discovered while reviewing*]
 - Failure to pay outstanding bills and fees
 - **Courtesy call to permit holder*
 - *Notice of Violation* served in person
 - 48-hours to file CUP Renewal Application
 - Failure to submit renewal application
 - **VIOLATION** of COSM City Ordinance 18.114 Hold order and condemnation of food:
 - Failure to be present for new inspection (June 4th)
 - Failure to notify staff to refrain from using *detained coolers* from previous inspection
 - Food and beverage items disposed twice due to using coolers previously detained by Sanitarian
 - **EXPIRED** CUP Notice posted at establishment
 - Permit Holder made aware they can continue operations *only* as an eating establishment
 - **CITATION #000377** issued to permit holder
 - Operating with EXPIRED CUP
 - ***DISCONNECTED** Utilities (June 25th)* [*Discovered by CE in September*]
 - Default on payment plan for failure to pay outstanding bills and fees
 - **FAILURE** to notify Health Authority
 - **VIOLATION** of U.S. Food & Drug Administration: Food Code (2022)
 - [3-501.19 Time as a Public Health Control](#)
 - [8-304.11 Responsibilities of the Permit Holder](#)
 - [8-404.11 Ceasing operations and reporting](#)
 - [8-404.12 Resumption of operations](#)

- **August 2025**

- **DELINQUENT** Charge \$59.09
- Failure to appear in court August 12th to discuss citation
- **APPROVAL** CUP Renewal for 6-month period

- **September 2025**

- **DELINQUENT** Charge \$35.24
- **FAILURE TO APPEAR** in court September 9th for citation
- ****DISCONNECTED Utilities (Sept 17)**** [*Discovered while monitoring*]
 - Failure to pay outstanding bills and fees
- **SUSPENDED** Food Permit (FE 23-2485)
 - Interruption in electrical services
- **SUSPENDED** CUP (25-39)
 - Failure to have an active food permit
- Both notices posted at the front door of establishment
- Owner notified via public service and certified mail of suspensions
 - *Certified mail returned unopened*

- **October 2025**

- **FAILED** Health Inspection (Oct 1st)
 - No *Hot* water at establishment
 - Foul odor emitting from coolers
 - Spoiled food in establishment
 - Rubbish accumulated at establishment
- *Late Pay Courtesy Call—Utilities*
 - **DELINQUENT** Charge \$17.41
- **PASSED** Health Inspection (Oct 15th)
 - Unknown date for reopening

- **November 2025**

- *Late Pay Courtesy Call—Utilities*
 - **DELINQUENT** Charge \$17.50
- New manager advised of re-opening (Nov 18th)
 - No previous mention or callback from permit holder about potential opening date for establishment until that same morning

- **December 2025**

- *Late Pay Courtesy Call—Utilities*
 - **DELINQUENT** Charge \$11.15

- **January 2026**

- *Late Pay Courtesy Call--Utilities*

- **February 2026**

- *Late Pay Courtesy Call—Utilities*
 - **DELINQUENT** Charge \$17.55

- **March 2026**

- Meeting with new management (03/05/2026)
- Review of violations from previous management
- Reminder to stay in communication with Code Enforcement and Case Manager
- Reminder to update opening/closing hours due to potential inspections
- Reminder to stay up to date with Health & Safety requirements
- A summary of our follow-up discussion will be sent to new management
 - Code Official discussed factors that support the *6-month* recommendation for this upcoming approval hearing

Recently, the permit holder authorized a new manager to oversee operations and responsibilities of the establishment. Although the new manager has been in communication with me and the Planning & Development Services Department, their utilities show having delinquent charges and their application was submitted past the timeframe to have an up-to-date permit. I continued to monitor their payment for utility services. The following concerns were observed and documented:

**Balcon Comedor & Bar
COSM Utilities**

Call History

Log Date	Logged By	Description	Status	Status Date
2/2/2026	IVR	LATE PAY COURTESY CALL	LOGGED	1/30/2026 11:09:00 AM
1/5/2026	IVR	LATE PAY COURTESY CALL	LOGGED	12/31/2025 12:44:00 PM
12/8/2025	IVR	LATE PAY COURTESY CALL	LOGGED	12/1/2025 1:43:00 PM
11/3/2025	IVR	LATE PAY COURTESY CALL	LOGGED	10/30/2025 11:12:00 AM
10/6/2025	IVR	LATE PAY COURTESY CALL	LOGGED	10/1/2025 10:48:00 AM
9/24/2025 12:03:00 PM	ab14550	ELECTRIC ONLY BHR	COMPLETED	9/24/2025
9/3/2025 12:22:00 PM	ts11081	NONPAY DISCONNECTS	COMPLETED	9/17/2025
9/2/2025	IVR	LATE PAY COURTESY CALL	LOGGED	8/29/2025 11:30:00 AM
8/4/2025	IVR	LATE PAY COURTESY CALL	LOGGED	7/31/2025 11:58:00 AM
7/2/2025	IVR	LATE PAY COURTESY CALL	LOGGED	7/1/2025 11:45:00 AM
6/25/2025 11:20:00 AM	ss14116	ELECTRIC ONLY BHR	COMPLETED	6/25/2025
6/11/2025 10:18:00 AM	cv10962	NONPAY DISCONNECTS	COMPLETED	6/25/2025
6/3/2025 3:52:00 PM	gp14312	ELECTRIC ONLY BHR	COMPLETED	6/3/2025
6/3/2025 3:53:00 PM	gp14312	A. PAYMENT EXTENSIONS	LOGGED	6/3/2025
6/2/2025	IVR	LATE PAY COURTESY CALL	LOGGED	5/30/2025 10:42:00 AM
5/21/2025 1:27:00 PM	ts11081	NONPAY DISCONNECTS	COMPLETED	6/3/2025
5/5/2025	IVR	LATE PAY COURTESY CALL	LOGGED	5/1/2025 11:35:00 AM
2/27/2025 10:23:00 AM	am13554	ELECTRIC ONLY BHR	COMPLETED	2/27/2025
2/4/2025 2:28:00 PM	ts11081	NONPAY DISCONNECTS	COMPLETED	2/27/2025

Date	Source	Description	Amount
2/20/2026	CR	112249 ECHECK	(\$493.03)
2/13/2026	BJ	14792 REGULAR BILLING	\$493.03
2/5/2026	CR	112065 ECHECK	(\$397.57)
2/4/2026	LP	1088 DELINQUENT CHARGE	\$17.55
1/16/2026	BJ	14699 REGULAR BILLING	\$380.02
1/2/2026	CR	111655 ECHECK	(\$234.21)
12/16/2025	BJ	14642 REGULAR BILLING	\$234.21
12/4/2025	CR	111308 ECHECK	(\$648.89)
12/4/2025	LP	1074 DELINQUENT CHARGE	\$11.15
11/14/2025	BJ	14579 REGULAR BILLING	\$241.42
11/4/2025	LP	1068 DELINQUENT CHARGE	\$17.50
10/16/2025	BJ	14497 REGULAR BILLING	\$378.82
10/10/2025	CR	110616 VISA	(\$365.62)
10/6/2025	LP	1063 DELINQUENT CHARGE	\$17.41
9/24/2025	CR	110368 VISA	(\$1,891.65)
9/16/2025	BJ	14308 REGULAR BILLING	\$388.21
9/4/2025	LP	1058 DELINQUENT CHARGE	\$35.24
8/15/2025	BJ	14209 REGULAR BILLING	\$381.43
8/5/2025	LP	1053 DELINQUENT CHARGE	\$59.09

The continued patterns of financial delinquency of the business create a detrimental impact on public health, safety, and welfare. Most alarming are the violations of the U.S. Food & Drug Administration; Food Code (2022), municipal codes, and failure to communicate with staff,

demonstrate the permittee's continued disregard for the law and the well-being of the surrounding community.

For the safety and welfare of the public, we will monitor this establishment closely to verify they are in compliance with local and federal regulations. The *6-month* period will provide time for new management to address delinquent fees, and to maintain a healthy and safe environment at the establishment.

Please contact me with additional questions, comments, or concerns. Thank you for your attention to this matter.

Respectfully,

Claudia Cormier



Claudia Cormier
Code Compliance Officer
512-393-8437

CC:

- Shanna O'Brien, Environmental Health & Safety Manager
- Devan Green, Sanitarian
- David Soto, Planning Manager
- Craig Garrison, Planner