Chapter 31

ZONING[*]

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ARTICLE I. IN GENERAL

Sec. 31-1. Short title.

This chapter shall be known and may be cited as “The City of Killeen Zoning Ordinance.” (Code 1963, Ch. 9, art. 2, § 1)

Sec. 31-2. Definitions.

For the purpose of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word “building” shall include the word “structure;” the word “shall” is mandatory and not directive; the word “lot” includes the word “plot;” the term “used for” includes the meanings “designed for” or “intended for.” Such words and terms are as follows:

Accessory use or building shall mean a subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.

All weather surface on privately owned property shall consist of Portland cement concrete or an impervious bituminous surface over a compacted base or other surface approved by the building official. The parking surface must be capable of retaining paint or striping material.

Alley shall mean a public way which affords only a secondary means of access to property abutting thereon.

Animal production shall mean the raising and sales of animals or production of animal products produced on site, to include eggs or dairy products, on an agricultural or commercial basis. Typical uses include, but are not limited to, grazing, ranching, dairy farming and poultry farming, and do not include operating feed lots.

Apartment complex: five or more dwelling units on one lot.

Apartment hotel shall mean an apartment house which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

Board shall mean the board of adjustment.

Boardinghouse or *lodginghouse* shall mean a building other than a hotel occupied as a single housekeeping unit where lodging or meals are provided for five (5) or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the public or transients.

Building shall mean any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind.

Building, height of, shall mean the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

Building line shall mean a line parallel or approximately parallel to the street line and beyond which buildings may not be erected.

Cemetery shall mean a burial place for deceased humans.

Child care facility shall mean a facility that furnishes care, training, education, custody, supervision and guidance of a child or group of children, who are not related by blood, marriage or adoption to the owner or operator of the facility, for all or part of a twenty-four-hour day.

Clinic shall mean an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians practicing medicine together.

Club shall mean a building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Commercial communication tower shall mean a tower built and designed for commercial communication usage including, but not limited to, radio, television and microwave towers.

Crop production shall mean the raising, harvesting and sales of tree crops, row crops or field crops on an agricultural or commercial basis, produced on site, including, but not limited to, packing and processing.

Day care center shall mean a child care facility that provides care for more than twelve (12) children under fourteen (14) years of age or less than twenty-four (24) hours a day. It does not include a group day care home or drop-in care center.

Drop-in care center shall mean a child care facility that provides care for children under fourteen (14) years of age for part of the day. It does not provide regular care for the same child. It does not include a group day care home or day care center.

Dwelling shall mean any building or portion thereof which is designated for or used for residential purposes.

Dwelling, multifamily, shall mean a building designed for or occupied exclusively by three (3) or more families.

Dwelling, single-family, shall mean a building designed for or occupied exclusively by one (1) family.

Dwelling, two-family, shall mean a building designed for or occupied exclusively by two (2)

families.

Family shall mean one (1) or more individuals living together as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse or hotel.

Frontage, block, shall mean all the property on one (1) side of a street between two (2) intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street.

Hotel shall mean a building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boardinghouse, a lodginghouse, or an apartment.

Loading space shall mean a space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks, and having a minimum dimension of twelve (12) by thirty-five (35) feet and a vertical clearance of at least fourteen (14) feet.

Lot shall mean a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place.

Lot, depth of, shall mean the mean horizontal distance between the front and rear lot lines.

Manufactured housing shall mean a residential housing unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards (see 24 CFR 3280 for legal definition) and Manufactured Housing Standards Act, section 5521l V.A.T.S.

Motor court or *motel* shall mean a building or group of buildings used for the temporary residence of motorists or travelers.

Nonconforming use, building or yard shall mean a use, building or yard, existing legally at the time of passage of the ordinance from which this chapter is derived, which does not, by reason of design or use, conform with the regulations of the district in which it is situated.

Parking space, off-street, shall mean an area of not less than one hundred eighty (180) square feet (measuring approximately nine (9) feet by twenty (20) feet) not on a public street or alley, surfaced with an all-weather surface, enclosed or unenclosed. A public street shall not be classified as off-street parking in computing the parking requirements for any use, nor shall head-in parking adjacent to a public street and dependent upon such street for maneuvering space.

Place shall mean an open, unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.

Planning commission shall mean the planning and zoning commission of the city.

Private school shall mean a private school, including a parochial school, that offers a course of instruction for students in one or more grades from kindergarten through grade 12, and has more than one hundred (100) students enrolled and attending courses at a single location.

Sale shall mean sales at both wholesale and retail unless specifically stated otherwise.

Servants' quarters shall mean an accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

Story shall mean that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

Story, half, shall mean a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story, except that any partial story used for residence purposes, other than by a family occupying the floor immediately below it, shall be deemed a full story.

Street shall mean a public or private thoroughfare which affords the principal means of access to abutting property.

Street line shall mean a dividing line between a lot, tract or parcel of land and a contiguous street.

Structural alterations shall mean any change in the supporting members of a structure, such as bearing walls, columns, beams or girders.

Structure shall mean anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including but not limited to, buildings of all types, advertising signs, billboards, and poster panels, but exclusive of customary fences or boundary or retaining walls.

Support housing shall mean the occupancy of any living accommodation, in accordance with the Standard Building Code, by agricultural employees and their families, without regard to duration, which occurs exclusively in association with the performance of agricultural labor. Living accommodations shall not mean any temporary structure except as provided for in section 31-456(9). Support housing may occur on any of the owner's properties on which the employee works.

Tourist home shall mean a building other than a hotel where lodging is provided and offered to the public for compensation for not more than twenty (20) individuals and open to transient guests.

Trailer camp or *park* shall mean an area designed, arranged or used for the parking or storing of one (1) or more auto trailers which are occupied or intended for occupancy as temporary living quarters by individuals or families.

Yard shall mean an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front, shall mean a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

Yard, rear, shall mean a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots the rear yard shall be in the rear of the front yard.

Yard, side, shall mean a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.
(Code 1963, Ch. 9, art. 2, §§ 2, 19 [Ord. No. 70-3, 10-28-70; Ord. No. 74-23, § 1, 5-28-74; Ord. No. 76-46. § 1, 8-10-76; Ord. No. 86-23, § 1, 4-22-86; Ord. No. 86-29, §§ 1–3, 5-13-86; Ord. No. 86-70, § 8, 9-23-86]; Ord. No. 88-114, § I, 12-13-88; Ord. No. 88-115, § I, 12-13-88; Ord. No. 92-20, § I, 5-12-92; Ord. No. 93-52, § I, 6-22-93; Ord. No. 96-63, § I, 8-13-96; Ord. No. 99-47, § I, 6-8-99; Ord. No. 01-57, § I, 11-27-01; Ord. No. 02-48, § I, 9-24-02)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 31-3. Existing permits and private agreements.

This chapter is not intended to abrogate or annul:

(1) Any permits issued before the effective date of the ordinance from which this chapter is derived.
(2) Any easement, covenant or any other private agreement.

(Code 1963, Ch. 9, art. 2, § 18-3)

Sec. 31-4. Preserving rights in pending litigation and violations under existing ordinances.

By the passage of this chapter, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this chapter that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, shall be discharged or affected by the adoption of this chapter; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending be proceeded with in all respects as if such prior ordinance had not been repealed. (Code 1963, Ch. 9, art. 2, § 18-4)

Sec. 31-5. Completion of authorized buildings.

(a) Nothing in this chapter nor in any amendments hereto which change district boundaries shall require any change in the plans, construction or designated use of a building which shall be completed in its entirety within two (2) years from the passage of the ordinance from which this chapter is derived, provided such building was authorized by building permit before the ordinance from which this chapter is derived, and further provided construction shall have been started within ninety (90) days of the passage of the ordinance from which this chapter is derived.

(b) Commitments with reference to construction of public utility buildings necessary for proposed expansion of the city made prior to the ordinance from which this chapter is derived.
(Code 1963, Ch. 9, art. 2, § 18-5)

Sec. 31-6. Compliance with the regulations.

Except as hereinafter specifically provided:

(1) No land shall be used except for a purpose permitted in the district in which it is located.
(2) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used, except for a use permitted in the district in which such building is located.
(3) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which such building is located.
(4) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which such building is located.
(5) No building shall be erected, or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of the district in which such building is located.
(6) The minimum yards, parking spaces, and open spaces, including lot area per family, required by this chapter for each and every building existing at the time of passage of the ordinance from which this chapter is derived or for any building hereafter erected, shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building.
(7) Every single-family residential or duplex residential building hereafter erected or structurally altered shall be located on a lot and there shall not be more than one (1) main building on one (1) lot. Multifamily (R-3) structures hereafter erected or structurally altered shall be required to comply with all appropriate setback, rear yard, side yard, and parking requirements but shall not be limited to the one (1) main building per lot requirement. All commercial or industrial structures hereinafter erected or structurally altered shall be required to comply with all appropriate set-back, rear yard, side yard, and parking requirements but shall not be limited by a main building per lot requirement.
(8) No requirement of this chapter shall be construed so as to prohibit the reclassification of a lot to a less restrictive zoning district where a lot of record platted prior to the effective date of the ordinance from which this chapter is derived does not conform to any or all of the minimum lot size requirements of area, width or depth of the less restrictive zoning

district; provided that the minimum yard requirement of the less restrictive zoning district and the required parking for the intended use shall be met.

(Code 1963, Ch. 9, art. 2, § 5 [Ord. No. 76-68, § 1, 12-28-76; Ord. No. 86-30, §§ 1,2, 5-13-86])

Sec. 31-7. Violation and penalties.

Any person who shall violate any of the provisions of this chapter or who shall fail to comply therewith or with any of the requirements thereof, or who shall erect or alter any building, or who shall commence to erect or alter any building in violation of any detailed statement of plan submitted or approved thereunder, shall for each and every violation or noncompliance be deemed guilty of a misdemeanor and shall be punished as provided in section 1-8. The owner of that building or premises or part thereof where anything in violation of this chapter shall be placed or shall exist, and any architect, builder, contractor, agent or corporation employed in connection therewith who may have assisted in the commission of any such violation shall each be guilty of a separate offense and upon conviction shall be subject to the penalties herein provided. (Code 1963, Ch. 9, art. 2, § 22 [Ord. No. 83-73, § 2, 12-13-83; Ord. No. 83-76, § 2, 12-27-83; Ord. No. 86-23, § 11, 4-22-86; Ord. No. 87-10, § 5, 2-24-87])

Sec. 31-8. Validity.

If any section, paragraph, subdivision, clause, phrase or provision of this chapter shall be adjudged invalid or held unconstitutional the same shall not affect the validity of this chapter as a whole or any part of provisions thereof, other than the part so decided to be invalid or unconstitutional. (Code 1963, Ch. 9, art. 2, § 23 [Ord. No. 83-73, § 3, 12-13-83])

Sec. 31-9. Interpretation, purpose and conflict.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of building, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provision of this chapter shall govern. (Code 1963, Ch. 9, art. 2, § 24 [Ord. No. 83-73, § 4, 12-13-83])

Secs. 31-10--31-35. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 31-36. Administrative official; right of entry; stop work order.

(a) The building permitting provisions of this chapter for new development and new construction shall be administered and enforced by the building official and his/her representatives. Code enforcement officers shall enforce any violations and all other provisions of this chapter.

(b) The building official, building inspectors, and/or code enforcement officers, and any duly authorized person shall have the right to enter as allowed by law upon any premises at any reasonable time for the purpose of enforcement of this chapter.

(c) Whenever any construction work is being done contrary to the provisions of this chapter, the building inspector may order the work stopped by notice in writing served on the owner or contractor doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the building inspector to proceed with the work.
(Code 1963, Ch. 9, art. 2, § 18-1; Ord. No. 06-78, § I, 7-11-06)

Sec. 31-37. Requirements for building permit.

(a) All applications for building permits shall be accompanied by accurate plot plans, submitted in duplicate, drawn to scale, showing:

(1) The actual shape and dimensions of the lot to be built upon.
(2) The exact sizes and locations on the lot of the buildings and accessory buildings then existing.
(3) The lines within which the proposed building and structure shall be erected or altered.
(4) The existing and intended use of each building or part of building.
(5) The number of families or housekeeping units the building is designed to accommodate.
(6) Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter.

(b) One (1) copy of such plot plans will be returned to the owner when such plans have been approved. An inspection period of as much as two (2) weeks shall be allowed for inspection of plans before a permit shall be issued.

(c) All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey by a qualified registered surveyor and the lot shall be staked out, with iron pins, on the ground before construction is started. (The lot shall remain staked until after the foundation inspection.)
(Code 1963, Ch. 9, art. 2, § 18-2 [Ord. No. 83-76, § 1, 12-27-83])

Sec. 31-38. Certificates of occupancy.

(a) *Required.* Certificates of occupancy shall be required for any of the following:

(1) Occupancy and use of a building hereafter erected or structurally altered.
(2) Change in use of an existing building to a use of a different classification.
(3) Occupancy and use of vacant land, except agricultural use.
(4) Change in the use of land to a use of a different classification.
(5) Any change in the use of a conforming use.

No such occupancy, use or change of use, shall take place until a certificate of occupancy therefor shall have been issued by the inspector of buildings.

(b) *Procedure for new or altered buildings.* Written application for a certificate of occupancy

for a new building or for an existing building which is to be altered shall be made at the same time as the application for the building permit for such building. Such certificate shall be issued within three (3) days after a written request for the same has been made to the building inspector or his agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this chapter.

(c) *Procedure for vacant land or a change in use.* Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a nonconforming use, as herein provided, shall be made to the building inspector. If the proposed use is in conformity with the provisions of this chapter, the certificate of occupancy therefor shall be issued within three (3) days after the application for same has been made.

(d) *Contents.* Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all certificates of occupancy shall be kept on file in the office of the building inspector or his agent and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.

(e) *Temporary certificate.* Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the building inspector for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties or obligations, of the owners or of the city relating to the use or occupancy of the premises or any other matter covered by this chapter.

(f) *Certificate for nonconforming uses.* A certificate of occupancy shall be required for all lawful nonconforming uses of land or buildings created by adoption of this chapter. Application for such certificate of occupancy for a nonconforming use shall be filed with the building inspector by the owner or lessee of the building or land occupied by such nonconforming use within one (1) year of the effective date of the ordinance from which this chapter was derived. It shall be the duty of the building inspector to issue a certificate of occupancy for a lawful nonconforming use, but failure to apply for such certificate of occupancy for a nonconforming use, or refusal of the building inspector to issue a certificate of occupancy for such nonconforming use shall be evidence that such nonconforming use was either illegal or did not lawfully exist at the effective date of the ordinance from which this chapter is derived.
(Code 1963, Ch. 9, art. 2, § 20)

Sec. 31-39. Amendments.

(a) *Authority.* The city council may from time to time amend, supplement or change by ordinance the boundaries of the districts or overlays or the regulations herein established. Each person making application for an amendment to the zoning ordinance shall furnish with his written application the fee set by the council, payable to the city, to be used in defraying the administrative and legal costs necessary to process the rezoning application. Such sum or portion thereof shall not be refunded to the applicant in the event the rezoning request is denied. However, the fee is waived for the first application for a zoning change or amendment after property is annexed, so long as the applicant for the zoning change or amendment owned the property at the time it was annexed.

(b) *Submission to planning commission.* Before taking action on any proposed amendment, supplement or change the city council shall submit the proposed revision to the planning commission for its recommendation and report.

(c) *Public hearing.* A public hearing shall be held by the city council before adopting any proposed amendment, supplement, or change. Notice of such hearing shall be given by publication one (1) time in a paper of general circulation in the city, stating the time and place of such hearing, which time shall not be earlier than fifteen (15) days from the first date of publication.

(d) *In case of protest.* Unless such proposed amendment, supplement, or change has been recommended for approval by the planning commission, or in case of a protest by the owners of twenty (20) percent or more of either the area of the lots included in such proposed change, or the area of those lots or land immediately adjacent thereto and extending two hundred (200) feet from that area, then such change shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the city council. In order to allow for proper verification of land ownership and area calculations, all protests shall be: (1) in writing and signed, with both the name of the protester and the physical address of the property owned by that person legibly stated; and, (2) delivered to the office of the director of planning and economic development not later than close of business on the day the planning & zoning commission is to consider the zoning change, amendment, or supplement. The staff of the planning and economic development department shall: (1) accept and file such protests; (2) prior to the city council vote on the matter verify, by the city tax roll and a current plat of the city, that the protester owns property within an area described above and calculate the percentage of land area represented by that protest; and, (3) when the protest(s) represent twenty (20) percent or more of an area described above, then inform the city council of such fact prior to its vote on the matter. Any written protest not presented to the city in compliance with this ordinance shall not be considered in determining the necessity of a three-fourths (3/4) city council vote to approve.

(e) *Petition by owners.* Whenever the owners of at least fifty (50) percent of all the property situated within the area bounded by a line two hundred (200) feet in all directions from the site of any proposed change shall present a petition, duly signed and acknowledged, to the city council, requesting an amendment, supplement or change of the regulations prescribed for such property, it shall be the duty of the city council to vote upon the proposal presented by such petition within ninety (90) days after the filing of same with the city council, in accordance with the above procedure.

(f) *Limitation on resubmission of petition.* When a zoning petition fails to be approved by city council, the same petition shall not be resubmitted to either the city council or the planning and zoning commission for a period of twelve (12) months from the date of such failure, unless the petition is substantially changed from the original petition. A petition shall be considered substantially changed if:

1) A different zoning classification from that originally sought is requested; or,
2) A combination of zoning classifications are requested, the net result of which is to decrease density by at least twenty (20) percent of that originally proposed; or,
3) The area petitioned to be rezoned is reduced in size by at least twenty (20) percent from the area in the original petition; or,
4) In relation to established overlays provided by this code, a different use is proposed

or the proposed concept or site plan reflects at least a twenty (20) percent change in density, realigns major thoroughfares, reflects comparable changes in any comprehensive plan adopted and changes in code requirements or contains changes that the executive director of planning and development services determines to be substantially different from the original request.

(g) A determination that a petition has not been substantially changed by the executive director of planning and development services may be appealed by the applicant to the planning and zoning commission. A determination by the planning and zoning commission as to whether a substantial change has been made to the petition shall be final.
(Code 1963, Ch. 9, art. 2, § 21 [Ord. No. 66-5, § 1, 9-12-66; Ord. No. 74-59, § 1, 12-23-74]; Ord. No. 96-78, § I, 10-22-96; Ord. No. 96-79, § I, 10-22-96; Ord. No. 09-027, § I, 4-14-09)

State law reference(s)--Zoning ordinance amendments, V.T.C.A., Local Government Code § 211.006.

Secs. 31-40--31-50. Reserved.

DIVISION 2. NONCONFORMING USES

Sec. 31-51. Use of land.

The lawful use of land existing upon the effective date of the ordinance from which this chapter is derived may be continued although such use does not conform to the provisions hereof, subject to the provisions of this division. (Code 1963, Ch. 9, art. 2, § 16(A); Ord. No. 89-78, § 1, 9-26-89)

Sec. 31-52. Use of building.

(a) The lawful use of a building existing upon the effective date of the ordinance from which this chapter is derived may be continued, although such use does not conform to the provisions of this chapter, subject to the provisions of this division.

(b) Such use may be extended throughout such portions of the building as are arranged or designed for such use, provided no structural alterations are made therein, except those required by law or ordinance or those that conform to the provisions of this division.

(c) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.

(d) If a nonconforming building is voluntarily removed, the future use of such premises shall be in conformity with the provisions of this chapter.

(e) In the event a nonconforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the provisions of the district in which it is located.

(f) A nonconforming use, if changed to a conforming use or a more restricted nonconforming use, may not thereafter be changed back to a less restricted use than that to which it was changed.

(g) If by amendment to this chapter any property is hereafter transferred to a more restricted district by a change in the district boundaries or the regulations and restrictions in any district are made more restrictive, the provisions of this division shall apply to buildings or premises occupied or used upon the effective date of such amendment.
(Code 1963, Ch. 9, art. 2, § 16(B); Ord. No. 89-78, § 1, 9-26-89)

Sec. 31-53. Repairs and alterations.

(a) Regarding residential structures, where the nonconformity results from a failure to conform with the lot area, yard, lot width, lot depth or required setback prescribed by this chapter, a nonconforming structure may be repaired, altered, occupied, used, and maintained in good repair but no such nonconforming structure shall be altered or extended unless the addition or alteration conforms to the provisions of this chapter.

(b) Otherwise, repairs and alterations may be made to a nonconforming building provided that no structural alterations or extensions shall be made except those required by law or ordinance.
(Code 1963, Ch. 9, art. 2, § 16(C); Ord. No. 89-78, § 1, 9-26-89)

Sec. 31-54. Reconstruction.

(a) A nonconforming use shall not be extended or rebuilt in case of total destruction by fire or other cause.

(b) In the case of partial destruction by fire or other causes not exceeding fifty (50) percent of the building's value, the building official shall issue a permit for reconstruction.

(c) If destruction is greater than fifty (50) percent of the building's value, the board of adjustment may grant a permit for repair or replacement after public hearing and after giving due consideration to the property rights of all persons affected, the public welfare, the character of the areas surrounding the nonconforming use, and the purpose of this chapter.

(d) In the event a nonconforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the provisions of the district in which it is located.

(e) A nonconforming use if changed to a conforming use or a more restricted nonconforming use, may not thereafter be changed back to a less restricted use than that to which it was changed.

(f) If by amendment to this chapter any property is hereafter transferred to a more restricted district by a change in the district boundaries, or the regulations and restrictions in any district are made more restrictive or of a higher classification, the provisions of this chapter relating to the nonconforming use of buildings or premises existing upon the effective date of the ordinance from which this chapter is derived shall apply to buildings or premises occupied or used upon the effective date of such amendment.

(g) Repairs and alterations may be made to a nonconforming building, provided that no structural alterations or extensions shall be made except those required by law or ordinance,

unless the building is changed to a conforming use.

(h) A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other cause. In the case of partial destruction by fire or other causes not exceeding fifty (50) percent of its value, the building inspector shall issue a permit for reconstruction. If destruction is greater than fifty (50) percent of its value, the board of adjustment may grant a permit for repair or replacement after public hearing and having due regard for the property rights of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated nonconforming use and the purposes of this chapter.
(Code 1963, Ch. 9, art. 2, § 16(D); Ord. No. 89-78, § 1, 9-26-89)

Secs. 31-55--31-65. Reserved.

DIVISION 3. BOARD OF ADJUSTMENT; APPEALS, VARIANCES, ETC.*

Sec. 31-66. Established.

A board of adjustment is hereby reestablished in accordance with the provisions of V.T.C.A., Local Government Code § 211.008. (Code 1963, Ch. 9, art. 2, § 19-1(A))

Sec. 31-67. Membership.

The board shall consist of seven (7) citizens of the city or of the city's extraterritorial jurisdiction, each to be appointed or reappointed by the mayor and confirmed by the city council, for staggered terms of two (2) years respectively. At least one (1) member of the board shall be a member of the city planning and zoning commission and his term shall expire at the same time as his term on such commission. Each member of the board shall be removable for just cause by the city council upon written charges and after public hearings, or as otherwise provided by this code. Vacancies shall be filled by the city council for the unexpired term of any member whose term becomes vacant. The board shall elect its own chairman, who shall serve for a period of one (1) year or until a successor is elected. Up to two (2) alternates may be appointed by the mayor and confirmed by the city council who shall serve in the absence of one (1) or more regular members. Alternate members shall serve of the same period as the regular members and any vacancies shall be filled in the same manner. Alternate members shall be subject to removal in the same manner as the regular members. (Code 1963, Ch. 9, art. 2, § 19-1(B); Ord No. 98-33; § I, 5-26-98; Ord No. 00-79, § I, 10-24-00; Ord No. 06-01, § I, 1-10-06)

Sec. 31-68. Meetings.

Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. (Code 1963, Ch. 9, art. 2, § 19-1(C))

Sec. 31-69. Hearings.

The hearings of the board of adjustment shall be public. However, the board may go into

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*__Charter reference__–Zoning board of adjustment, § 27(6).
__Cross reference__–Boards, commissions generally, § 2-116 et seq.
__State law reference__–Board of adjustment, V.T.C.A., Local Government Code § 211.008 et seq.

executive session in accordance with law. The board shall hear the intervention of any owner of property adjacent to, in the rear of, or across the street from a lot as to which the granting of any building permit is pending, and shall also hear any other parties in interest. (Code 1963, Ch. 9, art. 2, § 19-1(D))

State law reference(s)--Open meetings act, V.T.C.A. Government Code, Chapter 551.

Sec. 31-70. Rules and regulations.

The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. The board of adjustment shall act by resolution in which six (6) members must concur. The board shall adopt from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of this chapter, and shall furnish a copy of the same to the building inspector, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith. (Code 1963, Ch. 9, art. 2, § 19-1(E); Ord No. 98-33; § I, 5-26-98; Ord No. 98-44; § I, 6-23-98)

Sec. 31-71. Appeals procedure generally.

Appeals may be taken to and before the board of adjustment by any person aggrieved, or by any officer, department or board of the city. Such appeal shall be made by filing with the office of the board a notice of appeal and specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the board of adjustment all of the papers constituting the record upon which the action appealed from was taken. All cases to be heard by the board of adjustment shall always be heard by a minimum number of six (6) members. (Code 1963, Ch. 9, art. 2, § 19-2(A); Ord No. 98-33; § I, 5-26-98; Ord No. 98-44; § I, 6-23-98)

Sec. 31-72. Stay of proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector shall certify to the board of adjustment that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of equity, after notice to the officer from whom the appeal is taken and on due cause shown. (Code 1963, Ch. 9, art. 2, § 19-2(B))

Sec. 31-73. Notice of hearing on appeal.

The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which a variation is desired, and to all other persons deemed by the board to be affected thereby, such owners and persons being determined according to the current tax rolls of the city and depositing of such written notice in the mail shall be deemed sufficient compliance therewith. (Code 1963, Ch. 9, art. 2, § 19-2(C))

Sec. 31-74. Decision by board.

The board shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer or department from whom the appeal is taken. The concurring vote of six (6) members of the board shall be necessary to reverse any order, requirement, decision or determination of the officer or department from which the appeal is taken, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation in this chapter. (Code 1963, Ch. 9, art. 2, § 19-2(D); Ord No. 98-33; § I, 5-26-98; Ord No. 98-44; § I, 6-23-98)

State law reference(s)--Appeals to board of adjustment, V.T.C.A., Local Government Code § 211.010.

Sec. 31-75. Subpoena witnesses, etc.

The board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish. (Code 1963, Ch. 9, art. 2, § 19-3(A))

Sec. 31-76. Appeals based on error.

The board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter. (Code 1963, Ch. 9, art. 2, § 19-3(B))

Sec. 31-77. Special exceptions.

The board shall have the power to hear and decide special exceptions to the terms of this chapter upon which the board is required to pass as follows or elsewhere in this chapter, to:

(1) Permit the erection and use of a building or the use of premises for railroads.
(2) Permit a public utility or public service use or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety or general welfare.
(3) Permit a transitional use between a business or industrial and a residential district where the side of a lot in district “R-1,” “R1-A” or “R-2” abuts upon a lot zoned for business or industrial purposes as follows:

    a. On a lot in district “R-1” or “R1-A,” which sides upon a lot zoned for business or industrial purposes, the board may permit a two-family dwelling on a lot with an area of not less than six thousand (6,000) square feet.
    b. On a lot in district “R-2,” which sides upon a lot zoned for business or industrial purposes, the board may permit a four-family dwelling on a lot with an area of not less than six thousand (6,000) square feet.
    c. Provided, however, that in no case shall any transitional use have a width of more than one hundred (100) feet.

(4) Grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of the ordinance from which this article is derived.
(5) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty (50) percent of its fair market value, where the board finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.
(6) Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
(7) Permit land within three hundred (300) feet of a multifamily dwelling to be improved for the parking spaces required in connection with a multifamily dwelling, but only when there is positive assurance that such land will be used for such purpose during the existence of the multifamily dwelling.
(8) Determine whether an industry should be permitted within district "M-1," light industrial, and district "M-2," heavy industrial, because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts.
(9) Determine in cases of uncertainty the classification of any use not specifically named in this chapter.

(Code 1963, Ch. 9, art. 2, § 19-3(C); Ord. No. 93-102, § III, 11-9-93)

Sec. 31-78. Variances.

The board shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done, including the following:

(1) Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.
(2) Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this chapter relating to the use, construction or alteration of buildings or structures or the use of land will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this chapter as are in harmony with its general purpose and intent, but only when the board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this chapter, and at the same time, the surrounding property will be properly protected.

(Code 1963, Ch. 9, art. 2, § 19-3(D))

Sec. 31-79. Administrative approval of minor encroachments.

(a) This section establishes authority for administrative authorization of certain minor encroachments into zoning setback areas.

(b) The building official, or his designee, may grant an administrative variance of a building or other permanent improvement encroachment of 8 inches or less into a front, side or rear zoning setback area.

(c) In order to administratively approve such variance, the building official must find that the encroachment does not:

a. obstruct light, air, movement or traffic visibility;
b. lead to overcrowding of land or undue concentration of population;
c. increase fire risk;
d. violate a building or safety code; or
e. pose any hazards to or hardships upon the public.

(d) The building official shall refer to the board any request involving an encroachment exceeding 8 inches into the required setback.

(e) A property owner or building may receive only one administrative variance in any 12-month period. Subsequent requests must be reviewed by the board.

(f) The building official's denial of an administrative variance may be appealed to the board by filing a written notice of appeal within 10 calendar days of the building official's decision. (Ord. 02-57, § I, 11-26-02)

Sec. 31-80. Jurisdiction limited.

The board shall have no authority to change any provisions of this chapter and its jurisdiction is limited to hardship and borderline cases which may arise from time to time. (Code 1963, Ch. 9, art. 2, § 19-3(E); Ord. 02-57, § I, 11-26-02)

Sec. 31-81. Administrative fee.

A fee in accordance with section 8-12 shall be paid to the city at the same time any application is made either to the board of adjustment requesting the board to take any action, or to the building official requesting an administrative variance. If an applicant wishes to appeal the building official's denial of an administrative variance, the fee originally paid for the building official's review shall also cover the appeal to the board. The purpose of such fee is to defray the cost to the city for the administration and handling of such requests. The fee is nonrefundable. (Code 1963, Ch. 9, art. 2, § 19-4 [Ord. No. 70-3, 10-28-70; Ord. No. 74-23, § 1, 5-28-74; Ord. No. 86-29, §§ 1–3, 5-13-86; Ord. No. 86-70, § 8, 9-23-86]; Ord. 02-57, § I, 11-26-02)

Secs. 31-82--31-90. Reserved.

DIVISION 4. SPECIFIC USE PERMIT ZONE CHANGE

Sec. 31-91. Recommendation by commission.

Upon application, the planning and zoning commission may recommend to the city council the approval of a specific use permit. (Code 1963, Ch. 9, art. 2, § 26 [Ord. No. 69-44, § 1, 9-22-69]; Ord. No. 92-7, § I, 3-24-92)

Sec. 31-92. Council's authorization.

The city council may, after a public hearing and proper notice and after recommendation from the planning and zoning commission containing such requirements and safeguards as are necessary to protect adjoining property, authorize a specific use for the specific piece of property.

Sec. 31-93. Application; site plan.

(a) The application for a specific use permit shall be accompanied by four (4) copies of a site plan. The plan and analysis information shall be on a single sheet; additional sheets may be used for details and prospective views.

(b) 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 title shall include the legal description of the property together with the north point and date, and shall be drawn to engineer scale.

(c) Typical features which 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; and landscaping.

(d) The site plan shall be submitted at the time the application is made. If a site plan is conditionally approved by the planning and zoning commission, a corrected site plan shall be filed with the building official not less than ten (10) days after the commission's action.
(Code 1963, Ch. 9, art. 2, § 27 [Ord. No. 69-44, § 2, 9-22-69]; Ord. No. 92-7, § I, 3-24-92)

Sec. 31-94. Specific determinations and recommendations of commission.

In recommending that a specific use permit for the premises under construction be granted, the planning and zoning commission shall determine that such uses are harmonious with and adaptable to buildings, structures and uses of abutting property and other property in the vicinity of the premises under construction, and shall make recommendations as to requirements for the paving of streets, alleys and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate off-street parking and open space. (Code 1963, Ch. 9, art. 2, § 28 [Ord. No. 69-44, § 3, 9-22-69])

Sec. 31-95. Conditions of permit.

A specific use permit granted under the provisions of this division shall be considered only an addition to the uses permitted on a particular tract of land, and shall not be considered as an amendment to the zoning ordinances. In granting such permit, the planning and zoning commission may impose conditions which shall be complied with by the owner or grantee before

certificate of occupancy may be issued by the building inspector for the use of the building on such property pursuant to such specific use permit; and such conditions shall not be construed as conditions precedent to the granting of a specific use permit, but shall be construed as conditions precedent to the granting of the certificate of occupancy. (Code 1963, Ch. 9, art. 2, § 29 [Ord. No. 69-44, § 4, 9-22-69]; Ord. No. 92-7, § I, 3-24-92)

Sec. 31-96. Reserved.

Editor's note--Ordinance No. 92-7, § I, adopted March 24, 1992, deleted § 31-96. Formerly, § 31-96 pertained to a specific use permittee's acceptance of permit terms and derived from Ch. 9, Art. 2, § 30 of the 1963 Code.

Sec. 31-97. Building permit.

A building permit shall be applied for and obtained for within ten (10) months after the effective date of the specific use permit. (Code 1963, Ch. 9, art. 2, § 31 [Ord. No. 69-44, § 6, 9-22-69]; Ord. No. 92-7, § I, 3-24-92)

Sec. 31-98. Board of adjustment without jurisdiction.

The board of adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the granting, extension, revocation, modification or any other action taken relating to such specific use permits. (Code 1963, Ch. 9, art. 2, § 32 [Ord. No. 69-44, § 7, 9-22-69])

Sec. 31-99. Zoning map amendment.

When the city council authorizes a specific use permit, the zoning map shall be amended according to its legend to indicate that the affected area has conditions and additional uses. (Code 1963, Ch. 9, art. 2, § 33 [Ord. No. 69-44, § 8, 9-22-69]; Ord. No. 92-7, § I, 3-24-92)

Sec. 31-100. Penalty for violations.

Whoever violates the provisions of any ordinance pertaining to a specific use permit or the provisions of a specific use permit shall upon conviction be punished as provided in section 1-8. (Code 1963, Ch. 9, art. 2, § 34 [Ord. No. 69-44, § 9, 9-22-69])

Sec. 31-101. Abatement suits.

Suit for abatement of any violation may be filed in any court of competent jurisdiction in the county. (Code 1963, Ch. 9, art. 2, § 35 [Ord. No. 69-44, § 10, 9-22-69])

Secs. 31-102--31-120. Reserved.

ARTICLE III. ZONING DISTRICTS ESTABLISHED; ZONING MAP[*]

Sec. 31-121. Establishment of districts and boundaries.

[*]**State law reference**–Districts authorized, V.T.C.A., Local Government Code § 211.005.

(a) For the purposes of this chapter, the city is hereby divided into twenty-three (23) districts as follows:

District A.	Agricultural district.
District A-R1.	Agricultural single-family residential district.
District R-1.	Single-family residential district.
District R1-A.	Single-family garden home residential district.
District R-2.	Two-family residential district.
District R-3.	Multifamily residential district.
District R-MP.	Mobile home and travel trailer park district.
District R-MS.	Manufactured housing subdivision district.
District RT-1.	Residential townhouse single-family district.
District RM-1.	Residential modular home single-family district.
District B-1.	Professional business district.
District B-2.	Local retail district.
District B-3.	Local business district.
District B-4.	Business district.
District B-5.	Business district.
District BC-1.	General business and alcohol sales district.
District RC-1.	Restaurant and alcohol sales district.
District HOD	Historic overlay district
District B-DC.	Business day care district.
District M-1.	Manufacturing district.
District M-2.	Heavy manufacturing district.
District UOD	University overlay district.
District COD	Cemetery overlay district.

(b) The locations and boundaries of the districts herein established are shown upon the official zoning map, which is hereby incorporated into this chapter. Such zoning map, together with all notations, references and other information shown thereon and all amendments thereto, shall be as much a part of this chapter as if fully set forth and described herein. Such zoning map, properly attested, is on file in the office of the city secretary.
(Code 1963, Ch. 9, art. 2, § 3 [Ord. No. 76-46, § 2, 8-10-76; Ord. No. 86-23, § 2, 4-22-86]; Ord. No. 93-102, § I, 11-9-93; Ord. No. 96-63, § II, 8-13-96; Ord. No. 02-48, § II, 9-24-02; Ord. No. 04-87, § I, 10-19-04; Ord. No. 05-40, § I, 5-24-05; Ord. No. 06-48, § I, 5-9-06; Ord. No. 09-024, § I, 3-17-09)

Sec. 31-122. Official zoning map.

(a) The official zoning map of the city shall be kept in the office of the city secretary and one (1) copy shall be maintained in the office of the building inspector.

(b) It shall be the duty of the city engineer to keep the official map current and the copies thereof, herein provided for, by entering on such maps any changes which the city council may from time to time order by amendments to this chapter and map.

(c) The city secretary shall affix a certificate identifying the map in his office as the Official Zoning Map of the City of Killeen. He shall likewise officially identify the copies directed to be kept by the planning commission and in the office of the building inspector.

(Code 1963, Ch. 9, art. 2, § 17)

Sec. 31-123. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the zoning map, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
(2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries.
(3) Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale on the zoning map.
(4) In unsubdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.
(5) In the case of a district boundary line dividing a property into two (2) parts, the district boundary line shall be construed to be the property line nearest the district boundary line as shown.
(6) Whenever any street, alley or other public way is vacated by official action of the city council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.
(7) Where the streets or alleys on the ground differ from the streets or alleys as shown on the zoning map, the streets or alleys on the ground shall control.

(Code 1963, Ch. 9, art. 2, § 4)

Sec. 31-124. Newly annexed areas.

(a) *Zoning annexed areas.* All territory annexed to the city shall be initially classified as district “A” agricultural district. The planning and zoning commission shall within twelve (12) months after date of annexation recommend to the city council a plan for permanent zoning in the area. The procedure to be followed for adoption shall be the same as is provided by law for the adoption of original zoning regulations. If the planning and zoning commission fails to submit a zoning plan to the city council within twelve (12) months after the date of annexation, the planning and zoning commission recommendation shall be deemed to be a recommendation to change the initial annexation zoning to permanent zoning. If the city council fails to act on a plan for initial zoning of an annexed area within sixty (60) days following the date twelve (12) months after the date of annexation, the zoning map for the city of Killeen shall be changed to reflect the permanency of the initial zoning assigned on annexation. Any area annexed during the time period of January 1, 1963 to effective date of this ordinance which continues to bear a “temporary” zoning, the same is hereby designated as the permanent zoning, and all existing “temporary” prefixes are eliminated.

(b) *Permits in initially zoned areas.* In an area initially classified as district “A” agricultural district, no permit for the construction of a building or use of land other than types of buildings

or land use allowed in such district under this chapter shall be issued by the building official until such permit has been specifically authorized by the city council after receipt of recommendation from the planning and zoning commission. Permits for the construction of buildings in a newly annexed territory prior to permanent zoning may be authorized under the following conditions: An application for any use shall be made to the building official, such application shall show the use contemplated, and a plot plan showing the size and type of building to be constructed; and if such application is for other than a building allowed in district "A" agricultural district, it shall be referred to the planning and zoning commission for recommendation to the city council, which shall grant or deny the permit; provided that a favorable vote of a three-fourths majority of all members of the city council shall be required if the recommendation of the planning and zoning commission is not followed.

(c) *Unplatted property*. The planning and zoning commission shall not approve any minor plat within the city limits until the area covered by the proposed plat shall have been properly and permanently zoned by the city council. The planning and zoning commission may act on a final plat of a parcel and the zoning request on the same parcel concurrently, only when the plat requires city council approval.
(Ord. No. 88-114, § VI, 12-13-88; Ord. No. 96-67, § II, 10-22-96; Ord. No. 99-29, § I, 4-13-99)

Secs. 31-125--31-145. Reserved.

ARTICLE IV. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Secs. 31-146--31-155. Reserved.

DIVISION 2. DISTRICT "A" AGRICULTURAL DISTRICT

Sec. 31-156. Use regulations.

A building or premises in a district "A" agricultural district shall be used only for the following purposes:

(1) Stables, commercial or private.
(2) Agricultural uses to include animal production, crop production, horticulture, and support housing.
(3) Home occupations as permitted in district "R-1" single-family residential district.
(4) Agricultural single-family residential in accordance with division 3 of this article.
(5) Accessory buildings customarily incident to the uses in this section.

(Ord. No. 88-114, § II(6-C-1), 12-13-88)

Sec. 31-157. Height regulations.

No structure shall be erected in a district "A" agricultural district having a height in excess of forty-five (45) feet. (Ord. No. 88-114, § II(6-C-2), 12-13-88)

Sec. 31-158. Area regulations.

(a) *Size of yard.* The yards in the district "A" agricultural district shall conform to the following:

(1) *Front yard.* There shall be a front yard having a depth of not less than forty (40) feet.
(2) *Side yard.* There shall be a side yard on each side of the lot having a width of not less than ten (10) feet. A side yard adjacent to a side street shall not be less than twenty-five (25) feet.

(b) *Size of lot.* No structure shall be erected on any lot in a district "A" agricultural district less than three (3) acres.
(Ord. No. 88-114, § II(6-C-3), 12-13-88)

Sec. 31-159. Parking regulations.

The parking regulations for the district "A" agricultural district shall be the same as for district "R-1" single-family residential district. (Ord. No. 88-114, § II(6-C-4), 12-13-88)

Sec. 31-160. Sign regulations.

The sign regulations for a district "A" agricultural district shall be the same as for district "R-1" single-family residential district, with the exception of "point-of-sale" signs in which signs shall not exceed a total of twenty-four (24) square feet in area per premises or eight (8) feet in height and shall advertise only the name of the owner, trade names, products sold and/or the business or activity conducted on the premises where such signs are located. There shall be no more than three (3) "point-of-sale" signs allowed for property in excess of thirty (30) acres in size. (Ord. No. 88-114, § II(6-C-5), 12-13-88)

Secs. 31-161--31-170. Reserved.

DIVISION 3. DISTRICT "A-R1" AGRICULTURAL SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 31-171. Application.

For the purpose of developing a subdivision containing one- to three-acre tracts of land in district "A" agricultural district, the owner or owners of a tract or tracts of land may submit an application to the planning and zoning commission and city council for rezoning as district "A-R1" agricultural single-family residential district. (Ord. No. 88-114, § V(15-5), 12-13-88)

Sec. 31-172. Use regulations.

A building or premises in a district "A-R1" agricultural single-family residential district shall be used only for the following purpose:

(1) Single-family residential.
(2) Home occupation as permitted in "R-1" single-family residential.
(3) Accessory buildings customarily incident to the uses in this section.
(Ord. No. 88-114, § V(15-5-1), 12-13-88)

Sec. 31-173. Height regulations.

No structure shall be erected in a district "A-R1" agricultural single-family residential district having a height in excess of thirty-five (35) feet, or two and one-half (2½) stories. (Ord. No. 88-114, § V(15-5-2), 12-13-88)

Sec. 31-174. Area regulations.

(a) *Size of yards.* The size of yards in the district "A-R1" agricultural single-family residential district shall be as follows:

(1) *Front yards.* There shall be a front yard having a depth of not less than forty (40) feet.
(2) *Side yards.* There shall be a side yard on each side of the lot having a width of not less than ten (10) feet. A side yard adjacent to a side street shall not be less than twenty-five (25) feet.
(3) *Rear yards.* There shall be a rear yard having a depth of not less than twenty-five (25) feet.

(b) *Size of lot.* The size of lots in a district "A-R1" agricultural single-family residential district shall be as follows:

(1) *Lot area.* No building or structure shall be erected on any lot having less than one (1) acre or more than three (3) acres.
(2) *Lot width.* The width of the lot shall not be less than one hundred (100) feet at the front building line.

(Ord. No. 88-114, § V(15-5-3), 12-13-88)

Sec. 31-175. Sign regulations.

The sign regulations for the district "A-R1" agricultural single-family residential district shall be the same as district "R-1." (Ord. No. 88-114, § V(15-5-4), 12-13-88)

Sec. 31-176. Residential density.

The residential density in a district "A-R1" agricultural single-family residential district shall be not more than one (1) dwelling unit per lot. (Ord. No. 88-114, § V(15-5-5), 12-13-88)

Secs. 31-177--31-185. Reserved.

DIVISION 4. DISTRICT "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 31-186. Use regulations.

A building or premise in a district "R-1" single-family residential district shall be used only for the following purposes:

(1) One-family dwellings.
(2) Churches or other places of worship.
(3) Colleges, universities or other institutions of higher learning.

(4) Country clubs or golf courses, but not including miniature golf courses, driving ranges or similar forms of commercial amusement.
(5) Farms, nurseries or truck gardens, limited to the proportion and cultivation of plants, provided no retail or wholesale business is conducted on the premises, and provided further that no poultry or livestock other than normal household pets shall be housed within one hundred (100) feet of any property line.
(6) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
(7) Public buildings, including libraries, museums, police and fire stations.
(8) Real estate sales offices during the development of residential subdivisions but not to exceed two (2) years. Display residential houses with sales offices, provided that if such display houses are not moved within a period of one (1) year, specific permission must be obtained from the city council for such display houses to remain on their locations.
(9) Schools, public elementary or high.
(10) Schools, private with curriculum equivalent to that of a public elementary or high school.
(11) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
(12) Water supply reservoirs, pumping plants and towers.
(13) Accessory buildings and uses, incident to the uses in this section and located on the same lot therewith, not involving the conduct of a retail building.

a. A sign or outside advertising display (as defined by subsection 2301.1 of the Killeen Building Code) shall not be allowed as an accessory use, except that:

    1. A bulletin board sign, limited to the provisions of section 31-504(1) may be allowed as an accessory use to churches, places of worship, libraries, museums and public buildings.
    2. Any unilluminated signs allowed in section 31-503 may be allowed as an accessory use to any primary use authorized by this chapter.
    3. A point-of-sale sign, limited to the provisions of section 31-503(2), may be allowed as an accessory use to those primary uses authorized by subsection (8), provided that such signs shall be allowable only so long as these specified primary uses are allowed.

    No authorized accessory use sign shall be located in a required side or rear yard which is adjacent to any other lot designated for residential use.

b. A private garage with or without storeroom and/or utility room shall be permitted as an accessory building, provided that such garage shall be located not less than sixty (60) feet from the lot line nor less than five (5) feet from any side or rear lot line and in the case of corner lots not less than the distance required for residences from side streets. A garage or servants' quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building.
c. The term "accessory use" shall include home occupations subject to the following provisions:

    1. *Definition*. A home occupation is an accessory use of a dwelling unit or garage for gainful employment, involving the provision of goods and/or services.
    2. When a use is a home occupation, the owner, lessee or other resident occupant

persons having a legal right to the use of the dwelling unit shall also have the vested right to conduct the home occupation without securing special permission from the city to do so.

3. Notwithstanding section 31-186(13)c.2. above, persons conducting a home occupation are required to comply with, and are subject to, any other city ordinance conditions affecting the occupation and its property, such as off-street parking, building permits, business licenses, fire safety and the life.
4. Notwithstanding section 31-186(13)c.2. above, persons conducting a home occupation are required to comply with, and are subject to, any and all local, state and/or federal rules, regulations, ordinances, or laws, including, but not limited to, those regarding environmental protection.
5. Home occupations are permitted accessory uses only so long as all the following conditions are observed:

    (i) No persons other than resident occupants of the premises shall be engaged in such occupation;
    (ii) The home occupation shall not involve the use of advertising signs or window displays on the premises or any other local advertising media which call attention to the fact that the home is being used for business purposes; except that for purposes of a telephone directory listing, a telephone number, but no business address, may be published;
    (iii) In no way shall the outside appearance of the dwelling be altered from its residential character;
    (iv) Performance of the occupation activity shall not be visible from the street;
    (v) The use shall not increase vehicular or pedestrian traffic flow beyond what normally occurs in the applicable zoning district. Additionally, the use shall not increase the number of vehicles parked on the premises by more than two (2) additional vehicles at a time. All customer/client parking shall be off-street and other than in unpaved areas of the front yard;
    (vi) There shall be no outside storage, (to include trailers), or display related to the home occupation;
    (vii) No home occupation shall cause an increase in the use of any one (1) or more public utilities (water, sewer, electricity, garbage, etc.) so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood;
    (viii) One (1) commercial vehicle, capacity of one (1) ton or less (excluding attached trailers) may be used or parked on the property in connection with the home occupation;
    (ix) Except for articles produced on the premises, no stock in trade shall be displayed or sold on the premises;
    (x) No mechanical or electrical equipment shall be employed other than the quality and quantity of machinery or equipment customarily found in a home associated with a hobby or avocation not conducted for gain or profit; and
    (xi) The home occupation use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.

6. Home occupations may, subject to the requirements of section 31-186(13)c.1--5,

include, but are not necessarily limited to, the following:

(i) Office facility of an accountant, architect, attorney, engineer, consultant, insurance agent, real estate broker or member of similar professions;
(ii) Author, artist or sculptor;
(iii) Dressmaker, seamstress, or tailor;
(iv) Music/dance teacher, or similar school of instruction, provided that instruction shall be limited to no more than one (1) pupil at a time;
(v) Individual tutoring;
(vi) Millinery;
(vii) Minister, rabbi, priest or member of religious orders;
(viii) Home crafts such as rug weaving, model making;
(ix) Office facility of a salesman, sales representative, manufacturer's representative, or service provider, for sale of goods or services, whether said individual or individuals are self-employed or otherwise, and provided that no retail or wholesale transactions or provision of services are made on the premises;
(x) Repair shops for small electrical appliances (such as irons, portable fans and the like), typewriters, cameras and other similar small items, provided the item does not have an internal combustion engine; and
(xi) Food preparation establishments such as cake maker, provided there is compliance with all state health laws and no consumption of food items by customers on the premises.

7. Permitted home occupations shall not in any event be deemed to include:

(i) Animal hospitals or clinics, commercial stables, or commercial kennels;
(ii) Schools of instruction of any kind with more than one (1) pupil at a time unless such school was established prior to the date of passage of this section;
(iii) Restaurants;
(iv) Automobile, boat or trailer paint or repair shops (major or minor);
(v) Doctor, dentist, veterinarian or other medically related offices;
(vi) On-premise retail sales, except garage sales as otherwise provided in this code;
(vii) Laundromats with more than one (1) washing machine and one (1) dryer;
(viii) Barber shops and beauty parlors, unless established in compliance with this code of ordinances as the code provided at the time said business was established;
(ix) Mortuaries;
(x) Private clubs;
(xi) Trailer rentals;
(xii) Repair shops or service establishments, except as provided in section 31-186(13)c.6.(x) above;
(xiii) Carpentry work;
(xiv) Photo developing or photo studios;
(xv) Upholstering;
(xvi) Antique shops;
(xvii) Gift shops;

(xviii) Repair shops for any item with an internal combustion engine; and
(xix) Those home occupation uses which, without regard to principal or accessory use conditions, would be classified as assembly, factory-industrial, hazardous, institutional or mercantile occupancies as defined by the 1988 Standard Building Code, as amended.

8. Effect of this section on businesses operating under special use permits at the time this section takes effect.

   (i) Those home occupations presently in existence under the authority of a specific use permit issued by the city are hereby expressly authorized to continue said home occupation through the expiration date of said permit(s). Upon said expiration date, however, all provisions of this section shall be in full force and effect.
   (ii) It shall constitute an offense to operate a home occupation after said permit expiration date in violation of this section.

9. No specific use permit shall be issued for any home occupations prohibited by section 31-186(13)c.7. above.
10. The provisions of this section shall apply to all home occupations, regardless of the date of their creation/existence, unless specifically exempted by section 31-186(13)c.7.(viii) or temporarily exempted by section 31-186(13)c.8. above.
11. Businesses not listed in this section:

   (i) Persons wishing to operate home occupations which are not listed in section 31-186(13)c.6. or expressly prohibited by section 31-186(13)c.7. above may make written application to the city planner, requesting a formal review in order to amend this section to either specifically authorize or prohibit said home occupation.
   (ii) The city planner shall have the duty to ensure said application is scheduled to be heard by the planning and zoning commission's next regularly scheduled meeting which allows for compliance with statutory notice and other requirements of law.
   (iii) The planning and zoning commission shall, in accordance with applicable law, review said application and submit a final report and recommendation to the city council.
   (iv) The city council shall then, in accordance with applicable law, review said documents at its next regularly scheduled meeting which allows for compliance with statutory notice and other requirements of law. At said meeting, the council shall amend this section to either specifically authorize or prohibit the home occupation use requested.
   (v) Any person applying for a formal review and amendment of this section to permit a particular use not otherwise permitted shall, at the time said application is submitted, pay a nonrefundable application fee. Such fee shall be established by resolution of the city council.

(14) A subdivision entry sign, when such sign is located on a lot that abuts a subdivision boundary and fronts on a street entering the subdivision. Such sign:

a. Shall not have a sign face which exceeds a total of twenty-four (24) square feet; and
b. Shall not exceed six (6) feet in height; and
c. Shall not be located in a side or rear yard which is adjacent to any other lot designated for residential use; and
d. Shall advertise only the name of the subdivision.

(15) Cemetery.

(Code 1963, Ch. 9, art. 2, § 6-1 [Ord. No. 87-10, §§ 1,2, 2-24-87]; Ord. No. 91-71, § 1, 12-17-91; Ord. No. 92-6, §§ I, II, 3-24-92; Ord. No. 93-52, § II, 6-22-93; Ord. No. 99-47, § II, 6-8-99)

Sec. 31-187. Height regulations.

No building in a district "R-1" single-family residential district shall exceed thirty-five (35) feet or two and one-half (2½) stories in height. (Code 1963, Ch. 9, art. 2, § 6-2)

Sec. 31-188. Area regulations.

(a) *Size of yards.* The yards in the district "R-1" single-family residential district shall conform to the following:

(1) *Front yard.* There shall be a front yard having a depth of not less than twenty-five (25) feet. Where lots have double frontage running through from one (1) street to another, the required front yard shall be provided on both streets. No parking shall be allowed within the required front yard.
(2) *Side yard.* There shall be a side yard on each side of the lot having a width of not less than seven (7) feet. A side yard adjacent to a side street shall not be less than fifteen (15) feet. No side yard for allowable nonresidential uses shall be less than twenty-five (25) feet.
(3) *Rear yard.* There shall be a rear yard having a depth of not less than twenty-five (25) feet measured from the centerline of the easement as in the subdivision ordinance.

(b) *Size of lot.* The lot requirements for the district "R-1" single-family district shall be as follows:

(1) *Lot area.* No building shall be constructed on any lot less than six thousand (6,000) square feet.
(2) *Lot width.* The width of the lot shall not be less than sixty (60) feet at the front street building line, nor shall its average width be less than sixty (60) feet.
(3) *Lot depth.* The average depth of the lot shall not be less than one hundred (100) feet, except that a corner lot, having a minimum width of not less than eighty (80) feet, may have an average depth of less than one hundred (100) feet provided that the minimum depth is not less than ninety (90) feet.
(4) *Existing lots.* Where a lot having less area, width and/or depth than herein required existed in separate ownership upon the effective date of the ordinance from which this chapter is derived, the above regulations shall not prohibit the erection of a one-family dwelling thereon.

(Code 1963, Ch. 9, art. 2, § 6-3)

Sec. 31-189. Parking regulations.

Off-street parking spaces shall be provided in a district "R-1" single-family residential district in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter. (Code 1963, Ch. 9, art. 2, § 6-4 [Ord. No. 83-33, §§ 2,3, 6-14-83; Ord. No. 83-38, §§ 2–4, 7-12-83; Ord. No. 86-23, § 3, 4-22-86])

Secs. 31-190--31-192. Reserved.

DIVISION 4A. DISTRICT "R1-A" SINGLE-FAMILY GARDEN HOME RESIDENTIAL DISTRICT

Sec. 31-193. Use regulations.

A building or premise in a district "R1-A" single-family garden home residential district shall be used only for the following purposes:

(1) Single-family dwellings meeting the criteria of the garden home district.
(2) All uses allowed in section 31-186, including those defined as home occupation uses.
(Ord. No. 93-102, § II, 11-9-93)

Sec. 31-194. Height regulations.

No building in the "R1-A" single-family garden home residential district shall exceed thirty-five (35) feet or two and one-half (2½) stories in height. (Ord. No. 93-102, § II, 11-9-93)

Sec. 31-195. Area regulations.

(a) *Project size.* All projects for the development in this district must contain a minimum of one (1) acre of property. No subdivision proposed for this district may contain less than ten (10) individual lots.

(b) *Size of yards.* The yards in the "R1-A" single-family garden home residential district shall conform to the following:

(1) *Front yard.* There shall be a front yard having a depth of not less than twenty (20) feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets.
(2) *Side yard.* Residences constructed in this district may be located such that one of the side yards will be zero (0); that is, the building may be constructed on the property line. In the "R1-A" single-family garden home residential district, the minimum spacing between residences must be ten (10) feet. In the event that the "R1-A" lot is adjacent and shares a common lot with a lot zoned "R-1," the required minimum spacing between structures shall not be less than fourteen (14) feet. The minimum side yard setback for any corner lot shall be fifteen (15) feet.
(3) *Rear yard.* There shall be a rear yard having a depth of not less than twenty (20) feet.

(c) *Size of lot.* The lot requirements for the "R1-A" single-family garden home residential

district shall be as follows:

(1) *Lot area.* No building shall be constructed on any lot less than three thousand six hundred (3,600) square feet of area.
(2) *Lot width.* The width of the lot shall not be less than thirty-six (36) feet at the front street building line, nor shall its average width be less than thirty-six (36) feet. On corner lots, with two (2) street frontages, the minimum width shall be not less than forty-five (45) feet.
(3) *Lot depth.* The average depth of the lot shall be not less than one hundred (100) feet, except that a corner lot having a minimum width of not less than forty-five (45) feet may have an average depth of less than one hundred (100) feet, provided that the minimum depth is not less than ninety (90) feet.

(d) *Structure.* A residence constructed on the lot line shall be so constructed that the wall located on the property line shall be constructed and maintained in accordance with chapter 8, and all applicable codes adopted therein, and all other applicable codes and ordinances.

(e) *Maintenance easement.* On any residence constructed on the property line, the adjacent lot abutting the wall on the property line shall provide a five-foot-wide maintenance easement along the abutting lot line the full depth of the lot. Such maintenance easement shall be shown on the approved subdivision plat of the development.
(Ord. No. 93-102, § II, 11-9-93; Ord. No. 94-62, § I, 9-13-94)

Sec. 31-196. Parking regulations.

Off-street parking spaces shall be provided in a "R1-A" single-family garden home residential district in accordance with the requirements for the uses set forth in article V, division 3 of this chapter. (Ord. No. 93-102, § II, 11-9-93)

Secs. 31-197--31-200. Reserved.

DIVISION 5. DISTRICT "RM-1" RESIDENTIAL MODULAR HOME SINGLE-FAMILY DISTRICT*

Sec. 31-201. Use regulations.

The following uses shall be permitted in a district "RM-1" residential modular home single-family district:

(1) All uses permitted in R-1 district, provided that all conventional site-built structures in the district created by this division shall not be entitled to any of the waivers of construction and inspection provisions provided elsewhere in this Code and such structures shall be built in conformance with all of those standards as if constructed in an R-1 district.
(2) One-family dwellings of modular construction:

a. Modular construction as used in this section shall mean factory-produced components transportable to a building site and affixed to a permanent foundation meeting HUD

*Cross reference–Mobile homes, mobile home parks, etc., Ch. 17.

minimum property standards for one- and two-family housing units. (Certification that each module meets the required standards shall be the certification from the manufacturer to the builder that such standards are met, and a copy of such must be provided to the city's building official prior to placing any modules on site in this district.)

b. Affixed to permanent foundation as used in this section shall mean that the structure so affixed is free from all devices used for its transportation.

c. Residential units of modular construction may not be placed in any other district.

(Code 1963, Ch. 9, art. 2, § 6-A-1)

Sec. 31-202. Height regulations.

The height regulations for the district “RM-1” residential modular home single-family district shall be the same as provided for the “R-1” district. (Code 1963, Ch. 9, art. 2, § 6-A-2)

Sec. 31-203. Area regulations.

The area regulations for the district “RM-1” residential modular home single-family district shall be the same as provided for the “R-1” district. (Code 1963, Ch. 9, art. 2, § 6-A-3)

Sec. 31-204. Parking regulations.

The parking regulations for the district “RM-1” residential modular home single-family district shall be the same as provided for the “R-1” district. (Code 1963, Ch. 9, art. 2, § 6-A-4 [Ord. No. 75-25, § 1, 8-12-75])

Secs. 31-205--31-215. Reserved.

DIVISION 6. DISTRICT “RT-1” RESIDENTIAL TOWNHOUSE SINGLE-FAMILY DISTRICT

Sec. 31-216. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Common area shall mean private property owned in common by, and designated for the private use of, the owners or occupants of townhouses in a particular project or subdivision. Common area uses include, but are not limited to, recreation areas, parks and plazas, ornamental areas open to the general view within the project or subdivision, and building setbacks not otherwise required by ordinance. The common area does not include public streets, alleys, required building setbacks or utility easements.

Townhouse shall mean one (1) of a series of single-family dwelling units which are either structurally connected, or which are constructed immediately adjacent to each other without side yards between the dwelling units. The terms “townhome” and “row house” are similarly defined and may be used interchangeably.

Townhouse group shall mean two (2) or more townhouses constructed as an integral part of a

townhouse project.

Townhouse project shall mean one (1) or more townhouse groups, together with commonly owned structures or areas.

Townhouse subdivision shall mean one (1) or more townhouse projects.
(Code 1963, Ch. 9, art. 2, § 6-B-2)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 31-217. Use regulations.

All buildings located in the district "RT-1" residential townhouse single-family district shall be limited to townhouse development and accessory buildings and uses as described in section 31-186. (Code 1963, Ch. 9, art. 2, § 6-B-1)

Sec. 31-218. Height regulations.

No building in a district "RT-1" residential townhouse single-family district shall exceed thirty-five (35) feet in height. (Code 1963, Ch. 9, art. 2, § 6-B-4)

Sec. 31-219. Area regulations.

The area regulations for the district "RT-1" residential townhouse single-family district shall be as follows:

(1) *Project area.* Each townhouse project shall contain an area of land consisting of not less than three thousand five hundred (3,500) square feet for each townhouse to be constructed, including common area, if any.

a. *Coverage of project area.* Coverage of a project, exclusive of the common area, shall not exceed forty-five (45) percent of the total project area. Those structures constituting coverage under this provision include, but are not limited to, building and required parking spaces.
b. *Coverage of common area.* Coverage of the common area or areas, if any, shall not exceed thirty (30) percent of such common area or areas. Those structures constituting coverage in this provision include, but are not limited to, all buildings, structures and required parking, but shall not include driveways or walkways.

(2) *Townhouse group:*

a. No townhouse group shall exceed two hundred (200) feet in length.
b. There shall be not less than fifteen (15) feet of separation between each townhouse group within a townhouse subdivision.

(3) *Lot requirements:*

a. Each townhouse shall be constructed on a privately owned individual lot.
b. Each townhouse lot shall have a lot area of not less than two thousand (2,000) square feet.

c. Each townhouse lot shall have a width of not less than eighteen (18) feet.
d. Each lot shall contain a private yard with not less than four hundred (400) square feet of area. Parking areas shall not be included in the computation of the required private yard area. A wall or solid fence not less than six (6) feet in height shall be required on side lot lines where the required private yard adjoins such lot lines. A private yard may contain a patio cover or roof which does not cover more than twenty-five (25) percent of the private yard.
e. *Front yard*:

1. All buildings with frontage on collector and arterial streets shall have a front yard of not less than twenty-five (25) feet, and an unenclosed porch shall be set back from the property line not less than twenty (20) feet. All buildings with frontage on minor streets shall have a front yard of not less than ten (10) feet.
2. In no case shall the required front yard of any townhouse be less than any required front yard on the same side of the street between intersecting streets.

f. *Side yard*:

1. There shall be not less than ten (10) feet of side yard provided at the side property line of any townhouse subdivision.
2. A side yard adjacent to a side street shall not be less than fifteen (15) feet.

g. *Rear yard*:

1. There shall be a rear yard having a depth of not less than ten (10) feet as measured from the rear property line.
2. Garages or carports having direct access to a rear alley or common driveway shall be set back from the rear lot line not less than ten (10) feet.
3. In no case shall a townhouse be set closer than twenty-five (25) feet to any rear lot line of any R-1 or RM-1 zoned property.

(Code 1963, Ch. 9, art. 2, § 6-B-3)

Sec. 31-220. Parking regulations.

The parking regulations for the district “RT-1” residential townhouse single-family district shall be as follows:

(1) Two (2) off-street parking spaces shall be provided for each townhouse.

a. One (1) space shall be covered and located on each lot.
b. The second required parking space shall be located within one hundred (100) feet of the lot.

(2) The width of driveways located in the front yard of townhouse lots shall not exceed fifty (50) percent of the width of the respective lots.
(3) One-way common drives shall be not less than ten (10) feet in width, and two-way common driveways shall not be less than twenty (20) feet in width.

(Code 1963, Ch. 9, art. 2, § 6-B-5 [Ord. No. 76-15, § 2, 3-23-76])

Secs. 31-221--31-230. Reserved.

DIVISION 7. DISTRICT "R-2" TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 31-231. Use regulations.

A building or premises in a district "R-2" two-family residential district shall be used only for the following purposes:

(1) Any use permitted in district "R-1."
(2) Two-family dwellings.

(Code 1963, Ch. 9, art. 2, § 7-1; Ord. No. 99-70, § I, 9-14-99; Ord. No. 05-69, § I, 9-13-05)

Sec. 31-232. Height regulations.

The height regulations for the district "R-2" two-family residential district shall be the same as provided for the "R-1" district.

(Code 1963, Ch. 9, art. 2, § 7-2; Ord. No. 99-70, § I, 9-14-99)

Sec. 31-233. Area regulations.

(a) *Size of yards.* The yards in the district "R-2" two-family residential district shall conform to the following:

(1) *Front yard.* Same as district "R-1."
(2) *Side yard.* There shall be a side yard on each side of the lot having a width of not less than seven (7) feet. A side yard adjacent to a side street shall not be less than fifteen (15) feet. No side yard for allowable nonresidential uses shall be less than twenty-five (25) feet.
(3) *Rear yard.* Same as district "R-1."

(b) *Size of lot.* The lot requirements for the district "R-2" two-family residential district shall be as follows:

(1) *Lot area.* No building containing two (2) dwelling units shall be constructed on any lot of less than seven thousand (7,000) square feet.
(2) *Lot width.* The width of the lot shall not be less than sixty (60) feet at the front street building line, nor shall its average width be less than sixty (60) feet.
(3) *Lot depth.* The average depth of the lot shall not be less than one hundred ten (110) feet, except that a corner lot, having a minimum width of not less than eighty (80) feet, may have an average depth of less than one hundred ten (110) feet provided that the minimum depth is no less than eighty (80) feet.
(4) *Exception.* Where a lot having less area, width and/or depth than herein required existed and/or was included on a filed plat prior to the effective date of the ordinance from which this chapter was derived, the above regulations shall not prohibit the erection of a two-family dwelling on a lot containing less than seven thousand (7,000) square feet, provided the property owner cannot replat adjacent abutting land to meet these new lot restrictions and yard regulations are complied with.

(Code 1963, Ch. 9, art. 2, § 7-3; Ord. No. 99-70, § I, 9-14-99)

Sec. 31-234. Parking regulations.

Off-street parking spaces shall be provided in a district "R-2" two-family residential district in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter. (Code 1963, Ch. 9, art. 2, § 7-4; Ord. No. 99-70, § I, 9-14-99)

Secs. 31-235--31-245. Reserved.

DIVISION 8. DISTRICT "R-3" MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 31-246. Use regulations.

A building or premises in a district "R-3" multifamily residential district shall be used only for the following purposes:

(1) Any use permitted in district "R-2."
(2) Multifamily dwellings.
(3) Boarding and lodging houses.
(4) Dormitories for students.
(5) Fraternity or sorority houses.
(6) Institutions of a religious, educational, charitable or philanthropic nature, but not a penal or mental institution.
(7) Accessory buildings and uses, customarily incident to the above uses and located on the same lot therewith, not involving the conduct of a retail business.

(Code 1963, Ch. 9, art. 2, § 8-1; Ord. No. 99-70, § II, 9-14-99)

Sec. 31-247. Height regulations.

The height regulations for the district "R-3" multifamily residential district shall be as required by the Standard Building Code. (Code 1963, Ch. 9, art. 2, § 8-2; Ord. No. 99-70, § II, 9-14-99)

Sec. 31-248. Area regulations.

(a) *Size of yards.* The yards in the district "R-3" multifamily residential district shall conform to the following:

(1) *Front yard.* Same as district "R-1."
(2) *Side yard.* There shall be a side yard on each side of the lot having a width of not less than five (5) feet. A side yard adjacent to a side street shall not be less than fifteen (15) feet. No side yard for allowable nonresidential uses shall be less than fifteen (15) feet. Lots used for single-family and two-family residential uses shall conform to district "R-1."
(3) *Rear yard.*

(a) Single and two family residential same as district "R-1."
(b) Other use. Ten (10) feet, except when the lot abuts any more restrictive residential district a minimum of twenty-five (25) feet shall be provided.

(b) *Size of lot.* The lot requirements for the district "R-3" multifamily residential district shall be as follows:

(1) *Lot area.* No building shall be constructed on any lot of less than seven thousand (7,000) square feet, save and except on lots platted and approved prior to the passage of this chapter. Size of building will be governed by off-street parking requirements and yard requirements. In no case shall more than 40% of the total lot area be covered by building(s).
(2) *Lot width.* The width of the lot shall not be less than sixty (60) feet at the front street building line, nor shall its average width be less than sixty (60) feet.
(3) *Lot depth.* The average depth of the lot shall not be less than one hundred (100) feet, except that a corner lot, having a minimum width of not less than eighty (80) feet, may have an average depth of less than one hundred (100) feet provided that the minimum depth is no less than eighty (80) feet.
(4) *Existing lots.* Where a lot having less area, width and/or depth than herein required existed upon the effective date of the ordinance from which this chapter is derived, the above regulations shall not prohibit the erection of a dwelling thereon, provided yard regulations are complied with.

(c) *Single-family and two-family residential lots*. Lots used for single-family and two-family residential uses shall conform to all the area regulations for district "R-1" or "R-2" as appropriate.

(Code 1963, Ch. 9, art. 2, § 8-3 [Ord. No. 83-33, § 4, 6-14-83; Ord. No. 83-38, § 5, 7-12-83]; Ord. No. 99-70, § II, 9-14-99; Ord. No. 05-69, § II, 9-13-05)

Sec. 31-249. Parking regulations.

Off-street parking spaces shall be provided in the district "R-3" multifamily residential district in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter; provided however, that required front yard may be used for parking and maneuvering area. Where a lot existed on a filed plat prior to the effective date of the ordinance from which this chapter was derived, the parking regulations established by the ordinance shall not be mandatory provided that there is insufficient space for the required parking spaces within the 60% of the lot not occupied by buildings. In no case, shall less than 1-1/3 parking spaces be provided per dwelling lot. (Code 1963, Ch. 9, art. 2, § 8-4 [Ord. No. 70-52, § 3, 8-28-70]; Ord. No. 99-70, § II, 9-14-99; Ord. No. 02-48, § III, 9-24-02)

Sec. 31-250. Screening device requirements.

(a) When property zoned R-3 abuts property zoned for any single-family or two-family use, the property owner shall erect and be responsible for the maintenance of a screening device between such R-3 zoned property and such more restrictively zoned property.

(b) A barrier of stone, brick, pierced brick or block, uniformly colored wood or other permanent material of equal character, density and design, at least six (6) feet in height; provided, any such structure in excess of eight (8) feet in height shall be deemed a wall subject to the provisions of the building code of the city. A lattice weave or material covering over a chain link fence is not a screening device.

(Code 1963, Ch. 9, art. 2, § 8-5 [Ord. No. 74-25, § 1, 5-28-74]; Ord. No. 99-70, § II, 9-14-99)

Secs. 31-251--31-260. Reserved.

DIVISION 9. DISTRICT "R-MP" MOBILE HOME AND TRAVEL TRAILER PARK

Sec. 31-261. Use regulations.

(a) No building or premises in the district "R-MP" mobile home district shall be used and no buildings shall be hereafter erected, reconstructed, altered, or enlarged, nor shall a certificate of occupancy be issued, except for the following uses:

(1) Mobile home, conforming to the current ordinance regulating same, either:

a. As a part of a mobile home park; or
b. Provided, however, that mobile trailer parks in existence on the date of the ordinance from which this section is derived with proper zoning and current mobile trailer park permits shall hereinafter be designated "R-MP" mobile home district. All other mobile trailer parks shall be considered nonconforming.

(2) Accessory buildings and structures incidental to the above uses, including community center, swimming pools, etc.
(3) Installations owned and operated by the city, the county, the state or public utility companies, which installations are necessary for the public safety, governmental services, or the furnishing of utility services to or through the "R-MP" district.

(b) Provided, however, that mobile trailer parks in existence on the date of the ordinance from which this section is derived with proper zoning and current mobile trailer park permits shall hereinafter be designated as "R-MP" mobile home district. All other mobile trailer parks shall be considered nonconforming.
(Code 1963, Ch. 9, art. 2, § 9-1; Ord. No. 96-63, § III, 8-13-96)

Sec. 31-262. Height regulations.

The height regulations for the district "R-MP" mobile home district shall be the same as for the "R-3" district. (Code 1963, Ch. 9, art. 2, § 9-2)

Sec. 31-263. Area regulations.

(a) *Size of yards.* The yards in the district "R-MP" mobile home district shall be as follows:

(1) *Front yard.* The minimum front setback shall be twenty-five (25) feet from front property line of park.
(2) *Rear yard.* The minimum setback shall be ten (10) feet from rear property line of the park, except when such property abuts an R-1 district a minimum of twenty-five (25) feet rear yard shall be provided.
(3) *Side yard.* The minimum side yard setback shall be ten (10) feet from the side property line of the park.

(b) *Size of lots.* The size of lots in the district "R-MP" mobile home district shall be as

provided in chapter 17, article II, division 3 of this code.
(Code 1963, Ch. 9, art. 2, §§ 9-3, 9-4; Ord. No. 96-63, § III, 8-13-96)

Sec. 31-264. Parking regulations.

Off-street parking spaces shall be provided in the district "R-MP" mobile home district in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter. (Code 1963, Ch. 9, art. 2, § 9-5 [Ord. No. 70-52, § 3, 8-28-70]; Ord. No. 96-63, § III, 8-13-96)

DIVISION 9A. "R-MS" MANUFACTURED HOUSING DISTRICT

Sec. 31-265. Application.

The intent of this district is to allow for the construction of a subdivision within the city which is to be developed with manufactured housing exclusively. The subdivision so developed will, in all aspects possible, conform to the criteria of the single family residential district, to include, but not limited to, all necessary public infrastructure, i.e., public streets, sidewalks, public utility and drainage systems. (Ord. No. 96-63, § III, 8-13-96)

Sec. 31-266. Use regulations.

a. No building or premises in the district "R-MS" manufactured housing district shall be used and no buildings shall be hereafter erected, reconstructed, altered, or enlarged, nor shall a certificate of occupancy be issued, except for the following uses:

(1) Manufactured housing, as defined herein, as part of a manufactured home subdivision, for occupancy as a single family home, shown on a subdivision plat approved by the commission and city council and filed for record, designed specifically for and restricted to a manufactured home development.
(2) Installations owned and operated by the city, the county, the state or public utility companies, which installations are necessary for the public safety, governmental services, or the furnishing of utility services to or through the "R-MS" district.

(Ord. No. 96-63, § III, 8-13-96)

Sec. 31-267. Area regulations.

a. *Area requirements*.

(1) *Project size*. All projects for development in this district must contain a minimum of five (5) acres of property. No subdivision proposed for this district may contain less than ten (10) individual lots.

(Ord. No. 96-63, § III, 8-13-96)

Sec. 31-268. Height regulations.

No building in the district "R-MS" manufactured housing district shall exceed thirty-five (35') feet or two and one-half (2½) stories in height. (Ord. No. 96-63, § III, 8-13-96)

Sec. 31-269. Area regulations.

a. *Size of Yards*. The yards in the district "R-MS" manufactured housing district shall be as follows:

(1) *Front Yard*. There shall be front yard having a depth of not less than twenty (20') feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets.
(2) *Rear Yard*. There shall be a rear yard having a depth of not less than twenty (20') feet.
(3) *Side Yard*. Residences located in this district shall have a minimum side yard of seven (7') feet.

b. *Size of Lots*. The size of lots in the district "R-MS" manufactured housing district shall be as follows:

(1) *Lot Width*. The minimum lot width in the district shall be fifty (50') feet.
(2) *Area*. The minimum lot area in this district shall be five thousand (5000') square feet.

(Ord. No. 96-63, § III, 8-13-96)

Sec. 31-270. Siting requirements.

a. All manufactured housing placed in this district shall be permanently placed on a foundation approved and inspected under the provisions of chapter 8 of the city code, with all equipment utilized for moving the manufactured housing being removed from the structure.

b. All manufactured housing placed in this district shall be provided with appropriate skirting and/or foundation shielding as directed in chapter 8 of the city code.

(Ord. No. 96-63, § III, 8-13-96)

Sec. 31-271. Parking regulations.

Off-street parking spaces shall be provided in the district "R-MS" manufactured housing district in accordance with the provisions for the specific use set forth in article V, division 3 of this code. (Ord. No. 96-63, § III, 8-13-96)

Secs. 31-272--31-275. Reserved.

DIVISION 10. DISTRICT "B-1" PROFESSIONAL BUSINESS DISTRICT

Sec. 31-276. Use regulations.

A building or premises in the district "B-1" professional business 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. Dispensing apothecary.
e. Dental laboratory.

(3) Buildings may be used for one (1) or more of the uses prescribed in section 31-276(2) only under the following conditions:

a. The total area of a professional building devoted to any single incidental use shall not exceed fifteen (15) percent of the gross floor area of the building.
b. The total area of a professional building devoted to incidental uses in the aggregate shall not exceed twenty-five (25) percent of the gross floor area of the building.
c. Public access to such incidental uses shall be from the interior of the building.
d. No parking space shall occupy any part of the required front yard, except as provided in section 31-287(a)(1)b.
e. Sign standards for this district shall apply to both primary and incidental uses.
f. 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.
g. 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) All uses allowed in section 31-186, with the exception of one-family dwellings.

(Code 1963, Ch. 9, art. 2, § 10-1; Ord. No. 99-70, § III, 9-14-99; Ord. No. 05-69, § III, 9-13-05; Ord. No. 06-11, § I, 1-24-06)

Sec. 31-277. Height regulations.

The height regulations in the district "B-1" professional business district shall be as required by the Standard Building Code. (Code 1963, Ch. 9, art. 2, § 10-2; Ord. No. 99-70, § III, 9-14-99)

Sec. 31-278. Area regulations.

(a) *Size of yards.* The size of yards in the district "B-1" professional business district shall be as follows:

(1) *Front yard.* There shall be a front yard having a minimum depth of twenty-five (25) feet. No parking, storage or similar use shall be allowed in required front yards in district "B-1," 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. The required side yard setback adjacent to a street shall not be required, provided all of the following conditions are met:

a. The subject property is included in the area of the city of Killeen identified as special parking district "A," described as an area bounded by the innermost rights-of-way or straight line extensions of the rights-of-way of Avenue G, Park Street, Green Avenue and 12th Street. (Ord. No. 82-76).
b. The proposed construction is the rebuilding or repair of an existing structure, the proposed structure is not enlarged beyond the dimensions of the existing foundation, and the proposed structure is to be constructed on the existing building foundation.
c. Any new construction, other than that described in subsection (b) above, shall maintain a side yard setback adjacent to a street not less than the side yard setback provided by the existing structures on the block (greater than or equal to zero (0) feet but less than fifteen (15) feet) in which the subject property is located.
d. Notwithstanding subsections (a) through (c), no construction will be permitted:

i. in conflict with section 28-241, as amended;
ii. in conflict with the city's thoroughfare plan, as amended, in effect at the time of construction; or
iii. which encroaches into the city's right-of-way.

(3) *Rear yard.* No rear yard is required except that a rear yard of not less than ten (10) feet in depth shall be provided upon that portion of a lot abutting or across a rear street from any "R" zoned residential district.

(b) *Size of lot.* There are no limitations to the size of lots in the district "B-1" professional business district.
(Code 1963, Ch. 9, art. 2, § 10-3; Ord. No. 90-95, § I, 9-25-90; Ord. No. 93-102, § IV, 11-9-93; Ord. No. 99-70, § III, 9-14-99; Ord. No. 05-69, § III, 9-13-05)

Sec. 31-279. Parking regulations.

Off-street parking and loading spaces shall be provided in the district "B-1" professional business district in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter. (Code 1963, Ch. 9, art. 2, § 10-4; Ord. No. 99-70, § III, 9-14-99)

Sec. 31-280. Screening device requirements.

(a) *Definition.* For the purposes of this section, the phrase “screening device” shall mean a barrier of stone, brick, pierced brick or block, uniformly colored wood or other permanent material of equal character, density and design, at least six (6) feet in height, provided, any such structure in excess of eight (8) feet in height shall be deemed a wall subject to the provisions of the building code of the city.

(b) *When required.* A screening device shall be erected before any use of the property in “B-1" when such property abuts residentially zoned property. Insofar as it is practical, such screening device shall be erected along the entire length of the common line between such business property and the abutting residentially zoned property. A lattice weave or material covering over a chain link fence is not considered a screening device.

(c) *Responsibility to erect.* When a screening device is required under the terms of this section, it shall be the responsibility of the user of the commercial or industrial property to erect the required screening device, and the same shall be a condition precedent to the issuance of a certificate of occupancy for the premises on which the device is located.

(d) *Maintenance.* All screening devices required by this section or action of the planning commission shall be perpetually maintained by the user of the property on which the device is located.

(e) *Height limited.* No fence or other screening device, whether required or not, shall exceed eight (8) feet in height, without prior approval.
(Code 1963, Ch. 9, art. 2, § 10-6 [Ord. No. 70-52, § 3, 8-28-70]; Ord. No. 99-70, § III, 9-14-99)

Secs. 31-281--31-290. Reserved.

DIVISION 11. DISTRICT “B-2” LOCAL RETAIL DISTRICT

Sec. 31-291. Use regulations.

A building or premises in the district “B-2” local retail district shall be used only for the following purposes:

(1) Any use permitted in district “B-1” or “B-DC.”
(2) Appliance (household) sales.
(3) Bakery shop (retail sales only).
(4) Barbershop, beauty shop, to include permanent cosmetics (licensed per Texas Health and Safety Code, chapter 146, as amended).
(5) Construction field office and yard: on the job site; for duration of construction only.
(6) Cleaning or laundry (pick-up station).
(7) Cleaning or laundry (self-service) using fully automatic equipment, as follows:

    a. Washers, capacity of not more than forty (40) pounds.
    b. Dryers or extractors, capacity of not more than sixty (60) pounds.
    c. Dry cleaning machines.

(8) Custom personal service shops, such as a health studio (to include massage establishments as defined in Texas Occupations Code, section 455, as amended), answering service, typing service, tailor, employment agency, FM piped music, income tax service, letter or mailing service, marriage counselor, secretarial service or shoe repair.
(9) Drugstore or pharmacy.
(10) Electric utility substation.
(11) Florist (retail): retail sales of flowers and small plants. No flower or plant raising or outside display or storage.
(12) Grocery store (drive-in).
(13) Home for the aged.
(14) Registered public surveyor.
(15) Restaurant, coffee shop, or café (no drive-in service).
(16) Retail stores, (other than listed): offering all types of personal consumer goods for retail sales.
(17) Studio for photography, interior decoration, fine arts instruction, or sale of art objects.
(18) Telephone exchange building.
(19) A customarily incidental use.
(20) Drop-in care centers.

(Code 1963, Ch. 9, art. 2, § 10-A-1; Ord. No. 88-115, § II, 12-13-88; Ord. No. 92-20, § II, 5-12-92; Ord. No. 99-70, § IV, 9-14-99; Ord. No. 04-87, § II, 10-19-04)

Sec. 31-292. Height regulations.

The height regulations in the district "B-2" local retail district shall be as required by the Standard Building Code. (Code 1963, Ch. 9, art. 2, § 10-A-2; Ord. No. 99-70, § IV, 9-14-99)

Sec. 31-293. Area regulations.

(a) *Size of yards.* The yards in the district "B-2" local retail district shall be as follows:

(1) *Front yard:* Where all the frontage on both sides of the street between two (2) intersecting streets is located in district "B-2," "B-3," "B-4" or "B-5," no front yard is required. Where the frontage on one (1) side of the street between two (2) intersecting streets is located partly in districts "B-2," "B-3," "B-4" and "B-5," and partly in an "R" district, the front yard shall conform to the "R" district regulations for a distance of not less than three hundred (300) feet from the district boundary. Where a front yard is required along the frontage on one (1) side of a street, the front yard requirements of the property directly opposite on the other side of the street shall not be less than fifteen (15) feet, except that such yard requirements shall not apply where the property in the "R" district backs up to the street. No parking, storage or similar use shall be allowed in required front yards in districts "B-2," "B-3," "B-4" and "B-5," except automobile parking in accordance with off-street parking requirements.
(2) *Side yards:* Same as district "B-1."
(3) *Rear yard.* Same as district "B-1."

(b) *Size of lot.* There are no minimum lot area or width requirements in district "B-2" local retail district.

(c) *Lot coverage.* There are no lot coverage limitations in the district "B-2" local retail district.
(Code 1963, Ch. 9, art. 2, § 10-A-3; Ord. No. 99-70, § IV, 9-14-99; Ord. No. 05-69, § IV, 9-13-05)

Sec. 31-294. Parking regulations.

Off-street parking and loading spaces in the district "B-2" local retail district shall be provided in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter. (Code 1963, Ch. 9, art. 2, § 10-A-4; Ord. No. 99-70, § IV, 9-14-99)

Sec. 31-295. Screening device requirements.

The screening device requirements in the district "B-2" local retail district shall be the same as required in the "B-1" district. (Code 1963, Ch. 9, art. 2, § 10-A-5 [Ord. No. 70-52, § 3, 8-28-70; Ord. No. 86-23, § 4, 4-22-86]; Ord. No. 99-70, § IV, 9-14-99)

Secs. 31-296--31-305. Reserved.

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 drive-in or pick-up service).
(18) Tennis or swim club.

(19) Small animal clinic or pet grooming shop.
(20) Hotel or motel.
(21) Job printing. Not more than seventeen (17) inches by twenty-five (25) inches page size.
(22) Gasoline service station, auto laundry or car wash.
(23) Auto parts sales, new, at retail.
(24) 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.
(25) Theaters of general release.
(26) 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.

(Code 1963, Ch. 9, art. 2, § 10-B-1 [Ord. No. 76-46, § 3, 8-10-76]; Ord. No. 88-115, § III, 12-13-88; Ord. No. 96-80, § III, 11-12-96; Ord. No. 99-29, § II, 4-13-99)

Sec. 31-307. Height regulations.

The height regulations in the district "B-3" local business district shall be the same as district "B-2." (Code 1963, Ch. 9, art. 2, § 10-B-2)

Sec. 31-308. Area regulations.

The area regulations in the district "B-3" local business district shall be the same as district "B-2." (Code 1963, Ch. 9, art. 2, § 10-B-3)

Sec. 31-309. Parking regulations.

Off-street parking and loading spaces in the district "B-3" local business district shall be provided in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter. (Code 1963, Ch. 9, art. 2, § 10-B-4)

Sec. 31-310. Screening device requirements.

The screening device requirements in the district "B-3" local business district shall be the same as required in the "B-1" district. (Code 1963, Ch. 9, art. 2, § 10-B-5 [Ord. No. 70-52, § 3, 8-28-70])

Secs. 31-311--31-320. Reserved.

DIVISION 13. DISTRICT "B-4" BUSINESS DISTRICT

Sec. 31-321. Use regulations.

A building or premises in the district "B-4" business district shall be used only for the following purposes:

(1) Any use permitted in the "B-3" district.

(2) Antique shop.
(3) Secondhand goods store. No outside display, repair or storage.
(4) Auto sales. Where the major business is the showroom display and sale of new automobiles by an authorized dealer and used car sales, repair work and storage facilities on the same premises shall be purely incidental; provided, that the area allowed for the repair and storage of cars shall not be nearer than twenty (20) feet from the required front line of the principal building.
(5) Auto sales. Used cars; no salvage, dismantling or wrecking on premises; no display of vehicles in required front yard.
(6) Commercial parking (public garage or parking lot).
(7) Auto upholstery or muffler shop.
(8) Auto repair (garage).
(9) Cold storage plant (locker rental).
(10) Bakery or confectionery, wholesale.
(11) Bomb shelter (as a principal use).
(12) Building material or lumber sales (no outside storage).
(13) Cleaning, pressing, and dyeing:

a. No direct exterior exhaust from cleaning plant permitted.
b. Dust must be controlled by either bag or filter and separator or precipitator so as to eliminate the exhausting of dust, odor, fumes or noise outside the plant.

(14) Florist, garden shop, greenhouse or nursery (retail).
(15) Ballpark, stadium, athletic field (private).
(16) Wholesale offices.
(17) Lodges or fraternal organizations.
(18) Philanthropic institutions (not elsewhere listed).
(19) Cabinet, upholstery, woodworking shop.
(20) Plumbing, electrical, air conditioning service shop (no outside storage).
(21) Trade or business school.
(22) Sale of beer and/or wine only for off-premises consumption only.
(23) Garment manufacturing in a space of four thousand (4,000) square feet or less, with all loading and unloading off-street.

(Code 1963, Ch. 9, art. 2, § 10-C-1 [Ord. No. 76-46, § 4, 8-10-76; Ord. No. 83-61, 10-11-83])

Sec. 31-322. Height regulations.

The height regulations in the district “B-4” business district shall be the same as district “B-2.” (Code 1963, Ch. 9, art. 2, § 10-C-2)

Sec. 31-323. Area regulations.

The area regulations in the district “B-4” business district shall be the same as district “B-2.” (Code 1963, Ch. 9, art. 2, § 10-C-3)

Sec. 31-324. Parking regulations.

Off-street parking and loading spaces in the district “B-4” business district shall be provided in accordance with the requirements for specific uses set forth in article V, division 3 of this

chapter. (Code 1963, Ch. 9, art. 2, § 10-C-4)

Sec. 31-325. Screening device requirements.

The screening device requirements in the district "B-4" business district shall be the same as required in the "B-1" district. (Code 1963, Ch. 9, art. 2, § 10-C-5 [Ord. No. 70-52, § 3, 8-28-70])

Secs. 31-326--31-335. Reserved.

DIVISION 14. DISTRICT "B-5" BUSINESS DISTRICT

Sec. 31-336. Use regulations.

A building or premises in the district "B-5" business district shall be used only for the following purposes:

(1) Any use permitted in the "B-4" district.
(2) Building material and lumber sales (outside storage permitted).
(3) Storage warehouse. Less than one hundred thousand (100,000) square feet.
(4) Newspaper or job printing.
(5) Railroad or bus passenger terminal.
(6) Tire recapping or retreading.
(7) Trailer rental or sales.
(8) Wholesale house.
(9) Auto parts sales, used. No outside storage, display or dismantling.
(10) A customarily incidental use.
(11) Any commercial use not included in any other district, provided such use is not noxious or offensive because of odors, dust, noise, fumes or vibrations.
(12) Mobile home sales.
(13) Sale of beer, wine and/or all other alcoholic beverages for off-premises consumption only.
(14) Tattooing (as licensed per Texas Health and Safety Code, Chapter 146, as amended).

(Code 1963, Ch. 9, art. 2, § 10-D-1 [Ord. No. 76-46, § 5, 8-10-76]; Ord. No. 88-114, § III, 12-13-88; Ord. No. 99-70, § V, 9-14-99; Ord. No. 04-87, § III, 10-19-04)

Sec. 31-337. Height regulations.

The height regulations in the district "B-5" business district shall be the same as district "B-2." (Code 1963, Ch. 9, art. 2, § 10-D-2; Ord. No. 99-70, § V, 9-14-99)

Sec. 31-338. Area regulations.

(a) *Size of yards.* The yards in the district "B-5" business district shall be as follows:

(1) *Front yard.* Same as district "B-2."
(2) *Side yard.* Same as district "B-2."
(3) *Rear yard.* Same as district "B-2."

(b) *Size of lot.* The size of lots in the district "B-5" business district shall be the same as

district “B-2.”

(c) *Lot coverage.* Lot coverage in the district “B-5” business district shall be the same as district “B-2.”
(Code 1963, Ch. 9, art. 2, § 10-D-3; Ord. No. 99-70, § V, 9-14-99; Ord. No. 05-69, § V, 9-13-05)

Sec. 31-339. Parking regulations.

Off-street parking and loading spaces in the district “B-5” business district shall be provided in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter. (Code 1963, Ch. 9, art. 2, § 10-D-4; Ord. No. 99-70, § V, 9-14-99)

Sec. 31-340. Screening device requirements.

The screening device requirements in the district “B-5” business district shall be the same as required in the “B-1” district. (Code 1963, Ch. 9, art. 2, § 10-D-5 [Ord. No. 70-52, § 3, 8-28-70]; Ord. No. 99-70, § V, 9-14-99)

Secs. 31-341--31-350. Reserved.

DIVISION 15. DISTRICT “B-C-1” GENERAL BUSINESS AND ALCOHOL SALES DISTRICT*

Sec. 31-351. Use regulations.

A building or premises in the “B-C-1” general business and alcohol sales district shall be used only for the following purposes:

(1) Business establishments dispensing alcoholic beverages under the Texas Alcoholic Beverage Code, in accordance with permits issued, and the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, all of which are adopted hereby and made a part hereof for all purposes.
(2) Any uses permitted in a “B-5” district, excluding the sale of beer, wine and/or any other alcoholic beverages for off-premises consumption.
(3) Business establishments dispensing alcoholic beverages 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. New applications for a B-C-1 general business and alcohol sales district zoning shall require the notification of all property owners within one thousand (1,000) feet in all directions of the area for which the B-C-1 zoning is requested, so long as those properties are within the corporate limits of the city of Killeen.

(Code 1963, Ch. 9, art. 2, § 10-E-1 [Ord. No. 76-46, § 7, 8-10-76]; Ord No. 01-57, § II, 11-27-01; Ord No. 05-40, § II, 5-24-05)

Sec. 31-352. Height regulations.

*__Cross reference__–Alcoholic beverages, Ch. 3.

The height regulations in the "B-C-1" general business and alcohol sales district shall be the same as district "B-5." (Code 1963, Ch. 9, art. 2, § 10-E-2; Ord No. 05-40, § II, 5-24-05)

Sec. 31-353. Area regulations.

The area regulations in the "B-C-1" general business and alcohol sales district shall be the same as district "B-5." (Code 1963, Ch. 9, art. 2, § 10-E-3; Ord No. 05-40, § II, 5-24-05)

Sec. 31-354. Parking requirements.

The parking and loading requirements for the "B-C-1" general business and alcohol sales district shall be the same as district "B-5." (Code 1963, Ch. 9, art. 2, § 10-E-4; Ord No. 05-40, § II, 5-24-05)

Sec. 31-355. Screening device requirements.

The screening device requirements for the "B-C-1" general business and alcohol sales district shall be the same as district "B-5." (Code 1963, Ch. 9, art. 2, § 10-E-5 [Ord. No. 70-52, § 3, 8-28-70]; Ord No. 05-40, § II, 5-24-05)

Secs. 31-356--31-380. Reserved.

DIVISION 16. DISTRICT "RC-1" RESTAURANT AND ALCOHOL SALES DISTRICT[*]

Sec. 31-381. Use regulations.

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

(1) 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.
(2) Any commercial, nonresidential use permitted in the "B-3," "B-4," or "B-5" district in which the restaurant is located excluding the sale of beer, wine or any other alcoholic beverages for on-premises consumption, or the operation of a private club under any other provision of this chapter.

(Code 1963, Ch. 9, art. 2, § 10-G-1; Ord. No. 04-87, § IV, 10-19-04)

Sec. 31-382. Supplemental use regulations.

(a) If the property is being used as a restaurant prior to an application for zoning under this division, it must be in a "B-3," "B-4," or "B-5" zoned district as provided by this article, or be operating under section 31-456(9)(a).

(b) During any consecutive twelve-month period, a restaurant in an RC-1 zone must produce at least fifty-one (51) percent of its total revenue, exclusive of tips and gratuities, from the provision of food service. Documentation of this requirement shall be by a certified public accountant or enrolled agent attesting to such fact. At a minimum, an "Independent Accountant's

[*]**Cross reference**–Alcoholic beverages, Ch. 3.

Report" on Applying Agreed-Upon Procedures of such restaurant by a certified public accountant or enrolled agent, showing the income derived from the provision of food service and the provision of liquor service separately, exclusive of tips and gratuities, shall be provided to the city's finance department on or before April fifteenth of each year. 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.

(c) 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.

(d) A request for an extension in order to comply with the reporting requirements of 31-382(b) must be made in writing and received in the city's finance department no later than April 15th. No extension longer than 30 days will be granted.

(e) No restaurant which receives the RC-1 zoning designation will be permitted to dispense any type of alcoholic beverage through any "drive-through" facility or allow any customers to remove from, or bring into, the interior of the premises any kind of alcoholic beverage.

(f) Restaurants zoned RC-1 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.
(Code 1963, Ch. 9, art. 2, § 10-G-2; Ord. No. 04-87, § IV, 10-19-04; Ord No. 05-40, § II, 5-24-05)

Sec. 31-383. Height regulations.

The height regulations in the district "RC-1" restaurant and alcohol sales district shall be the same as district "B-5." (Code 1963, Ch. 9, art. 2, § 10-G-3; Ord. No. 04-87, § IV, 10-19-04)

Sec. 31-384. Area regulations.

The area regulations in the district "RC-1" restaurant and alcohol sales district shall be the same as district "B-5." (Code 1963, Ch. 9, art. 2, § 10-G-4; Ord. No. 04-87, § IV, 10-19-04)

Sec. 31-385. Parking requirements.

The parking regulations for the district "RC-1" restaurant and alcohol sales district shall be the same as district "B-5." (Code 1963, Ch. 9, art. 2, § 10-G-5; Ord. No. 04-87, § IV, 10-19-04)

Sec. 31-386. Screening device requirements.

The screening device requirements in the district "RC-1" restaurant and alcohol sales district shall be the same as district "B-5." (Code 1963, Ch. 9, art. 2, § 10-G-6; Ord. No. 04-87, § IV, 10-

19-04)

Sec. 31-387. Additional requirements and penalties in this district.

(a) A violation of the provisions of this division, as herein defined, shall be subject to sanction as outlined in (b) below. For the purposes of this division, "violation" shall mean:

(1) The failure of any restaurant in this district to allow its books and records to be inspected by the city or to provide documentation of compliance from a certified public accountant or enrolled agent within ten (10) days of a request being made by the city to verify that the provisions of section 31-382(b) are being complied with; or
(2) Failure to obey any other provision of the ordinances of the city or the laws of the state concerning the sale of beer, wine or any other alcoholic beverages; or
(3) Failure to obey any provisions of the ordinances of the city other than those provisions concerning the sale of beer, wine or any other alcoholic beverages; or
(4) Operation of a private club, whether or not any permit or permits from the Texas Alcoholic Beverage Commission have been revoked or suspended.

(b) The city council shall determine, after notice to the parties and a public hearing before the council, whether a violation has occurred, whether the violation was committed by:

(1) The property owner; or
(2) The owner, co-owner, operator or agent or employee of the operator of a restaurant;

and whether the right of the violator to use that restaurant where the violation occurred for the dispensing of alcoholic beverages shall be suspended for a period not to exceed six (6) months or revoked. The property owner and the owner, co-owner and operator of the restaurant shall be notified of the hearing and the grounds of the violation by certified mail, return receipt requested, at least five (5) days before the date of the hearing. Each person notified shall have the right to be heard, either individually or through a representative at such hearing. Any sanction imposed by the city council may be suspended for a period of up to sixty (60) days upon such terms and conditions as the council, in the sound exercise of its discretion, may deem proper.

(c) Any person whose right to use a restaurant for the dispensing of alcoholic beverages is suspended or revoked shall also have revoked or suspended for a like period the right to use any other restaurant for the dispensing of alcoholic beverages which is owned, co-owned or operated by the same person.

(d) No person whose right to use a restaurant for the dispensing of alcoholic beverages is revoked shall be entitled, for a period of one (1) year from the date of revocation, to have any other property in the city zoned RC-1 or B-C-1, or be able to acquire a special use permit for any property under section 31-456(9).

(e) Imposition of a sanction because of the action of the owner, co-owner, operator, agent or employee of a restaurant shall not affect the right of a subsequent tenant to use the premises to dispense alcoholic beverages unless the sanction is also imposed on the property owner.
(Code 1963, Ch. 9, art. 2, § 10-G-7 [Ord. No. 79-3, 1-23-79; Ord. No. 81-48, 9-22-81]; Ord. No. 04-87, § IV, 10-19-04; Ord. No. 05-40, § II, 5-24-05)

Sec. 31-388. Independent accountants' report on applying agreed-upon procedures.

INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES

Report Date

"ABC Client" and City of Killeen

We have performed the procedures enumerated below, which were agreed to by **"ABC Client"** and City of Killeen (the specified parties), solely to assist you with respect to the compliance with the RC-1 zoning designation (Restaurant and Alcohol Sales District) that requires at least 51% of the total revenue, exclusive of tips and gratuities, are from food services of **"ABC Client"** as of the twelve month period ended "**Date"**. **"ABC Client's"** management is responsible for the company's accounting records used for the preparation of the Texas Sales and Use Tax Returns and Texas Mixed Beverage Gross Receipts Tax Report. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purposes.

Our procedures and findings are as follows:

a. We obtained copies of all Texas Sales and Use Tax Returns (food service) for the period specified above. We calculated the total sales from food service for the period in the amount of $_____.
b. We obtained copies of all Texas Mixed Beverage Gross Receipts Tax Reports (alcohol sales) for the period specified above. We calculated the total sales from alcoholic beverages for the period in the amount of $_____.
c. We totaled the amounts in items a. and b. above to calculate total sales from food service and alcoholic beverages.
d. As a result of the calculations above, the sales from food service represent _____% of the total sales of **"ABC Client."**
e. **"ABC Client" "is/is not"** in compliance with the RC-1 zoning designation (Restaurant and Alcohol Sales District) that requires at least 51% of the sales are from food service.

We are not engaged to, and did not; conduct an audit, the objective of which would be the expression of an opinion, on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of **"ABC Client"** and City of Killeen and is not intended to be and should not be used by anyone other than those specified parties.

Firm's signature
(Ord. No. 05-40, § II, 5-24-05)

Secs. 31-389--31-390. Reserved.

DIVISION 17. DISTRICT “HOD” HISTORIC OVERLAY DISTRICT

Sec. 31-391. Definitions.

For the purposes of this division, the following definitions shall apply:

Awning shall mean a shelter projecting from and supported by the exterior wall of a building constructed of rigid and nonrigid materials on a supporting framework.

Auxiliary sign shall mean a sign indicating general information such as credit cards, pricing official notices required by law, directions, shop hours, community services, occupant and profession, and realty information.

Banner shall mean a sign made of cloth, plastic, or light fabric with no enclosing framework. Pennants are considered banners.

Downtown action agenda shall mean the document adopted by city council per resolution 07-023R.

Façade shall mean the entire building front including the parapet.

Ground sign shall mean a billboard or similar type of sign which is supported by one or more uprights, poles or braces in or upon the ground.

Hanging sign shall mean any sign affixed to either an awning or the building.

Historic shall mean properties older than fifty years.

Internally lit sign shall mean a sign with an artificial light source incorporated internally for the purpose of illuminating the sign.

Off-premise sign shall mean a sign visible from any public traveled road or street displaying advertising or other copy that pertains to any business, person, organization, activity, event, place, service, or product not manufactured, sold, or provided on the same premises on which the sign is located. This definition for off-premises signs shall include any sign that does not qualify as an approved on-premises sign.

Parapet shall mean a low protective wall along the edge of the roof.

Poster shall be a sign made of paper or any non rigid material with no enclosing framework.

Projecting sign shall mean a sign other than a wall sign, which projects from and is supported by a wall of a building or structure.

Real estate sign shall mean any sign for which a permit is not required that is used to offer for sale, lease, or rent the property upon which the sign is placed or an off-premises real estate sign that is permitted for a temporary period as outlined in section 31-504 of the city’s zoning

ordinance.

Reflective tinting shall mean any window tinting which demonstrates a reflective quality and impedes clear visibility into a building.

Roof sign shall mean a sign erected upon or above a roof or parapet of a building or structure.

Sign shall mean any letter, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated service, which shall be constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, whatsoever, which is displayed in any manner outdoors.

Sign area shall mean that area being the total square footage of the combined message or display surface. This area does not include structural supports for a sign, whether they be columns, pylons, or a building, or part thereof.

Sign structure shall mean any structure which supports or is capable of supporting a sign.

Temporary sign shall mean any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, metal, or other light materials, not intended for long term use. Banners and posters are temporary signs.

Wall sign shall mean any sign attached to or erected against the wall of a building or structure, with the exposed face in a plane parallel to the plane of the wall as defined in appendix H of the city's adopted building code.

Window covering shall mean any material including, but not limited to, curtains, wood, fabric, cardboard, or paper which impedes visibility and is not intended to be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise, whatsoever, which is affixed in any manner to the window or area surrounding the window.
(Ord. No. 09-024, § II, 3-17-09)

Sec. 31-392. Statement of purpose.

The historic overlay district (HOD) is intended to establish and provide for the protection, preservation, and enhancement of buildings, structures, sites and areas of architectural, historical, archaeological, or cultural importance or value. The HOD is envisioned as a tool to help stabilize and improve property values; to encourage neighborhood conservation; to foster civic pride and past accomplishments; to protect and enhance city attractions for tourists and residents; to strengthen the economy; and to promote the use of historical and cultural landmarks for the general welfare of the community. Additionally, the historic overlay district is intended to help promote the development of a downtown consistent with the community objectives identified in the downtown action agenda.

The following standards or requirements shall apply to the historic overlay district:

A. Any regulations for the HOD shall apply to all properties or structures wholly contained within that district, and to those portions of any property within the district.
B. Because the HOD is an overlay district, the regulations for the underlying zoning district shall remain in effect, except as otherwise provided in the zoning ordinance.
C. In case of any conflict between the regulations applicable in the underlying zoning district, and the regulations of the HOD, the regulations of the HOD will take precedence, even where the applicable regulation may not be a higher standard.
D. The findings adopted by the city council for a historic overlay district shall define the scope of the city's interest in protecting the historic resources in the district and shall provide the guidelines to be used by the heritage preservation officer or heritage preservation board, along with any applicable design guidelines in considering whether to grant or deny an order of design compliance.

(Ord. No. 09-024, § II, 3-17-09)

Sec. 31-393. Overlay district boundary.

The historic overlay district boundary regulations apply to all property located within the historic district as identified in the 2008 historic resources survey and described as:

> Point of beginning intersection of Santa Fe Plaza Drive & 8th Street; thence north 14 deg. 30' 0.60" east 537.46 feet; thence south 76 deg. 9' 7" east 198.66 feet; thence north 13 deg. 56' 53" east 424.30 feet; thence north 76 deg. 3' 17" west 764.08 feet; thence south 15 deg. 7' 45" west 248.06 feet; thence north 75 deg. 43' 33" west 196.48 feet; thence south 14 deg. 10' 31" west 736.10 feet; thence south 75 deg. 30' 5" east 384.33 feet; thence north 13 deg. 13' 32" east 31.89 feet; thence south 75 deg. 43' 59" east 378.61 feet to the point of the beginning.

A map of the area described is available in the city planning office. (Ord. No. 09-024, § II, 3-17-09)

Sec. 31-394. Specific use permit.

The city council by an affirmative majority vote may by ordinance grant a permit for any business land use or any use identified in the "full list" of the Killeen downtown action agenda for a specific parcel in the district and may impose appropriate conditions and safe guards to assure that these land uses are compatible with the character of the district setting and buildings. Permits granted shall be considered permanent provided the property owner remains in continuous compliance with any conditions or safeguards imposed. (Ord. No. 09-024, § II, 3-17-09)

Sec. 31-395. Heritage preservation officer or heritage preservation board (HPB) and order of design compliance.

Except for ordinary maintenance and repair**,** an order of design compliance from the heritage preservation board or the heritage preservation officer is required prior to commencing any alteration or development in the historic overlay district. Ordinary maintenance shall mean repair of any exterior or architectural feature of a landmark or property within the district which does not involve a change to the architectural or historic value, style or general design. Ordinary maintenance shall also include the limited replacement, in kind or with compatible substitute

material, of extensively deteriorated, broken or missing parts of features. (Ord. No. 09-024, § II, 3-17-09)

Sec. 31-396. General guidelines.

When considering an application for an order of design compliance the heritage Preservation officer or heritage preservation board shall be guided by: the Secretary of the Interior's Standards for Treatment of Historic Properties: With Guidelines for Preserving, Rehabilitation, Restoring, & Reconditioning as amended; any adopted design guidelines; and the following minimum standards:

A. Only uses that are compatible with the historic use of the property or that require minimal alteration of the building, structure or site and its environment shall be allowed.
B. The distinguishing original qualities or character of a building, structure, or site and its environment should not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided.
C. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historic basis and which seek to create an earlier appearance shall be discouraged.
D. New or "in-fill" construction shall be compatible with the height, scale, massing, volume, and construction material of the neighboring buildings. All new construction should be compatible with the character of the district setting and buildings.
E. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be maintained and preserved.
F. Deteriorated architectural features are to be repaired rather than replaced, whenever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
G. The surface cleaning of structures shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used.
H. Contemporary design for alterations and additions to existing properties shall be allowed when such alterations and additions do not destroy significant historic, architectural, or cultural material and when such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
I. The heritage preservation officer or heritage preservation board may enforce the provisions of this section at law or at equity.
J. The HPB may develop and the city council may approve such supplemental guidelines as it may find necessary to implement the regulations of the historic overlay district.
K. In case of any conflict between the regulations applicable in this division and any adopted design guidelines for the historic overlay district, the design guidelines of historic overlay district shall take precedence.

(Ord. No. 09-024, § II, 3-17-09)

Sec. 31-397. Height and area regulations.

A. *Height*. Proposed new buildings in the historic overlay district shall not exceed an overall height of thirty-six (36) feet, unless approved by the HPB and the applicant can demonstrate the following:

1. The proposed building or addition shall be compatible with the height, scale, massing and volume reflected in the historic overlay district and shall not conflict with the historic character of the district; and
2. The proposed building shall be a contribution to the aesthetic and economic goals as defined in the downtown action agenda.

B. *Setbacks*. Building setbacks adjacent to public rights-of-way in the historic overlay district shall generally be assumed to be zero feet, or "built to" the right-of-way line. The heritage preservation officer or heritage preservation board shall determine appropriate setbacks in accordance with the Secretary of the Interior's Standards as amended and any adopted design guidelines.
(Ord. No. 09-024, § II, 3-17-09)

Sec. 31-398. Sign guidelines.

All new signs shall be developed with the overall context of the building and the area in mind. Sign materials, location, illumination and size shall be compatible with the architectural features of the building and the distinct character of the district and shall be appropriate to the era in which the building was constructed or the predominant era of neighboring buildings. The HPB may develop and the city council may approve such supplemental sign guidelines as it may find necessary to implement the regulations of the historic overlay district. Unless otherwise stated, permitting requirements established in chapter 31 of the city's zoning ordinance shall be strictly enforced.

A. The following signs shall be prohibited:

1. Signs that eclipse or obstruct significant architectural detail.
2. Off-premises signs.
3. Roof signs.
4. Temporary signs except where provided in this division.
5. Ground signs and detached pole signs except for those erected by the city for traffic control.
6. Real estate signs larger than 18" x 24" in size. One real estate sign is allowed per property, and it must be displayed inside the building's window.
7. Banners except where provided for in this division.
8. Posters.

B. The following temporary signs may be considered:

1. A-frame sandwich boards, signs mounted on easels or free standing frames with sign inserts.

    a. Board signs which are limited to twelve (12) square feet of surface per side and should in no case exceed four (4) feet in height and three (3) feet in width.
    b. A sign mounted on an easel or free standing frame with a sign insert that is

limited to six (6) square feet of surface per side and in no case exceeds five (5) feet in height, three (3) feet in width.

2. Temporary signs and banners may be approved for a period not to exceed ninety (90) days provided that they are limited to a maximum of twenty-four (24) square feet.

3. *Minimum standard*.

    a. A temporary sign when installed should not obscure windows.
    b. In no case will a temporary sign be allowed to substitute as a permanent sign.
    c. All temporary signs must have a permit issued by the permits and inspections department and are subject to review by the heritage preservation officer or heritage preservation board except as provided for in chapter 31 of the city's zoning ordinance.

C. *Location.*

1. Awning signs are allowed when they are painted or applied flat against the surface of the awning tail.
2. Signs may be hung below rigid awnings or porches.
3. Projecting and/or hanging signs are allowed when they have a minimum clearance of nine (9) feet from the sidewalk.
4. The following signs shall be prohibited:

    a. Signs projecting above building facades.
    b. Signs on sidewalks without an order of design compliance.
    c. Signs mounted on top and at the edge of awnings or porches.

D. *Size*.

1. The maximum size for signage on the front of a historic 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.
2. Signs on secondary or side-street frontages should not exceed the size of sign on the primary or entrance frontage, with the exception of historic murals.
3. The size of unframed lettering on buildings or awnings shall be determined by an imaginary square or rectangle that encompasses the sign graphics.
4. Each face of a hanging sign shall be no more that twelve (12) square feet in size.
5. Projecting signs should be no more than twelve (12) square feet in size.
6. Auxiliary signs should be no more that four (4) square feet.
7. All signs should be sized to make walking on sidewalks easily accessible and safe.

E. *Material*.

1. Use of plastic on sign faces is restricted to signs that have an appearance compatible with the historic context of the building and are specifically approved by the heritage preservation officer or heritage preservation board.

2. No fluorescent materials and/or paints are allowed except when the use of such materials is compatible with the historic context of the building and are specifically approved by the heritage preservation officer or heritage preservation board.
3. No reflective materials and/or paints are allowed except for silver or gold leaf.

F. *Lighting*.

1. Internally illuminated signs shall not be allowed unless internally illuminated signs were utilized in the era in which the building was built.
2. Neon is considered a limited special use consideration only applicable to signs for use on buildings constructed after 1920. If the majority of the surrounding buildings are of an earlier era, guidelines for the earlier era will be followed.
3. Prohibited sources of illumination include:

    a. Quartz halogen
    b. Metal halide
    c. Mercury Vapor

G. Sign attachments, including wires, rods, brackets, and other hardware will be compatible to the historic context of the building.

H. *Sign Maintenance*.

1. Signs and sign supports shall be kept in good repair and preserved.
2. Display surfaces of signs shall be kept neatly painted at all times. Painted signs shall be re-painted routinely so as to prevent peeling paint.
3. Electrical components of signs must be protected from exposure to weather at all times unless they are designed for such exposure.
4. Electrical circuits to signs that are no longer in use shall be disconnected at the electrical panel and shall be removed.

(Ord. No. 09-024, § II, 3-17-09)

Sec. 31-399. Windows and window signs.

A. Window signs shall not cover more that twenty (20) 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.

B. Regulations for window signs shall extend back twenty-four inches from the inside of the window surface.

C. Windows may not be covered or obscured with any materials that will impede visibility to include, but not limited to, curtains, wood, fabric, or paper. Horizontal and vertical blinds are permitted provided that they are not closed to a degree that visibility is completely impeded.

D. Tinting shall be allowed as a sun screening device but shall not impede light transmission by more than twenty (20) percent and shall not restrict visibility.

E. Reflective tinting shall be prohibited.
(Ord. No. 09-024, § II, 3-17-09)

Sec. 31-400. Non-conforming.

A. Non-conforming signs, for the purposes of this division, are signs which are legally constructed or placed at the time of the enactment of this division but fail to conform to this division in one or more respects. Nonconforming signs shall be allowed to continue and reasonable maintenance of said signs shall be allowed. The changes in advertising message and/or maintenance and repair upon an existing sign shall not be considered a relocation, replacement or structural alteration.

B. A nonconforming structure may be repaired, used, and maintained in good repair but no such nonconforming structure shall be altered or extended unless the addition or alteration conforms to the provisions of this division.

C. Non-conforming signs shall not be relocated or replaced without being brought into compliance with all requirements of this division. A sign will be considered in need of replacement if the repairs to the sign exceed fifty (50) percent of its valuation, as determined by independent, professionally prepared estimates submitted to the Permits and Inspections Department before any construction takes place.

D. Permits for existing temporary signs that do not comply with the requirements of this division shall not be renewed.

E. A nonconforming sign or sign structure, identifying or advertising any business or activity that ceases to operate on the premises on which the sign is located for a period exceeding twelve (12) months shall thereafter conform to requirements of this division or be removed.

F. Non-conforming window coverings shall be removed or brought up to requirements of this division within twelve (12) months of the adoption of this division.
(Ord. No. 09-024, § II, 3-17-09)

DIVISION 18. DISTRICT “B-DC” BUSINESS DAY CARE DISTRICT

Sec. 31-401. Use regulations.

A building or premises in the district “B-DC” business day care district shall be used only for the following purpose:
(1) Day care center.
(Code 1963, Ch. 9, art. 2, § 10-H-1)

Sec. 31-402. Height regulations.

The height regulations in the district “B-DC” business day care district shall be as required by Standard Building Code. (Code 1963, Ch. 9, art. 2, § 10-H-2)

Sec. 31-403. Area regulations.

The area regulations in the district “B-DC” business day care district shall be the same as district “B-1.” (Code 1963, Ch. 9, art. 2, § 10-H-3)

Sec. 31-404. Parking regulations.

Off-street parking and loading spaces in the district “B-DC” business day care district shall be provided in accordance with the requirements of specific uses set forth in article V, division 3 of this Code. (Code 1963, Ch. 9, art. 2, § 10-H-4)

Sec. 31-405. Screening device requirements.

The screening device requirements for the district “B-DC” business day care district shall be the same as district “B-1.” (Code 1963, Ch. 9, art. 2, § 10-H-5 [Ord. No. 86-23, § 5, 4-22-86])

Secs. 31-406--31-415. Reserved.

DIVISION 19. DISTRICT “M-1” MANUFACTURING DISTRICT

Sec. 31-416. Use regulations.

A building or premises in the district “M-1” manufacturing district shall be used only for the following purposes:

(1) Any use permitted in the “B-5” district, except the sale of beer, wine and/or any other alcoholic beverages for off-premises consumption at retail.
(2) Paper products manufacture.
(3) Wood, paper, plastic container manufacture.
(4) Stone monument works.
(5) Petroleum products wholesale storage.
(6) Processing of chemicals or mineral extractions, not elsewhere classified.
(7) Food processing.
(8) Foundry, forge plant, rolling mill, metal fabrication plant.
(9) Feed mill.
(10) Petroleum or chemical products manufacture (indoors).
(11) Planing mill.
(12) Railroad yard, roundhouse, shop.
(13) Textile or garment manufacture.
(14) Automobile, mobile home, heavy equipment manufacture.
(15) Electroplating.
(16) Sewage treatment plant.
(17) Electrical equipment or appliance manufacture (large).
(18) Furniture, cabinet, kitchen equipment manufacture.
(19) Oil well tools, oil well equipment manufacture.
(20) Aircraft, aircraft hardware or parts manufacture.
(21) A customarily incidental use: The sale of beer, wine and/or alcoholic beverages at retail shall not be considered a customarily incidental use in this district.

(Code 1963, Ch. 9, art. 2, § 11-1 [Ord. No. 76-46, § 9, 8-10-76])

Sec. 31-417. Height regulations.

The height regulations for the district "M-1" manufacturing district shall be the same as district "B-2."
(Code 1963, Ch. 9, art. 2, § 11-2; Ord. No. 05-69, § VI, 9-13-05)

Sec. 31-418. Area regulations.

(a) *Size of yards.* The size of yards in the district "M-1" manufacturing district shall be as follows:

(1) *Front yard.* Where none of the frontage on either side of the street between two (2) intersecting streets is located in an "R" district, no front yard is required. Where the frontage on one (1) side of the street between two (2) intersecting streets is located partly in district "M-1" and partly in an "R" district, the front yard shall conform to the "R" district regulations for a distance of not less than three hundred (300) feet from the district boundary. Where a front yard is required along the frontage on one (1) side of a street, the front yard requirements of the property directly opposite on the other side of the street shall be not less than twenty-five (25) feet. No parking, storage or similar use shall be allowed in required front yards in district "M-1."
(2) *Side yards.* No side yard is required except that a side yard or a side street yard of not less than twenty-five (25) feet in width shall be provided on the side of the lot adjoining or across a side street from an "R" district. No parking, storage or similar use shall be allowed in required side yards or side street yards in district "M-1."
(3) *Rear yards.* No rear yard is required except that a rear yard of not less than fifty (50) feet in depth shall be provided upon that portion of a lot abutting or across a rear street from an "R" district, except that such yard requirement shall not apply where the property in the "R" district also backs up to the rear street. No parking, storage or similar use shall be allowed in required rear yards in district "M-1" within twenty-five (25) feet of the rear property line.

(b) *Size of lot.* The size of lots in the district "M-1" manufacturing district shall be the same as district "B-2."

(c) *Lot coverage.* Lot coverage in the district "M-1" manufacturing district shall be the same as district "B-2."
(Code 1963, Ch. 9, art. 2, § 11-3; Ord. No. 05-69, § VI, 9-13-05)

Sec. 31-419. Parking regulations.

The off-street parking and loading spaces in the district "M-1" manufacturing district shall be provided in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter. (Code 1963, Ch. 9, art. 2, § 11-4)

Sec. 31-420. Screening device requirements.

The screening device requirements in the district “M-1” manufacturing district shall be the same as district “B-1.” (Code 1963, Ch. 9, art. 2, § 11-5 [Ord. No. 70-52, § 3, 8-28-70])

Secs. 31-421--31-430. Reserved.

DIVISION 20. DISTRICT “M-2” HEAVY MANUFACTURING DISTRICT

Sec. 31-431. Use regulations.

A building or premises in the district “M-2” heavy manufacturing district shall be used for the following purposes:

(1) Any use permitted in the “M-1” district.
(2) Grain elevator.
(3) Flour mill.
(4) Yeast plant.
(5) Petroleum or chemical products bulk storage.
(6) Planing mill.
(7) Clay products manufacture.
(8) Galvanizing, hot-dip metal process.
(9) Any building or premises may be used for any purpose not now or hereafter prohibited by any provision of law; provided, however, that no building shall be erected, reconstructed, or structurally altered for residential purposes, except for resident watchmen and caretakers employed on the premises; and provided further that no building or occupancy permit shall be issued for any of the following uses until and unless the location of such use shall have been approved by the board of adjustment.

    The board of adjustment shall consider the application and request the advice and recommendation of the fire marshal and the director of public health or other person discharging the duties of health officer of the city.

    If the board finds that the location desired and the use requested will not be dangerous to the health, safety and public welfare of the city in general and the surrounding neighborhood in particular, it shall approve the application. If, on the other hand, the board finds that the location desired and the use requested will gravely endanger the safety of the city and the surrounding neighborhood by reason of fire or explosion or that the use desired at such location will seriously affect the health, welfare and comfort of the city and the surrounding neighborhood by reason of the emission of foul, offensive odors and gases or the discharge of smoke or dust, it may deny the application for approval of the use at that location.

    a. Cotton or cottonseed processing or storage.
    b. Paper manufacture.
    c. Poultry raising or processing.
    d. Stockyards, feed pens, livestock sales with barns and/or shipping facilities.
    e. Slaughter of animals or meat packing.
    f. Boiler works.
    g. Fireworks and munitions manufacture or storage.
    h. Fertilizer manufacture.

i. Salvage or reclamation of products (outside).
j. Stone, sand gravel or mineral extraction.
k. Auto wrecking or salvage yard, in conformance with current ordinance regulating same.

(10) No use allowed in this district shall be construed to include the sale of beer, wine and/or any other alcoholic beverages at retail.

(Code 1963, Ch. 9, art. 2, § 12-1 [Ord. No. 76-46, § 10, 8-10-76; Ord. No. 77-15, § 1, 3-8-77]; Ord. No. 04-87, § V, 10-19-04)

Sec. 31-432. Height regulations.

The height regulations in the district "M-2" heavy manufacturing district shall be the same as district "M-1." (Code 1963, Ch. 9, art. 2, § 12-2)

Sec. 31-433. Area regulations.

(a) *Size of yards.* The size of yards in the district "M-2" heavy manufacturing district shall be as follows:

(1) *Front yard.* Where none of the frontage on either side of the street between two (2) intersecting streets is located in an "R" or "B" district, no front yard is required. Where the frontage on one (1) side of the street between two (2) intersecting streets is located partly in district "M-2" and partly in an "R" district, the front yard shall conform to the "R" district regulations for a distance of not less than three hundred (300) feet from the district boundary. Where the frontage on one (1) side of a street is in an "R" or "B" district, the front yard requirements of the property directly opposite on the other side of the street shall be not less than fifty (50) feet. No parking, storage or similar use shall be allowed in required front yards in district "M-2" within twenty-five (25) feet of the street line.
(2) *Side yards.* No side yard is required except that a side yard or a side street yard of not less than fifty (50) feet in width shall be provided on the side of the lot adjoining or across the street from an "R" or "B" district. No parking, storage or similar use shall be allowed in required side yards in district "M-2" within twenty-five (25) feet of the side property line.
(3) *Rear yards.* No rear yard is required except that a rear yard of not less than fifty (50) feet in depth shall be provided upon that portion of a lot abutting or across a rear street from an "R" or "B" district. No parking, storage or similar use shall be allowed in required rear yards in district "M-2" within twenty-five (25) feet of the rear property line.

(b) *Size of lot.* The size of lots in the district "M-2" heavy manufacturing district shall be the same as district "B-2."

(c) *Lot coverage.* Lot coverage in the district "M-2" heavy manufacturing district shall be the same as district "B-2."

(Code 1963, Ch. 9, art. 2, § 12-3; Ord. No. 05-69, § VII, 9-13-05)

Sec. 31-434. Parking regulations.

Off-street parking and loading spaces in the district "M-2" heavy manufacturing district shall be provided in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter. (Code 1963, Ch. 9, art. 2, § 12-4)

Sec. 31-435. Screening device requirement.

The screening device requirements in the district "M-2" heavy manufacturing district shall be the same as district "B-1." (Code 1963, Ch. 9, art. 2, § 12-5 [Ord. No. 70-52, § 3, 8-28-70])

Secs. 31-436--31-438. Reserved.

DIVISION 21. DISTRICT "UOD" UNIVERSITY OVERLAY DISTRICT

Sec. 31-439. Overlay district boundary.

The university overlay 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: north of the State Highway 201 right-of-way for a distance of approximately sixty-six hundred (6,600) feet west of the intersection of State Highway 201 and State Highway 195; west and east of the State Highway 195 right-of-way for a distance of approximately fifteen hundred (1,500) feet north of the intersection of State Highway 195 and State Highway 201; and, east of the State Highway 195 right-of-way for a distance of approximately seventy-six hundred (7,600) feet south of the intersection of State Highway 195 and State Highway 201. (Ord. No. 06-48, § II, 5-9-06)

Sec. 31-440. Use regulations.

(a) Building on premises in "UOD" 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. Dispensing apothecary.
e. Dental laboratory.

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

a. The total area of a professional building devoted to any single incidental use shall not exceed fifteen (15) percent of the gross floor area of the building.
b. The total area of a professional building devoted to incidental uses in the aggregate shall not exceed twenty-five (25) percent of the gross floor area of the building.
c. Public access to such incidental uses shall be from the interior of the building.
d. No parking space shall occupy any part of the required front yard, except as provided in section 31-287 (a)(1)b.
e. Sign standards for this district shall apply to both primary and incidental uses.
f. 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.
g. 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) Cleaning or laundry (pick-up station only).
(11) Drugstore or pharmacy.
(12) Florist (retail) retail sales of flowers and small plants. No flower or plant raising or outside display or storage.
(13) Restaurant, coffee shop, or cafe (no dine-in/dine thru service).
(14) Bank, savings and loan or other financial institution.
(15) All structures within this district shall be constructed with 80% stone, brick or stucco veneer having a limestone front facade. No metal siding shall be visible from curbs.
(16) No off-premises signs shall be permitted in this district. On-premises signs are restricted to one sign per lot. The permitted sign shall be set back 10 feet from the property line, shall not exceed 10 feet in height and the face shall not exceed 100 square feet and the sign shall be constructed of limestone masonry material to match the building facade.

(Ord. No. 06-48, § II, 5-9-06)

Sec. 31-441. Specific use permit.

The city council by an affirmative majority vote may by ordinance grant a permit 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 future four-year university. Permits granted shall be

considered permanent provided the property owner remains in continuous compliance with any conditions or safeguards imposed. (Ord. No. 06-48, § II, 5-9-06)

Sec. 31-442. Height and area regulations.

(a) No building or structure in district "UOD" university overlay district shall exceed thirty-five (35) feet in height.

(b) *Size of yards*. The size of yards in the district "UOD" university overlay 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 "UOD," 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.

(c) *Size of lot*. There are no limitations to the size of lots in the district "UOD" professional business district.
(Ord. No. 06-48, § II, 5-9-06)

Sec. 31-443. Parking and screening device requirements.

(a) Off-street parking and loading spaces shall be provided in the district "UOD" university overlay 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 "UOD" university overlay district shall be the same as required in the "B-1" district.
(Ord. No. 06-48, § II, 5-9-06)

Secs. 31-444--31-447. Reserved.

DIVISION 22. DISTRICT "COD" CEMETERY OVERLAY DISTRICT

Sec. 31-448. Overlay district boundary.

The cemetery overlay 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. (Ord. No. 06-48, § III, 5-9-06)

Sec. 31-449. Use regulations.

(a) Building on premises in "COD" 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. Dispensing apothecary.
e. Dental laboratory.

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

a. The total area of a professional building devoted to any single incidental use shall not exceed fifteen (15) percent of the gross floor area of the building.
b. The total area of a professional building devoted to incidental uses in the aggregate shall not exceed twenty-five (25) percent of the gross floor area of the building.
c. Public access to such incidental uses shall be from the interior of the building.
d. No parking space shall occupy any part of the required front yard, except as provided in section 31-287 (a)(1)b.
e. Sign standards for this district shall apply to both primary and incidental uses.
f. 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.
g. 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)All structures within this district shall be constructed with 80% stone, brick or stucco veneer having a limestone front facade. No metal siding shall be visible from curbs.
(14) No off-premises signs shall be permitted in this district. On-premises signs are restricted to one sign per lot. The permitted sign shall be set back 10 feet from the property line, shall not exceed 10 feet in height and the face shall not exceed 100 square feet and the sign shall be constructed of limestone masonry material to match the building facade.

(Ord. No. 06-48, § III, 5-9-06)

Sec. 31-450. Specific use permit.

The city council by an affirmative majority vote may by ordinance grant a permit 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. 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)

Sec. 31-451. Height and area regulations.

(a) No building or structure in district "COD" cemetery overlay district shall exceed thirty-five (35) feet in height.

(b) *Size of yards*. The size of yards in the district "COD" cemetery overlay 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 "COD," 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.

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

(Ord. No. 06-48, § III, 5-9-06)

Sec. 31-452. Parking and screening device requirements.

(a) Off-street parking and loading spaces shall be provided in the district "COD" cemetery overlay 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 "COD" cemetery overlay district shall be the same as required in the "B-1" district.
(Ord. No. 06-48, § III, 5-9-06)
Secs. 31-453--31-455. Reserved.

ARTICLE V. SUPPLEMENTAL REGULATIONS

DIVISION 1. GENERALLY

Sec. 31-456. Special use permit.

(a) The city council, by an affirmative three-fourths vote, may by ordinance grant a special use permit for the following uses in any district, except as herein qualified, for which they are otherwise prohibited by this chapter, and may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood:

(1) Airport, landing field, or landing strip for aircraft.
(2) Amusement park, but not within three hundred (300) feet of any "R" district.
(3) Circus for carnival grounds, but not within three hundred (300) feet of any "R" district.
(4) Commercial, recreational or amusement development for temporary or seasonal periods.
(5) Hospital, clinic or institution, provided that any hospital or institution permitted in any "R-1," "R1-A" or "R-2" district shall be located on a site of not less than five (5) acres, shall not occupy more than ten (10) percent of the total lot area and shall be set back from all property lines at least two (2) feet for each foot of building height.
(6) Office building of a civic, religious or charitable organization, conducting activities primarily by mail and not handling merchandise or rendering services on the premises, but only within the "R-3" district.
(7) Privately operated community building or recreation field.
(8) Mobile home:

    a. Not more than one (1) mobile home per ten (10) acres or more of land in any unplatted residentially zoned district.
    b. Not more than one (1) mobile home per one (1) acre or more for any commercially or industrially zoned district.
    c. A six-foot screening device may be required when it is determined that the desired location of the mobile home may be objectionable to any adjoining property owners.

(9) The sale of beer, wine and/or any other alcoholic beverages for on-premises consumption shall be permitted in locations further than 300 feet from a church, public or private school, or public or private hospital (measured as prescribed by the Texas Alcoholic Beverage Code § 109.33, as amended) in the following situations

only:

a. Restaurants:

1. The restaurant must be located in a “B-3,” “B-4,” or “B-5” zoning district; and
2. During any consecutive four-month period, a restaurant receiving such a permit must do at least fifty-one (51) percent of its total gross sales volume, exclusive of tips and/or gratuities, in the provision of food service. Documentation of this requirement must be by a certified public accountant or enrolled agent attesting to such fact, under the guidelines established in section 31-382; and
3. No permit shall be allowed for the sale of beer, wine and/or alcoholic beverages for on-premises consumption at a restaurant that serves food to customers in motor vehicles; and
4. It shall be a violation of this chapter for a restaurant to sell beer, wine and/or alcoholic beverages for on-premises consumption when not in the proper zoning district for such use, or in the alternative, without the special use permit available herein; and
5. The failure of any restaurant, having a special use permit to sell for on-premises consumption, beer, wine and/or alcoholic beverages, to allow its books to be inspected by the city or to provide the documentation of compliance from a certified public accountant within ten (10) days of a request being made by the city to verify that the provisions of paragraph 2 above are being complied with, as well as the failure to obey any other provision of the ordinances of the city or the laws of the state, concerning the sale of beer, wine and/or alcoholic beverages, whether or not any permits issued by the Texas Alcoholic Beverage Commission have been revoked or suspended, shall result in the immediate revocation of any permit granted to a restaurant under the provisions herein specified; and
6. Anyone operating a restaurant business having such a permit, whether the applicant or not, must comply with the provisions herein to keep such permit in force; and
7. The failure of any person who operates a restaurant under a permit granted herein to abide by the provisions of this chapter shall be a sufficient ground in and of itself to deny such a permit to any such person operating or who will be operating a restaurant for which any future permit is, or will be, sought.

b. Hotels and motels:
1. The hotel or motel must be in a “B-3,” “B-4,” or “B-5” zoning district; and
2. There will be no cash bar allowed in a hotel or motel operating under a permit granted for this special use and all beer, wine and/or alcoholic beverages sold in such a hotel or motel shall be charged to the room of a registered guest; and
3. Any person who purchases beer, wine and/or an alcoholic beverage at a motel or hotel operating under a permit granted herein, shall also be required to pay for one (1) night’s lodging; and
4. Documentation of the requirements for the keeping of this permit may be by affidavit of a certified public accountant attesting to such fact or by presentation to the city of all records and books of the business for examination. No more than four (4) requests for such documentation shall be

made by any hotel or motel during any calendar year by the city, unless good cause is shown as determined by the city council in a hearing before the council requested by the city manager asking that a hotel or motel provide the city with the documentation requested herein on more than four (4) occasions during one (1) calendar year; and

5. It shall be a violation of this chapter for a hotel or motel to sell beer, wine and/or alcoholic beverages for on-premises consumption when not in the proper zoning district for such use, or in the alternative, without the special use permit available herein; and
6. The failure of any hotel or motel, having a special use permit to sell for on-premises consumption, beer, wine and/or alcoholic beverages, to allow its books to be inspected by the city or to provide the affidavit of compliance from a certified public accountant within ten (10) days of a request being made by the city to verify that the provisions of 3. above are being complied with, as well as the failure to obey any other provision of the ordinances of the city or the laws of the state, concerning the sale of beer, wine and/or alcoholic beverages, whether or not any permits issued by the Texas Alcoholic Beverage Commission have been revoked or suspended, shall result in the immediate revocation of any permit granted to a hotel or motel under the provisions herein specified; and
7. Anyone operating a hotel or motel business having such a permit, whether the applicant or not, must comply with the provisions herein to keep such permit in force; and
8. The failure of any person who operates a hotel or motel under a permit granted herein to abide by the provisions of this chapter shall be a sufficient ground in and of itself to deny such a permit to any such person operating or who will be operating a hotel or motel for which any future permit is, or will be, sought.

c. Country clubs:

1. A country club may operate in any zoning district except “M-1” or “M-2” zoning districts; and
2. A country club must be a minimum ten-acre site to qualify for a permit to sell beer, wine and/or alcoholic beverages on-premises; and
3. No more than twenty-five (25) percent of the total floor area of any building may be utilized for the exclusive sale of alcoholic beverages; and
4. No country club selling alcoholic beverages shall operate a cash bar and the sale of all beer, wine and/or alcoholic beverages at a country club operating under a permit granted for the sale of beer, wine and/or alcoholic beverages as a special use shall be charged to a member’s account and paid on the basis of a monthly statement; and
5. Documentation of the requirements for the keeping of this permit may be by affidavit of a certified public accountant attesting to such fact or by presentation to the city of all records and books of the business for examination. No more than four (4) requests for such documentation shall be made of any country club during any calendar year by the city, unless good cause is shown as determined by the city council in a hearing before the council requested by the city manager asking that a country club provide the

city with the documentation requested herein on more than four (4) occasions during one (1) calendar year; and

6. It shall be a violation of this chapter for a country club to sell beer, wine and/or alcoholic beverages for on-premises consumption when not in the proper zoning district for such use, or in the alternative, without the special use permit available herein; and
7. The failure of any country club, having a special use permit to sell for on-premises consumption, beer, wine and/or alcoholic beverages, to allow its books to be inspected by the city or to provide the affidavit of compliance from a certified public accountant within ten (10) days of a request being made by the city to verify that the provisions of 5. above are being complied with, as well as the failure to obey any other provision of the ordinances of the city or the laws of the state, concerning the sale of beer, wine and/or alcoholic beverages, whether or not any permits issued by the Texas Alcoholic Beverage Commission have been revoked or suspended, shall result in the immediate revocation of any permit granted to a country club under the provisions herein specified; and
8. Anyone operating a country club having such a permit, whether the applicant or not, must comply with the provisions herein to keep such permit in force; and
9. The failure of any person who operates a country club under a permit granted herein to abide by the provisions of this chapter shall be a sufficient ground in and of itself to deny such a permit to any such person operating or who will be operating a country club for which any future permit is, or will be, sought.

(10) Commercial or private kennels in district “A” agricultural district.
(11) Any commercial use not included in any district that has the potential to be noxious or offensive because of odors, dust, noise, fumes or vibrations shall be permitted in district B-5 only with a special use permit granted under the provisions of this section.
(12) Temporary storage of impound vehicles or vehicles awaiting repair or dismantling, provided there is no dismantling on the premises.

(b) Before authorization of any of the above special uses, the request therefor shall be referred to the planning and zoning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood. A public hearing shall be held in relation thereto before the city council, notice and publication of the time and place for which shall conform to the procedure prescribed in section 31-39(c) for hearings on amendments.
(Code 1963, Ch. 9, art. 2, § 15-1; Ord. No. 88-114, § IV, 12-13-88; Ord. No. 88-115, § IV, 12-13-88; Ord. No. 93-102, § V, 11-9-93; Ord. No. 97-63, § I, 11-25-97; Ord. No. 99-47, § III, 6-8-99; Ord. No. 00-52, § I, 6-27-00; Ord. No. 04-87, §§ VI-VII, 10-19-04; Ord. No. 05-40, § III, 5-24-05)

Sec. 31-457. Garden apartment projects.

(a) The owner or owners of a tract of land in district “R-3” may submit to the city planning commission a plan for the use and development of the tract of land for residential purposes. If the commission approves the development plan, the plan, together with the recommendations of the

commission, shall then be submitted to the city council for consideration and approval. The recommendations of the commission shall be accompanied by a report stating the reasons for approval of the application and that the plan conforms to the requirements of district "R-3" as to:

(1) Height and yard requirements for buildings along boundary streets.
(2) Lot area per family, exclusive of streets.

(b) Subject to the above, variations in yard requirements and in the number of main buildings per lot may be permitted. If the council approves the plan, building permits may be issued, even though the location of buildings to be erected in the area and the yard and open spaces contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located. The purpose of this provision is to make possible the development of garden-type multifamily projects, in accordance with the intent and purpose of this chapter.
(Code 1963, Ch. 9, art. 2, § 15-3; Ord. No. 05-101, § II, 10-25-05)

Secs. 31-458--31-470. Reserved.

DIVISION 2. HEIGHT AND AREA EXCEPTIONS AND MODIFICATIONS

Sec. 31-471. Height.

(a) The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyors, flagpoles, electric display signs and necessary mechanical appurtenances.

(b) Public or semi-public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty (60) feet and churches and other places of worship may be erected to a height not exceeding seventy-five (75) feet when each of the required yards are increased by one (1) foot for each foot of additional building height above the height regulations for the district in which the building is located.

(c) No structure may be erected to a height in excess of that permitted by the regulations of such airfield zoning ordinance as may exist at the time and whose regulations apply to the area in which the structure is being erected.
(Code 1963, Ch. 9, art. 2, § 14-1)

Sec. 31-472. Front yards.

(a) Where twenty-five (25) percent or more of the frontage upon the same side of a street between two (2) intersecting streets is occupied or partially occupied by a building or buildings with front yards of less depth than required by this chapter, or where the configuration of the ground is such that conformity with the front yard provisions of this chapter would work a hardship, the board of adjustment may permit modifications of the front yard requirements.

(b) In districts "R-1," "R1-A," "R-2" or "R-3," where twenty-five (25) percent or more of the frontage upon the same side of a street between intersecting streets is occupied or partially occupied by a building or buildings having front yards of greater depth than is required by this chapter, no other lot upon the same side of such street between such intersecting streets shall be

occupied by a building with a front yard of less than the least depth of any such existing front yards, unless by permission of the board of adjustment.

(c) Open and unenclosed terraces or porches and eaves and roof extensions may project into the required front yard for a distance not to exceed four (4) feet; provided, however that no supporting structure for such extensions may be located within the required front yard. An unenclosed canopy for a gasoline filling station may extend beyond the building line but shall never be closer to the property line than twelve (12) feet. The building line of a gasoline filling station shall mean the actual wall of the building and shall not be interpreted as being the curb of a walk or driveway or as the front of a canopy or the columns supporting same.

(d) Where an official line has been established for future widening or opening of a street upon which a lot abuts, then the width of a front or side yard shall be measured from such official line to the nearest line of the building.
(Code 1963, Ch. 9, art. 2, § 14-2; Ord. No. 93-102, § VI, 11-9-93)

Sec. 31-473. Side yards.

(a) On a corner lot the width of the yard along the side street shall not be less than any required front yard on the same side of such street between intersecting streets; provided, however, that the buildable width of a lot of record shall not be reduced to less than thirty (30) feet.

(b) No accessory building shall project beyond a required yard line along any street.

(c) For the purpose of side yard regulations, a two-family dwelling or multifamily dwelling shall be considered as one (1) building occupying one (1) lot.

(d) Where a lot of record at the time of the effective date of the ordinance from which this section is derived is less than fifty (50) feet in width the required side yard may be reduced to provide a minimum buildable width of thirty (30) feet; provided, however, that no side yard shall be less than five (5) feet.

(e) The area required in a yard shall be open to the sky, unobstructed except for the ordinary projections of windowsills, belt courses, cornices or other ornamental features.

(f) A roof overhang, an open fire escape or an outside stairway may project not more than three (3) feet into a required side yard, but no closer than three (3) feet to a property line.
(Code 1963, Ch. 9, art. 2, § 14-3)

Sec. 31-474. Rear yards.

An accessory building not exceeding twenty (20) feet in height may occupy not to exceed twenty-five (25) percent and unenclosed parking spaces not to exceed eighty (80) percent, of the area of a required rear yard, but no accessory building shall be closer than ten (10) feet to the main building nor closer than five (5) feet to any rear or side lot lines. (Code 1963, Ch. 9, art. 2, § 14-4 [Ord. No. 83-37, § 1, 6-28-83])

Secs. 31-475--31-485. Reserved.

DIVISION 3. OFF-STREET PARKING AND LOADING

Sec. 31-486. Purposes.

To secure safety from fire, panic and other dangers; to lessen congestion in the streets; to facilitate the adequate provisions of transportation; to conserve the value of buildings; and to encourage the most appropriate use of land, minimum off-street parking and loading areas shall be provided as set forth in the following schedules and provisions. (Code 1963, Ch. 9, art. 2, § 13-1)

Sec. 31-487. General provisions.

(a) Parking spaces and loading berths required in this division, together with aisles and maneuvering area, shall have an all-weather surfacing, enclosed or unenclosed, and shall be connected by an all-weather surfaced driveway to a street or alley.

(b) In determining the required number of parking spaces, fractional spaces shall be counted to the nearest whole space. Parking spaces located in buildings used for repair garages or auto laundries shall not be counted as meeting the required minimum parking.

(c) The floor area of structures devoted to off-street parking of vehicles shall be excluded in computing the floor area for off-street parking requirements.

(d) Where a lot or tract of land is used for a combination of uses, the off-street parking requirements shall be the composite or sum of the requirements for each type of use and no off-street parking space provided for one (1) type of use or building shall be included in calculation of the off-street parking requirements for any other use or building.

(e) Off-street parking. The following provisions shall apply to all parking adjacent to a public thoroughfare:

(1) Parking spaces so situated that the maneuverings of a vehicle in entering or leaving such spaces is done on a public street shall not be classified as off-street parking in computing any parking requirements herein, except in “R-1,” “R1-A,” “RM-1,” “R-2,” “RT-1,” “R-MP,” and “R-MS” uses.
(2) The construction of parking as described in (1) above shall be prohibited hereafter. All such parking facilities in existence at the time of the enactment of this section are hereby declared to be a nonconforming use of land subject to the provisions of section 16 of the 1963 zoning ordinance, which are hereby declared a part of this section as if contained herein.

(f) No off-street parking space shall be located, either in whole or in part, in a public street or sidewalk, parkway, alley or other public right-of-way. Maneuvering areas located adjacent to a public street shall be computed from the curb line of the street. Sidewalk areas shall be a minimum of four (4) feet wide and shall be permanently designated. All sidewalks shall be located on public property.

(g) No off-street parking or loading space shall be located, either in whole or in part, within any fire lane required by ordinance of the city or within aisles, driveways or maneuvering areas

necessary to provide reasonable access to any parking space, except in “R-1” and “R-2” districts.

(h) No required off-street parking or loading space shall be used for sales, nonvehicular storage, repair or service activities.

(i) Lighting facilities, when provided for the purposes of providing safety and convenience for the patrons and employees of the businesses requiring lighting, shall be so arranged as to be reflected away from property zoned or used for residential purposes.

(j) On required parking lots provided for thirty (30) cars or more, excluding section 31-489, subsection (1)a. through g., there shall be provided, for an uncovered parking area, sufficient lighting to provide a minimum of one (1) footcandle of light on the surface of the parking lot at any location, and a minimum of five (5) footcandles of lighting on the parking surface of a covered parking facility. (Reference: Illuminating Engineering Society Handbook, section 14)

(k) The minimum time of operation of the required lighting shall be between the hours of sundown and one (1) hour past the posted hours of operation of the business.
(Code 1963, Ch. 9, art. 2, § 13-2 [Ord. No. 70-69, 12-14-70]; Ord. No. 92-81, § I, 11-10-92; Ord. No. 93-102, § VII, 11-9-93; Ord. No. 96-63, § IV, 8-13-96; Ord. No. 06-48, § IV, 5-9-06)

Sec. 31-488. Minimum off-street parking standards.

In all districts there shall be provided, in connection with appropriate permitted uses, off-street vehicle parking spaces in accordance with the following requirements:

(1) In any district, there shall be provided on each single-family residential lot two (2) vehicle parking spaces of not less than one hundred eighty (180) square feet each, open or enclosed.
(2) In all districts where such use is permitted, there shall be provided on any lot devoted to multifamily residential use parking spaces of not less than one hundred eighty (180) square feet, as provided in section 31-489.
(3) Required off-street parking for residential uses shall be provided on the lot or tract occupied by the principal use, except in townhouse subdivisions (“RT-1”), where one (1) of the required spaces may be within one hundred (100) feet of each lot or tract.
(4) Required off-street parking for permitted nonresidential uses in the “R” district and for permitted uses in all other districts shall be provided on the lot or tract occupied by the principal use or upon a lot or tract under the same ownership in fee simple or under a perpetual easement which commits the land for parking for the use, building or structure. Such off-premises parking shall be consolidated under a single certificate of occupancy with the principal use. Such parking facility shall be located in the same zoning district as the principal use; provided, that the zoning board of adjustment may permit a parking facility, as a special exception, under such regulations and conditions as the board may deem advisable, when:

    a. The proposed parking facility is on a site within three hundred (300) feet of the principal use property; and
    b. The principal use is located in an “R” district and the proposed parking facility is located in one (1) of such districts; or
    c. The principal use is located in a “B-3” or less restrictive district and the proposed

parking facility is located in one (1) of such districts.

In the granting of such special exception, the board shall approve the location of entrances and exits to parking areas, and may require screening devices along parking area boundaries.

(5) In all districts where such use is permitted, there shall be provided for nonresidential use, parking spaces of not less than one hundred eighty (180) square feet, as provided in section 31-489, except on property zoned "BL-1" parking spaces shall be two hundred forty (240) square feet or twenty (20) feet by twelve (12) feet. Such parking spaces shall be striped or otherwise clearly designated on the parking surface, and shall not include any fire lane or other area necessary for aisles or maneuvering of vehicles.
(6) No publicly owned property may be considered by the owner of any private property in determining whether or not his property meets the parking and loading requirements of this chapter.
(7) No entrance or exit to any parking facility for any property in zoning district "BL-1" shall be located within fifty (50) feet of any intersection of any public streets.
(8) Special parking district "A" is hereby created and is described as an area bounded by the innermost rights-of-way or straight line extensions of the rights-of-way of Avenue G, Park Street, Green Avenue and 12th Street. No off-street parking shall be required within special parking district "A."

(Code 1963, Ch. 9, art. 2, § 13-3 [Ord. No. 76-46, § 11, 8-10-76; Ord. No. 82-76, 12-28-82; Ord. No. 87-71, § 1, 9-22-87]; Ord. No. 93-53, § I, 6-22-93)

Sec. 31-489. Schedule of off-street parking standards

Uses	*Number of Parking Spaces*	*Required for Each*	*Additional Requirements*
(1) RESIDENTIAL			
a. Townhouse or rowhouse	2	Dwelling unit	
b. Apartment	1-2/3	Dwelling unit	
c. Boarding or rooming house	1	Rooming unit	
d. Hotel, motel or tourist court	1	Guest room or residence unit	
e. Manufactured housing or mobile home			
1. Manufactured home or mobile home	2	lot, plot, tract or stand	
2. Travel trailer	1	Lot, plot, tract or stand	
f. Private dormitory	1	Two (2) occupants per designed occupancy	
g. Duplexes	2	Dwelling unit	
h. Three-plex	2	Dwelling unit	
i. Four-plex	2	Dwelling unit	
(2) INSTITUTIONAL AND SPECIAL			
a. Community or welfare center	1	200 sq. ft. of floor area	
b. School-private or public			
1. Elementary	1	25 students	
2. Junior high	1	18 students	
3. Senior high	1	5 students	
c. Place of public assembly	1	4 seats	
d. College or university	1	4 day students	
e. Church	1	4 seats in sanctuary or	

			auditorium	
f.	Kindergarten, day nursery, day care	1	8 pupils	
g.	Hospital-chronic care	1	6 beds	
h.	Hospital-acute care	1	Bed	
i.	Home for the aged	1	Dwelling unit	
j.	Library	1	350 square feet of public area	
k.	Fraternity or sorority	1	2 members or residents	
l.	Student religious center	1	250 square feet of floor area	
m.	Mortuary, funeral chapel	1	4 seats in chapel	
(3)	RECREATION, SPECIAL AND ENTERTAINMENT			
a.	Theater	1	4 seats	
b.	Bowling alley	6	Lane	
c.	Tavern, nightclub, private club	1	30 square feet of floor area	
d.	Commercial amusements (outdoor)	1	600 square feet of site area exclusive of buildings	
e.	Ballpark, stadium	1	8 seats	
f.	Lodge, fraternal organization	1	200 square feet of floor area	
(4)	PERSONAL SERVICE AND RETAIL			
a.	Personal service shop	1	200 square feet of floor area	
b.	Retail stores or shops (inside)	1	400 square feet of floor area	
c.	Furniture store	1	800 square feet of floor area	
d.	Open retail sales	1	600 square feet of site area exclusive of buildings	
(5)	FOOD AND BEVERAGE SERVICES			
a.	Eating or drinking place (service to auto)	1	100 square feet of floor area	Minimum of 12 spaces
b.	Eating or drinking place (inside only)	1	150 square feet of floor area	
(6)	BUSINESS SERVICES			
a.	Bank	1	300 square feet of floor area	
b.	Savings and loan or similar institution	1	400 square feet of floor area	
c.	Medical, dental, clinic or office	1	150 square feet of floor area	
d.	Other office, business or professional	1	300 square feet of floor area	
(7)	AUTOMOTIVE AND EQUIPMENT			
a.	Service station	1	200 square feet of floor area	Minimum of 4 spaces
b.	Auto repair, garage or shop (indoor)	1	500 square feet of floor area	Minimum of 5 spaces
c.	Auto parts and accessories- sales	1	800 square feet of floor area	
d.	Vehicle or machinery sales (indoor)	1	500 square feet of floor area	Minimum of 5 spaces
e.	Vehicle or machinery sales (outdoor)	1	1,000 square feet of floor area	
f.	Car wash	3	Service lane	
(8)	STORAGE, WHOLESALE AND MANUFACTURING			
a.	Brick or lumber yard or similar area	1	4,000 square feet of site area	
b.	Open storage of sand, gravel, petroleum	1	4,000 square feet of site area	
c.	Warehouse and enclosed storage, wholesale or manufacture operation	1	4,000 square feet of floor area	
d.	Wholesale or manufacture operation	1	1,000 square feet of floor area	
e.	Freight docks	1	1,000 square feet of floor area	

(Code 1963, Ch. 9, art. 2, § 13-3; Ord. No. 96-63, § IV, 8-13-96; Ord. No. 02-48, § IV, V, VI, VII, 9-24-02)

Sec. 31-490. Dimensions for off-street parking.

(a) Ninety-degree-angle parking. Each ninety-degree-angle parking space shall be not less than nine (9) feet wide nor less than twenty (20) feet in length. Maneuvering space shall be in addition to parking space and shall be not less than twenty-four (24) feet perpendicular to the

building or parking line. Maneuvering space adjacent to a public street shall be computed from curb line of the street and shall be not less than twenty-four (24) feet perpendicular to the building or parking line.

(b) Sixty-degree-angle parking. Each sixty-degree-angle parking space shall be not less than nine (9) feet wide perpendicular to the parking angle nor less than nineteen (19) feet in length when measured at right angles to the building or parking line. Maneuvering space shall be in addition to parking space and shall be not less than twenty (20) feet perpendicular to the building or parking line. Maneuvering space adjacent to a public street shall be computed from curb line of the street and shall be not less than twenty (20) feet perpendicular to the building or parking line.

(c) Forty-five-degree-angle parking. Each forty-five-degree-angle parking space shall be not less than eight (8) feet wide perpendicular to the parking angle nor less than eighteen (18) feet in length when measured at right angles to the building or parking line. Maneuvering space shall be in addition to parking space and shall be not less than eighteen (18) feet perpendicular to the building or parking line. Maneuvering space adjacent to a public street shall be computed from curb line of the street and shall be not less than eighteen (18) feet perpendicular to the building or parking line.

(d) When off-street parking facilities are located adjacent to a public alley, the width of the alley may be assumed to be a portion of the maneuvering space requirement. When maneuvering space is located adjacent to a public street and no curb line exists or no curb is required, the future curb line shall be located by the city engineer.

(e) Where off-street parking facilities are provided in excess of the minimum amounts herein specified, or when off-street parking facilities are provided but not required by this chapter, off-street parking facilities shall comply with minimum requirements for parking and maneuvering space herein specified.
(Code 1963, Ch. 9, art. 2, § 13-4)

Sec. 31-491. Off-street loading space.

Every building or part thereof erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, mortuary, or any other use similarly involving the receipt or distribution by vehicles or materials or merchandise, shall provide and maintain on the same premises loading space in accordance with the following requirements:

(1) In districts “M-1” and “M-2,” one (1) loading space for each ten thousand (10,000) feet or fraction thereof, floor area in the building.
(2) In districts “B-1,” “B-2,” “B-3,” “B-4” and “B-5,” one (1) loading space for the first five thousand (5,000) to fifteen thousand (15,000) square feet of floor area in the building and one (1) additional loading space for each fifteen thousand (15,000) square feet, or fraction thereof, of floor area in excess of fifteen thousand (15,000) square feet.
(3) Each required loading space shall have a minimum size of ten (10) feet by twenty-five (25) feet.

(Code 1963, Ch. 9, art. 2, § 13-5 [Ord. No. 70-52, § 3, 8-28-70; Ord. No. 76-15, §§ 3,4, 3-23-76])

Secs. 31-492--31-500. Reserved.

DIVISION 4. SIGNS AND OUTDOOR ADVERTISING DISPLAYS

Sec. 31-501. Statement of purpose.

The purpose of this division is to permit such signs that will not by their reason, size, location, construction, or manner of display, endanger the public safety, confuse, mislead or obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and morals, and to permit and regulate signs in such a way as to support and complement land use objectives set forth in this chapter. (Code 1963, Ch. 9, art. 2, § 36-1 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-502. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Announcing sign or *construction sign* shall mean any sign giving the name or names of principal contractors, architects, and lending institutions responsible for construction, structural alteration or repair on the site where the sign is placed, together with other information included thereon.

Bench sign shall mean a sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way.

Bulletin board sign shall mean a sign which identifies an institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of the individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages.

Changeable electronic variable message sign (CEVMS) shall mean a sign which permits light to be turned on or off periodically or which is operated in a way whereby light is turned on or off periodically, including any illuminated sign in which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign that varies in intensity or color. A CEVMS sign does not include a sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD), as amended and approved by the Federal Highway Administration as the National Standard.

Ground sign shall mean any sign as defined in appendix H of the city’s adopted building code.

Holiday decoration sign shall mean temporary signs, in the nature of decorations, clearly incidental to, and customarily and commonly associated with, any nation’s local or religious holiday.

Nameplate sign shall mean a sign, located on the premises, giving the name or address, or both, of the owner or occupant of a building or premises.

Nonconforming sign shall mean a lawfully erected sign that does not comply with the provisions of this division or other rule enacted at a later date, or that later fails to comply with a law or rule due to changed conditions.

Off- premises sign shall mean a sign visible from any public traveled road or street displaying advertising or other copy that pertains to any business, person, organization, activity, event, place, service or product not manufactured, sold or provided on the same premises on which the sign is located. This definition for off-premises signs shall include any sign that does not qualify as an approved on-premises sign.

On-premises sign shall mean a sign displaying advertising or other copy that pertains only to a business, person, organization, activity, event, place, service, or product manufactured, sold or provided on the same premises on which the sign is located. On-premises signs may include information pertaining to civic and registered non-profit organizations. An existing on-premises sign cannot be converted to a non-conforming off-premises sign subsequent to the effective date of the ordinance from which this section is derived.

Outdated copy face shall mean copy mounted on a sign face that advertises any activity or event that occurred more than 60 days prior to the current date. This definition shall include, but is not limited to any advertisement of a business, a product manufactured, sold or provided, or any type of service provided by any profit or non-profit entity that is no longer available and has not been available for 60 days.

Point-of-sale sign shall mean any sign which carries only the name of the firm, major enterprise or products offered for sale on the premises, or a combination of these things.

Political sign shall mean a sign that contains primarily a political message.

Portable sign shall mean a sign which is designed to be easily transportable and which is attached to the transporting mechanism. The building official shall determine whether a sign is easily transported.

Premises shall be interchangeable with the word “occupancy” as used in this division and shall mean a single, legally recorded, undivided tract of real property controlled exclusively by the proprietor, as identified on a recorded certificate of occupancy, of the establishment on the undivided tract.

Private sale or *event sign* shall mean a temporary sign advertising private, not-for-profit sales of personal property such as “house sales,” “garage sales,” “rummage sales” and the like or private not-for-profit events such as picnics, carnivals, bazaars, game nights, art fairs, craft shows and Christmas tree sales.

Real estate sign may be any sign for which a permit is not required that is used to offer for sale, lease or rent the property upon which the sign is placed or an off-premises real estate sign that is permitted for a temporary period as outlined in section 31-504.

Sign shall mean any outdoor advertising display as defined in appendix H of the city's adopted building code.

Sign area shall mean that area being the total square footage of the combined message or display surface. This area does not include structural supports for a sign, whether they be columns, pylons, or a building, or a part thereof. On a multisided sign, only one (1) face is counted in computing the sign's area.

Visible shall mean capable of being seen, whether legible or not, without visual aid by a person with normal visual acuity.

Wall sign shall mean any sign as defined in appendix H of the city's adopted building code. (Code 1963, Ch. 9, art. 2, § 36-2 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 97-22, § I, 3-25-97; Ord. No. 05-43, § I, 6-14-05; Ord. No. 06-78, § II, 7-11-06; Ord. No. 08-051, § I, 7-8-08; Ord. No. 08-059, § I, 7-22-08)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 31-503. Permitted without permit.

The following signs are permitted in any use district without a written permit:

(1) *Real estate signs.* Signs advertising the sale, lease, or rental of the premises upon which the sign is located. Such sign shall neither exceed six (6) square feet in area on residential tracts of one (1) acre or less, nor thirty-two (32) square feet on residential tracts greater than one (1) acre, nor thirty-two (32) square feet on commercial tracts.
(2) *Nameplate signs.* Signs denoting the name and address of the occupants of the premises, which signs shall not exceed four (4) square feet in area.
(3) *Announcing signs.* Signs denoting the architect, engineer, or contractor placed on premises where construction, repair, or renovation is in progress. Such sign shall neither exceed six (6) square feet in area on residential tracts on one (1) acre or less nor thirty-two (32) square feet on residential tracts greater than one (1) acre nor thirty-two (32) square feet on commercial tracts.
(4) *Public signs.* Signs of a public or noncommercial nature, which shall include community service information signs, public transit service signs, public utility information signs, safety signs, danger signs, trespassing signs, signs indicating scenic or historic points of interest, and all signs erected by a public officer in performance of a public duty.
(5) *Flags.* Official flags of government jurisdictions. Flags indicating weather conditions and flags which are emblems of on-premises business firms and enterprises, religious, charitable, public, and nonprofit organizations.
(6) *Memorial signs.* Commemorative plaques placed by historical agencies recognized by the city, county, or state.
(7) *Holiday decoration signs.* During appropriate seasons of the year.
(8) *Private sale or event sign.* Advertising legally permitted sales and events.
(9) *Bench signs.* Provided the sign face does not overlap any bench surface.
(10) *Parking and driveway directional and information signs.* Designed to offer assistance to but not attract motorists maneuvering into, out of, or within private property.
(11) *Political signs.*

    a. Provided the sign:

        i. has an effective area no greater than 36 square feet;

ii. is no more than 8 feet in height;
iii. is not illuminated;
iv. has no moving element(s);
v. is located on private real property with the property owner's consent. For purposes of this provision, "private real property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose;
vi. is not carrying the primarily political message on a temporary basis and is not generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.

b. Signs carrying a primarily political message but not meeting these requirements will be regulated under the appropriate section of this division, depending upon the sign's location, size, and any other relevant information.

(Code 1963, Ch. 9, art. 2, § 36-3.1 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 08-051, § I, 7-8-08)

Sec. 31-504. Signs requiring permits.

The following signs may be permitted in any use district, but require a permit:

(1) *Bulletin board signs.* Signs or bulletin boards customarily incidental to places of worship, libraries, museums, and other publicly owned buildings. Such signs or bulletin boards shall not exceed a total of fifty (50) square feet in face area per premises if located in a residential zone and shall be located on the premises of such institutions.
(2) *Point-of-sale.* Any sign advertising a commercial enterprise, permitted by any zoning regulation, in a district zoned residential by any zoning regulations shall not exceed a total of twenty-four (24) square feet in area per premises, or six (6) feet in height, and shall advertise only the name of the owner, trade names, products sold and/or the business or activity conducted on the premises where such sign is located.
(3) *Off-premises real estate sales signs*. Any sign advertising the sale or conveyance of residential property that is not located upon the residential property that is the subject of the advertisement, to include directional signs to view an open house, a model home or a home on display incident to a parade of homes shall be permitted in compliance with the following criteria:

a. Application for a permit to display off-premises real estate signs will be submitted to the permits and inspections department. Upon payment of applicable permit and sticker fees, approved permits will be granted a sticker which must be attached to the sign.
b. Signs shall be no larger than 24" x 36".
c. The height of any off-premises real estate sales sign shall be no greater than forty-eight (48) inches.
d. Signs may be displayed while the subject property is available for sale and while a sign is displayed on the subject property.
e. Except as provided in subsection (1), signs shall not be located on public right-of-way or within the visibility triangle defined per sec. 28-241 as the triangle sight area, at all intersections, which shall include that portion of public right-of-way and any corner lot within the adjacent curb lines, and a diagonal line intersecting such curb lines at points thirty-five (35) feet back from their intersection (such curb lines being

extended if necessary to determine the intersection point). Signs shall be a minimum of ten (10) feet from the edge of street or curb.

(1) Signs may be placed in the visibility triangle only if the signs have a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets within the visibility triangle.

f. Signs shall only be located on private property with the consent of the property owner and the distance between the off-premises real estate sign and the closest off-premises real estate sales sign or any small or medium off-premises sign shall be greater than thirty (30) feet measured as a radial distance from the existing signs base.
g. Off-premises real estate signs that have not been permitted, do not display a valid sticker or display a sticker that shows signs of tampering are subject to enforcement action. Enforcement action includes but is not limited to removal and disposal of the illegal sign and possible citation of responsible individuals or realty offices.

(Code 1963, Ch. 9, art. 2, § 36-3.2 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 06-78, § III, 7-11-06; Ord. No. 06-134, § I, 12-19-06; Ord. No. 08-095, § I, 11-18-08)

Sec. 31-505. Prohibited signs.

It shall be unlawful to erect or maintain:

(1) Any sign except as permitted by this division.
(2) Any portable or trailer sign, except as permitted under the provisions of section 31-507.
(3) Any political campaign sign for a period of time which is earlier than ninety (90) days before or ten (10) days after the election which is being announced.
(4) Any sign face or support within ten (10) feet of a street curb line, except as permitted in sections 31-506(1), (2) and 31-507(6).
(5) Any sign face or support within twenty (20) feet of the intersection of any street curb line and the edge of any driveway, unless it is an otherwise permitted sign that has a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets and except as permitted in sections 31-506(1), (2) and 31-507(6).
(6) Any sign face or support within thirty-five (35) feet of the intersection of any street curb line and any other street curb line, unless it is an otherwise permitted sign that has a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets and except as permitted in sections 31-507(6).
(7) Any billboard sign, except as permitted in section 31-507(1)b.
(8) Any flashing sign which uses incandescent bulbs greater than sixty (60) watts.
(9) Any sign which has a luminance greater than any traffic signal within two hundred (200) feet of the sign as measured by any light metering device for which a National Bureau of Standards test procedure exists.

(Code 1963, Ch. 9, art. 2, § 36-3.3 [Ord. No. 83-73, § 1, 12-13-83; Ord. No. 87-10, §§ 3,4, 2-24-87]; Ord. No. 97-22; § I, 3-25-97; Ord. No. 97-62, § I, 11-25-97; Ord. No. 08-095, § I, 11-18-08)

Sec. 31-506. Special district regulations--wall signs.

Wall signs in “R-3” or less restrictive districts shall meet the following requirements:

(1) An allowable wall sign may not extend more than twelve (12) inches from the facade of a

building except as provided in (2) below.

(2) When the premises does not maintain maximum ground signs allowed, one (1) projecting wall sign may be allowed and may project no closer than two (2) feet to a street curb. Such alternate sign may not exceed thirty-two (32) square feet in area and no part of the sign may descend closer to grade than nine (9) feet.

(3) On any premises, a sign may be erected at the eaves or edge of the roof or on a parapet or under a canopy; provided, that the sign does not project more than four (4) feet above the point where it is attached nor descend closer to grade than nine (9) feet.

(Code 1963, Ch. 9, art. 2, § 36-4.1 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-507. Ground signs.

(A) On-Premises ground signs in "R-MP," "R-3," "B-1" or less restrictive districts shall meet the following requirements:

(1) Only three (3) permanent point-of-sale ground signs of any type may be erected on any premise zoned "B-1" or less restrictive, except that premises which have more than one hundred fifty (150) feet of combined frontage along a public way, other than an alley, may have not more than one (1) additional ground sign for each additional one hundred fifty (150) feet of frontage or fraction thereof. Such signs shall not exceed six hundred seventy-two (672) square feet in area or fifty (50) feet in height. The setback for such signs shall be 15 feet from the property line or the setback required for a building on the selected site, whichever is greater.

(2) In connection with mobile home parks (R-MP), (mobile home park district), or apartment complexes zoned "R-3", no sign intended to be read from any public way adjoining the district shall be permitted except:

a. No more than one (1) identification sign, not exceeding thirty-two (32) square feet in area, for each principal entrance.
b. No more than one (1) sign, not exceeding sixteen (16) square feet in area, advertising property for sale, lease, or rent, or indicating "vacancy" or "no vacancy" may be erected at each entrance.

(3) In no case may a ground sign of any kind exceed twenty (20) feet in height if located within fifty (50) feet of a single-family or two-family zoned district.

(4) An occupant may use not more than one (1) portable sign as an allowable ground sign in lieu of other types of ground signs permitted by (A) above.

(5) Portable/trailer signs, general regulations:

a. It shall be unlawful to locate a portable/trailer sign on any site until the building official has determined that it is in compliance with the provisions of this division, and was issued a building permit for such sign. All portable/trailer signs shall be secured to resist wind loads.
b. A permit for a portable/trailer sign shall not be issued for more than one (1) year and a request for renewal of the permit must be requested at least ten (10) days prior to the expiration of the permit.
c. An adequate site plat must be submitted with the application to locate the sign.
d. The portable/trailer sign may not be located in a parking space, which is required by division 3 of this article.
e. The size of the portable/trailer sign face shall not exceed five (5) feet high and

twelve (12) feet wide.

f. If the building official finds a violation of any provision of this division, the official shall notify the person responsible to cease such violation within a reasonable time to be determined by the building official.
g. If the violation is not remedied within the time prescribed by the building official, the official may cancel the portable/trailer sign permit, if any, and bring action against the party or parties in violation.
h. All existing portable/trailer signs in use as of the effective date of the ordinance from which this subsection is derived, and which do not conform to (4) above, must comply with the provisions of this division within ninety (90) days of the effective date of this division or be found in violation hereof.

(6) Ground signs may be erected within ten (10) feet of a street curb line, but not within twenty (20) feet of the intersection of a street curb and the edge of a driveway, nor within thirty-five (35) feet of the intersection of a street curb line and another street curb line, provided that:

a. The total of the cross-sectional diameters of the supports does not exceed eighteen (18) inches if one (1) support is used or twenty-four (24) inches if two (2) supports are used;
b. A clear height of nine (9) feet is maintained between the ground and the bottom of the sign; and
c. The sign face does not project over a public right-of-way.

(B) Off-Premises ground signs are subject to compliance with all the regulatory provisions contained herein, as amended. Should any restrictions be in conflict, the more stringent shall control.

(1) All new or existing off-premises signs shall be registered with the city of Killeen permits section.

a. Registration shall be required within 180 days from the effective date of this ordinance and annually each year and shall identify the size of the off-premises sign to be registered and provide a detailed description of its location measured to the closest intersection.
b. Registration shall be accompanied by a non-refundable fee of $40.00 for each off-premises sign to be registered.
c. Sign registration is not transferable and in event of sale of the sign, the buyer and seller shall be jointly responsible to assure re-registration within 15 days of the sale.
d. Any off-premises sign removed, structurally altered or repaired shall be reported to the building department within 15 days of removal or work.
e. Any off-premises sign not lawfully registered as listed above or if registration has lapsed more than 30 days such sign shall be considered abandoned and upon notification by the building official the property owner shall remove the entire sign assembly within 30 days.
f. New and existing registered off-premises signs shall permanently affix the sign tag or plate issued by the city visible from the closest roadway. No new off-premises sign may advertise until final approval inspection has been obtained and no new or existing off-premises sign may advertise or continue to advertise

without a current sign tag properly affixed.

g. Off-premises signs may not be combined with on-premises advertisement.

(2) A building permit shall be obtained prior to the erection, repair, alteration or relocation of any off-premises sign except for routine maintenance or repair and/or replacement of sign face copy.

a. No off-premises sign may be installed by anyone not registered to perform such work in the city of Killeen.
b. Off-premises signs requiring an electrical permit or incorporating any electrical lighting or wiring must have such work performed by a person licensed and registered with the city of Killeen building department.
c. Sign registration is not transferable and in event of sale of the sign, the buyer and seller shall be jointly responsible to assure re-registration within 15 days of the sale.
d. Off-premises signs shall be constructed in accordance with local and state building and electrical codes. Stamped structural engineering plans shall accompany the sign permit applications and shall be subject to wind speed requirements as set forth in the International Building Code, as amended.

(3) Off-premises signs may be illuminated except for signs that contain, include, or are illuminated by:

a. Any flashing, intermittent or moving light or lights, including any type of screen using animated or scrolling displays other than those providing public service information such as time, date, temperature or weather;
b. Unshielded lights that direct beams or rays of light at any portion of the traveled way;
c. Lights of such intensity as to cause glare or vision impairment of the driver of a motor vehicle;
d. Lights that interfere with the effectiveness or obscure an official traffic sign, device or signal.

(4) An off-premises sign shall not be erected within three hundred (300) feet of the property line of any property which is zoned agricultural or residential, used as a public park, public or private school, church, courthouse, city hall, public museum or any building or premises operated by a public entity. Such measurement shall be from property line to property line in the most direct line.

(5) An off-premises sign shall not be installed adjacent to, or within three hundred (300) feet of the right-of-way of any intersection

(6) No off-premises sign shall be constructed so as to resemble any official marker erected by a government entity, or which by reason of position, shape, or color would conflict with the proper function of any official traffic control information sign posted by government entity.

(7) All off-premises signs shall be maintained in a safe and structurally sound condition. Signs shall not remain free of advertising copy face for more than 60 consecutive days and shall be kept clean and free of graffiti or outdated commercial or advertising information. The owner of the property on which a sign that does not comply with safety, cleanliness or aesthetic standards is located shall be equally responsible for the

condition of the off-premises sign and for the condition of the area in the vicinity of the sign.

(8) Small off-premises signs may be permitted in zoning district B-3, and less restrictive, subject to the following provisions.

a. The distance between the requested small off-premises sign site and the closest off-premise sign shall be greater than 300 feet measured as a radial distance from the sign's base on either side of the street.
b. Small off-premises signs shall be set back 15 feet from the property line or the set back required for a building on the selected site, whichever is greater.
c. The overall height of a small off-premises sign shall not exceed 20 feet and the face shall not exceed 200 square feet.
d. Unless otherwise restricted, small off-premises signs may be permitted on streets classified as collectors, minor or principal arterial.

(9) Medium off-premises signs may be permitted in zoning district B-4, and less restrictive, subject to the following provisions.

a. The distance between the requested medium off-premises sign site and the closest off-premises sign shall be greater than 750 feet measured as a radial distance from the sign's base on either side of the street.
b. Medium off-premises signs shall be set back 15 feet from the property line or the set back required for a building on the selected site, whichever is greater.
c. The overall height of a medium off-premises sign shall not exceed 35 feet and the face shall not exceed 350 square feet.
d. Unless otherwise restricted, medium off-premises signs may be permitted on streets classified as collectors, minor or principal arterials.

(10) Large off-premises signs may be permitted in zoning district B-5, and less restrictive subject to the following provision.

a. The distance between the requested large off-premises sign site and the closest off-premises sign shall be greater than 1500 feet measured as a radial distance from the sign's base on either side of the street. On S.H. 195 and 201, however, the distance shall be greater than 3000 feet measured as a radial distance from the sign's base on either side of the street.
b. Large off-premises signs shall be set back 25 feet from the property line or the set back distance required for a building on the selected site, whichever is greater.
c. The overall height of a large off-premises sign shall not exceed 42.5 feet measured from highest point of sign to the grade level of the traveled way closest to the sign and the face shall not exceed 672 square feet with a face height not to exceed 25 feet and a face length not to exceed 60 feet.
d. Unless otherwise restricted, large off-premises signs may be permitted only on streets classified as principal arterials.

(11) Sign operators installing, testing or maintaining off-premises CEVMS shall comply with the following requirements:

a. Each message shall be displayed for at least ten (10) seconds.

b. A change of message shall be accomplished within two (2) seconds or less, and a change of message must occur simultaneously on the entire sign face.
c. Signs must contain a default mechanism that freezes the sign in one position if a malfunction occurs.
d. Signs may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of a driver, or results in a nuisance to a driver.
e. CEVMS sign light intensity exceeding the following intensity levels (NITS) constitutes "excessive intensity or brilliance:"

	Intensity Levels (NITS)	
Color	Daytime	Nighttime
Red Only	3,150	1,125
Green Only	6,300	2,250
Amber Only	4,690	1,675
Full Color	7,000	2,500

f. Prior to issuance of a sign registration, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed seven thousand (7,000) NITS and that the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the building official.
g. Signs may not be configured to resemble a warning or danger signal or to cause a driver to mistake the digital sign for a warning or danger signal.
h. Signs may not resemble or simulate any lights or official signage used to control traffic in accordance with the 2003 MUTCD, with Revision No. 1 published by the Federal Highway Administration, as amended.
i. Signs must be equipped with both a dimmer control and a photocell, which automatically adjusts the display's intensity according to natural ambient light conditions.
j. The city may exercise its police powers to protect public health, safety and welfare by requiring emergency information to be displayed. Upon notification, the sign operator shall display in appropriate sign rotations: emergency information regarding Amber Alerts, terrorist attacks, or natural disasters. Emergency information messages shall remain in rotation according to the designated issuing agency's protocols.
k. For purposes of this article, changing a current sign to a CEVMS shall be considered a structural alteration.

(12) Any off-premises sign lawfully erected and in existence on the effective date of this ordinance, which does not meet the requirements of this ordinance, may be maintained as a matter of right as a legal non-conforming use subject to compliance with the provisions required by section 31-521. For purposes of this section the owners of any non-conforming off-premises sign that cannot be altered to conform to all the applicable provisions of this division shall submit a written declaration of non-conforming sign report not later than 90 days after the effective date of the ordinance from which this section is derived.

(Code 1963, Ch. 9, art. 2, § 36-4.2 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 96-63, § IV, 8-13-96; Ord. No. 05-43, § II, 6-14-05; Ord. No. 08-059, § I, 7-22-08)

Sec. 31-508. Compliance with codes.

Only materials and methods as permitted by the city's building code, chapter XXIII, signs, governing structural requirements shall be used in the manufacture and erection of on-premises signs. (Code 1963, Ch. 9, art. 2, § 36-5.1 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-509. Electrical installation.

No electrical sign shall be erected or maintained which does not comply with the electrical code of the city. (Code 1963, Ch. 9, art. 2, § 36-5.2 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-510. Obstruction to exits.

No sign shall be erected so as to obstruct any fire escape, required exit, window or door opening intended as a means of egress. (Code 1963, Ch. 9, art. 2, § 36-5.3 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-511. Obstruction to ventilation.

No sign shall be erected which interferes with any opening required for ventilation. (Code 1963, Ch. 9, art. 2, § 36-5.4 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-512. Clearance from surface and underground facilities.

Signs and their supporting structures shall maintain clearance and noninterference with all surface and underground facilities and conduits for water, sewage, gas, electricity, or communications equipment or lines. Placement of signs shall not interfere with natural or artificial drainage or surface or underground water. No sign shall be located within any public use easement as measured from a vertical plane which extends infinitely upward from the edge of the easement nearest the sign, except as permitted under provisions of section 31-506(2), (3). (Code 1963, Ch. 9, art. 2, § 36-5.5 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-513. Clearance from electrical power lines and communications lines.

Signs shall maintain all clearances from electrical conductors in accordance with the city electrical code and from all communications equipment or lines located within the city. (Code 1963, Ch. 9, art. 2, § 36-5.6 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-514. Interference with radio or television.

No electrical equipment or electrical apparatus of any kind which causes interference with radio or television reception shall be used in the operation of illuminated signs. Whenever interference is caused by an unfiltered, improperly filtered or otherwise defective sign, or by any other electrical device or apparatus connected to the sign, the building official shall order the sign disconnected until repairs are made. (Code 1963, Ch. 9, art. 2, § 36-5.7 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-515. Application for permit.

The application for a sign permit shall be accompanied by following plans and other information:

(1) The name, address, and telephone number of the owner or persons entitled to possession of the sign and the sign contractor or erector.
(2) The location by street address of the proposed sign structure.
(3) Complete information as required on application forms provided by the department of planning and community development including a site plan and elevation drawings of the proposed sign, caption of the proposed sign, and such other data as are pertinent to the application.
(4) Plans indicating the scope and structural detail of the work to be done, including details of all connections, guide lines, supports and footings, and materials to be used.
(5) Application for, and required information for such application, an electrical permit for all electric signs if the person building the sign is to make the electrical connection.
(6) A statement of valuation.

(Code 1963, Ch. 9, art. 2, § 36-6.1 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-516. Review.

Whenever a proposed sign is included in the presentation of a new or amended site plan application, for a development which requires planning and zoning commission approval, the sign permit application shall be reviewed and approved by the planning and zoning commission prior to the issuance of a permit. (Code 1963, Ch. 9, art. 2, § 36-6.2 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-517. Plans check fee.

When the plans submitted with an application for a sign permit require a formal plans check, as determined by the building official, a plan check fee, in addition to the permit fee, shall be collected. Such fee shall be ten dollars ($10.00) per hour for the time required to check such plan, but not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00) for any one (1) design. (Code 1963, Ch. 9, art. 2, § 36-6.3 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-518. When permit obtained.

If a sign permit is not obtained within ninety (90) days after the applicant has been notified that the plans are approved, the building official shall assume that the application is withdrawn and may destroy the plans, specifications, and calculations. Renewed action on such plans shall require a new plan check fee. (Code 1963, Ch. 9, art. 2, § 36-6.4 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-519. Double fees.

Should any person actually begin any work for which a permit is required by this division without taking out a permit therefor, that person shall pay, in addition to the fees above described and provided, an additional amount equal to one hundred (100) percent of the fees above described and shall be subject to all the penal provisions of this division. (Code 1963, Ch. 9, art. 2, § 36-6.5 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-520. Reinspection charges.

A reinspection charge will be assessed for each inspection after the second made to determine compliance. These cumulative charges shall be:

(1) Third inspection $20.00
(2) Fourth inspection $30.00
(3) Fifth inspection $40.00

(Code 1963, Ch. 9, art. 2, § 36-6.6 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-521. Nonconforming signs.

(a) All signs specifically prohibited under section 31-507 shall be removed and shall cease to exist within ninety (90) days from the effective date of the ordinance from which this division is derived.

(b) All signs which do not conform to all applicable provisions of this division shall be made to conform by means of alteration, repainting, reinforcing, repairing or any other such operation short of repositioning or removal within one hundred eighty (180) days from the effective date of the ordinance from which this division is derived.

(c) Except as provided in (a) and (b) above, all signs which do not wholly conform and cannot be altered to conform to all applicable provisions of this division shall be declared legal nonconforming signs, provided the owners of the sign shall file a written request for such declaration within one (1) year of the effective date of the ordinance from which this division is derived. Any such sign not so declared as legal within one (1) year of the effective date of the ordinance from which this division is derived shall be found in violation of this division.

(Code 1963, Ch. 9, art. 2, § 36-6.7 [Ord. No. 83-73, § 1, 12-13-83])

Secs. 31-522--31-549. Reserved.

DIVISION 5. ADULT ORIENTED BUSINESSES

Sec. 31-550. Purpose and intent.

It is the purpose of this article to regulate adult oriented businesses in order to protect and promote the health, safety and welfare by preventing the decline of residential and business neighborhoods, and further by preventing the growth of criminal activity found to be associated with adult oriented businesses. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communication materials, including adult oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to adult oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult oriented entertainment to their intended market. (Ord. No. 96-80, § II, 11-12-96)

Sec. 31-551. Definitions.

In this article:

(1) *Adult oriented business*:

A. Means a commercial enterprise the major business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to a customer. It includes, but is not limited to, such establishments and activities as:

1. An *adult bookstore or adult video store* - an establishment or other commercial enterprise the primary business of which is the renting, selling or exhibiting of (a) instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, or (b) films, motion pictures, slides, videos, tapes, cassettes, photographs, CD-ROM disks, floppy disks or diskettes, or other visual recordings (regardless of media or format), representations, or books, magazines, periodicals or other media matter distinguished or characterized by: depicting or describing specified sexual activities or specified anatomical areas, or otherwise intended to provide sexual stimulation or sexual gratification to the customer;
2. An *adult cabaret* - an establishment the business of which regularly offers to customers live entertainment including but not limited to employees, agents or contractors who dance, pose, model, wrestle, massage, or otherwise interact with or entertain customers, which entertainment or interaction is primarily characterized by actual or simulated specified sexual activities or exposing specified anatomical areas with the intent to sexually stimulate or sexually gratify a customer;
3. An *adult encounter parlor* - an establishment the business of which consists of offering a service whereby customers either congregate, associate, or consort with employees, agents, contractors, or agents or employees of contractors, who engage in actual or simulated specified sexual activities with or in the presence of customers, or who display specified anatomical areas in the presence of customers, with the intent to provide sexual stimulation or sexual gratification to customers.
4. An *adult hotel* - a hotel, motel, or similar commercial establishment which:

    a. offers accommodations to the public for any form of consideration; and provides customers with closed circuit television transmissions, films, motion pictures, video tapes, slides or other photographic reproductions regardless of media or format which are characterized by the depiction of specified sexual activities or specified anatomical areas for the purpose of sexual stimulation, arousal, or satisfaction of the viewer; and has a sign visible from a public street or highway which advertises the availability of this adult-type reproductions; or
    b. offers a sleeping room for rent for a period of time of less than 10 hours; or
    c. allows a tenant or occupant of a room to subrent the room for a period of time that is less than 10 hours.

5. An *adult lounge* - an adult cabaret which is permitted or licensed pursuant to the Alcoholic Beverage Code to serve or sell alcoholic beverages.
6. An *adult motion picture theater or adult arcade* - an establishment or other commercial enterprise which has within its structure any electronic, electrical or

mechanical device (including coin or token-operated devices), which projects, displays, or presents any slide, film, video tape, CD-ROM disk, floppy disk or diskette, or other visual reproduction (regardless of media or format) into a viewing area, and where the images so displayed are primarily distinguished or characterized by the depicting or describing of actual or simulated specified sexual activities or specified anatomical areas for observation by a customer or customers therein for their sexual stimulation or sexual gratification.

B. An adult oriented business does not include:

1. A business operated by and employing or contracting with a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under a state license; or,
2. A business operated by and employing or contracting with a licensed tattooist or tanning shop operator engaged in performing functions authorized under a state license for a tattoo parlor or tanning salon; or,
3. A business operated by and employing or contracting with a state licensed physician or licensed chiropractor engaged in practicing the healing arts; or,
4. A business operated by and employing or contracting with a state licensed massage therapist who practices or offers massage engaged in performing the functions authorized by the license; or,
5. A school which is accredited or certified by a national academic accreditation organization and which maintains an educational program training persons the necessary skills and knowledge to obtain a state issued license as a psychologist, physical therapist, athletic trainer, cosmetologist, tattooist, artist, barber, physician, chiropractor, or massage therapist; or,
6. A person appearing nude in a modeling class (i) operated by a proprietary school licensed by the state of Texas; a college, junior college, or university supported entirely or partly by taxation; or by a private college or university or junior college which maintains and operates educational programs in which credits earned are transferrable to a college, junior college, or university supported entirely or partly by taxation; (ii) in a structure which has no sign visible from the exterior of the structure advertising that a nude person is available for viewing; (iii) in order to participate in the class a student must enroll at least three days prior to the class; and (iv) where there is no more than one nude model on the premises at any one time; or,
7. Any activity, business, presentation, expression, material, film, video tape, photographic slide, CD-ROM disk, floppy diskette, book, or device, which when taken as a whole has or contains serious literary, artistic, political, or scientific value.

C. For the purposes of determining whether a commercial activity is an “adult oriented business” under this division 5, the relevant inquiry shall be as to the nature of the primary activity at the premises. Therefore, it is immaterial and irrelevant that:

1. Some ancillary activity may occur as an incident to the otherwise adult activity, such as but not limited to tanning, garment modeling, exercise, massage, or other, simultaneously or in conjunction with one of the activities expressly identified

hereinabove as constituting an "adult oriented business" if the activity taken as a whole appeals to the prurient interest in sex and is intended to sexually stimulate or sexually gratify any person, notwithstanding the presence of the ancillary activity; or,

2. Any particular word or term is or is not associated with or utilized in the name or description of an enterprise or establishment, including but not limited to the words: spa, sauna, center, studio, parlor, theater, cabaret, club, review, shop, gymnasium, pool, hall, salon, store, lounge, arcade, service, agency, or company.

(2) *Establishment* means and includes any of the following:

A. The opening or commencement of a new business as an adult oriented business;
B. The conversion of an existing business, whether or not an adult oriented business, to any adult oriented business;
C. The addition of another adult oriented business to any other existing adult oriented business; or
D. The relocation of any adult oriented business.

(3) *Intended operator* means the person principally in charge of the day to day operation of the establishment.

(4) *Nude or nudity* means exposing the specified anatomical areas identified in (8)A, below.

(5) *Operates or causes to be operated* means to cause to function or to put or keep in operation. A person may be found to be operating, or causing to be operated, an adult oriented business whether or not that person is an owner, part owner or permittee of the establishment.

(6) *Permittee* means a person in whose name a permit to operate an adult oriented business has been issued, as well as the individual or entity listed as an applicant on the application for a license.

(7) *Person* means an individual human, proprietorship, partnership, corporation, association, or other legal entity, as well as any combination or number of such.

(8) *Specified anatomical areas* means:

A. Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) human buttock or anus and (iii) female breasts below a point immediately above the top of the areola;
B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
C. Any combination of the above.

(9) *Specified sexual activities* means actual or simulated:

A. Human genitals in a state of sexual stimulation or arousal; or
B. Acts of human masturbation, sexual intercourse, cunnilingus, fellatio, sodomy, or sexual bestiality; or
C. Fondling or other erotic touching of human genitals, pubic region, buttock or female

breasts; or

D. Any combination of the above.

(10) *Transfer* means the sale, lease, rent, subrent, or sublease of the business; or transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or the establishment of a trust, gift, or similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon death of the person possessing the ownership or control.
(Ord. No. 96-80, § II, 11-12-96)

Sec. 31-552. Permit required.

It is an offense for one to operate or cause to be operated an adult oriented business without a valid permit authorizing the operation of such establishment. (Ord. No. 96-80, § II, 11-12-96)

Sec. 31-553. Application and fee.

Applications for a permit, whether an original or a subsequent one, must be made to the planning and development department by the owner or intended operator of the establishment. The applicant shall be required to submit the following:

(1) A sworn written application setting forth the following:

A. The name of each applicant and whether the applicant is an individual, partnership, corporation, other entity, or a combination of these;
B. The name under which the business is to be operated and a description of the adult oriented business to be conducted;
C. The name, address, date of birth, social security number, and telephone number of each applicant, owner(s), and the intended operator, if different from the owner;
D. The street address and legal description of the parcel of land on which the business is to be located, and the telephone number of the enterprise at that address;
E. A written declaration, sworn to under oath, that the information contained in the application is true and correct;
F. If an applicant is any type of corporation or association, then the application must also state the name, address, date of birth and social security number of all incorporators, current and past officers, directors, and shareholders. If an applicant is any type of partnership, then the application shall also state the names and addresses of all partners and identify the nature of each partner’s participation (e.g., limited, active, etc.); and
G. If the applicant is an individual, the application shall be signed and verified by the applicant. If the applicant is a partnership, the application shall be signed and verified by all of the partners thereof. If the applicant is a corporation or other entity, the application shall be signed and verified by the president and treasurer of said corporation or entity. If the application is made by a combination of individuals or entities, it shall be signed and verified by each component of the combination in a manner consistent with this subsection.

(2) A site plan setting out the dimensions and location of such adult oriented business. The applicant shall sign a notarized statement attached to the site plan stating that the

proposed adult oriented business complies with the requirements set forth herein. It shall be the duty of the applicant to prepare the site plan.

(3) A non-refundable fee of three hundred dollars ($300.00) shall be charged for each permit application and shall be paid to the planning and development department at the time the application and site plan are submitted for processing.

(Ord. No. 96-80, § II, 11-12-96)

Sec. 31-554. Inspections.

(1) *Initial*: Upon receipt of all the items specified in sec. 31-553 above, the planning and development department shall, within three (3) working days of the receipt, request that the health department, fire department, police department and building official inspect the premises and review the qualifications of the applicants for determination of compliance with applicable state and federal laws and city ordinances. All such inspections and reviews shall be completed within twenty-five (25) days of the request from planning and development for inspections and reviews.

(2) *Subsequent*: A representative of the health department, fire department, police department, building official, or code inspector shall be allowed to inspect the premises at any time it is occupied or open for business, to verify compliance with all applicable local ordinances, codes and state laws.

(3) It is an offense for the owner, applicant, intended operator, permittee, other person, or an agent or contractor of any of them to refuse to allow a lawful inspection of the premises by a representative of the health department, fire department, police department, building inspections, or code inspector during either the initial 25 day inspection period or thereafter at any subsequent time it is occupied or open for business.

(Ord. No. 96-80, § II, 11-12-96)

Sec. 31-555. Issuance of permit.

(1) The director of planning and development shall either approve or deny the issuance of a permit within thirty (30) days after receipt of an application and give written notice of the decision to the applicant. The director of planning and development shall approve said application and issue a permit to an applicant, unless the director of planning and development finds one or more of the following to be true:

A. An applicant, intended operator, permittee, or owner is under 18 years of age;
B. An applicant, intended operator, permittee, or owner is overdue in payment to the city of taxes, fees, fines or penalties assessed or imposed against any one of them;
C. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form;
D. An applicant’s permit for the same adult oriented business for which the application in question is being made has been denied within the preceding 12 months;
E. The premises to be used for the adult oriented business has not been approved by the health department, fire department or the building official or code inspector as being in compliance with applicable laws and ordinances;
F. The owner, applicant or their agent has refused to allow a lawful inspection of the

premises by the health department, fire department, police, building official, or code inspector, during the initial inspection period described above, or at any subsequent time the establishment was occupied or open for business;

G. The permit fee required by this ordinance or fees required by other ordinances relating to the enterprise has not been paid;

H. The proposed premises is located somewhere other than a properly designated B-5 zoning use district which is:

1. Within a rectangular parcel of approximately 93.146 acres: (a) being no closer than 750 feet or more than 1,750 feet east of the east right-of-way of Roy Reynolds Drive; and, (b) from the northern right-of-way of the A.T. & S.F.R.R. at Roy Reynolds Drive, northward approximately 4,100 feet; or, within an adjacent rectangular parcel of approximately 17.62 acres, east of and contiguous to the foregoing tract, along the north right-of-way of the A.T. & S.F.R.R.
2. Within a rectangular parcel of approximately 39.388 acres: (a) from the south right-of-way of Elms Road southward approximately 464 feet along the east right-of-way of State Highway 195 (Ft. Hood Street); and, (b) eastward along the south right-of-way of Elms Road, approximately 1,200 feet from State Highway 195; and (c) from that point on Elms Road, southward approximately 1,600 feet; (d) then, westward approximately 1,050 feet to the east right-of-way of State Highway 195, and northward to the starting point.

(All locations are described more particularly in the metes and bounds descriptions which are attached to ordinance no. 96-80 and which are incorporated by reference, and in the event of a conflict with the above general descriptions, the metes and bounds descriptions shall prevail. Compliance with these location requirements shall not exempt the business from compliance with all other setback and legal requirements generally applicable to locating and constructing structures in the city.)

I. The structure does not meet all architectural requirements of this ordinance;

J. An applicant or applicant's spouse has been convicted of or is under indictment or misdemeanor information for any of the offenses listed below, and (i) less than two years have elapsed since the later of the date of conviction or date of release from confinement, probation, community supervision, or deferred adjudication, if the offense was a misdemeanor; or (ii) less than five years have elapsed since the later of the date of conviction or date of release from confinement, parole, mandatory supervision, or deferred adjudication, if the offense was a felony. (For purposes of this subsection only, the term "applicant" also includes and means the partners of a partnership if a partnership is an applicant; and the officers, directors, and shareholders of a closely held corporation if a corporation is an applicant):

1. Offenses described in either Texas Penal Code chapter 43 or 21, as amended (prostitution; promotion of prostitution; aggravated promotion of prostitution; compelling prostitution; obscenity; sale, distribution, or display of material harmful to a minor; sexual performance by a child; possession of child pornography; public lewdness; indecent exposure; indecency with a child).
2. Engaging in organized criminal activity as described in Texas Penal Code

chapter 71, as amended.

3. Sexual assault or aggravated sexual assault as described in Texas Penal Code chapter 22, as amended.
4. Incest, solicitation of a child, or harboring a runaway child, as described in Texas Penal Code chapter 25, as amended.
5. A violation of the Texas Controlled Substances Act or Dangerous Drug Act punishable as a felony;
6. Any offense under the laws of another state or the United States without regard to its title, but which corresponds to the elements of any Texas offense described or referred to in subsections (1)-(5), just above.
7. The fact that a conviction is under appeal shall have no effect on the disqualification of this subsection. An applicant who has been convicted or whose spouse has been convicted for one of the above listed offenses, for which the required time period has elapsed, may qualify for an adult oriented business permit only if the police chief advises the director of planning and development that the previously convicted applicant or spouse is fit for the permit. In determining present fitness the chief shall consider the following factors concerning the convicted person: (i) the extent and nature of past criminal activity limited to the offenses listed above; (ii) age at the time of the commission of the crime; (iii) conduct and work both prior to and following the criminal activity; (iv) the amount of time which has elapsed since the last criminal activity; (v) other evidence of present fitness, such as letters from prosecutors, prison officials, law enforcement officers, or others who know the person and have knowledge of rehabilitation of the person.

K. An applicant or applicant's spouse (or if a partnership, corporation, or association, then any officer, partner, director, or shareholder) has been an intended operator, owner, or permittee for an adult oriented business which permit was suspended or revoked at any time during the 2 years preceding the date of this application.

(2) The permit, if granted, shall state on its face the name of the person(s) to whom it is granted, the expiration date, and the exact address of the adult oriented business.
(Ord. No. 96-80, § II, 11-12-96)

Sec. 31-556. Other regulations.

These regulations are in addition to all other application procedures, qualifications, fees, rules, and other requirements contained herein or otherwise prescribed by state law or local ordinances. The failure or refusal to comply with these other regulations are grounds for denial, suspension, or revocation of a permit.

(1) *Architectural*: A person who operates or causes to be operated an adult oriented business, other than an adult hotel, who (i) exhibits in a viewing room, booth, cubicle, closet, stall, or other room of less than 150 square feet of floor space each, (ii) a live model, dancer, or other employee, agent, or contractor who exposes specified anatomical areas, or a movie, film, video tape, CD-ROM, floppy diskette or disk which depicts specified sexual activities or specified anatomical areas, shall comply with the following:

A. The application shall be accompanied by a diagram of the premises showing a plan

thereof specifying the location of one or more manager stations; the locations of all overhead light fixtures; designating the location, configuration, and size of all viewing rooms, booths, stalls, closets, cubicles, or other rooms; and designating any portion of the premises in which patrons will not be allowed. A manager's station may not exceed 32 square feet of floor area. A professionally prepared diagram in the nature of an engineer's or architect's drawing or blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street and should be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six inches. The director of planning and development may waive the diagram for subsequent applications if the applicant adopts a previously submitted diagram and certifies that the configuration of the premises has not been altered since it was prepared.

B. The interior of the premises shall be configured in such a way that there is an unobstructed view from a manager's station of every area of the premises to which any customer is permitted access for any purpose excluding restrooms. Restrooms shall not contain video reproduction or display or play back equipment.
C. No alteration in the configuration or location of a manager's station shall be made without the approval of the director of planning and development or his designee.

(2) *Personnel*:

A. It is the joint and several duty of the owner, permittee, and intended operator of an adult oriented business to insure that at least one employee is on duty and situated in each manager's station at all times that any customer is present inside the premises. It is an offense for a person to fail or refuse to discharge the duty prescribed by this paragraph.
B. At all times an adult oriented business premises is open to the public, there shall be a legible roster of the name, race, sex, date of birth, and social security number of every worker, employee, agent, or contractor or there privies present at the premises. This roster shall be kept in a bound book of pages; the binding may be of glue, cloth, staples, wire spiral, or loose leaf pages in a ring binder. The roster shall be available for inspection by representatives of the health, fire, police, and code or building inspections departments in the course of any inspection of the premises. It is an offense to fail or refuse to have and maintain an accurate roster, or to fail or refuse to produce it for inspection upon verbal request by one authorized to inspect the premises.
C. It shall be the joint and several duty of the owner, intended operator, manager, employees, contractors, and agents of any of them present in the premises to insure that the view area specified in (1)B above remains unobstructed by any doors, walls, curtains, merchandise, display racks or other non-transparent obstacles. It is an offense for a person to knowingly fail or refuse to discharge the duty prescribed by this paragraph.

(3) *Adult hotels*:

A. Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than 10 hours creates a rebuttable presumption that the establishment is an adult hotel as defined in this ordinance.

B. A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment (that does not have an adult oriented business permit), does rent or subrent a room to a person and, within 10 hours from the time the room is rented, the same room is rented or subrented again. For purposes of this subsection, "rent" and "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(4) *Signage*:

A. Except as provided within this section, all on-premises signage is prohibited.
B. Not more than two (2) wall signs, as defined in chapter 31, Killeen city code and chapter 2301, Standard Building Code, 1988 edition, as amended, shall be permitted, in compliance with said chapters. Further, the wall signs shall:

1. not exceed a total of twenty-four (24) square feet in area per premises, nor six (6) feet in height, nor shall the top of any sign be more than fifteen (15) feet above the natural ground surface beneath it; and
2. not use or be illuminated by any type of artificial light source in combination with a chaser or flasher feature; and
3. not use or be illuminated by any incandescent light source greater than 60 watts per bulb, with a minimum of one (1) foot distance between each bulb; and
4. not use or be illuminated by any type of fluorescent lighting other than cool white highwatt output type, with a minimum of one (1) foot distance between each tube or bulb.

(Ord. No. 96-80, § II, 11-12-96)

Sec. 31-557. Permit not transferable to other persons, locations or businesses.

A permittee shall not transfer the permit or business to another person or entity, nor operate a different adult oriented business, nor operate an adult oriented business under the authority of said permit at any place other than the address designated on the permit. (Ord. No. 96-80, § II, 11-12-96)

Sec. 31-558. Permit display.

A permit issued under this division 5 shall be displayed at all times in an open and conspicuous place, on the premises of the adult oriented business for which it was issued. (Ord. No. 96-80, § II, 11-12-96)

Sec. 31-559. Expiration of initial permit and issuance of subsequent permits.

All permits issued under this division 5 shall expire two years from the date of issuance. A subsequent permit may be obtained only by making application as provided in this subsection.

(1) Adult oriented business permits are not renewed. It is the duty of a permittee, who desires to obtain a subsequent permit by filing a new application no later than thirty (30) days prior to the expiration date of an existing permit. The expiration date of the existing permit will not be affected by the fact of a pending application for a subsequent permit.
(2) To obtain a subsequent permit, a permittee shall:

A. Complete the application process, pay the fee, and comply with all requirements, qualifications, and regulations prescribed in sections 31-553 to 31-556, inclusive; and,
B. If any owner, applicant, permittee, or intended operator is a corporation, association, or partnership, then also submit in writing:

    1. The name, address, social security number, and date of birth for each person who, since the date of the original application has been, and those who currently are, a director, officer, shareholder (or partner, as appropriate);
    2. The physical street location address (not a postal box) of the principal office of the entity;
    3. The state in which the entity was formed, chartered, or registered, along with the charter number or other official number assigned by the government agency which recorded such registration.

(Ord. No. 96-80, § II, 11-12-96)

Sec. 31-560. Amortization of non-conforming uses.

(1) Any person who, at the time of adoption of this ordinance, is lawfully operating an adult oriented business, shall have thirty (30) days after the effective date of this ordinance within which to apply for a permit.

(2) A person or establishment is not exempt from the requirement of obtaining a permit under this division 5 because it holds a permit or license under the Alcoholic Beverage Code, or for coin operated machines, or another permit or license for regulated activities on the premises.

(3) If, at either the time of adoption of this ordinance, or upon annexation into the city, an existing adult oriented business is located at a site which would preclude issuance of a permit under this division 5, then the adult oriented business shall be deemed a non-conforming use. Such non-conforming use must otherwise be in compliance with all non-locational provisions of this division 5, as well as all other local ordinances and state laws, and the issuance of a permit hereunder shall not affect the amortization of non-conforming uses as provided herein.

(4) A. An existing non-conforming adult oriented business use at the time this ordinance is adopted shall be allowed to continue at the same location, so long as such business is continuously operated by the original permittee and owned by the original owner at time of issuing the permit, until December 31, 2001 unless sooner terminated for any reason or the adult oriented business use is discontinued for a period of thirty (30) consecutive calendar days or more. A non-conforming use shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming non-adult oriented business use. If the permittee discontinues the non-conforming adult oriented business use for thirty (30) consecutive calendar days or more, the premises may not be reopened as a non-conforming adult oriented business use and must be made to conform to the then existing zoning designation for the property.
B. In the event an adult oriented business is annexed into the city, after the adoption of this ordinance, then that business shall be allowed to continue to operate, subject to all conditions, requirements and limits contained in this section. Such business shall have thirty (30) days from the effective date of annexation in which to apply for a

permit, and its five (5) year amortization period shall commence on the effective date of annexation, without regard to the references therein to December 31, 2001.

(5) The owner of a non-conforming adult oriented business who reasonably believes it will be unable to recoup the investment in said existing business by December 31, 2001 may request an extension of the amortization period. Said written application must be filed with the director of planning and development no later than one hundred eighty (180) days after applying for an original permit under this division 5, and no application for extension received after that date shall be considered. Said written application shall set forth the following information:

A. The amount of the owner's investment in the existing enterprise through the date of issuance of the certificate of occupancy for the adult oriented business;
B. The amount of such investment that will be realized through December 31, 2001;
C. The life expectancy of the existing enterprise; and
D. The existence or nonexistence of lease obligations, as well as any contingency clauses therein permitting termination of such lease.
E. The information submitted for A-D shall be supported by attaching true, complete, and legible copies of relevant documentary evidence such as financial statements and tax records, with all attachments, schedules, and exhibits referenced in the financial statement or tax records.

(6) The director of planning and development shall notify the applicant of the time and place of the hearing to be held on request for amortization extension. Said hearing shall be held before the director of planning and development. After such hearing the director of planning and development shall issue a written order on said request for extension.

(7) The director of planning and development shall grant an amortization extension for a period of time not to exceed one (1) calendar year upon making the following determinations and findings:

A. The owner has made every effort to recoup the investment in said adult oriented business prior to the amortization deadline;
B. The owner will be unable to recoup the investment in said adult oriented business on or before December 31, 2001; and
C. That all other applicable provisions of this ordinance are being and shall continued to be observed.
D. The decision of the director of planning and development on amortization extensions are final.

(8) If an initial extension is granted and the permittee believes said extension is insufficient, the permittee may request an additional grant or grants of time extensions not to exceed one (1) year each, in order to recoup the investment in said adult oriented business. Additional applications shall be filed with the director of planning and development no sooner than ninety (90) days nor later than sixty (60) days prior to the expiration of the current amortization extension.

(9) Extensions that are granted shall specify a date certain for closure and shall not be valid for operation at any other location or for any other adult oriented business at the same location.

(10) Any amortization extension granted is deemed immediately revoked by operation of this law if the ownership, control, permit, or business is transferred (except upon death bequest or bankruptcy); and, upon such transfer, the adult oriented business at the location shall immediately cease to operate.
(Ord. No. 96-80, § II, 11-12-96)

Sec. 31-561. Suspension.

The director of planning and development shall suspend a permit authorized by this ordinance for a period not to exceed thirty (30) days if the director of planning and development determines that:

(1) The permittee, owner, intended operator, or contractor or agent of any of them refuses to allow a lawful inspection of the premises of an adult oriented business by a representative of the police department, health department, fire department, building official, code inspector, or the Texas Alcoholic Beverage Commission at any time said business is occupied or open for business; or

(2) The permittee, owner, or other person seeking an amortization extension fails or refuses to provide the required supporting materials described above; or

(3) The permittee, owner, intended operator, or an employee, contractor or agent of any of them violates any other provision or regulation prescribed in this division 5.

(4) The suspension of any permit shall not toll, abate, or otherwise extend or suspend the operation of any prescribed time period which would prompt a loss of non-conforming use, or regarding the deadline for applying for a subsequent permit, or for an amortization extension.
(Ord. No. 96-80, § II, 11-12-96)

Sec. 31-562. Revocation.

(1) The director of planning and development shall revoke a permit authorized by this division if the director of planning and development determines:

A. That a permit is currently under suspension or has previously been suspended within the preceding 12 months, and another occurrence giving cause for suspension now exists;
B. A permittee, owner, or intended operator gave false or misleading information to the planning and development department during the application process for the permit in question, when applying for a non-conforming use permit, or for an extension of the amortization schedule;
C. A permittee, owner, intended operator, contractor, or an agent of any of them operated or caused to be operated the adult oriented business during a period of time when the permit was suspended;
D. A permittee, owner, intended operator, employee, contractor, or the agent of any of them has knowingly allowed any act of sexual intercourse; sodomy; oral copulation; masturbation; sexual contact; sexual bestiality; obscenity, sale, distribution, or display of material harmful to a minor; employment harmful to children; possession or promotion of child pornography; public lewdness; indecent exposure; indecency with

a child; sexual assault; harboring a runaway child; or an aggravated form of any of these offenses; criminal attempt, conspiracy, or solicitation to commit any offense listed above, to occur in or on the premises;

E. A permittee, owner, or the agent or contractor of either of them is delinquent in payment to the city of Killeen, the Killeen Independent School District, Bell County, or the state of Texas, for ad valorem taxes, sales taxes, or administrative fees, assessments, penalties, interest, or fines related to either the adult oriented business or the premises at which it is located;

F. A permittee, owner, intended operator, employee, contractor, or the agent of any of them has knowingly allowed the possession, sale, or use of controlled substances in or on the premises; or

G. On two (2) or more occasions within a 12 month period, a person or persons committed a criminal offense in or on the premises of the adult oriented business, listed in section 31-562D, for which a conviction has been obtained, and a person or persons involved in the crime was a permittee, owner, intended operator, or an employee, contractor, or agent of any of them.

(2) A revocation shall continue for one year after its imposition, and the permittee shall not be issued an adult oriented business permit for any adult oriented business at any location for one year from the date the revocation was imposed.

(3) The revocation of a permit shall not toll, abate, or otherwise extend or suspend the operation of any prescribed time period prompting a loss of non-conforming use, or regarding the deadline for applying for a subsequent permit, or for an amortization extension.
(Ord. No. 96-80, § II, 11-12-96)

Sec. 31-563. Appeal of denial, suspension, or revocation.

(1) If the director of planning and development denies the issuance of a permit, or suspends or revokes a permit issued hereunder, the director of planning and development shall, the next business day after said action, send to the applicant or permittee, by certified mail, return receipt requested, written notice of the denial, suspension or revocation, stating the reason(s) therefor and the right to judicial appeal. Further, the director of planning and development shall also physically post a complete and legible copy of said notice to the front public door of the premises of the adult oriented business by using either tacks, tape, or nails, and shall document the exact date and time of posting of this notice in the official permit file regarding that adult oriented business.

(2) Upon receipt of written notice of the denial, suspension, or revocation, the applicant or permittee shall have the right to appeal to the state district court. An appeal to the state district court must be filed within thirty (30) days after receipt of notice of the decision of the director of planning and development. The applicant or permittee shall bear the burden of proof in court as to all issues.
(Ord. No. 96-80, § II, 11-12-96)

Sec. 31-564. Effect on other laws.

Nothing in this division 5 is intended to legalize anything prohibited under the Texas Penal Code or any other federal or state law or city ordinance. (Ord. No. 96-80, § II, 11-12-96)

Sec. 31-565. Enforcement.

(1) In addition to the administrative remedies provided (denial, suspension, or revocation of permits or applications), any person convicted of violating any provision of this ordinance shall be guilty of a class A misdemeanor, as described by section 12.21 of the Texas Penal Code and as authorized by section 243.010(b) of the Texas Local Government Code. Each day that a violation occurs shall constitute a separate offense.

(2) In addition to any other remedy provided by law, the city and its officers shall have the right to enjoin any violation of this ordinance by civil injunction issued by a court of competent jurisdiction and recover costs and attorney fees.
(Ord. No. 96-80, § II, 11-12-96)

Secs. 31-566--31-599. Reserved.

DIVISION 6. TOWER REGULATIONS

Sec. 31-600. Purposes.

The purpose of this division is to promote the health, safety, welfare, and aesthetics of the community by providing appropriate regulations for commercial and personal towers, minimizing the visual impact of towers through design, screening and landscaping, and protecting property by assuring proper engineering and siting of tower structures. (Ord. No. 97-62, § II, 11-25-97)

Sec. 31-601. Definition.

Only for the purpose of this division of the zoning ordinance, the following words and phrases shall have the meaning ascribed to them as follows:

Alteration means any modification, replacement, or reconstruction that materially increases the height or the dimension of a tower structure.

Antenna means any device used to collect or radiate radio waves, microwaves, or electromagnetic spectrum waves. An antenna could include directional or panel antennas, ancillary antenna, parabolic or panel dishes, omni-directional antennas such as whips, and other similar transmitting or receiving equipment intended for personal or communications use.

Back haul means to transmit data/signals through a wire line, microwave, or other connection from the antenna to the wire-line local exchange telephone loop.

Collocation means the use of a single support structure by more than one person, entity, or communication service provider.

Communication Facility (CF) means a facility for the transmission or reception of radio, microwave, or electromagnetic spectrum signals used for communication by a service provider. CFs are composed of one or more of the following components:

(a) Antenna;
(b) Equipment enclosure;
(c) Security barrier; and/or
(d) Communication tower.

Director shall mean the director of planning for the city of Killeen, or his or her designated representative.

Electric substation and electric substation structure means all enclosed property and structures within any electric public utility substation.

Equipment enclosure is defined as a small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing communication or other signals received by an antenna or tower. Associated equipment may include air conditioning and emergency generators.

Existing nonresidential structure is any existing nonresidential structure, such as a water tower, commercial building, or electric utility tower to which an antenna may be attached.

Height means the vertical distance between the finished grade at the base of the tower or nonresidential structure, or the lowest point of contact with the building, and the highest point of the structure, including the antennas.

Historic district, structure or site is defined as any district, structure, or site designated as historic by any lawfully authorized local, state, or federal historical preservation entity or governmental entity, including the city.

Monopoles are self-supporting structures consisting of a single pole sunk into the ground and/or attached to a permanent foundation.

Residential structure means any structure that is at least 50% built, designed, or altered to provide living accommodations and at least 50% of the building’s intended use is residential.

Residentially zoned property is any real estate located within any of the following districts: agricultural, agricultural single-family residential, single-family residential, single-family garden home residential, residential modular home single-family, residential townhouse single-family, two-family residential, multi-family residential, mobile home, and manufactured housing districts.

Service providers means any company, corporation, alliance, individual, or other legal entity that provides a broadcast or communication service available to the public, or to a select segment of the public, such as the entity's own employees. Services include, but not limited to, portable phones, car phones, pagers, digital data transmission, two-way radio, radio, or television communication.

Tower means any fixed, free standing, uninhabitable, tall/slender structure, not a shelter, used for observation, signaling, communication, and includes any appurtenances and support antennas or other associated hardware. This definition shall include alternative tower structures such as man-made trees, clock towers, bell steeples, flag poles, utility facilities, and other similar

structures designed to camouflage or conceal the presence of towers.
(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-602. Locations and limitations for towers and antennas without special use permits.

Towers and antennas may locate without a special use permit as follows:

(a) Within heavy manufacturing districts (M-2) if the tower height does not exceed one hundred twenty (120) feet or encroach into any restricted airspaces or zones and is located no closer than 1,000 feet from any property used or zoned for residential use.

(b) On the roof of any nonresidential and non-historic structure, within any zoning district, provided the tower does not raise the height of the building or structure more than ten (10) feet and does not encroach into any airspaces or zones.

(c) On the vertical exterior of any nonresidential and non-historic structure, within any zoning district, provided the antenna or antenna support structure or equipment:

(1) Is mounted flush with the exterior of the structure or projects no more than 24 inches from the surface of the structure to which it is attached and does not raise the height of the structure more than ten (10) feet and that said projection is at least 15 feet above grade; and
(2) Is textured and colored so as to blend with the surrounding surface of the structure.

(d) On city-owned properties and structures by city council approval. Location, design and other restrictions applicable to a tower on municipal property or facility are subject to approval by the city council, subject to the height restrictions within this section.

(e) Citizen band and amateur radio towers may be constructed in any zoning district provided they do not exceed thirty-five feet in height and comply with all city codes and ordinances.
(Ord. No. 97-62, § II, 11-25-97; Ord. No. 00-52, § II, 6-27-00)

Sec. 31-603. Location and Limitations for Towers with a Special Use Permit.

(a) Any tower that does not comply with subsection 31-602 may be constructed only upon approval of a special use permit.

(b) Special use permits must be approved by the majority of the planning and zoning commission and then by the city council with a three-fourths affirmative vote. The city council may impose reasonable conditions and safeguards deemed appropriate to that application in order to protect the health, safety, and welfare of the public and protect property and property values.
(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-604. Collocation.

(a) To minimize the number of CFs to be sited, applicants shall cooperate with other service providers in collocating additional antennas on existing towers and/or structures to the extent that

collocation is reasonably economically feasible. An applicant shall exercise good faith in collocating with other providers and sharing the permitted site. Such good faith shall include sharing technical information to evaluate the feasibility of collocation. The burden is on the owner of an existing CF to prove it is not technically or economically feasible for the applicant to collocate.

(b) Service providers shall, to the maximum extent feasible, promote collocation of antennas by multiple providers through the use of nonexclusive agreements for antenna sites, relocation and reconfiguration of antennas to accommodate additional users, utilization of current technology to maximize antenna separation and minimize antenna/tower height and obtrusiveness, and ensure building support structures are of sufficient strength and do not jeopardize public safety.

(c) As a condition to erecting a CF within the city, a party agrees to:

(1) Design and construct a CF in a way that the structure can support additional antenna systems having the same or similar wind and weight loading characteristics that are proposed by the applicant.
(2) Provide tower space on a reasonable, proportioned cost basis to other service providers who seek use of the structure, unless it would result in the creation of a level of radio frequency interference which would degrade applicants' services.
(3) Appear and participate in all contested hearings conducted by the planning and zoning commission and/or the city council which pertain to an applicant's request to collocate on the party's CF. Failure to participate in good faith shall be deemed a violation of this ordinance which may be remedied by the revocation of special use permit and/or removal of the party's CF.

(d) In addition to efforts to collocate antennas, prior to submitting a request for a special use or building permit to construct a tower, the applicant shall identify vertical structures in the applicant's identified target area and assess the capability of one of those sites to accommodate their needs. Modifications to existing structures to accommodate additional antennas may be administratively approved by the building official if the height of the existing structure is not increased by more than fifteen feet and the structure meets original setback requirements.

(e) This subsection shall not apply to citizen band or amateur radio towers and equipment.
(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-605. Setback distance requirements of towers.

(a) Towers located in a nonresidential zoned district shall be located in such a manner that if the tower should fall along its longest dimension it will remain within the owned or leased property boundaries of the service provider and will avoid public streets and utility lines.

(b) In addition to the setback provisions of (a) above, towers located on or adjacent to property used or zoned for residential use shall be set back one and one-half (1½) times the height of the tower.

(c) All distance measurements referred to in subsection (b) shall be the distance of a straight horizontal line from the center of the base of the tower to the closest property line of property used or zoned for residential use.

(d) Property uses and distances referred to in this section shall be determined as of the date and time the tower permit application is approved.

(e) Equipment enclosures shall be set back from property lines as prescribed for the district in which the enclosure is located or ten (10) feet, whichever is greater.
(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-606. Screening device requirements.

(a) A CF must be completely enclosed by a fence, wall, or barrier which limits climbing access to such tower and any supporting systems, lines, wires, buildings, or other structures. The facility must be fully screened from view from property used or zoned for residential use and public roadways, as described in section 31-281.

(b) The screen shall be consistent in color and character to surrounding structures and properties.

(c) The screen shall have no openings, holes, or gaps larger than four (4) inches measured in any direction.

(d) The screen may contain gates or doors allowing access to the CF. Such gates or doors shall be kept completely closed and locked except for maintenance purposes and shall be located so that all gates and doors do not intrude into a public street when open.
(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-607. Maintenance and inspection.

(a) The owner or operator of a tower shall be responsible for the maintenance of the tower and shall maintain all buildings, structures, supporting structures, wires, fences, or ground areas used in connection with the tower in a safe condition and in good repair and in compliance with the city building, fire, and other applicable codes, regulations, or ordinances. Maintenance shall include, but shall not be limited to, maintenance of the paint, landscaping, screening, equipment enclosure, and structural integrity. If the city building official finds that the tower is not being properly maintained, he shall declare it to be a public nuisance and notify the owner of the tower and of the land if different. If the owner fails to correct the problem within the time allotted by the city, the city may undertake any or all of the following actions: maintenance at the expense of the owner, revoke the special use permit, or require removal of the tower.

(b) By applying for a building permit for a tower, the applicant specifically grants permission to the city, its duly authorized agents, officials, and employees, to enter upon the property after first making a reasonable attempt to notify a person designated by the applicant, except in the event of an emergency, for the purpose of making all inspections to assure compliance with all city codes and ordinances.
(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-608. Frequency emission standards.

(a) The applicant and any subsequent operator or owner shall comply with federal standards

for electromagnetic spectrum emissions and must annually submit a signed statement that the proposed site fully complies with federal standards for radio frequency emissions. The city reserves the right to request that the applicant submit to the city a report sealed by a registered electrical engineer which provides the estimated cumulative field measurements of electromagnetic spectrum emissions of all emitters installed at the subject site and compares the results with established federal standards. If on review the city finds that the proposed or established CF does not meet federal emission standards, the city may take any or all of the following actions: deny or revoke the special use or building permit, require a work stoppage if under construction, require cessation of operations until remedied, or require removal of the CF. Unless the non-compliant condition presents an immediate threat to health and safety, before applying these remedies the city shall provide a sixty (60) calendar day correction period.

(b) The applicant shall ensure that the facility will not cause localized interference with the reception of area television or radio broadcasts, or other legally existing communications facilities. If on review, the city finds that the facility will interfere with such reception, it may use any remedy identified in subsection (a).
(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-609. General site development standard and submittal requirements.

(a) All towers and communications facilities (excluding citizen band and amateur radio) shall conform to the following development standards:

(1) All towers must be a monopole construction. An alternative tower design structure, as defined in section 31-601, may be approved by the building official.
(2) To minimize potential safety hazards, towers shall be set back as required in section 31-605.
(3) All lots on which towers and communications facilities are located must have all-weather access to a public street.
(4) Towers shall be constructed in accordance with the city building codes, be certified by a professional engineer as to structural integrity of the tower and its appurtenances and shall be in compliance with the city of Killeen code of ordinances.
(5) Towers shall be designed and placed on the site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures so as to:

    a. Disguise as much of the tower as possible from the public view;
    b. Use site features as a background so that the tower blends into the background with increased sight distances; and
    c. To the degree technically feasible, locate on a portion of the site that is effectively isolated from view of residential areas by structures or terrain features unless the tower and facility are integrated or act as an architectural element of the structure such as a flag pole or parking lot light or are effectively screened through installed landscaping or other acceptable screening.

(6) Communications facilities shall landscape screening. Further, the use of existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting landscaping requirements. The installed landscaping requirements include:

a. A row of shade trees a minimum of one inch (1") diameter shall be planted around the CF screen (required in section 31-606) with a maximum spacing of twenty-five (25) feet.
b. A continuous hedge of one gallon sized (minimal) evergreen ground cover shall be planted along communications facility screen.
c. All landscaping shall be drought-resistant or irrigated and properly maintained to ensure good health and viability.
d. The city may waive landscaping requirements if the design of the tower is such that landscaping would cause the tower to be more obtrusive, or the tower is integrated or acts as an architectural element of a structure such as a flag pole, parking lot light, bell tower, or other similar structure and/or the city determines landscaping to be unnecessary.

(7) All signs, flags, lights, and attachments (other than those required for communications operations, structural stability, or as required for flight visibility by the Federal Aviation Administration [FAA] and Federal Communications Commission [FCC]) shall be prohibited on any tower.
(8) Communication towers shall be lighted with low intensity lights to provide added visibility for aviation navigation.

(b) Service providers wishing to construct a tower shall ensure and submit documentation demonstrating:

(1) That the tower will be erected and operated in compliance with current FCC and FAA rules and regulations and other applicable federal, state, and local standards and particularly those applicable to civil or military airports, airfields, or heliports.
(2) That all back haul providers are identified and have all the necessary approvals to operate as such, including holding necessary franchises, permits, and certificates.
(3) A notarized statement signed by the CF operator, owner, and the landowner that indicates:

a. All agree to allow collocation of additional equipment by other service providers on the applicant’s structure or within the same site location, provided that such space is available on a reasonable and non-discriminatory basis and will provide an estimated cost schedule for such collocation services.
b. An understanding of section 31-607 relating to maintenance and inspections.
c. An agreement to inform the city of any intent to abandon or cease using an antenna or tower within thirty (30) days of the date the use ceases. The agreement must state a willingness to remove the tower and accessory buildings and equipment upon six (6) consecutive calendar months of discontinued use. The six (6) month period may be administratively extended to provide a period of up to one year from the date of operation cessation to market the antenna or tower to other carriers. The responsibility for removal falls upon the landowner. In the event the tower and accessory buildings and equipment are not removed when so ordered, the city may remove the tower and accessory buildings and equipment and recover the costs associated with such removal from the landowner and place a lien upon the property until such costs are paid.

(4) A report certified and sealed by a registered professional engineer stating that all

structural components of the tower comply with all applicable codes and regulations. In the case of communication facilities, the report should further note the extent to which the tower is designed and/or built to accommodate collocation. In addition, a sealed report from a registered electrical engineer certifying that electromagnetic spectrum emissions are in compliance with applicable federal standards must be submitted.

(5) An agreement to reimburse the city for actual costs incurred by the city to review and process the application. Should the city question either the certifications submitted with the application or the level or emissions during subsequent operations, the city may request an independent evaluation. If the submission or level of emission is found to be in error, the actual cost incurred by the city for this evaluation will be billed to the service provider or added to the application fee.

(6) To enhance the city's ability to plan for collocation, a service provider shall provide a master antenna plan, including maps:

a. showing the projected locations and characteristics of all proposed future sites in the city and in its extraterritorial jurisdiction (ETJ);
b. indicating coverage areas of the proposed and existing sites within the city and its ETJ.

Updates or revisions of the above documents shall be filed with the city within thirty (30) days of completion. Applicants may identify such information as "confidential and proprietary." Information so marked will not be released to any third party unless the city of Killeen is directed to do so by the state attorney general's office.

(7) Site and landscaping plans indicating:
a. the specific placement of the tower and all related structures on the site;
b. the location of existing trees and other significant site features;
c. the type and location of landscaping proposed for screening;
d. the color(s) for the tower; and
e. architectural drawings for the proposed site.

(Ord. No. 97-62, § II, 11-25-97; Ord. No. 05-69, § VIII, 9-13-05)

Sec. 31-610. Permit limitations.

(a) Any city permit, including the special use permit, shall become null and void if the permitted tower and communication facility is not constructed within six (6) months of the date of issuance, provided that the special use permit may be extended one time for six (6) months if foundation inspection has been completed before the expiration of the initial six months.

(b) The applicant/permittee of a tower or antenna constructed on city-owned property shall expressly indemnify, protect, and hold the city harmless to the maximum extent allowed by law. No exceptions to this requirement shall be allowed.

(c) Any city permit, including a special use permit, for a tower shall expire and the applicant must remove the tower if it is not put into use within one hundred twenty (120) days after construction or if use is discontinued for a period in excess of six (6) consecutive calendar months. If the tower is not so removed, the city may cause the tower and accessory buildings and equipment to be removed, and all expenses of removal shall be paid by the owner of the land

where the tower is located.

(d) The applicant/permittee shall notify the director of all changes in ownership or operation of the tower within thirty (30) days of the change.

(e) Any other limitations imposed by the city council as a condition of a special use permit.
(Ord. No. 97-62, § II, 11-25-97)

Sec. 31-611. Pre-existing towers.

A tower which was legally in existence on the date of final passage of this division of the zoning ordinance shall not be required to be removed or relocated in order to meet minimum distance requirements. However, any alteration of the physical dimensions (excluding collocation) or renovation due to any cause which exceeds 50% of the value or physical modification which exceeds 50% of the area of existing towers or facilities shall require compliance with the applicable provisions of this division of the zoning ordinance. (Ord. No. 97-62, § II, 11-25-97)

Secs. 31-612--31-699. Reserved.

DIVISION 7. HOME BASED CHILD CARE REGULATIONS

Sec. 31-700. Purpose.

The purpose of this division is to promote the health, safety, welfare, and aesthetics of residential communities by providing appropriate regulations for home based child care facilities to minimize the impact of such land uses may have on neighboring properties. (Ord. No. 99-47, § IV, 6-8-99)

Sec. 31-701. Standards and definitions.

(a) To assure the health, safety, and well being of the children of the city of Killeen who receive care outside their homes, the Texas Department of Protective and Regulatory Services minimum standards for registered family homes, group day care homes, and regulation of certain facilities, homes and agencies that provide childcare services (chapter 42--Human Resources Code), as adopted and amended are hereby incorporated by reference for all intents and purposes. In the event of a conflict between the above referenced standards and city ordinances, the most restrictive standard shall control.

(b) Definition: As used in this chapter, “home based child care facility” shall include any facility registered or licensed by the Department of Protective and Regulatory Services.

(c) All references to the city manager or the building official also includes a designee named by either official.
(Ord. No. 99-47, § IV, 6-8-99)

Sec. 31-702. City of Killeen certificate of occupancy.

(a) Prior to accepting children for care, a home based child care facility must secure a

certificate of occupancy issued by the city building official. A copy of the appropriate Texas Department of Protective and Regulatory Services certification (registration or license) must be attached to the request for the certificate of occupancy inspection. The applicable minimum standards, referenced above, and applicable fire, safety, health, and building regulations and codes shall serve as a guideline in the decision whether to issue said certificate. Any variance allowed by the applicable minimum standards shall be accepted as a valid variance by the city building official, in determining compliance with fire, safety, health, or sanitation requirements. The applicant for such certificates shall reside on the premises as his/her principal dwelling place.

(b) The administrative and inspection fee, as set by the city council, must be tendered with the complete application. Should a home not pass inspection, it will receive a second inspection after 10-15 business days. Any further inspection will require an additional tender of the fee per inspection. The fee is not refunded if the premises fails the inspection or application is withdrawn.

(c) The city manager may revoke the certificate of occupancy if the person holding the certificate refuses or fails to comply with the requirements of:

(1) this chapter;
(2) certificate of occupancy;
(3) fire codes and regulations;
(4) health and safety codes and regulations;
(5) building codes and regulations; or
(6) any law governing, or any standard pertaining to the operation of a home based child care facility.

(d) Appeal provision. If the city manager denies the issuance of a certificate of occupancy or revokes a certificate of occupancy issued hereunder, the city manager shall, the next business day after said action, send to the applicant or holder of the certificate of occupancy a certified letter (return receipt requested) giving notice of the denial or revocation, stating the reason(s) therefor and the right to appeal. Further, the city manager shall physically post a complete and legible copy of said notice to the front public door of the premises of the home based child care facility and shall document the time and date of this posting. The applicant or holder of the certificate of occupancy may appeal the denial or revocation of a certificate of occupancy to the city council subject to the following:

(1) The appeal must be in writing and filed with the city manager’s office within ten (10) business days after the posting of the written notice of denial or revocation;
(2) The appeal must clearly set out the basis of such appeal;
(3) A hearing shall be scheduled for the next regular city council meeting no earlier than ten (10) business days after receipt of the appeal;
(4) The city council shall formally act upon the appeal at the meeting. During the hearing, the mayor or other presiding officer may receive any information which he or she deems to be relevant and material, but at a minimum shall hear the appealing party and the city manager. If the decision of the city manager is overturned, the certificate of occupancy shall be issued. If the decision of the city manager is upheld, the applicant or permittee shall have the right to appeal to the state district court. An appeal to the state district court must be filed within thirty (30) days after the date of

the decision of the city council. The applicant or permittee shall bear the burden of proof in the council hearing and in court as to all issues.

(Ord. No. 99-47, § IV, 6-8-99)

Sec. 31-703. Home based child care use restrictions.

(a) Home based child care facilities may be located in any residential area subject to the following:

(1) Maximum number of children in care in addition to the children residing at that address may not exceed:

Type of Residence	Number of Children
Single family structure (includes garden, modular and manufactured homes)	6
Duplex (includes 2-unit townhouse)	3

(2) In no event shall the number of children in care exceed the state published staff-child ratio standards.

(3) A certificate of occupancy for the operation of a home based child care facility may not be issued to an applicant with an address on a lot or parcel within or less than a 200 foot radius from a property line of a lot on which an existing home based child care facility is located.

(b) Home based child care facilities shall comply with the following conditions:

(1) Hours of operation shall be not more than twenty (20) consecutive hours in a twenty-four (24) hour period. However, under extenuating circumstances (e.g., military orders or family medical emergency) a child(ren) may be retained in care for longer than the twenty (20) hour period.

(2) A fence, not less than four (4) feet in height, shall be placed around any outdoor play area. Outdoor play equipment shall not be placed in the front yard.

(3) A parking area shall be provided for off-street loading and unloading of children on a concrete or paved surface. No loading or unloading of children on the street shall be allowed.

(4) Staffing:

a. No persons other than occupants of the premises shall be engaged in the operation of the home based child care facility.

b. The preceding subsection (4)a does not preclude the home based child care provider from acquiring the services of an independent contractor to function as a substitute provider to be present in the occasional absence of the home based child care provider.

(5) Home based child care facilities shall not involve the use of advertising signs or window displays on the premises or any other local advertising media which call attention to the fact that the home is being used for business purposes. A telephone number may be included in a directory listing or an advertisement; however, no

business address may be published or advertised.

(6) The outside appearance of the residential dwelling shall not be altered from its residential character in any way.

(7) The home based child care use shall not increase the number of vehicles parked on the premises by more than two (2) additional vehicles at any time. All customer/client parking shall be off-street and in a paved area.

(8) The home based child care use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.

(Ord. No. 99-47, § IV, 6-8-99)

Sec. 31-704. Pre-existing home based child care facilities.

(a) A home based child care facility that was legally registered or licensed and permitted, as appropriate, on the date of passage of this division of the zoning ordinance may continue to operate in that classification, in compliance with the Texas Department of Protective and Regulatory Services regulations and standards, by the current care giver at the current address. If the current home based child care provider ceases to operate the facility for a period of 90 days (or longer), it is deemed an abandoned use, and any reestablished facility must be in full compliance with this ordinance.

(b) Current registered and licensed child care facilities that do not possess a certificate of occupancy shall have thirty (30) days from the effective date of this ordinance to make application for such certificates in order to qualify for protection under these pre-existing provisions.

(Ord. No. 99-47, § IV, 6-8-99)

Secs. 31-705--31-799. Reserved.

DIVISION 8. PLANNED UNIT DEVELOPMENT REGULATIONS

Sec. 31-800. Description.

A planned unit development (PUD) is a land use design incorporating the concepts of density and common open space. The PUD designation serves as an “overlay zoning and development classification.” In this capacity, the designation permits specific negotiated development regulations to be applied to the base land use zoning district(s) in which the property is located. When a parcel of land receives a PUD designation, the entire parcel must be assigned one or more standard zoning district classifications. However, the added PUD overlay classification enables the developer of the site to request that specific land use development regulations be applied to his development site. Such specific land use and development regulations shall not take effect until they are reviewed, public hearings held and approved by both the planning and zoning commission and the city council. (Ord. No. 05-101, § III, 10-25-05)

Sec. 31-801. Purpose.

The PUD classification is an overlay designation to provide the flexibility to permit development projects which may include multiple land uses. This classification serves the following purposes:

(a) Establish a procedure for the development of a parcel of land under unified control to reduce or eliminate the inflexibility that might otherwise result from strict application of land use standards and procedures designed primarily for individual lots;
(b) Ensure structured review and approval procedures are applied to unique development projects that intended to take advantage of common open space and promote pedestrian circulation;
(c) Allow developers greater freedom to be innovative in selecting the means to provide access, light, open space and amenities; and
(d) Provide flexibility from the strict application of existing development regulations and land use standards and allow developers the opportunity to take advantage of special site characteristics and location.

The regulatory provisions of this classification are intended to achieve the above purposes while maintaining the spirit of the current city of Killeen development regulations, as amended. As such, these provisions represent the governing body's minimum quality of life standard and no variance or exception shall be granted thereto.
(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-802. Location, districts, and minimum requirements.

A PUD may be permitted in any zoning district. No PUD may be located outside of the corporate limits of the city of Killeen or in an area which does not have access to a full compliment of urban infrastructure and includes development plans for water, sanitary sewer, storm sewer, or other appropriate drainage infrastructure and paved streets. The following minimum requirements shall apply:

(a) PUDs shall be located within one-mile radius of an arterial street.
(b) PUDs shall conform to city of Killeen ordinances and zoning requirements unless specifically exempted by negotiated development regulations approved for use within the development.
(c) In no case shall a PUD be exempted from compliance with existing city land use, utility, or thoroughfare master plans.
(d) Generally, the minimum acreage for a planned development shall be five acres. The planning and zoning commission may recommend approval of PUDs on less acreage on a case-by-case basis.
(e) Combinations of residential, office and commercial land use activities may be permitted under the PUD classification. The submitted land use plan will be evaluated based on the compatibility of land uses to each other and the degree to which landscaping and screening are used to buffer less compatible land uses. In a PUD that includes residential land uses, no more than 20% of the area may be planned for commercial use.
(f) Yard sizes within the PUD should generally follow guidelines for similar districts in the zoning ordinance; however, modifications to the yard sizes and lot areas may be requested when the open space and common area amenities justify the overall deviation.
(g) Open space landscaped buffers shall be required to separate land uses within the planned development from land uses adjacent to the planned development unless the planning and zoning commission and the city council conclude that no incompatibility exists between the land uses. No structure, parking lot, equipment pad, or other man-made construction not approved by the city shall be placed in an open space buffer. The minimum size of an

open space buffer shall be 25 feet measured from the property line. This buffer may be extended and screening and/or landscaping may be required within the buffer based on the perceived degree of incompatibility between land uses or other criteria such as development density or topography as determined by the planning and zoning commission or the city council. No structures within the PUD that exceed thirty-five (35) feet in height may be constructed on lots adjacent to single-family and two-family districts.

(h) Parking area and number of spaces shall not be less than regulations for applicable uses prescribed in this ordinance and may be increased as deemed necessary by the planning and zoning commission.

(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-803. General procedure.

The procedure for requesting, processing, and approving a PUD classification shall conform to those procedures prescribed for requesting a zoning change. The development regulations which the developer desires to have approved for the proposed PUD will be submitted concurrent with the requested zoning change for a PUD classification. Development plats shall not be submitted until approval action on the PUD classification has been taken by the city council.

(a) *PUD review*. The planning and zoning commission will assess the impacts the proposed PUD will have on planning goals, utilities, emergency services, traffic, and all properties adjoining and likely to be influenced by the proposed PUD development. The city shall comply with the notification, public notice, and public hearing requirements mandated for changes in zoning districts. The planning and zoning commission shall make recommendations regarding approval/denial, development regulations, and any mitigating conditions required of the PUD classification to the city council. The city council may approve/disapprove the PUD classification, modify any requested development regulations, and impose any conditions relative to the development of the PUD. Unless otherwise stipulated, such conditions shall be complied with before any permit shall be issued for the construction of any structure within the PUD.

(b) *Assessment criteria*. Each proposed PUD development shall be reviewed to determine the compatibility of the development with surrounding land uses and the compatibility of the land uses within the development. No PUD shall be approved if it is found that the proposed development:

(1) Does not conform with applicable regulations and standards established by this article;

(2) Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, setbacks and open spaces, landscaping, drainage, or access and traffic circulation;

(3) Potentially create unfavorable effects or impacts on other existing or permitted uses on abutting sites that cannot mitigated by imposed conditions, screening, or other provision of this section;

(4) Adversely affects the safety and convenience of vehicular and pedestrian circulation and parking in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses anticipated considering existing zoning and land uses in the area;

(5) Fails to reasonably protect persons and property from infrastructure failure, erosion, flood or water damage, fire, odors, dust, noise, fumes, vibrations, glare, and similar hazards or impacts;
(6) Adversely affects emergency access, traffic control, or adjacent properties by inappropriate infrastructure standards, location, access, lighting, or type of signs; or
(7) Will be detrimental to the public health, safety, and welfare, or injurious to property or improvements in the vicinity, for reasons specifically articulated by the planning and zoning commission or the city council.

(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-804. PUD development site concept plan required.

At the time the PUD classification application is submitted, the applicant shall concurrently submit a proposed development site concept plan drawn at a 1"=100' scale. If the PUD will include existing structures or improvements, as-built drawings to scale are required. The development site concept plan shall show adjacent land uses and include all proposed land uses by lot and in general terms identify the street layout and the developer's intent with regard to easements. The concept plan shall identify, either illustrated on the plan or with attached narrative, the residential density, lot areas, lot widths, lot depth, yard depths and widths (setbacks), building heights, maximum lot coverage, parking areas, public access, landscaping, screening, signage, lighting, common spaces, and amenities. The concept plan shall be accompanied with the topography (2-foot contours) and proposed drainage plan with complete analysis of existing and post development water runoff and show how the developer intends to bring runoff water under control so as to be in compliance with the city's drainage criteria and preclude downstream damage. If the project is to be completed in phases, the concept plan shall cover the complete project. The boundaries of each phase will be shown and each phase shall meet the minimum acreage requirement. The final plat for a PUD development shall be submitted only after the city council's approval of the PUD classification request. It shall conform to the city of Killeen development regulations as amended and any mitigating conditions specifically approved in the PUD ordinance. (Ord. No. 05-101, § III, 10-25-05)

Sec. 31-805. Owners' associations.

An owners' association shall be established and shall own and be responsible to provide for operation, repair, and maintenance of all common areas, fences, walls, gate equipment, landscaping, and all other common facilities including but not limited to streets, drives, sidewalks, service areas, and parking areas and structures and common recreational areas that are a part of the planned unit development. The association's articles of incorporation, bylaws, and any covenants and restrictions must be submitted with the application for the PUD classification and approved by the city as a part of the planned unit development. The association documents shall be filed for record prior to the submission of the final plat. The documents shall contain the following provisions which shall not be amended without the written consent of the city nor shall any variances or exceptions be granted thereto:

(a) A provision to establish a self-sustaining reserve fund for the operation, repair, and maintenance of all private infrastructure and common use facilities.
(b) A provision that requires the association to maintain a current repair and maintenance plan for all private infrastructure and common use facilities demonstrating that the association is self-perpetuating and adequately funded to accomplish its maintenance

responsibilities.

(c) Lot deeds must convey mandatory membership in the association and provide for the payment of dues and assessments required by the association.

(d) Provisions shall extend to the city written permission for practical access at any time without liability when on official business. This practical access will also extend to the city, without liability, permission to remove obstructions including, but not limited to, any gate, vehicle or any other type of obstacle that precludes the accomplishment of the official business. The association shall be assessed all costs incident to the removal of such obstacles.

(e) The association may not be dissolved without the prior written consent of the city and 75% of the total membership of the association. Plans to dissolve the association must contain provisions for the liquidation of association real estate and other property assets and include a document that provides for the future maintenance of any private infrastructure and common use areas.

(f) Association documents shall contain language whereby the association, as owner of private infrastructure and common use facilities, agrees to release, indemnify, defend, and hold harmless the city, any governmental entity, and public utility for damages to the private infrastructure and common facilities occasioned by the reasonable use of such private infrastructure and common facilities by the city, governmental entity, or public utility; for damages and injury arising from the condition of said private infrastructure and common use facilities; for damages and injury arising out of the use by the city, governmental entity, or public utility of any restricted access or entrance; and for the damages and injury arising out of any use of the planned unit development by the city, governmental entity, or public utilities for such damages and injuries. The indemnifications contained in this provision apply regardless of whether or not such damages and injuries are caused by the negligent act or omission of the city, governmental entity, or public utility or their representative officers, employees, or agents.

(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-806. Planned unit development infrastructure.

The granting of a PUD classification shall not relieve the developer from the responsibility to comply with all other applicable governmental regulations, instructions, codes, resolutions, and ordinances of the city except to the extent expressly specified in the ordinance approving the planned unit development classification and the specific modified regulations to be applied to the approved development. The following infrastructure requirements are applied to PUDs to maintain the city's interest in quality development and assure the health, safety, and welfare of the public is protected. To this end, variances and exceptions to these requirements shall not be permitted.

(a) *Utilities*. Water, sewer, drainage facilities, signage, and all utilities provided by public utility companies shall be installed in easements or public rights of way. Utilities shall be constructed to city standards and such easements, rights of way, and utilities shall be completed and dedicated to the city prior to the approval of any permit for the construction of any residential or commercial use structure within the PUD. The city shall require as-built engineering layouts of any previously installed infrastructure. Private infrastructure and any infrastructure which is not recorded on approved construction plans shall be uncovered and inspected. All city regulations relating to water, sewer, and

drainage infrastructure financing and city/developer cost participation shall apply to planned unit developments.

(b) *Private streets*. A planned unit development may be planned and developed with private streets only as follows:

(1) A PUD containing private streets shall not cross an existing or proposed thoroughfare as shown on the most recent thoroughfare plan, as amended.

(2) The city shall not participate for any portion of the cost to engineer, construct, or maintain private streets.

(3) Private streets shall conform to the same standards regulating the engineering and construction as public streets. Construction plans and city engineer approval is required for public streets. Requirements pertaining to inspection and approval of improvements prior to release of lots for development shall apply. Fees charged for these services shall also apply. The city may periodically inspect private streets and require repairs necessary to assure emergency vehicle access. Standards for street naming and addressing shall apply. The term private street shall include any vehicular access way, and will include but is not limited to terms such as road, alley, passage way, drive, access, lane, firelane, or any such similar term.

(4) Private streets must be constructed within a separate lot owned by an owners' association. The lot must conform to the city's right of way standards for public streets. An easement covering the street lot shall be granted to the city providing unrestricted use of the property for utilities and the maintenance of same. This right shall extend to all utility providers. The easement shall also provide the city with the right of access for any purpose related to the exercise of a governmental service or function, including but limited to fire and police protection, inspection, and code enforcement. The easement shall permit the city to remove any vehicle or obstacle within the street lot that impairs emergency access.

(5) The planning and zoning commission and/or city council may deny any private streets if in the commission's judgment the private street has the potential to: negatively affect traffic circulation on public streets; impair access to property either on-site or off-site to the PUD; impair access to or from public facilities including schools, parks, or libraries; or delay the response time of emergency vehicles.

(6) Any private street which has an access control gate or cross arm must have a minimum uninterrupted pavement width of 36 feet at the location of the access control device. If an overhead barrier is used, it must be a minimum of 14 feet above the road surface. All gates and cross arms must be of break-away design. A turn-around with a 50-foot turning radius must be located in front of a restricted access to allow vehicles denied access to safely exit onto public streets. Lots adjacent to controlled access gates shall not be permitted to construct fences of any material which could obscure traffic visibility. The entrance to all private streets must be marked with a sign stating that it is a private road. Restricted access points must either be staffed 24 hours per day or an alternate means must be established to assure access by emergency response vehicles and city and other utility service providers.

(7) Property deeds and property owners' association documents shall note that certain city services shall not be provided on private streets. Among the services which will not be provided are routine police patrols, enforcement of traffic parking ordinances, and preparation of accident reports. The city shall not provide public funds for the maintenance or lighting of private streets. All traffic regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices.

(8) The city of Killeen may upon written request of the owners' association and with a favorable vote of 75% of the association members consider accepting the dedication of and the assumption of maintenance responsibility for private streets and common use areas. However, in no event shall the city be obligated to accept such dedications. Should the city elect to favorably consider the acceptance of the dedication of common use facilities or private streets, the city will inspect properties offered for dedication and assess each member of the owners' association for the expense of needed repairs concurrent with the city's acceptance of the dedication. The city will be the sole judge of required repairs. The city will also require, at the association's expense, any access controlling gates, devices or infrastructure.

(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-807. Planned unit development maintenance.

Property deeds and association documentation shall include the following property maintenance provisions and property conveyance records shall indicate that such provisions were briefed to, acknowledged, and accepted by the purchaser during the execution of the property transfer transaction.

(a) In the event an owners' association fails to maintain PUD common use areas or facilities or fails to fulfill other conditions associated with the PUD designation, the city will serve written notice on the association, setting forth the manner in which the association has not fulfilled its obligations. Such notice shall include a demand that the deficiencies be cured within a thirty (30) calendar day period. If the deficiencies are not cured within this period, the city may enter upon the common use area or facility, maintain it, and perform other related duties until such time as the association resumes its responsibilities. The city shall take such corrective action in order to prevent the common use area and facilities from becoming a public nuisance or a health and safety hazard to the public. All costs incurred by the city in carrying out the obligations of the association shall be reimbursed by the association. Should the association fail to reimburse the city within ninety (90) days, the properties within the PUD shall be subject to lien and possible foreclosure of assets including but limited to the maintenance reserve fund required per section 31-804.

(b) In the event an owners' association fails to maintain a private street, the city shall serve notice on the association, setting forth in writing the manner in which the association has not fulfilled its obligations. Such notice shall state conditions prejudicial to the health, safety and welfare of the public. Effort to correct such deficiencies shall be initiated within thirty (30) days and such deficiencies shall be cured within ninety (90) days. The city shall deem the failure to cure deficiencies within the cure period as a public hazard. In such instances, the city shall remove security devices and maintain the street to correct the cited deficiencies. All costs incurred by the city in carrying out the obligations of the association shall be reimbursed by the association. Should the association fail to reimburse the city within ninety (90) days, the properties within the PUD shall be subject to lien and possible foreclosure of assets including but not limited to the maintenance reserve fund required per section 31-804.

(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-808. Waiver and abandonment.

Once the PUD classification has been approved, the failure to submit a plat within a one (1)

year period or the failure to substantially act on the development plan within a two (2) year period after the classification has been approved by the city council shall constitute waiver and abandonment of the PUD classification. Such period may be extended in one (1) year increments upon favorable recommendation by the planning and zoning commission and approval by the city council. If a plan is abandoned or the property transferred or conveyed prior to development, all negotiated land use and development agreements and regulations which would have applied to the plan shall be considered null and void and the property shall revert to the zoning district that existed prior to the approval of the PUD classification. (Ord. No. 05-101, § III, 10-25-05)

Secs. 31-809—31-819. Reserved.

DIVISION 9. HERITAGE PRESERVATION

Sec. 31-820. Definitions.

For the purposes of this division, the following definitions shall apply:

Architectural detail shall pertain to the specific architecture, its features, characteristics, materials, craftsmanship or physical attributes.

Alteration shall mean any act or process that changes one or more historic, architectural, or physical features of an area, site, place, and/or structure including, but not limited to the erection, construction or reconstruction of any structure.

Building shall refer to an edifice, such as a house, barn, church, hotel, or similar construction that is created to shelter any form of human activity.

Certified local government shall refer to any local government that is certified by the National Park Service (NPS) and the State Historic Preservation Office (SHPO), and is eligible to receive technical and financial assistance to develop and sustain a strong preservation ethic that influences zoning and permit decisions critical to preserving local historic resources.

Contributing building shall mean a historic building that is at least 50 years old or older that retains a significant amount of its physical integrity and character defining features or that is associated with significant people or events.

Design guidelines shall mean a set of guidelines adopted to serve as a visual and graphic aid in describing acceptable alterations for designated properties.

Demolition by neglect shall refer to the willful or negligible acts of a property owner that allow a property to fall into a serious state of disrepair that it becomes necessary to demolish it.

Design review shall refer to the decision-making process conducted by the heritage preservation board or an appointed heritage preservation officer that is guided by established terms.

Determination of significance shall refer to the procedures provided herein for identifying buildings, structures, sites, or districts eligible for designation as historic landmarks or districts under the standards of review provided in this division.

Heritage preservation board (HPB or board) shall mean the five member board established in this division and appointed by city council.

Heritage preservation officer (HPO) shall mean a qualified staff person who has professional experience in historic preservation and/or rehabilitation-type construction and who is appointed by the city council to administer this division.

Historic designation shall refer to the act or process in which the city formally identifies and recognizes historic properties.

Historic district shall mean any neighborhood or region designated by the city council as an area that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Historic property shall refer to a site, building, structure, or object important in American history, architecture, engineering, archeology, or culture at the national, state, or local level.

Historic landmark shall refer to a historic property that has been formally designated by the city as having historical importance.

Historic rehabilitation shall mean the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Integrity shall mean the authenticity of a property's historic identity, evidenced by survival of physical characteristics that existed during the property's historic or prehistoric period.

Inventory shall mean a list of historic properties that have been identified and evaluated as meeting specified criteria of significance.

Object is a term used to distinguish certain constructions from buildings and/or structures that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment, such as statuary in a designed landscape.

Order of demolition shall mean an order issued by the city indicating approval of plans for demolition of a designated landmark or property within a designated district.

Order of design compliance shall mean an order issued by the city indicating approval of plans for alteration, construction, or removal affecting a designated landmark or property within a designated district.

Ordinary maintenance shall mean repair of any exterior or architectural feature of a landmark or property within a historic district which does not involve a change to the architectural or historic value, style or general design. In-kind replacement or repair is included in this definition of ordinary maintenance.

Owner shall mean the individual, corporation, partnership, or other legal entity in whom is vested the ownership, dominion, or title of property and who is responsible for payment of ad valorem taxes on that property; including a lessor or lessee if responsible for payment of ad valorem taxes.

Preservation shall refer to the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

Preservationist shall mean someone with experience, education or training in the field of preservation.

Rehabilitation shall mean the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

Secretary of the Interior's standards for rehabilitation shall refer to federal standards established by the US Department of the Interior regarding the preferred treatment of historic properties.

Significant shall be a term to describe buildings, structures, objects, or sites which substantially comply with the landmark or district standards of review found in section 31-830 of this division.

Site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archeological value regardless of the value of any existing structure.

Structure is a term used to distinguish specific types of functional constructions from buildings that are usually made for purposes other than creating shelter.
(Ord. No. 08-047, § I, 6-24-08)

Sec. 31-821. Purpose.

The city hereby declares that as a matter of public policy the protection, enhancement, rehabilitation, preservation and use of historic landmarks is a public necessity and is required in the interest of culture, prosperity, education and the general welfare of the people. The purpose of this division is to:

A. Protect, enhance, and perpetuate historic landmarks and districts which represent distinctive elements of the city's unique historic, architectural, and cultural heritage;
B. Foster civic pride in the history and accomplishments of the past;
C. Protect and enhance the city's attractiveness to visitors and the support and stimulus to the economy thereby provided;
D. Insure the harmonious, orderly and efficient growth and development of the city;
E. Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city; and

F. Encourage stabilization, rehabilitation, restoration, and improvements of property values.
(Ord. No. 08-047, § I, 6-24-08)

Sec. 31-822. Heritage preservation board.

There is hereby created a board to be known as the Killeen heritage preservation board (HPB). The board shall consist of five (5) members to be appointed by city council, plus one ex-officio member from the planning and zoning commission. Members of the HPB shall have a demonstrated interest, competence or knowledge in historic preservation and/or rehabilitation. Board members shall serve for a term of three (3) years, with the exception of the initial term when three (3) members shall serve for two (2) years and two (2) members shall serve for three (3) years. No member may serve more than two (2) consecutive terms.

A. The city council shall appoint HPB members to fill vacancies that might arise and such appointments shall be to the end of the vacating member's term.
B. It is the first priority of the city council that the HPB have technical representation in historic preservation. Therefore, when vacancies occur and if appropriate, it shall be the first consideration of the city council to ensure that there is a licensed architect, preservationist, or other licensed professional having substantial experience in rehabilitation-type construction serving on the HPB, and secondly, that there is representation from the Killeen area heritage association.
C. In addition, the HPB should include members with the following qualifications, or representing the following interests:
    1. A licensed real estate broker.
    2. A property owner or non owner tenant of any historic district created by this or any subsequent ordinance demonstrating interest and knowledge of historic preservation.
    3. A member appointed at large from the city with demonstrated interest and knowledge of historic preservation.

(Ord. No. 08-047, § I, 6-24-08)

Sec. 31-823. Organization of the heritage preservation board.

A. *Chairman*. The HPB shall elect one of its members to serve as chairman for a term of one (1) year. The chairman may be elected to serve for one (1) consecutive additional term, but not for more than two (2) successive terms. If the chairman is absent from any meeting where a quorum would otherwise exist, the members may appoint a chairman pro tem to act as chairman solely for that meeting.

B. *Quorum*. No business shall be conducted without a quorum at the meeting. A quorum shall exist when the meeting is attended by three (3) of the appointed members, including the chairman or chairman pro tem. The ex-officio member shall not be counted towards establishing a quorum. Meetings shall be held in conformance with the Texas open meetings act.

C. *Voting*. All actions of the HPB shall be represented by a vote of the membership. A simple majority of the members present at the meeting in which action is taken shall approve any action taken. The ex-officio member shall not be a voting member of the HPB. The chairman may vote at the meetings.
(Ord. No. 08-047, § I, 6-24-08)

Sec. 31-824. Powers of the heritage preservation board.

The powers of the HPB are:

A. To preserve diverse and harmonious architectural styles and design preferences reflecting phases of the city's history, and to encourage complimentary, contemporary design and construction through the creation of comprehensive design guidelines, and update as necessary;
B. To protect and enhance the city's historic appeal to tourists and visitors;
C. To identify as early as possible and resolve conflicts between the preservation of cultural resources and alternative land uses;
D. To provide input to the city council towards safeguarding the heritage of the city through the protection of its historic resources, buildings, structures, objects, cultural resources or sites of significance;
E. To promote the private and public use of buildings of significance and contributing buildings, structures, sites/areas or objects;
F. To make recommendations to staff, the planning & zoning commission and the city council on designations, policies and ordinances that may encourage historic preservation;
G. To communicate and promote the benefits of historic preservation for education, prosperity, and general welfare of the people;
H. To provide input to staff, the planning & zoning commission , and the city council on matters concerning the overall development of the city's historic preservation program;
I. To make recommendations to the city council on the development of, and to administer, all city-sponsored preservation incentive programs;
J. To review and take action on all order of demolition applications;
K. To review and take action on all order of design compliance applications, upon request of the property owner or occupant, based on compliance with any adopted historic district design guidelines and the Secretary of the Interior's standards for rehabilitation*;*
L. To review and take action on all order of design compliance applications where the HPO requires direction on design policy, or if unable to render a determine compliance with any adopted historic district design guidelines and Secretary of the Interior's standards for rehabilitation;
M. To review and take action on all appeals or decisions of the HPO regarding order of design compliance applications based on compliance with the any adopted historic district design guidelines and the Secretary of the Interior's standards for rehabilitation;
N. To review and take action on all determinations of historic landmarks or districts;
O. Participate in the design review of any city-owned projects located within any designated historic district;
P. Recommend to the city council the purchase of interests in property for purposes of preserving the city's cultural resources;
Q. Investigate and report to the city council on the use of federal, state, local, or private funding sources and mechanisms available to promote the preservation of the city's cultural resources;
R. Recommend to the planning and zoning commission and the city council changes to the code of ordinances to reinforce the purpose of historic preservation;
S. Provide advice and guidance on request of the property owner or occupant on the construction, restoration, alteration, decoration, landscaping, or maintenance of any historic resource or property within a historic district, or neighboring property within a

two (2) block radius of a historic district; and

T. To perform any other functions related to the mission of the board as requested by the city council.

(Ord. No. 08-047, § I, 6-24-08)

Sec. 31-825. Limitations of the heritage preservation board.

The HPB has no authority to waive or increase any requirement of any ordinance of the city. (Ord. No. 08-047, § I, 6-24-08)

Sec. 31-826. Appointment of heritage preservation officer.

The city manager shall appoint a qualified staff member who has professional experience in historic preservation and/or rehabilitation-type construction to serve as heritage preservation officer (HPO). This officer shall administer this division and advise the board on matters submitted to it. The HPO may issue orders of design compliance for those applications that meet compliance with the historic district design guidelines and the Secretary of the Interior's standards for rehabilitation and may submit applications for and make recommendations on determinations of significance. In addition to serving as the staff representative to the HPB, the HPO is responsible for providing the board with a monthly report on all HPO activities; for providing regular updates to city council on HPO and board activities; and for coordinating the city's preservation activities with those of state and federal agencies and with local, state, and national nonprofit preservation organizations. (Ord. No. 08-047, § I, 6-24-08)

Sec. 31-827. Design guidelines.

The HPB shall promulgate and update as necessary design guidelines for use in a historic district. These guidelines shall, upon adoption by resolution of the city council, be used by the HPO and HPB in reviewing all orders of design compliance applications. The design guidelines shall apply to all properties located within the historic district and shall address the rehabilitation of existing buildings, additions to existing buildings, and the construction of new buildings. From time to time, the HPB may recommend changes to the design guidelines to the city council, provided that no changes in the guidelines shall take effect until adopted by resolution of the city council. (Ord. No. 08-047, § I, 6-24-08)

Sec. 31-828. Order of design compliance.

A. No person or entity shall construct, reconstruct, significantly alter, remove or demolish any exterior architectural detail of a designated historic landmark or any property within the historic district without the review and approval of an order of design compliance application by the HPO and/or HPB prior to submitting an application for a building permit.

B. Activities involving routine and ordinary maintenance, in-kind repair or replacement which does not involve a change to the architectural or historic value, style or general design shall not require the review and approval of an order of design compliance application.

C. *Administrative review*. A current copy of the proposed construction documents and an order of design compliance application shall be filed with the planning department. Upon receipt of a complete application, the HPO shall review the application within forty-five (45) days for

compliance with the city's adopted design guidelines and the Secretary of the Interior's standards for rehabilitation. All guidelines and review criteria shall be made available to the property owners of historic landmarks or property owners within the city upon request.

1. *Notice*. Within five (5) days of receipt of an order of design compliance application, notice of the application shall be posted on the property for a period of ten (10) days. A written notice of the application shall also be provided to owners of adjoining property establishing a ten (10) day period in which written comments may be submitted to the HPO.
2. *Decision*. At the end of the notice period, if approved, the HPO shall issue an order of design compliance consisting of written findings, conclusions of law, and conditions of approval, if any, supporting the decision, and shall provide the owner and/or applicant and anyone submitting written comments with a copy and forward its decision to the permits and inspections department. Any specific conditions of approval as identified by the HPO shall be attached to the construction documents prior to the issuance of any building permits. No subsequent changes shall be made to the approved application without the review and approval of the HPO. An applicant shall have six (6) months from the date of issuance of an order of design compliance to secure a building permit for the specified improvements, or it shall become null and void.

   If the HPO finds the proposed work will adversely affect or destroy a significant architectural detail or historical feature of the exterior of the designated historic landmark or building within a designated district or is inconsistent with the Secretary of the Interior's standards for rehabilitation or adopted design guidelines, the HPO shall advise the applicant and any written commenter of the disapproval of the application and of any changes to the application which are necessary for approval of same.

   An application, once denied an order of design compliance, may not be resubmitted without incorporating changes to the application which are necessary for approval of the same.
3. If no action has been taken by the HPO within forty-five (45) days of original receipt by the HPO, an order of design compliance shall be deemed issued by the HPO, and the HPO shall so advise the applicant.
4. *Appeal*. The applicant or any persons adversely affected by any determination of the HPO may appeal the decision to the HPB. Appeal requests shall be on forms as prescribed by the city and shall be filed with the planning department within ten (10) days of the HPO's decision, and scheduled for the next available regularly scheduled HPB public hearing. Notice of the appeal shall be posted on the property for a period of ten (10) days upon receipt of a formal appeal request. A written notice of the public hearing for the appeal request shall also provided to all parties who received mailed notice for the original HPO preliminary determination. Appeals shall be considered only on the record made before the HPO.

D. *HPB review*. A current copy of the proposed construction documents and an order of design compliance application shall be filed with the planning department. Any applicant may request a formal review by the HPB. The HPO may also forward any order of design compliance application to the HPB for review and approval when direction on design policy is needed, or if unable to determine compliance with historic district design guidelines and the Secretary of the Interior's standards for rehabilitation. Within forty-five (45) days upon receipt of a complete

application and proper notice, the application shall be scheduled for review by the HPB at the next regularly scheduled public hearing for compliance with the city's adopted design guidelines and the Secretary of the Interior's standards for rehabilitation. All guidelines, review criteria and the formal written report to the HPB shall be made available to the property owner prior to the hearing.

1. *Notice*. Notice of the application shall be posted on the property for a minimum period of fourteen (14) days prior to the scheduled hearing. A written notice of the HPB hearing shall also be mailed to all property owners within at least one hundred (100) feet of the subject property. A published notice of the scheduled hearing shall also be made once a minimum of fourteen (14) days prior to the hearing.
2. *Decision*. If approved, the HPB shall issue an order of design compliance consisting of written findings, conclusions of law, and conditions of approval, if any, supporting the decision, and shall provide the owner and/or applicant with a copy and forward its decision and copy of the submitted construction documents to the permits and inspections department. Any specific conditions of approval as identified by the HPB shall be attached to the construction documents prior to the issuance of any building permits. No subsequent changes shall be made to the approved application without the review and approval of the HPO or HPB. An applicant shall have six months from the date of issuance of an order of design compliance to secure a building permit for the specified improvements, or it shall become null and void.

   If the HPB finds the proposed work will adversely affect or destroy a significant architectural detail or historical feature of the exterior of the designated historic landmark or building within a designated district or is inconsistent with the Secretary of the Interior's standards for rehabilitation or any adopted design guidelines, the HPB shall advise the applicant of the disapproval of the application and of any changes to the application which are necessary to approval of same.

   An application, once denied an order of design compliance, may not be resubmitted without incorporating changes to the application which are necessary for approval of the same.
3. If no action has been taken by the board within forty-five (45) days of original receipt by the board, an order of design compliance shall be deemed issued by the board, and the HPO shall so advise the applicant.

E. *Appeal*. The applicant or any persons adversely affected by any determination of the HPB may appeal the decision to the city council. Appeal requests shall be on forms as prescribed by the city and shall be filed with the city manager's office within ten (10) days of the HPB's decision, and scheduled for the next available regularly scheduled city council meeting. Notice of the appeal shall be posted on the property for a period of ten (10) days upon receipt of a formal appeal request. A written notice of the public hearing for the appeal request shall also be mailed to all property owners within one hundred (100) feet of the subject property. Appeals shall be considered only on the record made before the HPB and will require a ¾ majority vote of the city council to overturn an HPB decision.
(Ord. No. 08-047, § I, 6-24-08)

Sec. 31-829. Determination of significance.

Buildings, structures, sites or districts within the city which substantially comply with the standards of review found in this section may be determined to be significant by the HPB and

designated as a historic landmark or district.

The HPO or any owner of a building, structure, or site may apply for a hearing before the HPB for a determination of significance of said property. Recommendations on all determinations of significance shall be made by the HPO to the HPB. The application shall be on forms as prescribed by the city and shall be filed with the planning department. Before a hearing of determination of significance, a determination of significance application must be completed by the property owner or by the HPO. The HPO shall schedule a hearing for the next available meeting of the HPB. At the hearing, the HPO, applicant, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding historic, architectural, or cultural importance of the proposed historic district.

A. *Landmarks.*

1. *Standards for review*. Recommendations on all determinations of significance shall be made by the HPO to the HPB. At the hearing, the HPB shall evaluate whether the building, structure or site demonstrates a quality of significance in local, regional, state or national history, architecture, archaeology, engineering or culture, and integrity of location, design, setting, materials, and workmanship and if the property meets substantial compliance with the following criteria:

    a. The building, structure or site is at least fifty (50) years old, or has achieved significance within the past fifty (50) years if the property is exceptional importance to the community; and/or
    b. The building, structure or site is associated with events or lives of persons significant to the city's past; and/or
    c. The building, structure or site embodies the distinctive characteristics of a type, period or method of construction or that represent the work of a master; and/or
    d. The architectural or historical value or significance of the building, structure or site contributes to the historic value of the property and surrounding area; and/or
    e. The relation of historic or architectural features found on the building, structure or site to other such features within the surrounding area; and/or
    f. Any other factors, including aesthetic, which may be relevant to the historical or architectural aspects of the building, structure or site; and/or
    g. Recognition as an existing recorded Texas historic landmark, national historic landmark, state archeological landmark, or listing on the national register of historic places.

2. *Notice*. Notice of the application shall be posted on the property for a period of fourteen (14) days prior to the scheduled hearing. A written notice of the HPB hearing shall also be provided to property owners of proposed historic landmarks and adjoining property owners. A published notice of the scheduled hearing shall also be made once a minimum of fourteen (14) days prior to the hearing.

B. *Districts*.

1. *Standards for review*. Recommendations on all determinations of significance shall be made by the HPO to the HPB. At the hearing, the HPB shall evaluate whether the district contains a significant concentration of sites, buildings or structures that are

united historically or aesthetically by plan or physical development. The district must also demonstrate a quality of significance in local, regional, state or national history, and must have substantial compliance with the following criteria:

a. The proposed district contains properties and an environmental setting which meet one or more of the criteria for designation of a landmark; and
b. The proposed district constitutes a distinct section of the city.

2. *Notice*. A written notice of the HPB hearing shall also be provided to all property owners within a proposed historic district and shall also be mailed to all property owners within at least one hundred (100) feet of the proposed district. A published notice of the scheduled hearing shall also be made once a minimum of fourteen (14) days prior to the hearing.

C. *Interim protection*. A building, structure or site that is under review by the HPB for a formal determination of significance shall be protected by and subject to all of the provisions of this code governing demolition and minimum maintenance standards until a final decision on significance by the HPB becomes effective.

D. *Decision*. The applicant shall be notified in writing of the decision of the HPB. Notification shall include the written findings and conclusions of law, if any, supporting the decision of the HPB. Upon final recommendation of the board, the proposed historic designation shall be submitted to the planning and zoning commission. The planning and zoning commission shall give notice and conduct its hearing on the proposed designation in the same manner and according to the same procedures as specifically provided in §211.007c of the Texas Local Government Code, to include notification of surrounding property owners. The city council shall schedule a hearing, on the planning and zoning commission's recommendation, at its next available meeting. The city council shall give notice, follow the publication procedure, hold a hearing and make a final determination in the same manner as provided in §211.007c of the Texas Local Government Code.

E. *Action upon designation*. Upon the designation of any a building, object, site, structure or district as a historic landmark or historic district, the city council shall cause the designation to be in the official public records of real property of Bell county as well as the official zoning maps of the city. All zoning maps should indicate the designated landmarks with an appropriate mark. Planning staff shall also provide a copy of the board's written findings to the owner and/or applicant.

F. *Removal from list of historically significant properties*. If the HPB finds that the building, structure or site is no longer significant based on a lack of substantial compliance with the criteria pursuant to this section, it shall immediately be removed from the list of historically significant properties or any other applicable records. The HPB shall forward a copy of its written findings to the owner and/or applicant.

(Ord. No. 08-047, § I, 6-24-08)

Sec. 31-830. Demolition.

A. *Intent*. It is the intent of this and succeeding sections to preserve the historic and architectural resources of the city, through limitations on demolition and removal of historic

buildings, structures and sites to the extent it is economically feasible, practical and necessary. The demolition or removal of historic buildings, structures and sites in the city diminishes the character of the city's historic district and it is strongly discouraged. Instead, the city recommends and supports preservation, rehabilitation, and relocation within the historic district. It is recognized, however, that structural deterioration, economic hardship and other factors not entirely within the control of the property owner may result in the necessary demolition or removal of a historic building, structure or site.

Permit applications for demolition of any building, structure or site, including secondary buildings and landscape features, within the city shall be initially reviewed by the HPO and forwarded with a recommendation to the permits and inspections department. If the property is determined by the HPO to be a contributing building or is potentially significant, the applicant shall be required to apply for a hearing before the HPB for a determination of significance pursuant to section 31-829 herein, prior to the application for any building permit.

B. *Determination of insignificance*. If upon review, the HPB concludes that the building, structure or site sought to be demolished or removed is not a significant historic property, the applicant may apply for a demolition permit from the permits and inspections department.

C. *Determination of significance*. If upon review, the HPB concludes that the building, structure or site sought to be demolished or removed does possess significance, the owner shall be required to submit an order of economic hardship application pursuant to section 31-831.

D. *Removal or repair of hazardous buildings*. If the building official determines a historic landmark or property located within the historic district to be structurally unsound, and a hazardous or dangerous building, pursuant to chapter 8, article V, of the code of ordinances, the building official may order its removal or repair. The building official shall be required to provide written notice to the HPB of such action.

1. The provisions contained in section 214.00111 of the Texas Local Government Code provide additional authority to the city to preserve substandard historic buildings, and are effective immediately upon designation as a certified local government by the U.S. Department of the Interior, national park service and Texas state historic preservation officer as provided by 16 U.S.C.A. section 470 et seq.; and
2. The demolition or removal of a historic landmark or property located within a historic district under this section is subject to the penalties found in section 31-834 herein.

E. *Requirement for stay of demolition*. In the absence of a finding either of insignificance or of hazardous building, the request for demolition or removal shall be stayed for ninety (90) days during which time the owner shall allow the city to post a sign stating that the property is "subject to demolition." Said sign shall be at least three feet by two feet (3' X 2'), readable from a point of public access and state that more information may be obtained from the permits and inspections department for the duration of the stay. In addition, the owner shall conduct in good faith with the city, local preservation organizations and interested parties a diligent effort to seek an alternative that will result in the rehabilitation of the historic property. Negotiations may include, but is not limited to, such actions to utilize various preservation incentive programs, sell or lease the historic property, or facilitate proceedings for the city to acquire the property under its power of eminent domain, if appropriate and financially possible. If negotiations are successful, the request for demolition shall be considered withdrawn and all associated

applications closed.

F. At the end of the ninety (90) days, if prior negotiations are unsuccessful and the request for demolition stands, the owner must submit a determination of economic hardship application. (Ord. No. 08-047, § I, 6-24-08)

Sec. 31-831. Determination of economic hardship.

Any owner of a historic property requesting demolition may commence the economic hardship process by applying for a hearing before the HPB for a determination of economic hardship for said property. The application shall be on forms as prescribed by the city and shall be filed with the planning department. Upon receipt of a complete determination of economic hardship application, the HPO shall schedule a hearing on the HPB agenda within forty-five (45) days. At the hearing, the applicant shall have an opportunity to present testimony and evidence to demonstrate economic hardship.

A. In order to sustain a claim of unreasonable economic hardship due to the effect of this ordinance, the owner must prove that:

    1. The subject historic property is incapable of earning a reasonable rate of return, regardless of whether the return represents the most profitable return possible; and
    2. The subject historic property cannot be repaired or rehabilitated for any other beneficial use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
    3. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

B. *Standards for review*. The city shall adopt by resolution separate standards for investment for income producing and non-income producing properties, as recommended by the HPB. Non-income properties shall consist of owner occupied single-family dwellings and non-income producing institutional properties. All standards for review shall be made available to the owner prior to the hearing. The information required by the city may include, but not be limited to, the following:

    1. purchase date, price and financing arrangements;
    2. current market value;
    3. form of ownership;
    4. type of occupancy;
    5. cost estimates of demolition and post-demolition plans for development;
    6. maintenance and operating costs;
    7. inspection report by licensed architect or structural engineer having experience working with historic properties;
    8. costs and engineering feasibility for rehabilitation;
    9. property tax information;
    10. rental rates and gross income from the property.

    The HPB, upon review of the determination of economic hardship application, may request additional information as deemed appropriate.

C. *Conduct of owner excluded*. Demonstration of economic hardship by the owner shall not be based on conditions resulting from:

1. Evidence of demolition by neglect, or other willful and negligent acts by the owner;
2. Purchasing the property for substantially more than market value at the time of purchase;
3. Failure to perform normal maintenance and repairs;
4. Failure to diligently solicit and retain tenants; or
5. Failure to provide normal tenant improvements.

D. *Notice*. Notice of the application shall be posted on the property for a period of thirty (30) days prior to the scheduled hearing. A written notice of the HPB hearing shall also be mailed to adjoining property owners. A published notice of the scheduled hearing shall also be made once a minimum of at least fourteen (14) days prior to the hearing.

E. *Interim protection*. A historic property that is under review by the HPB for a formal determination of economic hardship shall be temporarily stabilized and secured by order of the building official, and at cost of the owner. The property shall be protected by and subject to all of the provisions of this code governing demolition until a final decision on significance by the HPB becomes effective.

F. *Decision*. Upon review of the application, the HPB may determine that unreasonable economic hardship exists and take action to approve or approve with modifications if the following conditions exist:

1. For income producing historic properties, the building, structure or site cannot be feasibly used or rented at a reasonable rate of return in its present condition or if rehabilitated and denial of the application would deprive the owner of all reasonable use of the property; or
2. For non-income producing historic properties, the building, structure or site has no beneficial use as a residential dwelling or for an institutional use in its present condition or if rehabilitated, and denial of the application would deprive the owner of all reasonable use of the property; and
3. The historic property cannot be feasibly moved or relocated.

G. *Approval*. If the HPB approves the application, the owner may apply for a demolition permit with the permits and inspections department and proceed to demolish the subject property in compliance with other regulations as they may apply. The historic property shall immediately be removed from the city's inventory of historic properties, the official public records of real property of Bell county and the official zoning maps of the city. HPO shall also provide a copy of the board's written findings to the owner.

H. The city may, as a condition of approval, require the owner, prior to demolition to provide the HPO with documentation of the demolished historic property according to the standards of the Historic American Building Survey (HABS). Such documentation may include photographs, floor plans, measured drawings, an archeological survey or other information as specified. The city may also require the owner to incorporate an appropriate memorialization of the building, structure or site, such as a photo display or plaque, into the proposed replacement project of the property. Approval of an economic

hardship application shall be valid for one (1) year from the hearing date of the HPB's final decision.

I. *Denial*. If the HPB denies the application, the owner shall not demolish the historic property, and may not re-apply for an economic hardship application for a period of three (3) years from the hearing date of the HPB's final decision unless substantial changes in circumstances have occurred other than re-sale of the property or those caused by the negligence or intentional acts of the owner. It shall be the responsibility of the owner to stabilize and maintain the property so as not to create a structurally unsound, hazardous, or dangerous building, as identified in chapter 8, article V of the city's code of ordinances. The city may continue to provide the owner with information regarding financial assistance for the necessary rehabilitation or repair work, as it becomes available.

J. *Appeal*. The applicant or any persons adversely affected by any decision of the HPB may appeal the decision to the city council. Appeal requests shall be on forms as prescribed by the city and shall be filed with the city manager's office within ten (10) days of the HPB's decision, and scheduled for the next available regularly scheduled city council meeting. The appeal may only allege that the HPB's decision was arbitrary, capricious, or illegal. Notice of the appeal shall be posted on the property for a period of ten (10) days upon receipt of a formal appeal request. A written notice of the public hearing for the appeal request shall also be mailed to all property owners within one hundred (100) feet of the subject property. Appeals shall be considered only on the record made before the HPB and will require a ¾ majority vote of the city council to overturn an HPB decision.

(Ord. No. 08-047, § I, 6-24-08)

Sec. 31-832. Enforcement.

All work pursuant to an order of design compliance issued under this division shall conform to any requirements included therein. It shall be the duty of the building official or his designee to inspect periodically any such work to assure compliance. In the event work is not being performed in accordance with the order of design compliance or upon notification of such fact by the board and verification by the permits and inspections department, the permits and inspections department shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. (Ord. No. 08-047, § I, 6-24-08)

Sec. 31-833. Demolition by neglect.

No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of an exterior architectural feature which would, in the judgment of the board produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of demolition by neglect shall include but not be limited to the following:

1. Failure to maintain protective treatment to exterior (walls no longer weatherproof due to peeling paint, missing siding, loose joints);
2. Structural members deteriorated;

3. Foundation walls not plumb, cracked;
4. Exterior walls have holes, are cracked, rotted and deteriorated;
5. Roof and drainage leaks;
6. Architectural (decorative features) not being maintained in good repair;
7. Overhang extensions not being maintained in good repair;
8. Stairways not in good repair;
9. Windows, skylight, door frames not maintained in good condition and weather tight; and
10. Exterior doors not maintained in good condition**.**

(Ord. No. 08-047, § I, 6-24-08)

Sec. 31-834. Penalty.

A. It shall be unlawful to construct, reconstruct, significantly alter, restore or demolish any building or structure designated as a landmark or in a designated historic district in violation of the provisions of this division. The city, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful construction, reconstruction, significant alteration or demolition; to restrain, correct or abate such violation; or to prevent any illegal act, business, or maintenance in and about such premises, including acquisition of the property.

B. Any person, firm, or corporation violating any provision of this division shall be guilty of a class C misdemeanor, punishable by a fine of not less than two hundred and fifty dollars ($250.00) or more than two thousand dollars ($2,000.00). Each day the violation continues shall be considered a separate offence. Such remedy under this section is in addition to the abatement restitution.

(Ord. No. 08-047, § I, 6-24-08)