

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:

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.

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 preliminary plat, commercial site plan, zoning change request, or Certificate of Occupancy where a change of use which will generate 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. If specific land uses for the development are not specified at the time of application, the daily trip generation rate for the most intensive land use from the ITE Manual for the land use classification of the application shall be used to compute the estimated average daily trips. The average daily trip and peak hour trip estimates shall include a breakdown of trips by type of vehicle in accordance with the Federal Highway Administration Vehicle Classification Types.

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) 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) The area for the TIA shall include traffic being generated by adjacent developments at a minimum of one-half (½) 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.

(3) Periods of analysis 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 include existing conditions, opening year conditions with and without development, and 10 years after opening with and without development.

(5) Process for determining trip generation and distribution, including trip generation category, diversion assumptions, distribution assumptions, and capacity analysis.

(6) The rate of growth assumed in background traffic assumptions.

(7) Anticipated developments projects in the area of the study that have been approved or are under review.

(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 shall be approved by the City Engineer prior to submittal of a preliminary plat. An updated TIA shall be approved prior to the submittal of all final plat applications and shall be generally consistent with the initial TIA. The initial TIA shall be updated whenever a subdivision plat or site plan is modified to authorize more intensive development.

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 survey 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. ADT shall be derived from the latest available counts taken by the City or Texas Department of Transportation. 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. 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.
- (b) A calculated future condition of the transportation system without development, which includes the following:
- (1) Capacity analysis to be provided for opening year plus ten (10) years for key intersections (and roadway segments where appropriate) without the development but including any planned developments. 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.
- (c) A calculated condition of the future transportation system with development, 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 10-year for key intersections (and roadway segments where appropriate). The analysis shall state the future LOS for all analysis intersections within the study.
 - (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.
- (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 needed improvements needed to match the existing conditions, and also obtain a LOS D that includes the increase 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 specifications of the City Engineer 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. The fee for this additional review shall conform with the City's adopted fee schedule.

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 thoroughfare 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 thoroughfares 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 thoroughfares 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 thoroughfare rights-of-way or to make intersection improvements imposed on an application may be deferred to a later stage of the development process. As a condition of deferring the obligation to dedicate rights-of-way for or to improve thoroughfares, 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 thoroughfares.

Sec. 26-187. Cash contributions.

In lieu of the obligation to improve thoroughfares or make traffic control improvements to achieve road adequacy, the applicant may propose to make equivalent cash contributions based upon the development project's proportionate share of the costs of improvements, which the City in its sole discretion may accept in satisfaction of road adequacy standards in this **Division**. Any funds accepted by the City shall be earmarked for construction of the improvements for which the contribution was made.

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;

- (b) Aggregate the costs of improving the multiple thoroughfares or intersections identified in the Traffic Impact Analysis and require improvements to only some of the thoroughfares 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
 - (4) Assist in obtaining approvals from TXDOT;
 - (5) Assist in securing financial participation from major thoroughfare improvements from Bell County, TXDOT or the Killeen-Temple Metropolitan Planning Organization (KTMPO) or other area wide transportation planning and management entities as may be established in the future.

Sec. 26-189. Appeal of road adequacy conditions.

- (a) 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 applicant 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 applicant shall provide the total vehicle miles of road capacity supplied by proposed dedications of rights of-way or improvements to thoroughfares.
- (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 road adequacy portion of the appeal:
 - (1) Deny the appeal, upon determining that the required dedications of rights-of-way for or improvements to thoroughfares 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 thoroughfares, 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 25th day of January, 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