

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S LAND USE REGULATIONS; PROVIDING FOR SCREENING DEVICE REGULATIONS; 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 zoning regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the City;

**WHEREAS**, the City Council desires to amend its land use regulations pertaining to screening devices;

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

**WHEREAS**, a public hearing was held by the Planning and Zoning Commission of the City of Killeen on the 17<sup>th</sup> day of June, 2024 at 5:00 p.m.;

**WHEREAS**, a public hearing was held by the City Council of the City of Killeen on the 16<sup>th</sup> day of July, 2024 at 3:00 p.m.; and

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

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

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

**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* shall mean five (5) or more attached dwelling units on one (1) lot.

*Automotive parts store* shall mean an establishment engaged in the retail sales of a variety of parts for vehicles of any kind.

*Boardinghouse or lodginghouse* shall mean a building other than a hotel where sleeping rooms are rented to four (4) or more adults for compensation, pursuant to previous arrangements for definite periods of time, 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.

*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 by three (3) or more families.

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

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

*Family* shall mean any number of individuals living together as a single housekeeping unit, in which not more than three (3) adults are unrelated by blood, marriage, adoption, or guardianship and occupying a dwelling unit.

*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.

*Halfway house* shall mean a facility operated under the authority of the Texas Department of Criminal Justice for the Federal Bureau of Prisons for persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

*Hotel* shall mean a building in which lodging or boarding and lodging are rented out to the public for a period of not less than one (1) night and not more than twenty-nine (29) consecutive nights for a fee. This term includes hotels, motels, bed and breakfasts, inns, extended stay hotels, and long-term stay hotels.

*Hotel Occupancy Tax* shall mean the hotel occupancy tax required to be assessed and collected for the operation of any hotel or short term rental and paid pursuant to Chapter 351 of the Texas Tax Code and Killeen Code of Ordinances Chapter 27, Article IV.

*Housekeeping unit* shall mean a group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities, responsibilities and expenses.

*Light trespass* shall mean the unwanted shining of light onto an adjacent property or onto a public right-of-way.

*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.

*Lot, width of,* shall mean the mean horizontal distance between side lot lines, as measured in a straight line from points at the front building setback line on each side lot line.

*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 5521f V.A.T.S.

*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.

*Outside storage and display* shall mean a primary land use providing for the

incidental outdoor storage or display of commodities, materials, goods, equipment, vehicles or merchandise in its normal day-to-day business activities. This definition excludes new and used sale or lease of automobiles, motorcycles recreational vehicles, boats or watercrafts. This definition does not include temporary outside merchandise display, such as a sidewalk sale.

*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.

*Personal services* shall mean an establishment providing services of a personal nature. This classification includes barber and beauty shops, nail and tanning salons, cosmetologists, massage therapists, seamstresses, tailors, shoe repair, dry cleaners (excluding plants), self-service laundries, tattoo parlors as licensed per V.T.C.A., Health and Safety Code ch. 146, laser tattoo removal, laser hair removal, permanent makeup application, and the like.

*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 (1) 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.

*Screening device* shall mean a solid, opaque fence or wall of stone, brick, split-face concrete block, poured concrete, precast concrete, or other similar masonry material of equal character, density and design, which measures eight (8) feet in height, exclusive of caps on fence posts or pilasters.

*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.

*Short term rental* shall mean a single-family, two-family, or multi-family dwelling that is rented out to the public for a period of not less than one (1) night and not more than twenty-nine (29) consecutive nights for a fee.

*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.

*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.

*Transient* shall mean a person who occupies a dwelling unit or sleeping unit for less than thirty (30) consecutive days.

*Uplighting* shall mean the practice of installing, maintaining or operating exterior lighting in such a way that the lighting fixtures direct illumination upward to the night sky.

*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.

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### **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 of the R-3 zoned property shall erect and be responsible for the maintenance of a screening device along the common property line between such R-3 zoned property and such more restrictively zoned property in accordance with Sec. 31-280.

~~(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.~~

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### **Sec. 31-255.7. 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 material upon request and approved in advance by the building official, 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.~~

~~(b) — When required.~~ When property zoned R-3F abuts property zoned ~~A-R1, R-1, SF-2, RM-1, RT-1, or R-2~~ for any single-family or two-family use, the property owner of the R-3F zoned property shall erect and be responsible for the maintenance of ~~an approved~~ a screening device along the common ~~lot~~ property line between the R-3F zoned property and ~~the A-R1, R-1, SF-2, RM-1, RT-1, or R-2~~ such more restrictively zoned property in accordance with Sec. 31-280.

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### Sec. 31-256.8. Screening device requirements.

~~(a) — A barrier of stone, brick, pierced brick or block, uniformly colored wood or other material upon request and approved in advance by the building official, 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.~~

~~(b) — When required. When property zoned R-3FA abuts property zoned A-R1, R-1, SF-2, RM-1, RT-1, or R-2 for any single-family or two-family use, the property owner of the R-3FA zoned property shall erect and be responsible for the maintenance of an approved screening device along the common lot property line between the R-3FA zoned property and the A-R1, R-1, SF-2, RM-1, RT-1, or R-2 such more restrictively zoned property in accordance with Sec. 31-280.~~

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### Sec. 31-280. Screening device requirements.

(a) Definition. For the purposes of this ~~section~~chapter, 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.~~ have the meaning as defined in Sec. 31-2.

(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~~ property zoned for residential use. ~~Insofar as it is practical, s~~Such screening device shall be erected along the entire length of the common property line between ~~such business~~ the nonresidential property and the abutting residentially zoned property. ~~A lattice weave or material covering over a chain link fence is not considered a screening device. In instances where nonresidential property abuts a drainage easement or other undevelopable property, the screening device requirement may be waived by the executive director of development services director or designee.~~

(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~~ A screening device, ~~whether required or not,~~ shall ~~exceed be~~ eight (8) feet in height, exclusive of caps on fence posts or pilasters, ~~without prior approval.~~

(f) The finished side of all screening devices required in accordance with this section shall face away from the property requiring it.

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### **Sec. 31-606. Screening device requirements.**

(a) A CF must be completely enclosed by a ~~fence, wall, or barrier~~ screening device which limits climbing access to such tower and any supporting systems, lines, wires, buildings, or other structures. The facility must be fully enclosed by a screening device ~~screened from view from property used or zoned for residential use and public roadways,~~ as ~~described~~ defined in section 31-280.

(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.

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### **Sec. 31-888. Landscaped buffer screening devices.**

(a) Where approved by the planning director, a landscaped buffer may be planted to meet the screening device requirements specified within chapter 31 zoning regulations; ~~sections 31-250 and 31-280.~~ Such alternate screening shall become applicable only upon a change of land use, property ownership, or building occupancy, or at such time a building permit application is made, except as otherwise specified within this chapter.

(b) A landscaped buffer shall provide a visual barrier from adjacent properties and streets. The owner of the property on which the landscaped buffer screening is planted shall permanently and adequately maintain such screening.

(c) Landscaped buffer screening shall consist of earthen and planting materials not less than five (5) feet in width and include hedge-like shrubbery or evergreen planting materials capable of obtaining a minimum height of six (6) feet within the first three (3) years of initial planting.

(d) Where approved by the planning director, an earthen berm with elevated planting materials may be used as a landscaped buffer to meet the requirements of this section.

(e) ~~If required, a~~An automatic underground drip irrigation or sprinkler system shall be provided for all landscaped buffer screens. A landscaped buffer shall be continuously maintained in a healthy thriving condition.

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

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

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

**SECTION V.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 16<sup>th</sup> day of July, 2024, 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**

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Debbie Nash-King, MAYOR

**ATTEST:**

**APPROVED AS TO FORM:**

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Laura J. Calcote, CITY SECRETARY

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Holli C. Clements, CITY ATTORNEY