

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING CHAPTER 31, ARTICLE IV, DIVISION 12, “B-3” LOCAL BUSINESS DISTRICT, BY REVISING THE ZONING REGULATIONS AND REQUIREMENTS THEREIN; AMENDING CHAPTER 31, ARTICLE IV, DIVISION 16, BY ESTABLISHING A RESTRICTION ON NEW APPLICATIONS FOR “RC-1” RESTAURANT AND ALCOHOL SALES DISTRICT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the City of Killeen has declared the application and enforcement of the City’s zoning regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the City; and,

WHEREAS, the City Council desires to create land use regulations that will help ensure that future development is mutually compatible with surrounding areas and the community as a whole; and,

WHEREAS, the City Council has determined that revisions to the “B-3” Local Business District are necessary to reduce burdens on business owners.

NOW, THEREFORE BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:

SECTION I. That Chapter 31, Article IV, Divisions 12 is hereby amended to read as follows:

DIVISION 12. DISTRICT “B-3” LOCAL BUSINESS DISTRICT

Sec. 31-306. Use regulations.

A building or premises in the district “B-3” local business district shall be used only for the following purposes:

- (1) Any use permitted in the “B-2” district.
- (2) Bank, savings and loan or other financial institution.
- (3) Day camp.

- (4) Hospital, home or center for the acute or chronic ill.
- (5) Mortuary or funeral chapel.
- (6) Appliance (household) sales and repair service.
- (7) Bakery or confectionery: engaged in preparation, baking, cooking and selling of products at retail on the premises, with six (6) or less employees.
- (8) Boat and accessory sales, rental and service.
- (9) Bowling alleys.
- (10) Cleaning or laundry (self-service).
- (11) Cleaning, pressing and dyeing: with six (6) or less employees.
- (12) Florist, garden shop, greenhouse or nursery office (retail): no growing of plants, shrubs or trees out-of-doors on premises; no outside display or storage unless behind the required front yard or the actual setback of the principal building, whichever is greater.
- (13) General food products, retail sales, such as supermarkets, butcher shops, dairy stores, seafood sales or health food sales.
- (14) Cafeteria or catering service.
- (15) Marine supplies, sales and service.
- (16) Office, general business.
- (17) Restaurant or café with no on-premises alcohol sales and consumption (with drive-in or pick-up service).
- (18) A restaurant permitted to offer alcoholic beverages for sale operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, all of which are adopted hereby and made a part hereof for all purposes (dine-in only).
- ~~(198)~~ Tennis or swim club.
- ~~(2049)~~ Small animal clinic or pet grooming shop.
- ~~(210)~~ Hotel or motel.
- ~~(224)~~ Job printing. Not more than seventeen (17) inches by twenty-five (25) inches page size.
- ~~(232)~~ Gasoline service station, auto laundry or car wash.
- ~~(243)~~ Auto parts sales, new, at retail.
- ~~(254)~~ A customarily incidental use: sale of beer and/or wine only for off-premises consumption only shall be considered a customarily incidental use in this district, but not in any residential district or any more restrictive business district.
- ~~(265)~~ Theaters of general release.
- ~~(276)~~ Mini/self storage facilities - a building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares. No outside storage, sales, service, or repair activities, other than the rental of storage units shall be permitted on premises.

Sec. 31-306.1 Supplemental standards for restaurants engaged in the on-premises sale and consumption of alcohol.

(a) During any consecutive twelve-month period, a restaurant shall not obtain more than fifty (50) percent of its gross receipts from the on-premises sale of alcoholic beverages. When required by the city to verify compliance, documentation certifying compliance with this requirement shall be provided by a certified public accountant or enrolled agent attesting to such fact. At a minimum, an "Independent Accountant's Report" on Applying Agreed-Upon

Procedures of such restaurant by a certified public accountant or enrolled agent, showing the gross receipts derived from the provision of services and goods other than the on-premises sale of alcoholic beverages and the provision of alcoholic beverages service separately shall be provided to the city's planning and development services department within six (6) weeks of the date of the written request from the same. The preparation of this report and any other documentation of this requirement shall be at the expense of the restaurant. In order to verify the finding of the Independent Accountant's Report, the city manager, or his designee, may require the restaurant owner or manager to present the financial books and records of the business for examination. Such request must be complied with within seven (7) business days of the request.

(b) If good cause is found, the city council may require that a full audit of the financial books and records be completed by a certified public accountant, and the audit report provided to the city within six (6) weeks of the request. All costs of the audit shall be borne by the restaurant.

(c) A request for an extension in order to comply with the reporting requirements of 31-306.1(a) must be made in writing and received in the city's planning and development services department no later than the business day prior to the expiration of the deadline established in 31-382(b). No extension longer than 30 days will be granted.

(d) Restaurants may not be within three hundred (300) feet of a church, public or private school or public or private hospital. The measurement of the distance between the place of business where alcoholic beverages are sold and the church, public or private school, or public or private hospital shall be as prescribed by the Texas Alcoholic Beverage Code § 109.33, as amended.

SECTION II: That Chapter 31, Article IV, Division 16, Section 31-381 is amended to read as follows:

Sec. 31-381. Use regulations.

(a) Uses. A building or premises in the district "RC-1" restaurant and alcohol sales district shall be used only for the following purposes:

(b) Inactive district. All properties with an RC-1 district zoning in effect prior to the effective date of the ordinance from which this paragraph is derived shall continue to be allowed to be used for the uses provided in this section, and regulated by the provisions of this section, until such time as the property is rezoned by action initiated by the property owner or by the city. This RC-1 district shall be considered inactive as of the date of the ordinance from which this paragraph is derived [March 11, 2014] and, as such, no new applications for an RC-1 zoning shall be accepted or considered by the city following said date.

SECTION III: That should any action or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

SECTION IV: That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION V: That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION VI: That this ordinance shall be effective after its passage and publication according to law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 11th day of March, 2014, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED:

Daniel A. Corbin,

MAYOR

ATTEST:

Dianna Barker
CITY SECRETARY

APPROVED AS TO FORM:

Kathryn H. Davis
CITY ATTORNEY

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