

**AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING ARTICLE IV, DIVISION 22, CEMETERY 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 desires to amend district regulations to preserve and enhance surrounding property values, prevent the overcrowding of land and undue concentration of population, to prevent undue overloading of municipal infrastructure, and to promote land use consistent with neighboring properties; and,

**WHEREAS**, the City Council finds that such amendments are necessary and will provide consistent and even application of zoning regulations to all applicants;

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

**SECTION I.** That Chapter 31, Article IV, Division 22, Cemetery District, of the City of Killeen Code of Ordinances is hereby amended to read as follows:

DIVISION 22. - DISTRICT "CD" CEMETERY DISTRICT

Sec. 31-447. - Purpose

The purpose of the Cemetery District is to preserve and enhance surrounding property values, prevent overcrowding of land and undue concentration of population, and to promote land use consistent with neighboring properties.

Sec. 31-448. - Cemetery district boundary.

The cemetery district regulations apply to all property located in the current or future corporate city limits for a depth of fifteen hundred (1,500) feet at the following locations: east of the State Highway 195 right-of-way for a distance of approximately forty-nine hundred (4,900) feet north of the intersection of State Highway 195 and Chaparral Road; and, east of the State Highway 195 right-of-way for a distance of approximately fifteen hundred (1,500) feet south of the intersection of State Highway 195 and Chaparral Road. The first nine hundred and fifty (950) feet of depth within the district, as measured from State Highway 195, shall be designated for commercial use. The remaining five hundred and fifty (550) feet of depth of this segment shall be designated for mixed-use development, or residential use via a conditional use permit.

(Ord. No. 06-48, § III, 5-9-06; Ord. No. 12-034, § I, 7-10-12)

Sec. 31-449. - Use regulations.

(a) Building on premises in "CD" district shall be used only for the following purposes:

(1) Offices of practitioners of the recognized professions, as herein defined:

- a. Professional building. Any structure used solely for the housing of professional offices of recognized professions.
- b. Professions, recognized. Members of a recognized profession include those persons and customary staff normally considered as professional, and shall be deemed to include doctors, dentists, lawyers, architects, certified public accountants, registered engineers and related professions.

(2) Uses customarily incidental to the primary use, as hereinafter provided, subject to the special conditions contained in section 31-276(3).

- a. Physical therapy clinic.
- b. Chemical or X-ray laboratory.
- c. Dispensing optician.
- d. Dental laboratory.

(3) Buildings may be used for one or more of the uses prescribed in section (2) only under the following conditions:

- a. Public access to such incidental uses shall be from the interior of the building.

- b. No parking space shall occupy any part of the required front yard, except as provided in article V, division 3.
- c. Sign standards for this district shall apply to both primary and incidental uses.
- d. No building in this district shall be constructed or altered to produce a storefront, show, window or display window, and there shall be no merchandise visible from the exterior of the building.
- e. No outside storage shall be permitted in this district.

(4) Office, general business.

~~(5) An on-premises residential use or living quarters may be included in one structure in a commercial land use district when the main use of the structure is commercial, provided both uses are in compliance with appropriate building codes and the proprietor or an employee of the commercial activity is a resident in the living quarters.~~

~~(6) Business day care.~~

(7) Bakery shop (retail sales only).

(8) Barbershop, beauty shop to include permanent cosmetics (licensed per Texas Health and Safety Code, chapter 146 amended).

(9) Construction field office and yard: on the job site; for duration of construction only.

(10) Mortuary or funeral chapel.

(11) Drugstore or pharmacy.

(12) Florist (retail) retail sales of flowers and small plants. No flowers or plant raising or outside display or storage.

(13) Cafeteria or catering service.

(14) Restaurant or café (dine in service).

(15) Tennis, swim club, health club or gym.

~~(16) Hotel or motel.~~

(17) Art gallery, bookstore or library.

(18) Mixed-use development, being located nine hundred and fifty (950) feet to fifteen hundred (1,500) feet east of the east right-of-way of State Highway 195, for the commercial and residential use of a building, set of buildings, or neighborhood, where the first floor is designed, constructed and used for commercial use only while allowing access to residential uses.

(b) Any conflict between this district and the districts incorporated herein, or the regulations provided by the other districts, shall be resolved so that the most stringent provision shall control.

(Ord. No. 06-48, § III, 5-9-06; Ord. No. 12-034, § I, 7-10-12)

Sec. 31-450. - Conditional use permit.

The city council by an affirmative majority vote may by ordinance grant a conditional use permit as provided in section 31-456 of this chapter for any residential or business land use for a specific parcel in the overlay district and may impose appropriate conditions and safeguards to assure that these land uses are compatible with and appropriate for locations adjacent to the Veterans Cemetery. Conditional use permits granted shall be considered permanent provided the property owner remains in continuous compliance with any conditions or safeguards imposed.

(Ord. No. 06-48, § III, 5-9-06; Ord. No. 10-058, § III, 9-28-10; Ord. No. 12-034, § I, 7-10-12)

Sec. 31-451. - Height and area regulations.

No building or structure in district "CD" cemetery district shall exceed forty-five (45) feet in height. The height of any building or structure in this district that exceeds thirty-five (35) feet shall provide an additional one (1) foot to every applicable setback distance for each one (1) foot of additional building or structure height over thirty-five (35) feet.

(a) *Size of yards.* The size of yards in the district "CD" cemetery district shall be as follows:

- (1) *Front yard.* There shall be a front yard having a minimum depth of thirty (30) feet. No parking, storage or similar use shall be allowed in required front yards in district "CD," except that automobile parking will be permitted in such yards in accordance with off-street parking requirements.
- (2) *Side yard.* A side yard of not less than fifteen (15) feet in width shall be provided on the side of a lot adjoining a side street. A side yard of not less than ten (10) feet in width shall be provided on the side of a lot adjoining any "R" zoned residential district. Otherwise, no side yard is required. No parking, storage, or similar use shall be allowed in any required side yard or in any required side street yard adjoining any "R" zoned residential district, except automobile parking in accordance with off-street parking requirements.
- (3) *Rear yard.* There shall be a rear yard having a minimum depth of ten (10) feet. No parking, storage or similar use shall be allowed in required rear yards in district "CD."

(b) *Size of lot.* There are no limitations to the size of lots in the district "CD" professional business district.

~~(c) *Façade requirements.* All structures within this district shall be constructed with a limestone front façade (required for the first floor only), and eighty percent (80%) stone or brick veneer, stucco, or tempered glass, exclusive of windows and doors, for the remaining exterior walls.~~

(Ord. No. 06-48, § III, 5-9-06; Ord. No. 12-034, § I, 7-10-12)

Sec. 31-452. - Parking, screening device, signs, and exterior lighting requirements.

(a) Off-street parking and loading spaces shall be provided in the "CD" cemetery district in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter.

- (b) The screening device requirements in the district "CD" cemetery district shall be the same as required in the "B-1" district except that screening shall be required before the use of any commercial structure when such property abuts a residential zoned property or property used solely for residential purposes.
- (c) No off-premises signs, neon signs-or EVMS signs shall be permitted in this district. Signage in this district shall follow the stadarnds outlined below:
- (1) On-premises signs are restricted to one (1) sign per lot, except that premises which have more than three hundred (300) feet of combined frontage along a public way or street, other than an alley, may have not more than one (1) additional sign for each additional three hundred (300) feet of frontage or fraction thereof. The permitted sign shall be set back ten (10) feet from the property line, shall not exceed ten (10) feet in height, the face shall not exceed 100 square feet and the sign shall be constructed of ~~limestone~~-masonry material to match the building facade.
  - (2) Window signs shall not cover more than twenty-five (25) percent of the total glass area of the window on which they are placed. The size is determined by an imaginary square or rectangle that encompasses the window sign graphics. A glass door shall be considered a separate window for the purpose of this section.
  - (3) The maximum size for signage on the front of a building is based on the following guideline: For every one (1) linear foot of building primary or entry frontage one (1) square foot of sign area is allowed. For multi-tenant buildings one and one-half (1.5) square feet of sign area is allowed for every one (1) linear foot of building primary or entry frontage. Signs on secondary or side-street frontages should not exceed the size of sign on the primary or entrance frontage.
  - (4) Sign Maintenance:
    - (A) Signs and sign supports shall be kept in good repair and preserved.
    - (B) Display surfaces of signs shall be kept neatly painted at all times.
    - (C) Painted signs shall be re-painted routinely so as to prevent peeling paint.
    - (D) Electrical components of signs must be protected from exposure to weather at all times unless they are designed for such exposure.
    - (E) Electrical circuits to signs that are no longer in use shall be disconnected at the electrical panel and shall be removed.
- (d) Any person wishing to install or use exterior lighting for non-residential, mixed-use, and multi-family structures shall first request a site plan review and obtain approval for such lighting by the building official. The site plan shall fully comply with the general regulations of this section and shall specify the location, height and type of all exterior lighting.
- (1) The height of exterior lighting, except streetlights in public rights-of-way, shall not exceed twenty (20) feet.
  - (2) Light trespass, defined as unwanted light shining on adjacent property or public rights-of-way, has a negative impact on the enjoyment and value of the affected adjacent

property, is declared to be unlawful. All exterior lighting in the cemetery district shall be shielded or oriented in a manner that ensures that all illumination is contained on the source property. All exterior lighting shall be directed away from adjoining streets and residential properties in such a manner that the light emission shall not cause light trespass observable from adjoining streets and other properties.

- (3) Exterior lighting situated in such a manner as to be mistaken for traffic signals or presenting any hazard to safe driving is prohibited.
- (4) Up-lighting is prohibited, except:
  - (A) Up-lighting, defined as the practice of installing, maintaining or operating exterior lighting in such a way that the lighting fixtures direct the illumination upward, may be installed adjacent to flagpoles to illuminate a flag if the lighting is installed and directed in such a manner that the illumination is targeted directly at the flag and does not otherwise cause a light trespass or a driving hazard.
  - (B) Up-lighting of sculptures, structures and landscape features for ornamental purposes that enhance the character of the area is permitted provided that the lighting does not create light trespass or a hazard to safe driving.
- (5) Canopy lighting shall be fully shielded or recessed so that the lenses of the lights are, at a minimum, flush with the bottom surface of the canopy.
- (6) This section shall not apply to the following types of lighting if the use thereof is approved in writing by the building official:
  - (A) Unshielded lighting may be used if it can be shown that the luminary will not cause a light trespass or a driving hazard.
  - (B) Lighting for special activities where the lighting need is temporary rather than lighting utilized continuously.

(e) Parking lot islands with a canopy tree in each should be at the end of each parking row. An additional parking lot island with a canopy tree shall be added to each parking row for every 15 spaces or fraction thereof. Canopy trees shall be in accordance with the landscaping requirements set forth in sec. 31-454. The islands shall have raised curbing not less than six (6) inches in height and an area of not less than 180 square feet for single parking row end islands or 360 square feet for double row parking end islands.

(f) Bay dividers shall be provided in order to prevent uncontrolled movement across parking areas, to separate the parking areas from the adjacent property, and to increase the safety of individuals using the parking lot. Dividers shall be provided on every other parking row and conform to one of the following standards:

- (1) Raised dividers shall have raised six-inch curbing and be a minimum of six (6) feet in width measured from face of curb to face of curb and tie in with the end island to provide safety for pedestrians.
- (2) Raised dividers that are landscaped shall have raised six-inch curbing and be a minimum of seven (7) feet in width and tie in to the end island.

(g) Parking slots in the numbers provided in the table below shall be reserved for each of the following groups per parking lot: Purple Heart recipients, Gold Star recipients. All spaces shall be located adjacent to required handicapped parking space(s). Purple Heart and Gold Star signs should conform to criteria promulgated by the Executive Director of Planning and Development Services or designee.

<u>3 to 50 slots:</u>	<u>1</u>
<u>51 to 75 slots:</u>	<u>2</u>
<u>76 to 100 slots:</u>	<u>3</u>
<u>100 and above:</u>	<u>4</u>

(Ord. No. 06-48, § III, 5-9-06; Ord. No. 12-034, § I, 7-10-12)

~~Sees. 31-453—31-455.—Reserved.~~

Sec. 31-453. – Architectural design standards and requirements.

- (a) Big box buildings, such as department stores, variety stores, warehouse retail centers, grocery stores, furniture warehouse stores and similar buildings 30,000 sq. ft. and larger shall be designed such that the exterior façade has the appearance of several smaller, human scale, buildings through the use of vertical treatments and a mix of design elements that may include windows, canopies, decorative lighting, stepped building faces, etc.
- (b) Exterior walls shall be constructed of 80% masonry excluding windows and doors with three-coat stucco covering no more than 60% of the façade. Masonry under this section shall be defined as construction composed of brick, concrete, natural rock, limestone, stone, hollow clay tile, decorative concrete block or tile, glass block or three-coat stucco.
- (c) Windows and/or glass walls shall be provided on commercial building walls when visible from public rights-of-ways. Windows shall makeup no less than 10% of the entire building facade. At a minimum, false windows may be used on rear and side walls visible from public streets.
- (d) Exterior walls exceeding 50 feet in length facing public streets shall be articulated to reduce the mass and scale of a uniform impersonal appearance of large buildings and to provide visual interest. No uninterrupted length shall exceed 50 feet and architectural features shall be provided with a minimum of four (4) of the following elements:
  - (1) Variation in color and materials
  - (2) Wall plane projections or recesses having a depth of at least one (1) foot and extending at least three (3) feet. Colonnades may be used instead of the projections, or pilasters.
  - (3) Projecting entrances, having clearly defined, highly visible, overhangs, canopies, peaked roof forms, raised corniced parapets over the door, or arches, or any combination of these.
  - (4) Canopies projecting a minimum of four (4) feet from the plane of the primary façade walls. The minimum combined lengths of the canopies shall be at least 50% of the length of the walls visible from public rights-of-ways.

- (5) Banding shall be complimentary to scale with the building (as approved by the executive director of planning and development services).
- (6) Repetitive ornamentation including decorated wall-mounted light fixtures. Such ornamentation shall be located with a maximum spacing of forty (40) feet.
- (7) Stepped building faces (offsets in from elevation).
- (e) Where the exterior wall is on a side street faux architectural detailing and windows shall be created to simulate three (3) dimensional relief.
- (f) Roof designs must conform to one of the following options:
  - (1) Roof line with architectural focal point(s) (refers to a prominent rooftop features(s) such as a peak, tower, gable, dome, barrel vault or roof line trellis structure).
  - (2) Where overhanging eaves are used they shall be two (2) or more feet beyond supporting wall with a minimum fascia width of 8 inches.
  - (3) Roof line variations may include:
    - (A) Projecting cornice. Roof line articulated through a variation or step in cornice height of detail. Cornices must be located at or near the top of the wall or parapet.
    - (B) Pitched roof or full mansard. A roof with angled edges and extended eaves no less than 8 ft. in height.
    - (C) Three (3) roofline variations with a minimum of three (3) feet in height of parapet variation. Variation to parapet height may include pilasters and projecting raised entrance features; with peaked roof forms or similar treatments.
- (g) Equipment placed on the roof of buildings shall be screened from view of the public.
- (h) The Executive Director of Planning and Development Services or designee may grant an administrative approval to use design elements not listed when the intent of the regulations is met, or when special situations arise regarding the rear and sides of buildings.

Sec. 31-454. – Landscaping requirements.

- (a) Landscaping required. Minimum required landscaping shall be determined by this section. At a minimum, fifty percent (50%) of the required landscaping should be located in the front of the building and/or on sides of the building that front public rights-of ways; however, any reasonable distribution of landscaping in proportion to street frontage may be approved by the building official.
- (b) Trees. The following requirements shall apply to tree landscaping:
  - (1) The minimum number of required trees shall be calculated by dividing the lot or parcel frontage (i.e., the length in feet of lot lines abutting street frontages) by 20. The resulting quotient, with any remainder rounded up to the next nearest whole number, shall be the total number of trees required. The length of the lot lines for irregular lots shall be the average width or length of the lot. A reduction in the required number of trees shall apply to lots with more than one street frontage by dividing the total lot frontages by 30 instead of 20.



- (2) Not less than fifty percent (50%) of the required trees planted in the area to be landscaped shall be canopy trees.
- (3) Newly planted trees shall measure at least three (3) inch caliper and six (6) feet high at the time of planting, and shall be planted in a permeable area not less than three (3) feet in diameter.
- (4) Existing trees to be used for landscape credit shall be in a healthy physical state, shall measure at least four (4) inch caliper and shall be maintained in an undisturbed area within the drip line of the tree.
- (5) Should an existing tree used for landscape credit die, it shall be replaced with new landscaping according to the requirements of this section.
- (6) Recommended plantings include the quality tree species listed in subdivision A.

(c) Shrubbery. The following requirements shall apply to shrubbery landscaping:

- (1) The number of required shrubs shall be calculated by dividing the lot or parcel frontage (i.e., the length in feet of lot lines abutting street frontages) by 2.5. The resulting quotient, with any remainder rounded up to the next nearest whole number, shall be the total number of shrubs required.
- (2) Each canopy tree maintained in excess of the total number of trees required by this section may reduce the number of shrubs required by ten (10). Each non-canopy tree maintained in excess of the total number of trees required by this section may reduce the number of shrubs required by six (6). In like manner, 10 shrubs can be substituted for 1 canopy tree and 6 shrubs can be substituted for a non-canopy tree.
- (3) Each two (2) square feet of planting bed used and maintained for the purpose of rotating live decorative planting materials may reduce the number of shrubs required by one (1).
- (4) Shrubs shall not be less than three (3) gallons in size.
- (5) The placement of shrubbery shall take into consideration the plant size at maturity and shall be located so as not to conflict with vehicular or pedestrian traffic visibility.

(d) Ground cover. The following requirements shall apply to ground cover landscaping:

- (1) Ground cover or grass shall be planted in the remaining area of the lot or parcel not planted in trees, shrubbery, planting beds, or covered by structures, pavement or other impervious surfaces.
- (2) Approved non-vegetative ground cover materials (such as washed gravel, bark mulch, lava rock, sand, rock, or other decorative covers generally used in landscaping) may be used to meet the provisions of this section. Where approved, non-vegetative ground cover shall be porous and form a uniform appearance free from weeds and grasses.

(e) Irrigation. All landscaping required by this section shall be irrigated by either an automated system, or a bib hose attachment within one hundred fifty (150) feet of all landscaping. Automated underground irrigation systems shall be designed and installed in accordance with the requirements of other provisions of this code. The building official may waive irrigation requirements where xeriscaping or a substitute landscaping plan is used.

Secs. 31-454—31-455. - Reserved.

**SECTION II.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION III.** That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION IV.** 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 V.** 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 \_\_\_\_\_ day of \_\_\_\_\_, 2016, 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**

\_\_\_\_\_  
Jose L. Segarra, MAYOR

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Dianna Barker, CITY SECRETARY

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Kathryn H. Davis, CITY ATTORNEY