

AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S SUBDIVISION AND PROPERTY DEVELOPMENT REGULATIONS; ADDING STANDARDS FOR TRAFFIC IMPACT ANALYSES; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

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

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

WHEREAS, the City Council desires to amend subdivision and development regulations to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality;

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

SECTION I. That Chapter 26 of the City of Killeen Code of Ordinances is hereby amended as follows:

ARTICLE I. – IN GENERAL

Sec. 26-2. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words not specifically defined shall have the meanings given in Webster's Ninth New Collegiate Dictionary, as revised.

Level of Service (LOS) shall mean a qualitative measure of roadway capacity and intersection delay as set forth in the edition of the Highway Capacity Manual approved by the City Engineer.

Traffic Impact Analysis (TIA) shall mean a specialized engineering study that determines the potential traffic impacts of a proposed traffic generator or development.

ARTICLE IV. – STANDARDS AND REQUIREMENTS

DIVISION 5. RESERVED

Secs. 26-128—26-179. Reserved.

DIVISION 6. TRAFFIC IMPACT ANALYSIS

Sec. 26-180. When required.

- (a) A Traffic Impact Analysis (TIA) shall be submitted to and approved by the City Engineer prior to any application for a final plat, commercial site plan, or Building Permit where a change of use will generate additional traffic in excess of 2,000 average daily trips or 100 peak hour trips, as based upon the edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual approved by the City Engineer. A completed Traffic Impact Analysis Threshold Worksheet shall be submitted with all Preliminary Plat applications, initial permit applications for commercial, and change of use permits. In the event the project is adjacent to a TXDOT jurisdictional roadway and requires a TIA for their approval, the scope of the TIA shall be discussed in the scoping meeting and shall address requirements from both the City and TXDOT. Only one TIA shall be created for a development with TXDOT involvement.

Sec 26-181. Study scope.

- (a) When a TIA is required, the scope of the analysis shall be determined during a scoping meeting with the City Engineer. The City Engineer may involve representatives of or request assessments from other agencies and departments. The elements to be determined during the scoping session shall include the following:
- (1) Impact Area: The points of access and key streets and intersections that may be affected by development of the subject tract constitute the impact area. Traffic recorder and turning movement assessment locations shall be determined.
 - (2) Adjacent Developments: The TIA shall include traffic being generated by adjacent developments at a maximum of one-half (1/2) mile of the development boundaries that will be utilizing any street infrastructure or if the adjacent development is in the jurisdiction of another City or ETJ, the applicant must include that area in its TIA scope. Adjacent developments shall include developments that have been approved, conditionally approved, or approved with a preliminary plat.
 - (3) Periods of analysis: This shall include average daily traffic, peak AM and PM, or weekend peak hour, if found to be higher than the weekday.

- (4) Scenarios for analysis: These include existing conditions, opening year conditions with and without development, and five (5) years after opening with and without development if the study includes a signal warrant study.
 - (5) Process for determining trip generation and distribution: This process should include trip generation category, diversion assumptions, distribution assumptions, and capacity analysis.
 - (6) Rate of growth: The rate of growth assumed in background traffic assumptions shall follow industry standards per the Texas Department of Transportation and the Texas Transportation Institute when local values are not available.
- (b) If a TIA is required, it shall be based on the ITE Manual, prepared in accordance with standard transportation engineering practices for purposes of determining the adequacy of the road network to serve the proposed development, and whether off-site road dedication and improvements should be made to mitigate the effects of the development proposed in the application.
 - (c) An initial TIA worksheet or abbreviated report shall be approved by the City Engineer prior to submittal of a preliminary plat. An updated and/or final TIA shall be approved prior to the approval of the final plat and shall be generally consistent with the initial TIA. The final TIA shall be updated whenever a subdivision plat or site plan is modified to authorize more intensive development that generates increased traffic beyond what was stated in the initial report. In the event the traffic condition surrounding a development has changed from what was included in the TIA that shows a decrease in traffic, it shall be the discretion of the applicant to submit a revision to the TIA.

Sec 26-182. Traffic Impact Analysis elements.

When a TIA is required, the following items shall be included in the submitted report:

- (a) An existing condition analysis of the transportation system, which includes the following:
 - (1) The street system shall be described including geometric features lane usage traffic control, signage, sight distances and adjacent uses and curb cuts.
 - (2) Existing traffic volumes shall be provided for the impact area including both ADT (average daily traffic) and “Design” peak hour volumes when available. ADT shall be derived from the latest available counts taken by the City and/or the Texas Department of Transportation. If unavailable, field counts can be used to determine the ADT. Peak hour volumes shall be obtained from field counts. Data shall be adjusted for daily and seasonal variations. Turning movement counts for the peak hour shall be provided for critical intersections. Peak hour periods shall be as determined at the scoping meeting.
 - (3) Existing capacity analysis of signalized and un-signalized intersections shall be provided. The analysis shall state the existing Level of Service (LOS) of all intersections in the study.
 - (4) Other items may be required at the discretion of the City Engineer depending upon the type and scale of the project. These may include, but are not limited to, queue length analysis, pedestrian counts, accident data, traffic speeds (both 50th and 85th percentile), and stopping sight distances. Items that will be required shall be discussed and agreed upon in the scoping meeting.
- (b) A calculated future condition of the transportation system without development, which includes the following:
 - (1) Capacity analysis for opening year plus five (5) years for key intersections, and roadway segments where appropriate, without the development but including any planned developments shall be provided. The analysis shall be based upon the edition of the Highway Capacity Manual approved by the City Engineer, or other methodologies approved in advance by the City Engineer. The

analysis shall state the future LOS for all intersections within the study. In the event the City has adopted a Transportation Demand Model, the analysis shall be consistent with the methodologies and processes of said model. The City shall provide necessary model information at the scoping meeting for use by the developer to create a TIA.

- (c) A calculated condition of the future transportation system with development at the estimated time of opening year which includes the following:
 - (1) Projections of the daily and peak hour traffic generation of the project shall be made using the ITE Trip Generation Manual unless the City Engineer determines that locally derived data will provide more accurate forecasts. Data from similar facilities may be used where the information is not available from ITE.
 - (2) The projected trips shall be distributed onto the road network as agreed in the scoping meeting.
 - (3) Capacity analysis for opening year and plus five (5)-years for key intersections if a warrant study is required. The analysis shall state the future LOS for all analysis intersections within the study. In the event the City has adopted a Transportation Demand Model, the analysis shall be consistent with the methodologies and process of said model. The City shall provide necessary model information at the scoping meeting for use by the developer to create a TIA.
 - (4) Special analysis as may be required to determine warrants for signalization, minimum safe sight distances, gap analysis, turning radius requirements, queue length analysis, turning lane length analysis, curb cut locations or similar requirements shall be provided.
- (d) Mitigation Plan of the transportation system as a result of the study.
 - (1) The TIA shall identify any transportation improvements needed to maintain a LOS D or better as a result of the proposed development. Where the existing LOS is below D, the TIA shall clearly state necessary improvements needed to match the existing conditions, and also obtain a LOS D that includes the increased traffic from the development. Where the analysis indicates that the project will create deficiencies in the impact area as a result of the development, improvements shall be recommended and include projected cost estimates. Cost estimates shall include right-of-way acquisition, utility relocation, and transportation facility design and construction. All cost estimates shall be approved by the City Engineer or the City Manager or his/her designee prior to acceptance of the TIA. The design of improvements shall be in accordance with the standard details and specifications of the City of Killeen and, where appropriate, the Texas Department of Transportation. The mitigation plan shall also include any dedications necessary to comply with the City Minimum Road Standards. Where the final approval authority for any procedure determines that a mitigation plan is not adequate to address the traffic impacts of the project, it may serve as a basis for denial of the permit or subdivision plat.

Sec. 26-183. Level of Service Standards.

In conducting the TIA in accordance with this Division, the intersection and roadway segment LOS standard shall be a minimum of D.

Sec. 26-184. Consultants.

The City may require an independent licensed professional traffic engineer to review of all or part of the TIA submitted by the applicant.

Sec. 26-185. City evaluation and action.

The City shall evaluate the adequacy of the TIA prepared by the applicant. Based upon such evaluation, the City shall determine (1) whether the application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected roadways and (2) the extent of the applicant's obligations to make such dedications or improvements. If additional dedication or improvements are necessary, as determined by the TIA, the City shall condition the approval of the application on one or more of the following performances by the applicant:

- (a) Delay or phasing of development until roadways with adequate capacity or intersection improvements are constructed.
- (b) A reduction in the density or intensity of the proposed development sufficient to assure that the road network has adequate capacity to accommodate the additional traffic to be generated by the development.
- (c) The dedication or construction of roadways or traffic control improvements needed to mitigate the traffic impacts generated by the proposed development.

Sec. 26-186. Deferral of obligation.

Upon request of the applicant or property owner, the obligation to dedicate or improve roadway rights-of-way or to make intersection improvements imposed on an application may be deferred to a later stage and/or phase of the development process. As a condition of deferring the obligation to dedicate rights-of-way for or to improve roadways, which deferral shall be at the sole discretion of the City, the City may specify the amount and timing of the rights-of-way dedication or improvements to roadways. This section does not create an obligation to make improvements before the obligation is triggered under the TIA.

Sec. 26-187. Cash contributions.

The developer may propose to make equivalent cash contributions in lieu of the obligation to improve roadways. Any funds accepted by the City shall be earmarked for construction of the improvements for which the contribution was made. Funds shall be due prior to the final acceptance of the phase of development or Certificate of Occupancy (CO) requiring traffic mitigation as described in this Division. On the request of an applicant, the City shall refund the contribution or part of the contribution that is not spent as authorized within ten (10) years from the date of payment.

Sec 26-188. Options.

Whenever the proposed development's share of the costs of a thoroughfare or traffic control improvement needed to mitigate traffic generated by the development is less than 100 percent, the City in its sole discretion may do the following:

- (a) Participate in excess costs; or
- (b) Aggregate the costs of improving the multiple roadways or intersections identified in the Traffic Impact Analysis and require improvements to only some of the roadways or intersections affected by the development; or
- (c) Cooperate with the developer in the use of its governmental powers to assist in the timely and cost-effective implementation of improvements. Assistance shall not mean financial aid in the actual easement/right-of-way acquisition, construction, or engineering costs. Specifically, the City may:
 - (1) Assist in the acquisition of necessary right-of-way and easements;

- (2) Assist in the relocation of utilities;
- (3) Assist in obtaining approvals from Bell County; and/or
- (4) Assist in obtaining approvals from TXDOT.

This section does not create an obligation for the applicant to dedicate or construct an improvement that is not proportional to the impact of the proposed development.

Sec. 26-189. Exemptions

The City Manager or his/her designee may waive the requirement to require a TIA for the following area(s):

- a) Special parking district “A” as described in Sec. 31-488(8); and
- b) Developments located outside the City limits and within the ETJ, unless required by Bell County.

For developments adjacent to a known required improvement, the developer shall work with the City to determine the required mitigations.

Sec. 26-190. Appeal of road adequacy conditions.

An applicant may appeal the following decisions under this Division to the City Manager or designee:

- (1) Denial of application resulting from a determination that the Mitigation Plan was insufficient.
- (2) Some or all of the conditions required by the TIA for approval of the application.
- (b) The appeal may also allege that the imposition of the conditions deprives the owner of the economically viable use of the land, or of a vested property right.
- (c) The appellant shall provide a study in support of the appeal including information that includes the total vehicle miles of road capacity utilized by the proposed development, employing average trip length and equivalency Tables. The appellant shall provide the total vehicle miles of road capacity supplied by proposed dedications of rights-of-way or improvements to roadways.
- (d) The City Manager or designee shall consider the appeal and determine whether the street or traffic control dedication and construction requirements are roughly proportional to the nature and extent of the impacts on the road network created by the development proposed. If the petition also alleges that the proposed dedication or construction requirements constitute a deprivation of economically viable use or of a vested property right, the City Manager or designee also shall consider such issues. Following such determinations, the City Manager or designee may take any of the following actions regarding the the appeal:
 - (1) Deny the appeal, upon determining that the required dedications of rights-of-way for or improvements to roadways or traffic control improvements are roughly proportional to the nature and extent of the impacts created by the development, and order that such dedication or improvements be made as a condition of approval of the application.
 - (2) Deny the appeal, finding that the dedication or improvement requirements are inadequate to achieve road adequacy, and either deny the application or require that additional dedications of rights-of-way dedication for or improvements to roadways, or traffic control improvements, be made as a condition of approval of the application; or

- (3) Grant the appeal and waive in whole or in part any dedication or construction requirement that is not roughly proportional.

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

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

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

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

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 22nd day of March, 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED

Jose L. Segarra, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lucy C. Aldrich, CITY SECRETARY

Traci S. Briggs, CITY ATTORNEY