

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Ordinance amending Chapter 31 of the Code of Ordinances of the City of Killeen, amending Chapter 31, Article IV, Division 12, District "B-3" Local Business District and amending Chapter 31, Article IV, Division 16, "RC-1" Restaurant and Alcohol Sales District**

### ORIGINATING DEPARTMENT

**Planning and Development Services**

### BACKGROUND INFORMATION

Staff presented this item to the City Council at the workshop meeting of January 7, 2014. Following presentation of this item, the City Council directed the staff to revise the Code of Ordinances to allow for the on-premises sale of beer, wine and mixed beverages "by right" in the "B-3" Local Business District. As this involves Chapter 31, staff thought it would be best from a procedural standpoint to begin this revision effort with the Planning and Zoning Commission.

The purpose of this item is to improve our competitiveness in attracting restaurants, particularly fine dining establishments, by eliminating uncertainty and delays in business start ups. Restaurants in Killeen are required to obtain an "RC-1" (Restaurant and Alcohol Sales District) zoning designation from the City Council after going through a public hearing at the Planning and Zoning Commission. This process involves making an application to the City and providing written notice to surrounding property owners in accordance with Local Government Code 211.007 and Killeen Code of Ordinances Section 31-39. However, the uncertainty associated with the "RC-1" zoning process lends itself to hesitancy of prospective restaurateurs in relocating and occupying available lease space or building new establishments. The current practice could be viewed as a deterrent for restaurants to locate in Killeen, and detract from the City's economic development initiatives.

A review of zoning data dating back to 2009 reveals that twenty (20) "RC-1" zoning cases were submitted to the City, with 19 of them being approved and one being withdrawn by the applicant in 2012. This trend data supports the conclusion that the City Council views restaurants that serve alcohol for on-premises consumption in a favorable light. Given the data, it seems reasonable that if the City Council were to allow the on-premises sale and consumption of alcoholic beverages by right for restaurants in certain commercial zoning districts, it would assist these establishments by reducing time and uncertainty. Staff believes that this will lead to a more favorable business environment for the City.

It should be noted that many cities in Texas allow restaurants that sell alcoholic beverages for on-premises consumption by right. For example, Harker Heights is a city that directly competes with Killeen for higher end restaurants and allows this practice. Examples of other Texas cities that allow restaurants with on-premises sale and consumption of alcohol include, but are not limited to, Frisco, Arlington, Corpus Christi, Cedar Park, Fredericksburg and Round Rock. The

City also approved changes to the "UD" University District, which included among its permitted uses "a restaurant permitted to offer alcoholic beverages for sale operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, and in accordance with Chapter 31, Division 16, Restaurant and Alcohol Sales District, as amended."

## **DISCUSSION/CONCLUSION**

As directed by the City Council, the staff work-shopped this item with the Planning and Zoning Commission. The Planning and Zoning Commission directed staff to bring the draft ordinance forward as a public hearing item for the meeting of February 24, 2014. At that meeting, the Planning and Zoning Commission failed to recommend approval of the attached ordinance by a vote of 3 to 4. Commissioners Steine, DeHart, Dillard and Butler were in opposition to the proposed changes. Commissioners Steine and DeHart did not support the audit language as proposed in Section 31-306.1. There was no subsequent motion, and staff informed the Commission that the item would be advanced to the City Council for consideration.

## **FISCAL IMPACT**

There is no fiscal impact associated with this action.

## **RECOMMENDATION**

The Planning and Zoning Commission failed to secure the necessary votes to recommend approval of the attached ordinance. Staff recommends approval of the ordinance.