

AN ORDINANCE AMENDING CHAPTER 31 OF THE CITY OF KILLEEN CODE OF ORDINANCES; PROVIDING FOR CONDITIONAL USE PERMITS FOR THE SALE OR DISTRIBUTION OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR 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;

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 amend its land use regulations pertaining to Conditional Use Permits; and,

WHEREAS, the City Council finds that such amendments are necessary to protect the public health, safety, and welfare of the public; and,

WHEREAS, a public hearing was held by the Planning and Zoning Commission of the City of Killeen on April 14, 2025 at 5:00 p.m.; and,

WHEREAS, a public hearing was held by the City Council of the City of Killeen on May 20, 2025, at 3:00 p.m.; and,

WHEREAS, due notice of all public hearings was provided as required by law;

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

SECTION I. That Chapter 31 of the Code of Ordinances of the City of Killeen, Texas, is hereby amended to read as follows:

Sec. 31-456. Conditional use permit.

- (a) *Purpose.* The purpose of the conditional use permit process is to identify those land uses that may be appropriate within a zoning district but, due to their location, function or operation, could have a harmful impact on adjacent properties or the surrounding area, and to provide a procedure whereby such uses may be permitted by further restricting or conditioning the same so as to mitigate or eliminate such potential adverse impacts. The conditional use permit runs with the land, regardless of ownership, until termination of the permit.
- (b) *Planning and zoning commission consideration.*
 - (1) *Application.* Only the landowner may apply for a conditional use permit. The application for a conditional use permit shall be submitted on a form provided by the planning and development director and shall be accompanied by a site plan in the form provided under paragraph (2) of this subsection. The application shall be filed with the planning and zoning commission, together with the application fee and all required attachments, not less than thirty (30) days prior to the meeting at which the applicant wishes to have his or her request considered.
 - (2) *Site plan.* The application for a conditional use permit shall be accompanied by four (4) copies of a site plan, if a site plan is required by the director of planning and development department. The plan and analysis information shall be on a single sheet; additional sheets may be used for details and prospective views. The site plan shall conform to the following:
 - (A) The site plan shall be a line drawing clearly describing the project, and shall include adequate labeling and dimensioning of all fundamental features of the project. An appropriate title shall identify the project and its nature and the site plan shall include the legal description of the property together with the north point and date, and shall be drawn to a scale of not less than 1" = 100'.
 - (B) Typical features that shall be included are: property lines; rights-of-way for streets, alleys, and easements; building lines; building setback lines; curb lines; parkways and sidewalks; driveway openings; buildings and/or structures; open space; the number and size of parking spaces; streets; street names; section lines; building heights in feet and stories; size and height of signs; service areas; lighting and landscaping.
 - (C) A site plan shall be accompanied by a narrative description of the use being requested to include, without limitation, a description of activity to be conducted on the site, the projected number of employees, the hours of operation, estimated number of trips generated to and from the site each day, and the establishment's maximum capacity.
 - (3) *Notice and hearing.* For purposes of giving notice and conducting a public hearing, applications for conditional use permits shall be treated as a rezoning request under section 31-39 of this chapter.
 - (4) *Report by planning and zoning commission.* Following proper application, notice to affected landowners and a public hearing, the planning and zoning commission shall make a report and recommendation to the city council. The report shall specify such restrictions or conditions for approval as the planning and zoning commission may deem appropriate to comply with the criteria listed below. If a site plan is conditionally

approved by the planning and zoning commission, a corrected site plan shall be filed with the planning and development department no later than five (5) business days after the commission's action.

(5) *Criteria for approval.* The planning and zoning commission may recommend approval of a conditional use permit by majority vote, but shall recommend disapproval of an application if it finds one or more of the following, or other valid justifications, to be true:

- (A) The proposed use will be incompatible with existing or permitted uses on surrounding sites because of use, building height, bulk and scale, setbacks and open spaces, coverage, landscaping and screening, drainage, or access and circulation features;
- (B) The proposed use is not suitable to the premises or structure(s) in which it will be conducted;
- (C) The proposed use will be detrimental to the public health, safety or welfare, or will negatively affect the property or improvements in the vicinity;
- (D) The proposed use fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, odors, or similar hazards or impacts;
- (E) The proposed use will materially and adversely affect traffic control or adjacent properties by inappropriate location, lighting or types of signs; or
- (F) The proposed use fails to provide adequate and convenient off-street parking and loading facilities; ~~or~~
- ~~(G) The proposed use will incorporate the sale or distribution of alcoholic beverages for on-premises consumption except where the applicant seeks a temporary permit, not to exceed two (2) months in duration, to allow for the on-premises sale, distribution or consumption of alcoholic beverages for temporary events in compliance with a Texas Alcoholic Beverage Commission issued permit and the Texas Alcoholic Beverage Code, as amended.~~

(c) *City council consideration.*

- (1) *Generally.* The city council shall consider the application at the next available meeting scheduled after it has received the final report and recommendation of the planning and zoning commission and a corrected site plan, if applicable. The city council may approve the application with or without conditions, deny the application, postpone the matter for future consideration, or refer the application back to the planning and zoning commission for further study and recommendation.
- (2) *Protest.* Protests shall be received and processed in accordance with subsection 31-39(d) of this chapter.
- (3) *Conditions of approval.* Regardless of whether such conditions have been recommended by the planning and zoning commission, the city council may establish such conditions of approval as are reasonably necessary to insure compatibility with surrounding uses and to preserve the public health, safety and welfare. Such conditions may include, without limitation, a limited term or duration of the permit; requirements for special yards, lot sizes, open spaces, buffers, fences, walls or screening; requirements for the installation and maintenance of landscaping or erosion control measures; requirements for street improvements, regulation of vehicular ingress or egress and traffic circulation, regulation of signs; regulation of hours or other

characteristics of operation; establishment of development schedules for performance or completion; and such other reasonable conditions as the city council may deem necessary to preserve the health, safety, and welfare of the applicant and the public.

- (4) *Ordinance required.* If the application is approved by the city council, an ordinance authorizing its issuance and setting forth the conditions of approval shall be executed by the mayor.
 - (5) *Submission of application following disapproval.* No application for a conditional use permit which has failed to be approved by the city council shall be again considered either by the city council or the planning and zoning commission before the expiration of one (1) year from the date of the original rejection. City council's failure to approve an application shall be considered the same as disapproval for purposes of this paragraph.
- (d) *Record of permits.* The planning and development department shall maintain a record of all conditional use permits granted by the city.
- (e) *Term.*
- (1) A conditional use permit shall continue in full force and effect until the earliest occurrence of any of the following events of termination, at which time it shall be void and shall have no further effect:
 - (A) The building or premises is not put to the permitted use for a period of one (1) year or more from the effective date of the ordinance authorizing issuance of the permit or the permitted use ceases for any one (1) year period;
 - (B) The permit expires by its own terms;
 - (C) The property is rezoned;
 - (D) Another conditional use permit is approved for the site;
 - (E) The building or premises is substantially enlarged or extended;
 - (F) The use of the building or premises is materially expanded or increased; or
 - (G) The violation of any one or more of the conditions of approval.
 - (2) For purposes of this section the planning and development director shall have the authority, subject to review by the city council, to determine whether an event of termination has occurred in relation to the events of termination listed under 31-456 (e)(1)(A), (E), (F) and (G) above. Whenever the planning and development director makes a formal determination as to whether an event of termination has occurred, he/she shall promptly make and forward a written report to the city council describing the facts surrounding such determination and the reasons for such determination. Written notice of this determination, the reasons therefore and the landowner's right to appeal this determination shall also be forwarded via certified mail, return receipt requested, to the landowner of record. Notice is presumed to have been received five (5) days after the mailing of such notice. Notice shall not be provided following the occurrence of an event of termination listed under 31-456(e)(1)(B), (C) or (D) above.
 - (3) *Appeal.* Upon receipt of written notice of a termination under this section a landowner shall have thirty (30) days to duly file a written request to appeal the planning and development director's determination to the city council. Such written request shall be filed with the planning and development department and shall be scheduled for the next available city council meeting. City council's determination shall be final. Notwithstanding the landowner's right to appeal, city council, upon receipt of the written

report from the planning and development director may unilaterally reconsider the determination. All city actions relating to the termination of a conditional use permit shall be stayed following filing of the written request for appeal, or following notice of city council's determination to unilaterally reconsider the determination, until city council consideration is final. No appeal shall be available following the occurrence of an event of termination listed under 31-456(e)(1)(B), (C) or (D) of this section.

- (f) *Violations of conditional use permit.* Violations of any conditions imposed by an issued conditional use permit or continuing a use following termination of a conditional use permit authorizing the same shall be enforced in accordance with section 31-7 of this chapter and section 1-8 of this code.
- (g) *Existing special or specific use permits.* All properties with a specific or special use permit 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 that are permitted under, and according to, the terms of the permit and the previous regulations of the specific or special use permit provisions that existed prior to the effective date of the ordinance from which this paragraph is derived until such time as the permit expires or is otherwise terminated or revoked by the city. Additionally, all holders of existing special or specific use permits as of the date of the ordinance from which this paragraph is derived shall be entitled to apply for the same type of permit currently held once within one (1) year of the expiration thereof. This right to apply shall not be construed as limiting the city council's discretion or right to deny such application upon presentation.

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 take effect immediately upon passage of the ordinance.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 20th day of May, 2025, 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:

Debbie Nash-King, MAYOR

ATTEST:

Laura J. Calcote, CITY SECRETARY

APPROVED AS TO FORM:

Holli C. Clements, CITY ATTORNEY

