

AN ORDINANCE 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 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 is in the process of adopting a new Comprehensive Plan in accordance with Chapter 213 of the Texas Local Government Code;

WHEREAS, the City Council desires to expand the public notification boundary for all zoning requests and Future Land Use Map amendment requests to four hundred feet;

WHEREAS, the City Council desires to establish a formalized process for amending the Future Land Use Map of the Comprehensive Plan; and

WHEREAS, the City Council finds that establishing such process is necessary to ensure the long-term integrity of the Comprehensive Plan;

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. 31-39. 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) *Public notification.* All property owners within four hundred (400) feet in all directions of the area for which a zoning change or Future Land Use Map (FLUM) amendment is requested shall be notified in accordance with Section 211.007, as amended, of the Texas Local Government Code, so long as those properties are within the corporate limits of the City of Killeen.
- (c) *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.
- (d) *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.

- (e) *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.
- (f) *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.
- (g) *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.
- (h) 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.
- (i) *Consistency with Comprehensive Plan. Requests to amend the zoning designation of a piece of a property shall be in accordance with the Future Land Use Map (FLUM) of the Comprehensive Plan. If a request is not consistent with the Future Land Use Map (FLUM), a request to amend the*

Future Land Use Map (FLUM) may be submitted prior to submitting a request to amend the zoning. Future Land Use Map (FLUM) amendment requests shall not be processed concurrently with a zoning request for the same property.

(j) When considering whether to approve a request to amend the City's Future Land Use Map (FLUM) the City Council shall consider the following factors:

- 1) Is the proposed amendment consistent with the principles and policies set forth in the Comprehensive Plan?
- 2) Is the proposed amendment compatible with the character of the surrounding area?
- 3) What is the impact of the proposed amendment on infrastructure provision including water, wastewater, drainage, and the transportation network?
- 4) What is the impact of the proposed amendment on the City's ability to provide, fund, and maintain services?
- 5) What is the impact of the proposed amendment on environmentally sensitive and natural areas?
- 6) What specific conditions (e.g., population size and/or characteristics, area character and building form, property/structure conditions, infrastructure or public services, market factors including need for more land in a particular designation, etc.) have changed sufficiently to render the current map designation(s) inappropriate or out-of-date?
- 7) Do City staff, the Planning and Zoning Commission, and/or the City Council have sufficient information to move ahead with a decision (e.g., utility capacity, potential traffic impacts, other public service implications, resident/stakeholder concerns and input)?

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 9th day of August, 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

Debbie Nash-King, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM:

Holli Clements, INTERIM CITY ATTORNEY