



City of Killeen

Agenda

City Council

Tuesday, May 9, 2017

5:00 PM

Killeen City Hall
City Council Chambers
101 North College Street
Killeen, Texas 76541

Call to Order and Roll Call

___ Jose Segarra, Mayor	___ Brockley Moore
___ Shirley Fleming	___ Jonathan Okray
___ Gregory Johnson	___ Juan Rivera
___ Jim Kilpatrick	___ Dick Young

Invocation

Pledge of Allegiance

Approval of Agenda

Minutes

1. [MN-17-010](#) Consider Minutes of Regular City Council Meeting of April 25, 2017.
Attachments: [Minutes](#)

Resolutions

2. [RS-17-048](#) Consider a memorandum/resolution authorizing the City Manager to enter into an interlocal agreement between the Cities of Killeen and Harker Heights for a Household Hazardous Waste Collection Event.
Attachments: [Staff Report](#)
[Interlocal Agreement](#)
[Presentation](#)
3. [RS-17-049](#) Consider a memorandum/resolution for the re-adoption of eligibility, guidelines and criteria for tax abatements.
Attachments: [Staff Report](#)
[Tax Abatement Guidelines & Criteria](#)
[Presentation](#)

Ordinances

4. [OR-17-006](#) Consider an ordinance amending Chapter 26 of the Code of Ordinances

of the City of Killeen reverting final plat approval authority to the City Council and amending various sections of Chapter 26 as a housekeeping matter to ensure consistency with the new provisions.

Attachments: [Staff Report](#)

[Ordinance](#)

Public Hearings

5. [PH-17-025](#) HOLD a public hearing and consider an ordinance readopting the youth curfew. (1st of 2 readings)

Attachments: [Staff Report](#)

[Local Government Code](#)

[Ordinance](#)

[Presentation](#)

6. [PH-17-014](#) HOLD a public hearing and consider an ordinance requested by Victor Craig Mashburn and Denna Connel O'Connor to rezone approximately 1.39 acres out of the G.W. Farris Survey, Abstract No. 306, Killeen, Texas, from "B-3" (Local Business District) to "R-1" (Single-Family Residential District). The property is locally known as 708 E. Elms Road, Killeen, Texas.

Attachments: [Staff Report](#)

[Aerial Map Exhibit](#)

[Minutes](#)

[Ordinance](#)

[Application](#)

[Location Map](#)

[Buffer Map](#)

[Considerations](#)

[Presentation](#)

Adjournment

I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m. on May 5, 2017.

Dianna Barker, City Secretary

The public is hereby informed that notices for City of Killeen meetings will no longer distinguish between matters to be discussed in open or closed session of a meeting.

This practice is in accordance with rulings by the Texas Attorney General that, under the Texas Open Meetings Act, the City Council may convene a closed session to discuss any matter listed on the agenda, without prior or further notice, if the matter is one that the Open Meetings Act allows to be discussed in a closed session.

This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.

Notice of Meetings

The Mayor and/or City Council have been invited to attend and/or participate in the following meetings/conferences/events. Although a quorum of the members of the City Council may or may not be available to attend this meeting, this notice is being posted to meet the requirements of the Texas Open Meetings Act and subsequent opinions of the Texas Attorney General's Office. No official action will be taken by Council.

- Killeen Rodeo, May 18-20, 2017, Killeen Rodeo Grounds

Dedicated Service -- Every Day, for Everyone!



City of Killeen

Legislation Details

File #: MN-17-010 **Version:** 1 **Name:** Minutes of April 25, 2017
Type: Minutes **Status:** Minutes
File created: 4/13/2017 **In control:** City Council
On agenda: 5/9/2017 **Final action:**
Title: Consider Minutes of Regular City Council Meeting of April 25, 2017.
Sponsors: City Secretary
Indexes:
Code sections:
Attachments: [Minutes](#)

Date	Ver.	Action By	Action	Result
5/2/2017	1	City Council Workshop		

City of Killeen
Regular City Council Meeting
Killeen City Hall
April 25, 2017 at 5:00 p.m.

Presiding: Mayor Jose L. Segarra

Attending: Mayor Pro-Tem Brockley Moore, Councilmembers Jim Kilpatrick, Juan Rivera, Shirley Fleming, Gregory Johnson, Jonathan Okray, and Richard Young

Also attending were City Manager Ronald L. Olson, City Attorney Kathryn Davis, City Secretary Dianna Barker, and Sergeant-at-Arms Cole.

Pastor Jones gave the invocation, and Councilmember Fleming led everyone in the Pledge of Allegiance.

Approval of Agenda

Motion was made by Mayor Pro-Tem Moore to approve the agenda as written. Motion seconded by Councilmember Fleming. The motion carried unanimously.

Minutes

Motion was made by Councilmember Kilpatrick to approve the minutes of the April 11th Regular City Council Meeting. Motion was seconded by Councilmember Rivera. Motion carried unanimously.

Resolutions

RS-17-044 Consider a memorandum/resolution declaring a vacancy on the Senior Citizens Advisory Board.

Staff comments: Brett Williams

The President of the Senior Citizens Advisory Board has notified the city manager's office that Mrs. Katherine Gordon has missed 3 consecutive unexcused meetings without contacting a city staff member or Board member of the Senior Citizens Advisory Board. The Senior Citizens Advisory Board President requests that the position be declared vacant.

Motion was made by Councilmember Rivera to approve RS-17-044. Motion was seconded by Mayor Pro-Tem Moore. Motion carried unanimously.

RS-17-045 Consider a memorandum/resolution authorizing a line of credit with BBVA Compass for the Spend Net Payables commercial card program to send electronic payments to vendors using virtual account numbers.

Staff comments: Jonathan Locke

BBVA Compass and staff identified over \$5 million in annual payments to vendors that accept commercial card payments. If these payments were made through the Spend Net Payables program, the City would have received an estimated rebate of \$75,000. To get started, the City needs to establish a line of credit. BBVA Compass has agreed to put in place a \$1 million line of credit to facilitate the program. Staff recommends that the City

Council approve this resolution authorizing a line of credit with BBVA Compass for the Spend Net Payables commercial card program.

Motion was made by Councilmember Kilpatrick to approve RS-17-045. Motion was seconded by Councilmember Rivera. Motion carried unanimously.

RS-17-046 Consider a memorandum/resolution awarding Bid # 17-08 to HUFCOR, Inc. for the purchase of operable panel partitions (airwalls) replacement for the Killeen Civic and Conference Center.

Staff comments: Leslie Hinkle

The current airwalls at the Killeen Civic and Conference Center are beyond refurbishing and will not provide the noise attenuation that is desired for a conference center operation. Two bids were received. Staff recommends that City Council award competitive bid # 17-08 Operational Panel Partitions Wall Replacement for the Killeen Civic and Conference Center to HUFCOR, Inc., that the City Manager is authorized to execute the contract for purchase of said airwalls from HUFCOR, Inc. that he is further authorized to execute any and all change orders allowed by state and local law.

Motion was made by Mayor Pro-Tem Moore to approve RS-17-046. Motion was seconded by Councilmember Okray. Motion carried unanimously.

Public Hearings

PH-17-013A Consider a memorandum/resolution for projected expenditure from the state seizure account for the Killeen Police Department.

PH-17-013B HOLD a public hearing and consider an ordinance amending the FY 2017 Annual Budget and Plan of Municipal Services of the City of Killeen to increase Special Revenue expenditure accounts to provide funding for the purchase of equipment for the Police Department.

The City Secretary read the caption of the ordinance.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2017 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN TO INCREASE SPECIAL REVENUE EXPENDITURE ACCOUNTS TO PROVIDE FUNDING FOR THE PURCHASE OF EQUIPMENT FOR THE POLICE DEPARTMENT; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

Staff comments: Margaret Young

The memorandum is to provide notice to the governing body of the projected expenditure of funds from the police department's State Seizure account in the amount of \$114,458. The Police Department recommends council acknowledge notification of intent to purchase qualifying equipment for the police department.

Seizure funds are typically utilized to acquire equipment that enhances the policing operation of a department, increasing their ability to safely conduct investigations and ensure convictions. Staff recommends that the City Council approve the ordinance amending the FY 2017 Annual Budget and Plan of Municipal Services to provide funding for the purchase of equipment for the Police Department thru seizure funds.

Mayor Segarra opened the public hearing. With no one appearing the public hearing was closed.

Motion was made by Councilmember Okray to approve PH-17-013A&B. Motion was seconded by Councilmember Rivera. Motion carried unanimously.

PH-17-024A HOLD a public hearing and consider an ordinance requested by M.A. Hoard Construction Co. II, LTD. to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Commercial' (GC) to 'General Residential' (GR) (FLUM# Z17-10) for 2.3 acres, being Lot 41, Block 1, Grover Park. The property is locally known as 6501 Vahrenkamp Drive, Killeen, Texas. (Tabled from April 11, 2017 Regular City Council Meeting.)

Staff comments: Tony McIlwain

The Planning and Zoning Commission recommended approval of the applicant's request for amendment to the Future Land Use Map from 'General Commercial' (GC) to 'General Residential' (GR) by a vote of 3 to 2, with Commissioners McLaurin and Peters in opposition to the request. The dissenting Commissioners agreed with the opposing two residents that the current FLUM designation is appropriate for the area.

PH-17-024B HOLD a public hearing and consider an ordinance requested by M.A. Hoard Construction Co. II, LTD. (Case #Z17-10) to rezone Lot 41, Block 1, Grover Park, from "B-5" (Commercial District) to "R-3A" (Multifamily Apartment Residential District), for property being locally known as 6501 Vahrenkamp Drive, Killeen, Texas. (Tabled from April 11, 2017 Regular City Council Meeting.)

The City Secretary read the caption of the ordinance for PH-17-024A.

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'GENERAL COMMERCIAL' (GC) TO 'GENERAL RESIDENTIAL' (GR) FOR LOT 41, BLOCK 1, GROVER PARK, BEING LOCALLY KNOWN AS 6501 VAHRENKAMP DRIVE, KILLEEN, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

The City Secretary read the caption of the ordinance for PH-17-024B.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM "B-5" (BUSINESS DISTRICT) TO "R-3A" (MULTIFAMILY APARTMENT RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff comments: Tony McIlwain

The Planning and Zoning Commission recommended approval of the applicant's zoning request from "B-5" (Business District) to "R-2" (Two Family Residential District) by a vote of 3 to 2. The staff notified thirty-four (34) surrounding property owners regarding this request and received 4 protests. The residents stated they had concerns about traffic and pedestrian safety in the neighborhood.

Mayor Segarra opened the public hearing.

Pedro Quintero, 415 E. Ave D - was available for questions.
With no one else appearing the public hearing was closed.

Motion was made by Mayor Pro-Tem Moore to approve PH-17-024A&B. Motion was seconded by Councilmember Fleming. Motion carried unanimously.

Adjournment

With no further business, upon motion being made by Councilmember Okray, seconded by Councilmember Young, and unanimously approved, the meeting was adjourned at 5:30 p.m.



City of Killeen

Legislation Details

File #: RS-17-048 **Version:** 1 **Name:** Interlocal Agreement for HHW with Harker Hts, TX
Type: Resolution **Status:** Resolutions
File created: 4/4/2017 **In control:** City Council
On agenda: 5/9/2017 **Final action:**
Title: Consider a memorandum/resolution authorizing the City Manager to enter into an interlocal agreement between the Cities of Killeen and Harker Heights for a Household Hazardous Waste Collection Event.
Sponsors: Public Works Department, Solid Waste, Recycling
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Interlocal Agreement](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
5/2/2017	1	City Council Workshop		



STAFF REPORT

DATE: May 2, 2017

TO: Ronald L. Olson, City Manager

FROM: Jeffery L. Reynolds, Assistant Director of Public Works

SUBJECT: INTERLOCAL AGREEMENT FOR HOUSEHOLD HAZARDOUS WASTE COLLECTION EVENTS

BACKGROUND AND FINDINGS:

The City of Killeen has a history of hosting Household Hazardous Waste Collection events going back more than a dozen years. The Central Texas Council of Governments (CTCOG) sponsors some events, with funds received from the Texas Commission on Environmental Quality. These events are open to residents of the seven-county CTCOG region.

Some events are sponsored by the City of Killeen. For events sponsored by the City of Killeen, we have asked the City of Harker Heights to provide event funding to enable their residents to participate in the event. Harker Heights has participated in two City of Killeen sponsored events, one in September, 2013, and the other in September, 2014.

In the past, the City of Harker Heights has contributed \$5,000 to help fund the hazardous waste transportation and disposal. In addition to the monetary contribution, Harker Heights has also provided personnel to help with event activities such as traffic control.

As the Cities of Killeen and Harker Heights share a common watershed, the routine participation of residents from the City of Harker Heights is desirable. Approving this multi-year agreement will facilitate that participation.

THE ALTERNATIVES CONSIDERED:

The alternatives are: (1) do nothing and exclude participation from residents of Harker Heights in the Household Hazardous Waste collection event; or (2) enter into the interlocal agreement, inviting residents from the City of Harker Heights to participate.

Which alternative is recommended? Why?

Staff recommends second alternative. The City of Harker Heights' participation would provide additional funding for the event. It would also afford residents of Harker Heights the opportunity to dispose of hazardous products, keeping them out of the waste stream and protecting our common watershed.

CONFORMITY TO CITY POLICY:

This action supports City of Killeen Vision 2030 Goal 6: Preserve and promote a positive City image; Goal 7: Foster a sense of community and provide an exceptional quality of life; and Goal 12: Local and Central Texas regional leadership.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

The cost of conducting each event varies, primarily dependent on the number of residents served. The estimated cost to the City of Killeen is approximately \$30,000.

Is this a one-time or recurring expenditure?

Recurring. The City plans to sponsor up to two events each year.

Is this expenditure budgeted?

Yes

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

Yes, funds are available in account 540-3470-439.50-40, Designated Expenses / Refuse Disposal Costs. The current balance is \$34,691, leaving a balance of approximately \$4,691.

RECOMMENDATION:

Staff recommends that City Council authorize the City Manager to execute an Interlocal Agreement between the City of Killeen, Texas and Harker Heights, Texas.

DEPARTMENTAL CLEARANCES:

Public Works
Finance
Legal

ATTACHED SUPPORTING DOCUMENTS:

Interlocal Agreement

INTERLOCAL COOPERATION AGREEMENT FOR HOUSEHOLD HAZARDOUS WASTE COLLECTION EVENT

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF BELL §

This Interlocal Cooperation Agreement For Household Hazardous Waste Collection Events (“**Agreement**”) is entered into as of April 11, 2017 (“**Effective Date**”), by and between the City of Killeen (“**Killeen**”) and the City of Harker Heights (“**HH**”). Killeen and HH are each referred to individually in this Agreement as a “**Party**,” and collectively as the “**Parties**.”

RECITALS

A. Killeen and HH held a joint Household Hazardous Waste Collection (“**HHW**”) event on September 13, 2014. The cost breakdown for the September 13th event was: City of Killeen-\$25,367 and the City of Harker Heights-\$5,000. The objective of the event was to reduce landfill waste, hazardous materials and illegal dumping.

B. Killeen desires to invite HH to participate in two HHW events per year. The HHW events will be open to Killeen and HH residents exclusively under the conditions described herein. HH’s share of each event in which it participates will be \$5,000, with Killeen paying for the remainder of the event.

C. The dates, times, and locations of the two HHW events in which HH participates, singularly referred to as the “**Event**”, will be scheduled by Killeen.

AGREEMENT

Now, therefore, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. **Purpose and Authority.** The purpose of this Agreement is to facilitate the participation of residents of HH in a Killeen sponsored HHW Collection Event. This Agreement is authorized by the Parties’ broad and inherent authority as home-rule municipalities under Article 11, Section 5, of the Texas Constitution to promote the public health, safety, and general welfare of their respective residents. In addition, this Agreement is authorized by TEX. GOV’T. CODE Chapter 791, the “Interlocal Cooperation Act.”

2. **Term of Agreement.** The term of this Agreement shall be April 11, 2017 through April 10, 2018 (“**Original Term**”). This Agreement shall automatically renew for two successive one year terms (“**Renewal Term**”) unless either Party notifies the other Party thirty (30) days prior to the expiration of the Original Term or Renewal Term that the Party does not desire to renew the contract.

3. **Participation.** Killeen will select a date and location for each Event. Killeen will notify HH at least forty-five (45) days prior to the Event of the invitation for HH residents to attend the Event. Within five (5) business days of receipt of the invitation, HH will notify Killeen whether HH will participate in the Event. Notwithstanding anything to the contrary, the Parties may agree that HH may participate in an Event even if the notices are not timely.

4. **Payment.** Not later than three weeks after each Event for which HH notified Killeen that it would participate in or after each Event in which HH did participate, HH will pay Killeen the sum of \$5,000.00, representing HH's full share of the cost of participating in the Event. Killeen's share of each of the two Events is the remaining cost. Each Party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying Party.

5. **Event Changes.** If the Event for which HH has notified Killeen that it will participate in must be postponed due to inclement weather or other unforeseen circumstances, the Parties will cooperate in good faith to re-schedule the Event as soon thereafter as reasonably practicable. Killeen will keep HH reasonably apprised of all material developments in the planning process, and will notify HH of any changes as soon as they are established.

6. **Conduct of the Event.**

A. Killeen will be primarily responsible for conducting the Event, including furnishing the location, traffic control, equipment, and such personnel as may be necessary for the safe and orderly operation of the Event.

B. HH will provide at least one HH employee to provide assistance at the Event location during the Event hours. While at the Event location, all HH employees will comply with the reasonable and lawful instructions of the person(s) designated by Killeen to run the Event.

C. Within thirty (30) days after the Event, Killeen will provide HH with general collection statistics relating to the Event, including HH's approximate percentage of total participation, a general statement of the types and quantities of materials collected, and the approximate percentage of HH residents bringing each type of materials.

D. This Agreement does not establish a partnership between the Parties, and neither Party has the authority to bind the other to any debt, liability, obligation or other commitment.

7. **Employment Status.** All employees of the Parties shall at all times remain employees of their respective employers. In no instance shall an employee of either Party be construed to be a "borrowed servant" of the other Party. Each Party will pay and provide all of the normal benefits (wage, salary, pension, worker's compensation, etc.) to its own employees engaged in the conduct of the Event.

8. **Marketing.** Each Party may at its own expense engage in such promotion of the Event as it deems appropriate. All promotions will conspicuously indicate that the Event is hosted by Killeen.

9. **Insurance; Claims.** Each Party agrees to maintain its usual and customary liability insurance coverages during the Event. Each Party agrees to notify the other within one (1) business day of learning of any actual or potential accident or claim arising in connection with the Event.

10. **Joint Obligations.** The Parties mutually agree:

A. To cooperate in good faith in the planning and running of the Event, and not to unreasonably interfere with or delay the Event.

B. Not to unreasonably withhold, condition or delay any requested approval or consent made by a Party hereto.

C. To cooperate in defending any legal action instituted by a third party challenging (i) the validity of one or more provisions of this Agreement; (ii) the state and local legislation authorizing the Parties to enter into this Agreement; or (iii) any discretionary action and approvals of either Party pursuant to this Agreement.

D. To execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this Agreement and all transactions contemplated by this Agreement, or to correct any defect, error or omission that may be discovered in this Agreement or any documents executed incidental to it.

11. **Dispute Resolution.** Any dispute between the Parties related to this Agreement that is not resolved through informal discussion may be submitted to a mutually acceptable mediation service or provider. The Parties to the mediation shall bear the mediation costs equally. Said mediation shall be non-binding, however, the Parties shall endeavor to resolve their disputes through this process in good faith. This paragraph does not preclude a Party from seeking equitable or other relief from a court of competent jurisdiction.

12. **Notice.** All notices under this Agreement shall be in writing, and (a) delivered personally to the person to whom the notice is to be given, (b) given by certified or registered mail, return receipt requested, or (c) given by e-mail or facsimile transmission. Notice given by mail shall be effective three (3) days (exclusive of Saturdays, Sundays and postal holidays) after the same is deposited in the United States Postal Service, properly post-paid and certified and addressed to the Party to be notified. Notice given by e-mail or facsimile transmission shall only be deemed received if the transmission thereof is confirmed and such notice is followed by written notice as provided in subparts (a) or (b) within three (3) business days following the e-mail or facsimile notice. Notice given in any other manner shall be effective only if and when actually delivered to the Party to be notified or at such Party's address for purposes of notice as set forth herein. A change in the notice address of any Party may be effected by serving written notice of such change and of such new address upon the other Party in the manner provided herein. Initially, notices shall be addressed as follows:

A. To HH:

Mr. Mark Hyde
Harker Heights Municipal Building
305 Miller's Crossing
Harker Heights TX 76548
mhyde@ci.harker-heights.tx.us

B. To Killeen:

Mr. David Olson
Killeen City Hall Annex
P.O. Box 1329
Killeen, TX 76540
dolson@killeentexas.gov

13. **Miscellaneous.**

A. Binding Effect. This Agreement shall be binding on the Parties and their respective representatives, successors and permitted assigns.

B. No Third-Party Beneficiaries. There are no third-party beneficiaries of this Agreement. Nothing herein shall be construed to waive or limit any defense or immunity available to either Party in response to any third party claim.

C. Governing Law; Venue. The Parties agree that this Agreement has been made in Texas and that it shall be governed by and construed pursuant to the laws of the State of Texas, without regard to choice of law rules of any other jurisdiction. Venue for any action to construe or enforce this Agreement shall be in Bell County, Texas.

D. Severability. The provisions of this Agreement are severable. If a court or government agency of competent jurisdiction finds that any provision of this Agreement is unenforceable, the unenforceable provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the unenforceable provision as is legally possible, and the Agreement as so-modified shall be enforced to the greatest extent permitted by law, except when such construction would operate as an undue hardship on a Party, or constitute a substantial deviation from the general intent and purpose of such Parties as reflected in this Agreement.

E. Interpretation. Each Party has carefully read this entire Agreement, understands the meaning and effect of each and every provision contained herein, and acknowledges that it has relied on its own judgment in entering into this Agreement. Each Party executes this Agreement only after first having obtained, or having had the opportunity to obtain, competent legal advice. The use of the masculine or neuter genders herein shall include the masculine, feminine and neuter genders. The singular form shall include the plural when the context requires. Headings used throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, restrict, modify, amplify or aid in the interpretation or construction of the meaning of the provisions of this Agreement. The terms

“hereof,” “hereunder” and “herein” shall refer to this Agreement as a whole, inclusive of all exhibits, except as otherwise expressly provided. This Agreement represents the result of extensive discussion between the Parties, and thus should not be construed strictly for or against either Party.

F. Amendment. The Parties agree that they may amend this Agreement only by a written agreement duly executed by persons authorized to execute agreements on behalf of the Parties.

G. Entire Agreement. This Agreement is the complete and exclusive statement of the mutual understanding of the Parties. This Agreement supersedes and cancels all previous written and oral agreements and communications between the Parties relating to the subject matter of this Agreement. The exhibits, attachments and addenda which are a part of this Agreement are: None.

CITY OF HARKER HEIGHTS

CITY OF KILLEEN

By: _____
David Mitchell, City Manager

By: _____
Ronald L. Olson, City Manager

Date: _____

Date: _____

ATTEST:

ATTEST:

Patricia Brunson, City Secretary

Dianna Barker, City Secretary

Date: _____

Date: _____



INTERLOCAL AGREEMENT WITH HARKER HEIGHTS, TX

RS-17-048

May 2, 2017

Background and Conclusion

- ❑ The City of Killeen has a history of hosting Household Hazardous Waste (HHW) collection events going back more than a dozen years.
- ❑ In the past, HHW events sponsored by the City of Killeen have been joint ventures with the City of Harker Heights.
- ❑ This event will afford the residents of Killeen and Harker Heights the opportunity to dispose of hazardous products while protecting our common watershed (South Nolan Creek) and preserving our water resources for current and future generations.
- ❑ Based on past events, the estimated cost of this event will be \$35,000 with Harker Heights providing \$5,000.
- ❑ Funds have been budgeted for FY17 and are available in the Refuse Disposal Costs account (540-3470-439.50-40).



Household Hazardous Waste Collection

Residents disposing of household hazardous waste at a prior City of Killeen event.

Recommendation



- Staff recommends that City Council authorize the City Manager to execute an Interlocal Agreement between the Cities of Killeen and Harker Heights.
- The agreement will be for a three year term with an estimated cost of \$30,000 per year for the City of Killeen.



City of Killeen

Legislation Details

File #: RS-17-049 **Version:** 1 **Name:** Tax Abatement
Type: Resolution **Status:** Resolutions
File created: 4/13/2017 **In control:** City Council
On agenda: 5/9/2017 **Final action:**
Title: Consider a memorandum/resolution for the re-adoption of eligibility, guidelines and criteria for tax abatements.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Tax Abatement Guidelines & Criteria Presentation](#)

Date	Ver.	Action By	Action	Result
5/2/2017	1	City Council Workshop		



STAFF REPORT

DATE: May 2, 2017

TO: Ronald L. Olson, City Manager

FROM: Ray Shanaa, Exec. Director of Planning and Development Services

SUBJECT: RE-ADOPTION OF ELIGIBILITY, GUIDELINES AND CRITERIA FOR TAX ABATEMENTS

BACKGROUND AND FINDINGS:

Enterprise and reinvestment zones are economic development tools which seek to encourage job creation and capital investment. The City of Killeen currently includes areas within enterprise zones according to the Economic Development and Tourism Division of the Governor's Office. The enterprise zone program allows a community to partner with the state to offer local and state tax and regulatory benefits to a new or an expanding business in the designated distressed areas. The governing body of a municipality by ordinance may designate an area as a reinvestment zone when such designation is likely to attract major investment in the zone. Tax abatement is one of the tax incentives available in an enterprise or reinvestment zone.

In order to offer tax abatement, the City is required to establish guidelines and criteria governing tax abatement (Tax Code §312.002). The Tax Code provides that the guidelines and criteria adopted are effective for two years from the date adopted. The current Guidelines and Criteria for Granting Tax Abatement in Reinvestment and Enterprise Zones were originally adopted by the City of Killeen in 1996. They were readopted every two years since then, but they have been modified to stay current with state law. There are no changes to the Guidelines and Criteria for this re-adoption. The re-adoption of the Guidelines and Criteria does not limit the City Council's discretion in determining whether to enter into other tax abatement, nor does it create any expectation of approval by an applicant.

THE ALTERNATIVES CONSIDERED:

The alternative would be not readopting the Guidelines and Criteria.

CONFORMITY TO CITY POLICY:

The re-adoption of the guidelines and criteria governing tax abatement conforms to city policy.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

The re-adoption of Eligibility, Guidelines and Criteria for Tax Abatements will not have a direct impact on the City of Killeen fiscally. Individual cases wishing to pursue tax abatement opportunities will be presented to the City Council separately as appropriate.

Is this a one-time or recurring expenditure?

It is anticipated that tax abatement requests will be evaluated on a recurring basis.

Is this expenditure budgeted?

This expenditure is not budgeted as a line item.

If not, where will the money come from?

This is not applicable.

Is there a sufficient amount in the budgeted line-item for this expenditure?

This not applicable.

RECOMMENDATION:

Staff recommends that the City Council:

1. Elects to continue its eligibility under state law to participate in tax abatements; and
2. Re-adopts the attached Tax Abatement Guidelines and Criteria for use.

DEPARTMENTAL CLEARANCES:

Legal Department

ATTACHED SUPPORTING DOCUMENTS:

Tax Abatement Guidelines and Criteria

GUIDELINES AND CRITERIA

For Granting Tax Abatement in Reinvestment and Enterprise Zones

Designated By The City of Killeen, Texas

Under Tax Code, Chapter 312

I. PURPOSE

The designation of a Reinvestment Zone, Enterprise Zone, or Tax Abatement is allowed if it is reasonably likely to contribute to the retention or expansion of primary employment or will attract major investment that would be a benefit to the property and contribute to the economic development of the municipality.

II. DEFINITIONS

- A. "Abatement" means the full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone designated by the City of Killeen for economic development purposes.
- B. "Agreement" means a contractual agreement between a property owner and/or lessee and the City of Killeen, Texas.
- C. "Base year value" means the assessed value of eligible property on January 1st of the year of the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1st but before the execution of the Agreement.
- D. "Deferred Maintenance" means those improvements necessary for continued operation but which do not improve productivity or alter any process technology.
- E. "Eligible Facilities" means those New or existing buildings, or Expanded or Modernized existing buildings and structures, including fixed machinery and equipment, located or to be located inside a reinvestment or enterprise zone for tax abatement designated by the City of Killeen, or located within its extraterritorial jurisdiction.
- F. "Enterprise Zone" means designation of an area under chapter 2303, Texas Government Code and Tax Code section 312.2011.
- G. "Expansion" means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.

- H. "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- I. "Modernization" means a complete or partial demolition of Facilities and the complete or partial reconstruction or installation of a Facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery or equipment, or both.
- J. "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion and Modernization.
- K. "Owner" means 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; includes a Lessor or Lessee if responsible for payment of ad valorem taxes.
- L. "Productive Life" means the number of years a property improvement is expected to be in service for a facility.
- M. "Reinvestment Zone" means a reinvestment zone designated by the City of Killeen by authority of Chapter 312, Tax Code.

III. ABATEMENT AUTHORIZED

- A. Eligible Facilities. Upon application, Eligible Facilities shall be considered for Tax Abatement as hereinafter provided.
- B. Creation of New Value. Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between the City of Killeen and the property owner or lessee, subject to such limitation as the City of Killeen may require.
- C. New and Existing Facilities. Abatement may be granted for existing or New Facilities and for improvements to Existing Facilities for purposes of Modernization and Expansion.
- D. Eligible Property Improvements. Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements, and related fixed improvements necessary to the operation and administration of the Facility. The property subject to this agreement may be located in the extraterritorial jurisdiction of the City of Killeen; in that event, this agreement applies to city taxes if the city annexes the property during the period specified herein.

- E. Ineligible Property. The following types of property shall remain fully taxable and ineligible for Tax Abatement: land, inventory, supplies, tools, furnishings and other forms of movable personal property, housing, Deferred Maintenance, property to be rented or leased except as provided in Section III F, and property which has a Productive Life of less than 10 years. Also ineligible is property owned or leased by a member of the city's governing body or its planning and zoning commission.
- F. Owned/Leased Facilities. If a Leased Facility is granted abatement, the agreement shall be executed with both the lessor and the lessee.
- G. Standards for Tax Abatement.
1. Minimum Standards – Objective Criteria. The City of Killeen will consider tax abatement only on eligible facilities and property value which meet the following criteria:
 - a. The project involves a minimum increase in property value of 300% for construction of a new facility, or 50% for expansion of an existing facility, for an overall new investment of at least \$250,000 in taxable assets; and
 - b. The project will create or retain a minimum of 10 jobs which would not otherwise be created or retained.
 2. Additional Standards for Evaluating Applicants – Subjective Criteria. The following factors, among others, shall be considered in determining the percentage of value to be abated and the duration of the Tax Abatement in accordance with the Schedule of Tax Abatement in Section III J:
 - a. whether the project makes a substantial contribution to redevelopment efforts, special area plans, or strategic economic development programs by enhancing either functional or visual characteristics, e.g. historical structures, traffic circulation, parking facades, materials, signs, etc;
 - b. whether the project has high visibility, image impact, or is of a significantly higher level of development quality;
 - c. whether the project is an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc;
 - d. whether the project can serve as a prototype and catalyst for other development of a higher standard;
 - e. whether the project stimulates desired concentrations of employment or commercial activity;

- f. whether the project generates greater employment than would otherwise be achieved, e.g., commercial/industrial versus residential or manufacturing versus warehousing;
- g. value of land and existing improvements, if any;
- h. type and value of proposed improvements;
- i. productive life of proposed improvements;
- j. amount of local payroll to be created;
- k. whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdictions;
- l. amount of local sales taxes to be generated directly;
- m. amount that the property tax base valuation will be increased after the term of Abatement;
- n. the costs to be incurred by the City of Killeen to provide facilities or services directly resulting from the new improvements;
- o. the amount of ad valorem taxes to be paid by the City of Killeen during the Abatement period considering (a) the existing values, (b) the percentage of new value abated, (c) the Abatement period, and (d) the projected property value after expiration of the Abatement period;
- p. the population growth of the City of Killeen that occurs directly as a result of new improvements;
- q. the types of value of public improvements, if any, to be constructed and paid for by the applicant seeking Abatement;
- r. the extent to which the proposed improvements compete with existing businesses;
- s. the impact, whether positive or negative, on the business opportunities of existing businesses;
- t. the attraction of other new business in the area;
- u. the overall compatibility with the City of Killeen's zoning and subdivision regulations, and over-all comprehensive plan; and

- v. whether the project is environmentally compatible, with no appreciable negative impact on quality-of-life perceptions.
 3. Each Eligible Facility shall be reviewed on its merits utilizing the factors provided in #1 and #2 above. After such review and full evaluation, abatement may be denied entirely or may be granted to the extent deemed appropriate in accordance with the Schedule of Tax Abatement in Section III J.
- H. Denial of Abatement. A tax abatement agreement shall be denied if it is determined that:
 1. there would be a substantial adverse effect on the provision of government service or tax base;
 2. the applicant has insufficient financial capacity to meet the requirements of the proposed abatement agreement;
 3. planned or potential use of the property would constitute a hazard to public safety, health, or morals;
 4. approval of an abatement agreement would violate State or Federal laws or regulations; or
 5. there exists any other valid reason for denial deemed appropriate by the City Council of the City of Killeen.
- I. Taxability. From the date of the execution of the Abatement Agreement period, taxes shall be payable as follows:
 1. the value of ineligible property as provided in Section III E shall be fully taxable;
 2. the base year value of existing eligible property as determined each year shall be fully taxable;
 3. the additional value of new eligible property shall be taxed in the manner and for the period provided for in the Schedule of Tax Abatement in Section III J; and
 4. the additional value of new, eligible property shall be fully taxable at the end of the Abatement period.
- J. Schedule of Tax Abatement. The term and percentage of tax abatement shall be determined by the sum of points earned in each of the following categories. Applicant must receive points in both Category I and Category II in order to receive

points in Category III. However, the parties may agree to a lesser time period or percentage of abatement than would otherwise be entitled under this point-factor analysis.

Category I. Objective Criterion - - Dollar Value of Improvements

\$250,000 - \$500,000	3 points
\$300,001 - \$3 million	6 points
\$3,000,001 - \$5 million	9 points
>\$5 million	12 points

Category II. Objective Criterion - - Number of Jobs Created or Retained (that would not otherwise be created or retained.)

10 – 30 jobs	3 points
31 – 50 jobs	6 points
51 – 100 jobs	9 points
>100 jobs	12 points

Category III. Subjective Criterion - - Positive Impact on Community

No significant Positive Impact	0 points
Desirable Positive Impact	6 points
Exceptional Positive Impact	12 points

SCHEDULE

Sum of Points	Years of Abatement	% Abatement
<6	-	-
6 – 9	2	50%
12 – 15	2	75%
18 – 21	2	100%
24 – 27	3	100%
30	4	100%
36	5	100%

IV. APPLICATION

- A. Any present or potential owner of taxable property in Killeen, Texas, or its extraterritorial jurisdiction, may request tax abatement for Eligible Facilities by filing a written request with the City Manager of the City of Killeen. After

processing the application, the City Manager, **or his designee**, shall make a recommendation to the City Council of the City of Killeen for final disposition.

- B. The application shall consist of:
1. a completed application form which shall provide detailed information on the items described in Section III G above;
 2. a detailed site plan illustrating layout and design for structures, landscaping, signage, parking, and internal circulation along with a legal property description;
 3. a time schedule for undertaking and completing the planned improvements;
 4. in the case of Modernization, a statement of the assessed value of the facility, separately stated for real and personal property, for the tax year immediately preceding the application; and
 5. such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.
- C. The City of Killeen, no more than 45 days after receipt of the completed application, shall by Resolution either approve or disapprove the application for Tax Abatement at a regularly scheduled meeting of the City Council. The City of Killeen, shall notify the applicant in writing of approval or disapproval.
- D. If the application is approved, the City of Killeen shall give notice as provided by the Texas Tax Code, i.e., written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located, no later than the seventh day before the execution of a Tax Abatement Agreement.

V. AGREEMENT

- A. After approval of an application, the City of Killeen shall formally pass a resolution authorizing an Agreement with the owner or lessee, as the case may be, of the Eligible Facility, which Agreement shall include, but not be limited to:
1. a list of the kind, number, and location of all proposed improvements on the property;
 2. a time schedule for undertaking and completing the planned improvements;

3. a description of the proposed use of the Facility;
 4. a detailed site plan illustrating layout and design for structures, landscaping, signage, parking, and internal circulation along with a legal property description of the Facility;
 5. the estimated value of eligible property and the base year value of the Facility;
 6. the percent of value to be abated each year as provided in Section III, J;
 7. the commencement date and the termination date of abatement;
 8. a limitation on the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax abatement is in effect;
 9. an estimate of the number of jobs to be created or retained over the abatement period;
 10. provision for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement, as provided in Section VI;
 11. provisions for administration as provided in Section VII, including a provision for access to and inspection of the property by City employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreement;
 12. provisions for assignment of the tax abatement, as provided in Section VIII;
- B. Such agreement shall normally be executed within sixty (60) days after the applicant has forwarded all necessary information and documentation to the City of Killeen.
- C. **Nothing contained within these Guidelines and Criteria shall preclude the City Council from entering into a tax abatement/economic incentive agreement that takes full advantage of the flexibility contained in the Local Government Code, the Government Code or the Tax Code, as amended.**

VI. RECAPTURE

- A. The Chief Appraiser of the Bell County Appraisal District will annually determine an assessment of the real and personal property composing a reinvestment zone designated by the City. Each year, the owner receiving tax abatement shall furnish the Appraiser with such information as may be necessary for the Abatement. Once value has been established, the Chief Appraiser will notify the City of Killeen of the amount of the assessment.
- B. The Abatement Agreement shall stipulate that employees and/or designated representatives of the City of Killeen will have access to the property during the term of the Abatement to inspect the eligible facility to determine if the terms and conditions of the Agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Facility. All inspections will be made with one or more representatives of the owner and in accordance with its safety standards.
- C. Upon completion of construction, the designated representative of the City of Killeen shall annually evaluate each Facility receiving Abatement to insure compliance with the Agreement, and a formal report shall then be made to the City Council of Killeen regarding the findings of the evaluation.

VII. ADMINISTRATION

- A. The Chief Appraiser of the Bell County Appraisal District will annually determine an assessment of the real and personal property composing a reinvestment zone designated by the City. Each year, the owner receiving tax abatement shall furnish the Appraiser with such information as may be necessary for the Abatement. Once value has been established, the Chief Appraiser will notify the City of Killeen of the amount of the assessment.
- B. The Abatement Agreement shall stipulate that employees and/or designated representatives of the City of Killeen will have access to the property during the term of the Abatement to inspect the eligible facility to determine if the terms and conditions of the Agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Facility. All inspections will be made with one or more representatives of the owner and in accordance with its safety standards.
- C. Upon completion of construction, the designated representative of the City of Killeen shall annually evaluate each Facility receiving Abatement to insure compliance with the Agreement, and a formal report shall then be made to the City Council of Killeen regarding the findings of the evaluation.

VIII. ASSIGNMENT

Abatement may be transferred and assigned by the current owner to a new owner of the same Facility upon the approval by resolution of the City of Killeen, subject to the financial capacity of the assignee and provided that all conditions and obligations in the Abatement Agreement are guaranteed by the execution of a new contractual Agreement with the City of Killeen. No assignment or transfer shall be approved if the current owner, the new owner, or the new lessee is liable to any jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably withheld.

IX. SUNSET PROVISION

Pursuant to Tax Code Section § 312.002 (C), these guidelines and Criteria are effective upon the date of their adoption and will remain in force for two years, unless amended by three-quarters vote of the City Council of the City of Killeen, at which time all reinvestment or enterprise zones and Tax Abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria may be modified, renewed or eliminated.

DATE ADOPTED: _____ **Res. No.** _____



RE-ADOPTION OF TAX ABATEMENT CRITERIA AND GUIDELINES

RS-17-049

May 2, 2017

RE-ADOPTION OF TAX ABATEMENT CRITERIA AND GUIDELINES

- ❑ In order to offer tax abatement, the City is required to establish guidelines and criteria governing tax abatement (Tax Code §312.002). The Tax Code provides that the guidelines and criteria adopted are effective for two years from the date adopted.
- ❑ The re-adoption of the Guidelines and Criteria does not limit the City Council's discretion in determining whether to enter into other tax abatement, nor does it create any expectation of approval by an applicant.
- ❑ The re-adoption of Eligibility, Guidelines and Criteria for Tax Abatements will not have a direct impact on the City of Killeen fiscally. Individual cases wishing to pursue tax abatement opportunities will be presented to the City Council separately as appropriate.
- ❑ Staff recommends that the City Council elects to continue its eligibility under state law to participate in tax abatements and re-adopts the attached Tax Abatement Guidelines and Criteria for use.



City of Killeen

Legislation Details

File #:	OR-17-006	Version:	1	Name:	Chapter 26- Plat Approval Plat Approval
Type:	Ordinance	Status:			Ordinances
File created:	4/19/2017	In control:			City Council
On agenda:	5/9/2017	Final action:			
Title:	Consider an ordinance amending Chapter 26 of the Code of Ordinances of the City of Killeen reverting final plat approval authority to the City Council and amending various sections of Chapter 26 as a housekeeping matter to ensure consistency with the new provisions.				
Sponsors:	Planning & Development Dept				
Indexes:					
Code sections:					
Attachments:	Staff Report Ordinance				

Date	Ver.	Action By	Action	Result
5/2/2017	1	City Council Workshop		



STAFF REPORT

DATE: May 2, 2017

TO: Ronald L. Olson, City Manager

FROM: Dr. Ray Shanaa, Exec. Dir. of Planning and Development Services

SUBJECT: CONSIDER AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN REVERTING FINAL PLAT APPROVAL AUTHORITY TO THE CITY COUNCIL AND AMENDING VARIOUS SECTIONS OF CHAPTER 26 AS A HOUSEKEEPING MATTER TO ENSURE CONSISTENCY WITH THE NEW PROVISIONS

BACKGROUND AND FINDINGS:

At the City Council workshop meeting of April 18, 2017, the Council directed staff to provide an ordinance reverting final plat approval authority to the City Council. In 2010, the City Council delegated final approval authority for minor plats, development plats, and amending plats to the City staff per Ordinance No. 2010-061. Subsequently, the City Council delegated final plat approval for all other plats to the Planning and Zoning Commission, per Ordinance No. 2014-008. The effect of this current ordinance shall revert the final plat approval authority, which was delegated to the Planning and Zoning Commission in 2014, back to the City Council. This ordinance still provides for staff approval of development plat, minor plats and amending plats.

THE ALTERNATIVES CONSIDERED:

Which alternative is recommended?

At this time, no alternatives have been considered.

Why?

The City Council directed the staff to provide an ordinance reverting final plat authority back to the City Council.

CONFORMITY TO CITY POLICY:

This action conforms to city policy.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year?

This is not applicable.

For future years?

This is not applicable.

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

Is there a sufficient amount in the budgeted line-item for this expenditure?

This is not applicable.

RECOMMENDATION:

The attached ordinance is prepared as requested by the City Council.

DEPARTMENTAL CLEARANCES:

Legal Department

ATTACHED SUPPORTING DOCUMENTS:

Ordinance

AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING CHAPTER 26 REQUIRING FINAL PLAT APPROVAL BY THE CITY COUNCIL; AMENDING VARIOUS SECTIONS OF CHAPTER 26 AS A HOUSEKEEPING MATTER TO ENSURE CONSISTENCY WITH NEW PROVISIONS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY 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; and,

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

WHEREAS, the City Council finds that revisions to the City's subdivision and development regulations are necessary to eliminate additional time in the plat approval process; and,

WHEREAS, the City Council finds that requiring that plats be approved by the City Council is in the best interest of the City and is further permitted by the Local Government Code, Chapter 212 et seq.; and,

WHEREAS, the City Council has determined that it is also necessary to make various other revisions to Chapter 26 of the City of Killeen's adopted Code of Ordinances as a housekeeping matter to ensure consistency of terms and processes in respect to the substantive changes of this ordinance.

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

SECTION I. That Chapter 26 is hereby amended to read 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.

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

Applicant shall mean the owner(s) of the property to be developed.

Bond shall mean any form of security, including a cash deposit, surety bond, or instrument of credit in an amount and form approved by the city.

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

City standards shall mean those standards and specifications, together with all tables, charts, graphs, drawings and other attachments hereinafter approved and adopted by the city council, which may be amended from time to time, and are administered by the city staff for the construction and installation of streets, sidewalks, drainage facilities, water and sanitary sewer mains and any other public facilities. All such facilities which are to become the property of the city upon completion must be constructed in conformance with these standards.

Commission shall mean the duly organized body appointed by the city council as the planning and zoning commission.

Construction plans shall mean the maps, drawings and technical specifications, including bid documents and contract conditions, where applicable, which provide a graphic and written description of the character and scope of the work to be performed prepared for approval by the city for construction.

Developer shall mean any person, corporation, governmental or other legal entity engaged in the development of property by improving a tract or parcel of land for any use. The term "developer" is intended to include the term "subdivider."

Development shall mean the construction of one (1) or more new buildings or structures, or the structural alteration, relocation or enlargement of one (1) or more new buildings or structures of an existing building or structure on one (1) or more building lots or sites, or the installation of site improvements.

Development review committee shall mean a committee consisting of members of the plat review committee, the local utility companies, and the plat applicant and/or his or her designated agent.

Drainage design manual shall mean the City of Killeen's adopted Drainage Design Manual, as amended, providing definitions, formulae, criteria, procedures, data, parameters, and methodology governing the planning, design, construction, and maintenance of drainage infrastructure within the city's jurisdiction.

Easement shall mean a grant by a property owner to the public, a corporation, or persons for a general or specific use of a defined strip or parcel of land, for such purpose as the installation,

construction, maintenance and/or repair of utility lines, drainage ditches or channels, or other public services, the ownership or title to the land encompassed by the easement being retained by the owner of the property.

Engineer shall mean any person duly authorized under the Texas Engineering Practice Act (V.A.C.S. art. 3271a), as amended, to practice the profession of engineering.

Engineering plans shall mean the maps and drawings required for plat approval.

Extraterritorial jurisdiction shall mean that unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the city, the outer boundaries of which are measured from the extremities of the corporate limits of the city outward for such distances as may be stipulated in V.T.C.A., Local Government Code, section 42.001 et seq.

Infrastructure Design and Development Standards Manual (IDDSM) shall mean the city of Killeen's adopted infrastructure design and development standards manual, as amended, providing definitions, formulae, criteria, specifications, details, procedures, data, parameters and methodology governing the planning, design, construction, and maintenance of water, sewer, drainage, street and associated infrastructure and, further detailing pollution control measures within the city's jurisdiction.

Land disturbing activity shall mean any activity including, without limitation, the clearing, grading, filling, grubbing, scraping, dredging, mining, paving, excavating, drilling or movement of land, or the construction of any building or structure, the stockpiling of soil or materials, the baring of soil or rock, the diversion or piping of any natural or man-made watercourse, or any other activity that will or may result in soil erosion from water or wind, the movement of solid materials into waters or onto adjacent lands, or that changes the volume or peak flow discharge rate of storm water runoff from the land surface.

Lacustrine shall mean pertaining to, formed in, growing in, or inhabiting lakes.

Lot shall mean an undivided tract or parcel of land having access to a street, which is designated as a separate and distinct tract or lot number or symbol on a duly approved plat filed of record. The terms "lot" and "tract" shall be used interchangeably.

Master plan shall mean the comprehensive plan of the city adopted by the city council.

Notice of Intent (NOI) - see Texas Commission on Environmental Quality General Permit TXR150000, as amended.

Off-site shall mean any premises not located within the property to be developed, regardless of ownership.

Owner shall mean any persons, firm or corporation having legal title to the property.

Plat shall mean a map representing a tract of land showing the boundaries of individual properties and streets or a map, drawing, chart, or plan showing the layout of a proposed subdivision into lots, blocks, streets, parks, school sites, commercial or industrial sites, drainageways, easements, alleys, which an applicant submits for approval and a copy of which he intends to record with the county clerk of Bell County.

Plat, final, shall mean the map or plan of a proposed development submitted for approval by the planning and zoning commission and city council, where required, prepared in accordance with the provisions of this chapter and requested to be filed with the county clerk of Bell County.

Plat, preliminary, shall mean the initial map or plan of a proposed development showing the general layout of streets, blocks and lots, utility systems, and drainage systems.

Plat review committee shall mean a committee consisting of city staff members which shall review all plats submitted to the city for consideration for compliance with the city's standards, policies, resolutions, codes and ordinances.

Right-of-way shall mean a strip of land acquired by dedication, prescription or condemnation and intended to be occupied by a road, sidewalk, railroad, electric transmission facility, oil or gas pipeline, water mains, sewer mains, storm drainage or other similar facility. Rights-of-way intended for streets, sidewalks, water mains, sewer mains, storm drainage, or any other use involving maintenance by a public agency shall be dedicated to the public use by the plat applicant either by easement or in fee simple title.

Storm Water Pollution Prevention Plan (SWPPP) - see Texas Commission on Environmental Quality General Permit TXR150000, as amended.

Streets and alleys shall mean a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, alley, place or however otherwise designated. City streets shall conform to the following classifications:

- (1) Arterial streets and highways are those which are used primarily for higher speed and higher volume traffic. Routes for such streets shall provide for cross-town circulation and through-town movements.
- (2) Collector streets are those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance, circulation streets of a residential development and streets for circulations within such a development of a residential subdivision.
- (3) Minor streets are those which are used primarily for access to abutting properties.
- (4) Marginal access streets are minor streets located parallel to and adjacent to arterial streets and highways, providing access to abutting properties and protection from the traffic of the thoroughfares.
- (5) Alleys are minor ways used primarily for access to abutting properties for vehicle service usually to the back or side of a property.

Structural alterations shall mean the installation or assembly of any new structural components, or any change to existing structural components, in a system, building or structure.

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 and ground signs, but exclusive of customary fences or boundary or retaining walls.

Subdivision shall mean dividing a tract in two (2) or more parts for the purpose of creating lots, including an addition to the city, to lay out suburban, building or other lots or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to the public use

or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks or other parts. "Subdivision" refers to any division irrespective of whether the actual division is made by metes and bounds description in a deed of conveyance or a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A subdivision does not include a division of land into parts greater than five (5) acres, where each part has access and no public improvement is being dedicated.

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 05-127, § II, 12-20-05; Ord. No. 07-045, § II, 5-22-07; Ord. No. 07-069, § I, 8-14-07; Ord. No. 11-107, § II, 11-8-11; Ord. No. 12-042, § II, 7-24-12; Ord. No. 12-046, § III, 8-7-12)

Sec. 26-11. - Approval of development plat.

- (a) Development plats shall be submitted to the planning and zoning commission and the city council in accordance with procedures established by this chapter.
- (b) The development plat shall be approved if the plat conforms to:
 - (1) The general plans, rules, and ordinances of the municipality concerning its current and further streets, sidewalks, alleys, parks, playgrounds, and public utility facilities.
 - (2) The general plans, rules, and ordinances for the extension of the municipality or the extension, improvement, or widening of its roads, streets, and public highways within the municipality taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities.
 - (3) Any general plans, rules, or ordinances adopted under this chapter.

(Ord. No. 04-59, § I, 7-27-04; Ord. No. 10-061, § I, 10-12-10; Ord. No. 14-009, § a, 02-11-14)

Sec. 26-22. - Schedule.

The planning and zoning commission, at its first regular meeting in December of each year, shall adopt a schedule for the next calendar year establishing dates for filing plat applications and meetings of the plat review committee and development review committee based upon the established schedule of regular meetings of the planning and zoning commission and city council.

(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-23. - Process for approval.

- (a) The planning and development services department shall convene a meeting of the plat review committee for review of the plat. The plat review committee shall assure conformance with the city's standards, policies, resolutions, codes, and ordinances.

- (b) The plat review committee shall document its comments in writing and forward their report to the plat applicant and/or his or her designated agent for corrective action. The applicant shall assure that there is no outstanding debt owed the city required by this chapter on a previous plat(s) submitted by the applicant. Failure to pay the debt prior to the plat's submission to the planning and zoning commission and/or city council shall result in the planning and zoning commission's and city council's disapproval of the plat.
- (c) A meeting of the development review committee, consisting of members of the plat review committee and the local utility companies, shall be convened to discuss requirements to meet their needs. The plat applicant and/or his or her designated agent shall be required to attend as part of the application process. Failure to attend shall result in the plat being rescheduled for the next development review committee meeting. The development review committee shall document its comments in writing and forward its report to the plat applicant and/or his or her designated agent for corrective action.
- (d) When the applicant has completed all corrective actions, the plat will be forwarded to the planning and development services department for continued processing. Plats submitted on or before the scheduled plat correction submission date, will be forwarded to the staff plat correction validation meeting. When plat corrections are validated, the plat application process shall be considered complete. The date of the staff plat correction validation meeting in which the plat corrections are validated, shall be designated to be the date the plat is filed with the city of Killeen. Those plats not eligible for administrative approval under the provisions of subsections 26-61 and 26-74 that are validated in the staff plat correction validation meeting will be scheduled for the next regular meeting of the planning and zoning commission. If the plat applicants do not agree with a requested correction comment, they may state their objection in writing, and the plat will be considered filed and passed to the planning and zoning commission for action.
- (e) Within thirty (30) days of the date that a plat application is deemed filed, those plats meeting the requirements of sections 26-61 and 26-74 of this chapter shall be approved by the executive director of planning and development services or the city planner. In those instances where the plat applicants do not agree with a requested correction comment, they may state their objection in writing, and the executive director of planning and development services or the city planner shall not disapprove the plat, but shall be required to forward the plat to the planning and zoning commission for action.
- (f) If the plat is disapproved by either the planning and zoning commission or the city council, the applicant may correct the items of concern and resubmit the plat for approval one (1) time within six (6) months without paying any additional fees. If the plat is disapproved a second time or if a second request is not received within six (6) months of the first disapproval, the applicant will be required to repeat the plat application process from the beginning and pay all standard application fees.
- (g) An applicant may withdraw his plat application from consideration at any time during the application process by filing a written notice of withdrawal with the planning and development services department. Upon filing the notice to withdraw, the planning and development services department shall discontinue processing the plat application. The applicant must file a written request to proceed with further consideration of the plat within six (6) months of withdrawal and the planning and development services department shall

continue the application process. If the request to proceed with further consideration of the plat is filed more than six (6) months after filing the notice of withdrawal, the applicant shall be required to repeat the plat application process from the beginning and pay the standard application fees.

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 04-59, § II, 7-27-04; Ord. No. 10-061, § I, 10-12-10; Ord. No. 14-009, § b, f, 02-11-14)

State Law reference— Plat approval, V.T.C.A., Local Government Code § 212.005 et seq.

Sec. 26-25. - Requirements for approval of application by city council.

(a) Within thirty (30) days of the date that the plat is approved by the planning and zoning commission or is deemed approved by the inaction of the planning and zoning commission, the city council shall approve the plat if it complies with the requirements of this chapter, the applicant is not in arrears in the payment of any debts owed the city required by this chapter on a previous plat, it conforms to the general plan of the city and its current and future streets, alleys, parks, playgrounds, and public utility facilities plans, and it conforms to the city's general plan for the extension of roads, streets, and public highways, taking into account access to and extension of sewer and water mains and instrumentalities of public utilities.

(b) A plat is considered approved by the city council unless it is disapproved within such thirty-day period.

_(Ord. No. 95-38, § I, 4-25-95; Ord. No. 10-061, § I, 10-12-10; Ord. No. 14-009, struck completely, 02-11-14)

Sec. 26-26. - Recordation.

- (a) Preliminary plats are not recorded with the county clerk.
- (b) All plats pertaining to platted property located in the extraterritorial jurisdiction of the city shall only be recorded after approval by the ~~planning and zoning commission~~city council, or the executive director of planning and development services, as applicable, and the commissioners' court of the county and the applicant's submission of the required recording fee.
- (c) All plats meeting the criteria of sections 26-61 and 26-74 of this chapter shall be recorded with the county clerk upon the executive director of planning and development services' or city planner's approval of the plat and the applicant's submission of the required recording fee.
- (d) All other plats shall be recorded with the county clerk upon the ~~planning and zoning commission~~city council's approval of the plat and the applicant's submission of the required recording fee.

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 10-061, § I, 10-12-10; Ord. No. 14-009, § b, d, 02-11-14)

Sec. 26-29. - Avigation notations.

The planning and zoning commission and the city council shall require the execution of an avigation notation as a condition precedent to plat approval relating to any property or structure located within areas designated as being within the runway protection zone on the latest FAA (Federal Aviation Administration) approved airport layout plan for any airport within the city of Killeen, or any municipal or military airport adjacent to the city of Killeen which have runway protection zones that extend over any part of the city. An avigation release shall be included on the dedication page of any plat located within this area and shall have the following effect:

- (a) Grant for the use and benefit of the public for continuing easement and right-of-flight for the passage of aircraft in the airspace above the surface of the land over which the easement is obtained, together with the right to cause, in said airspace, such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the airspace using said airspace for landing at, taking off from or operation on any municipal or military airport; and
- (b) Will limit the height of any structure, tree or item of equipment to no more than the approach surface height for that location as specified in 14 CFR Part 77.25(d) (civil airport) or 14 CFR Part 77.28(a)(3) (military airport) as applicable.
- (c) In addition to the height restrictions, an appropriate annotation will be made on plats of any land that lie within a 65 Ldn or greater noise contour as identified by the latest FAA approved airport master plan, utilizing the worst case noise contour map of either current or future contours for the applicable airport. In addition, the following avigation release format will be used:

AVIGATION RELEASE

STATE OF TEXAS §

§ KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF BELL §

WHEREAS, (Owner's Name) _____, hereinafter called **OWNER** (whether one or more), is the owner of a certain parcel of land situated in the City of Killeen, Bell County, Texas, being more particularly described as (Subdivision Name), an addition to the City of Killeen, Bell County, Texas.

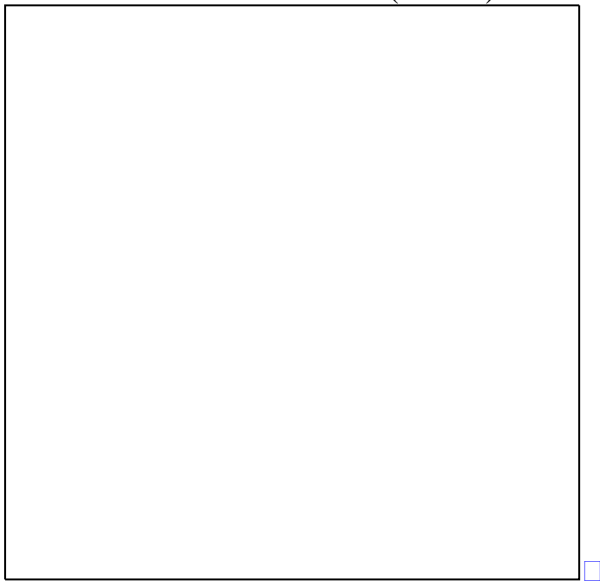
OWNER does hereby waive, release, remise, quit claim and forever hold harmless the City of Killeen, Texas a municipal corporation, hereinafter called **CITY**, from any and all claims for damages of any kind that **OWNER** may now have or may hereinafter have in the future by reason of the passage of all aircraft (aircraft being defined for the purpose of this designed for navigation of or flight in the air) by whomsoever owned and operated, in the air space above **OWNER'S** property. Such release shall include, but not be limited to, any damages to **OWNER'S** described property, such as noise, vibration, fumes, dust, fuel, and lubricant particles,

and all other effects that may be caused by the operation of aircraft landing at or taking off from, or operating at any municipal or military airport within or adjacent to the CITY, whether such claim be for injury or death to person or persons or damages to or taking of property; and OWNER does hereby fully remiss, and release any right or cause of action which it may now have or which it may in the future have against the CITY, whether such claims be for injury to person or damage to property due to noise, vibration, fumes, dust, fuel and lubricant particles, and all the other effects that may be caused or may have been caused by the operation and/or maintenance of aircraft or aircraft engine at or on said airports.

It is agreed that this Release shall be binding upon OWNER, his successors, heirs, executors, administrators and assigns, in interest with in (subdivision name) , an addition to the City of Killeen, Texas, and it is further agreed that this instrument shall be a covenant running with the land, and shall be recorded in the Deed records of Bell County, Texas.

Executed this _____ day of _____, A.D., ____.

(Owner)



(Ord. No. 95-38, § I, 4-25-95; Ord. No. 04-59, § III, 7-27-04; Ord. No. 14-009, 02-11-14)

Sec. 26-61. - Conditions for approval.

- (a) The executive director of planning and development services or the city planner is hereby authorized to approve a minor plat, without subsequent approval by the planning and zoning commission or when the property proposed to be platted or replatted is as follows:
 - (1) Four (4) or fewer lots fronting on an existing street;

- (2) Street construction or the extension of municipal facilities is not required; and
- (3) An agreement between the city and the plat applicant is not required.
- (b) All other requirements of this chapter shall apply, except that subsequent approval by the planning and zoning commission or city council shall not be required prior to recording the minor plat with the county clerk.

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 10-061, § I, 10-12-10; Ord. No. 14-009, § b, 02-11-14)

Sec. 26-71. - Vacation of plats.

- (a) Any plat, replat or amended plat previously recorded with the county clerk may be vacated by the property owner(s) at any time prior to the sale of any lot therein by filing a written signed and acknowledged instrument declaring the same to be vacated and recorded with the county clerk.
- (b) If one (1) or more lots have been sold, the plat, replat or amended plat may be vacated by the property owners by filing a written signed and acknowledged instrument with the planning and development services department. The vacating instrument ~~for an original plat, replat or amended plat~~ must be approved by the ~~planning and zoning commission~~ city council or executive director of planning and development services in the same manner as the original plat, replat or amended plat. The planning and zoning commission shall disapprove the vacating instrument which abridges or destroys public rights in any of its public uses, improvements, streets, or alleys. Upon approval by the city council or executive director of planning and development services as required ~~planning and zoning commission~~, the vacating instrument may be recorded with the county clerk and the vacated plat, replat or amended plat shall have no effect.

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 10-061, § I, 10-12-10; Ord. No. 14-009, § b, 02-11-14)

State Law reference— Vacating plats, V.T.C.A., Local Government Code § 212.013.

Sec. 26-73. - Additional requirements for certain replats.

- (a) In addition to compliance with section 26-72, a replat without vacation of the preceding plat must conform to the requirements of this section if:
 - (1) During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
 - (2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

- (b) Notice of the public hearing required under section 26-72 shall be given before the fifteenth day before the date of the public hearing by publication in the newspaper and by written notice, with a copy of section 26-73(c) attached, to the owners of any lots that are in the original subdivision and that are within two hundred (200) feet of the lots to be replatted, as indicated on the most recently approved tax rolls.
- (c) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths (3/4) of the members present at the meeting of the planning and zoning commission and/or city council. For a legal protest, written instruments signed by at least twenty (20) percent of the owners of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred (200) feet from that area, but within the original subdivision, must be filed with the planning and zoning commission and/or city council prior to the close of the public hearing.
- (d) In computing the percentage of land area under subsection (c), the area of streets and alleys shall be included.

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 14-009, § c, 02-11-14)

Sec. 26-74. - Plat amendments or corrections.

- (a) The executive director of planning and development services or the city planner may approve and issue an amended plat, which may be recorded with the county clerk and controls over the preceding plat without vacation of the plat, if the amended plat is signed by the applicant(s) and is solely for one (1) or more of the following purposes:
 - (1) To correct an error in a course or distance shown on the preceding plat;
 - (2) To add a course or distance that was omitted on the preceding plat;
 - (3) To correct an error in the description of the real property shown on the preceding plat;
 - (4) To indicate monuments set forth after death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - (5) To show the proper location or character of any monument which has been changed in location or character or which originally was shown incorrectly as to location or character on the preceding plat;
 - (6) To correct any other type of scrivener's or clerical error or omission previously approved by the planning and zoning commission and/or city council, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (7) To correct an error in courses and distances of lot lines between two (2) adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished; provided, that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;
 - (8) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement;

- (9) To relocate one (1) or more lot lines between one (1) or more adjacent lots where the owner(s) of all such lots join in the application for the plat amendment; provided, that such amendment does not attempt to remove recorded covenants or restrictions and does not increase the number of lots; or
 - (10) To make necessary changes to the preceding plat to create six (6) or fewer lots in the plat if the changes do not affect applicable zoning and other regulations of the city, and the changes do not attempt to amend or remove any covenants or restrictions and the area covered by the changes is located in an area that the planning and zoning commission and/or the city council has approved, after a public hearing, as a residential improvement area.
 - (11) To replat one or more lots fronting on an existing street if the owners of all those lots join in the application for the amendment; the amendment does not attempt to remove recorded covenants or restrictions or increase the number of lots; and, the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amended plat.
 - (c) All other requirements of this chapter shall apply, except that subsequent approval by the planning and zoning commission or city council shall not be required prior to recording the amended plat with the county clerk.

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 96-43, § I, 5-14-96; Ord. No. 10-061, § I, 10-12-10; Ord. No. 14-009, § a, c, 02-11-14)

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 30 days 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 May, 2017, 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:

Dianna Barker, CITY SECRETARY

Kathryn H. Davis, CITY ATTORNEY



City of Killeen

Legislation Details

File #: PH-17-025 **Version:** 1 **Name:** Readopt Youth Curfew
Type: Ordinance/Public Hearing **Status:** Public Hearings
File created: 4/17/2017 **In control:** City Council
On agenda: 5/9/2017 **Final action:**
Title: HOLD a public hearing and consider an ordinance readopting the youth curfew. (1st of 2 readings)
Sponsors: Police Department
Indexes:
Code sections: Sec. 16-109. - Definitions, Sec. 16-110. - Offenses, Sec. 16-111. - Defenses, Sec. 16-112. - Enforcement procedures, Sec. 16-113. - Penalties, Sec. 16-114. - Continuing evaluation
Attachments: [Staff Report](#)
[Local Government Code](#)
[Ordinance](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
5/2/2017	1	City Council Workshop		



STAFF REPORT

DATE: May 2, 2017
TO: Ronald L. Olson, City Manager
FROM: Jerris Penrod Mapes, Police Legal Advisor
VIA: Margaret Young, Interim Police Chief
SUBJECT: Re-adoption of Youth Curfew

BACKGROUND AND FINDINGS:

The City of Killeen adopted the current version of the youth curfew ordinance in 1996 and readopted in 1999, 2002, 2005, 2008, 2011 and 2014. The Texas Local Government Code requires that the ordinances be reviewed every third year after passage. The governing body is to review the ordinance's effects on the community and problems it was intended to remedy and conduct public hearings on the need to continue the ordinance. The Council then has the option to abolish, continue or modify the ordinance.

The Killeen Police Department has gathered statistics that show while juveniles continue to commit offenses during the curfew hours, the number of juvenile arrests during curfew has remained fairly constant in each of the preceding three years. This indicates that the enforcement of the curfew ordinance has kept juveniles off the streets during the curfew hours, thus making them less able to commit offenses or be victimized during those hours.

In addition, the staff intends to present further testimony in support of continuing the ordinance at the public hearings.

The ordinance, as presented, is the ordinance currently in effect.

THE ALTERNATIVES CONSIDERED:

Allow the Youth Curfew to expire.

CONFORMITY TO CITY POLICY:

This ordinance conforms to city policy and state law.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

No fiscal impact.

Is this a one-time or recurring expenditure?

Not applicable.

Is this expenditure budgeted?

Not applicable.

If not, where will the money come from?

Not applicable.

Is there a sufficient amount in the budgeted line-item for this expenditure?

Not applicable.

RECOMMENDATION:

The Police Department recommends council re-adopt the Youth Curfew ordinance.

DEPARTMENTAL CLEARANCES:

Police Department
Legal

ATTACHED SUPPORTING DOCUMENTS:

Local Government Code §370.002
Ordinance

LOCAL GOVERNMENT CODE

TITLE 11. PUBLIC SAFETY

SUBTITLE C. PUBLIC SAFETY PROVISIONS APPLYING TO MORE THAN ONE
TYPE OF LOCAL GOVERNMENT

CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL AND
COUNTY HEALTH AND PUBLIC SAFETY

Sec. 370.002. REVIEW OF JUVENILE CURFEW ORDER OR
ORDINANCE. (a) Before the third anniversary of the date of
adoption of a juvenile curfew ordinance by a general-law
municipality or a home-rule municipality or an order of a county
commissioners court, and every third year thereafter, the
governing body of the general-law municipality or home-rule
municipality or the commissioners court of the county shall:

(1) review the ordinance or order's effects on the
community and on problems the ordinance or order was intended to
remedy;

(2) conduct public hearings on the need to continue
the ordinance or order; and

(3) abolish, continue, or modify the ordinance or
order.

(b) Failure to act in accordance with Subsections (a)(1)-
(3) shall cause the ordinance or order to expire.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 96, eff. May 31,
1995.

ORDINANCE _____

AN ORDINANCE READOPTING A CURFEW FOR PERSONS UNDER SEVENTEEN YEARS OF AGE TO PROHIBIT THEIR BEING IN ANY PUBLIC PLACE FROM 11:00PM ON ANY SUNDAY, MONDAY, TUESDAY, WEDNESDAY, OR THURSDAY UNTIL 6:00AM THE FOLLOWING DAY, AND FROM 12:01 AM UNTIL 6:00AM ON ANY FRIDAY OR SATURDAY OR ON ANY DAY FROM JUNE 1 THROUGH AUGUST 15; PROVIDING DEFINITIONS; PROVIDING ENFORCEMENT PROCEDURES; PROVIDING PENALTIES CONSISTING OF A FINE FOR MINORS NOT TO EXCEED \$500.00, AND FOR PARTENTS OF MINORS CONSISTING OF A FINE OF NOT LESS THAN \$50.00, BUT NOT TO EXCEED \$500.00; ADOPTING CERTAIN DEFENSES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Killeen has previously adopted ordinances relating to curfews for minors; and

WHEREAS, Killeen continues to experience juvenile violence, juvenile crime, and juvenile gang activity, resulting in juveniles being involved in a wide range of illegal behavior including vandalism, assault, public drinking and littering, drug use, and breaking and entering; and

WHEREAS, persons under the age of seventeen are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

WHEREAS, lack of parental supervision and guidance contributes to the unacceptable level of juvenile violence, crime, and gang activity, and parental responsibility needs to be supported; and

WHEREAS, the youth curfew ordinance previously adopted in 2014 must be reviewed before re-adoption; and

WHEREAS, because the statistics show that the curfew ordinance is working to reduce juvenile crime during the curfew hours, it is necessary for the City of Killeen to continue to exercise its authority to protect minors from each other and from other persons, to promote parental control and responsibility for children, to protect the general public and to reduce juvenile criminal and delinquent activities, **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

SECTION I. That the following is readopted as Chapter 16, Article V, of the Code of Ordinances of the City of Killeen:

Chapter 16

MISCELLANEOUS PROVISIONS AND OFFENSES

ARTICLE V. YOUTH CURFEW

Sec. 16-109. - Definitions.

For the purposes of this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours means:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.
- (3) Notwithstanding (1) and (2), from June 1 to August 15 of each year, curfew hours shall be from 12:01 a.m. on any day until 6:00 a.m.

Emergency shall include, but not be limited to, fire, natural disaster, an automobile accident or seeking immediate medical treatment for any person.

Interstate transportation means transportation between states of the United States or between a state of the United States and a foreign country, to which any travel through the city is merely incidental.

Intrastate transportation means transportation between locations within the state, to which any travel through the city is merely incidental.

Minor shall mean any person under seventeen (17) years of age.

Parent shall mean a person who is the natural or adoptive parent of minor. As used herein "parent" shall also include a court-appointed guardian or other person twenty-one (21) years of age or older who has been authorized by the parent, by a court order, or by the court-appointed guardian to have the care and physical control of a minor.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets and highways, and the common areas of

schools, hospitals, apartment houses, office buildings, transportation facilities, restaurants and shops.

(Ord. No. 92-46, § I, 8-11-92; Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11)

Sec. 16-110. - Offenses.

- (a) It shall be unlawful for any minor to intentionally or knowingly remain, walk, run, stand, drive or ride about in or upon any public place in the city during curfew hours.
- (b) It shall be unlawful for a parent of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in subsection (a) of this section. The term "knowingly" includes knowledge which such parent should reasonably be expected to have concerning the whereabouts of a minor in the parent's care. It shall be prima facie evidence of violation of this section if a responsible parent has no knowledge of a minor's whereabouts during the hours of curfew established by this ordinance.
- (c) It shall be unlawful for any owner, operator, or employee of any privately owned place of business operated for a profit to which the public is invited, to knowingly allow a minor to remain upon the premises of said place of business during curfew hours.

(Ord. No. 92-46, § I, 8-11-92; Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11)

Sec. 16-111. - Defenses.

It is a defense to prosecution under section 16-110 that, at the time of the act that otherwise would constitute an offense:

- (1) The minor was accompanied by his or her parent;
- (2) The minor was accompanied by an adult twenty-one (21) years of age or older approved by the parent;
- (3) The minor was on an emergency errand;
- (4) The minor was attending a school, religious or government-sponsored activity, or going to or coming from a school, religious or government-sponsored activity;
- (5) The minor was engaged in a lawful employment activity or labor organization meeting, or going to or coming from said lawful employment or labor organization meeting;

- (6) The minor was on the premises of the place where such minor resides or on the premises of a next-door neighbor, and said neighbor was not communicating an objection to a peace officer regarding the presence of said minor;
- (7) The minor was upon an errand directed by his or her parent;
- (8) The minor was in an aircraft or motor vehicle involved in intrastate or interstate transportation, or was awaiting transportation by such means;
- (9) The minor was exercising his or her First and Fourteenth Amendment rights protected by the United States Constitution, including but not limited to, the free exercise of religion, freedom of speech, and the right of assembly; or
- (10) The minor was married or had been married or had disabilities of minority removed in accordance with the Texas Family Code.
- (11) In a prosecution under subsection 16-110(c), the owner, operator or employee of the place of business promptly notified the police department that a minor was present on the premises of the business during curfew hours and refused to leave.

(Ord. No. 92-46, § I, 8-11-92; Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11)

Sec. 16-112. - Enforcement procedures.

Any peace officer, upon finding a minor in violation of section 16-110, may:

- (a) Order the minor to go directly and promptly to his home, after issuing either a verbal warning, a written warning or a citation; or
 - (b) Release the minor to a parent, legal guardian or other responsible adult under circumstances deemed appropriate by the officer, after issuing either a verbal warning, written warning or a citation.
- (1) When a minor is released to a parent, legal guardian or other responsible adult, the adult shall be informed of the specific violation, the nature and purpose of the law, and the consequences of future violations. The peace officer has the discretion to issue either a verbal warning, written warning or a citation to the minor's parent, legal guardian, or a responsible adult into whose care the minor was placed.

(Ord. No. 92-46, § I, 8-11-92; Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11)

Sec. 16-113. - Penalties.

- (a) Any minor violating the provisions of this article shall be guilty of a Class C misdemeanor as defined by the Texas Penal Code and shall be dealt with in

accordance with the provisions of Title 3 of the Texas Family Code, and the Texas Code of Criminal Procedure.

- (b) A parent who violates subsection 16-110(b) or a person who violates subsection 16-110(c) shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).
- (c) In assessing punishment for either a parent or minor, the municipal court judge may consider a community service or teen court program.

(Ord. No. 92-46, § I, 8-11-92; Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11)

Sec. 16-114. - Continuing evaluation.

This ordinance shall be reviewed every third year after passage, as required by V.T.C.A., Local Government Code § 370.002, as amended. Such review shall be conducted following public hearings upon the need to continue the ordinance, and the city council shall have the option to continue, abolish or modify the ordinance based upon its review of the ordinance's effects on the community and on the problems the ordinance is intended to remedy.

(Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11; Ord. No. 14-042, 6-10-14)

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 9th day of May 2017, 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:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, City Attorney



YOUTH CURFEW

PH-17-025

May 2, 2017

Local Government Code §370.002

2

Review of Juvenile Curfew Ordinance

Every three years:

- (1) review the ordinance's effects on the community and on problems the ordinance was intended to remedy;
- (2) conduct public hearings on the need to continue the ordinance; and
- (3) abolish, continue, or modify the ordinance.

Failure to act shall cause the ordinance to expire.

CHAP. 16 ARTICLE V.

YOUTH CURFEW § 16 109-114

3

Curfew hours means:

- (1) 11:00 p.m. to 6:00 a.m. on Sunday through Thursday nights
- (2) 12:01 a.m. to 6:00 a.m. on Friday and Saturday nights
- (3) Exception: June 1 - August 15, curfew hours are from 12:01 a.m. to 6:00 a.m. every night

General Facts

4

KISD Enrollment

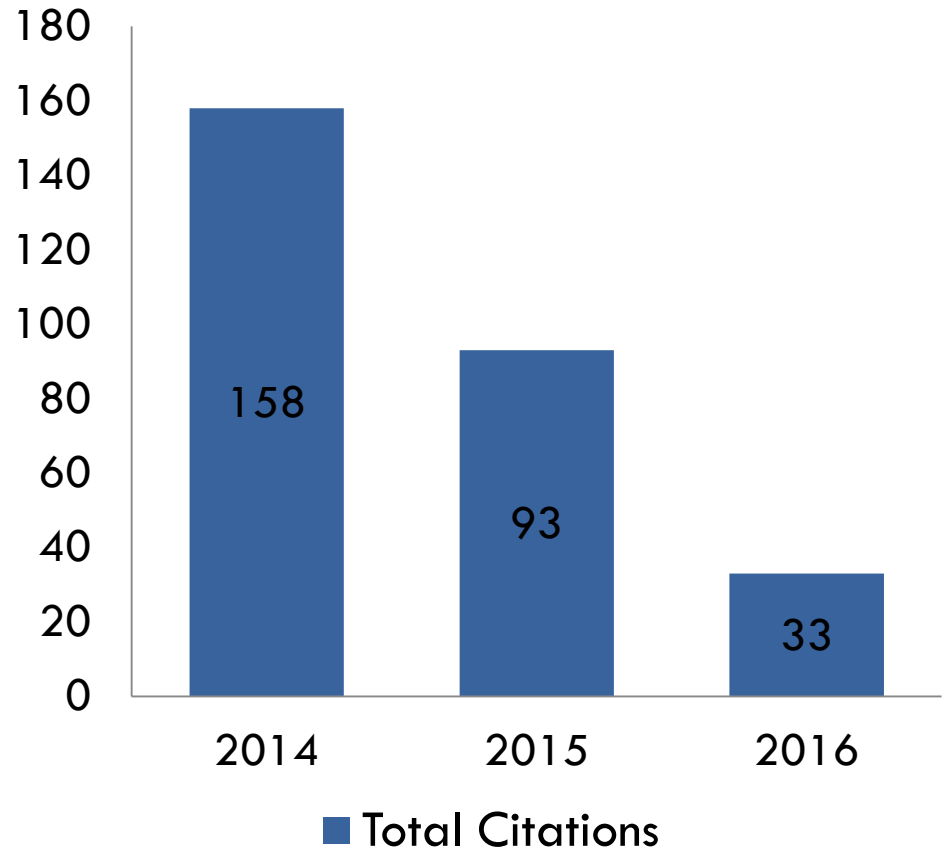
2013-14 41,751

2014-15 42,929

2015-16 43,429

Killeen Population

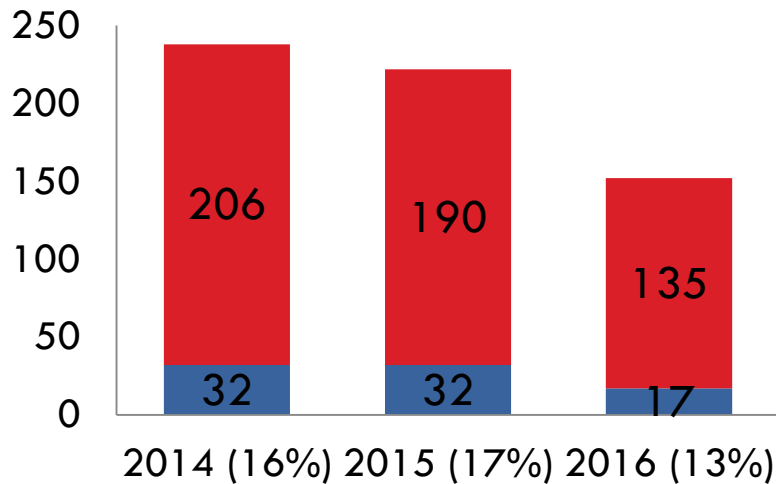
140,806



Comparison: Juveniles vs Adults

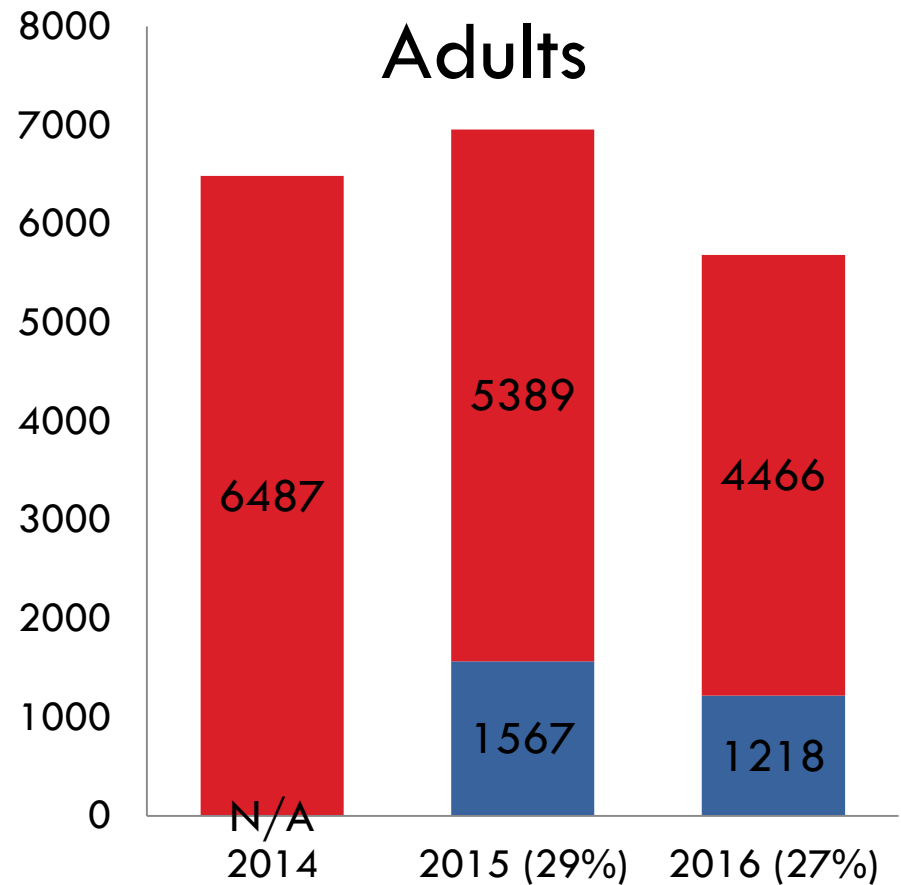
5

Juveniles



■ 12:01-6:00 a.m. ■ Total Juvenile Arrests

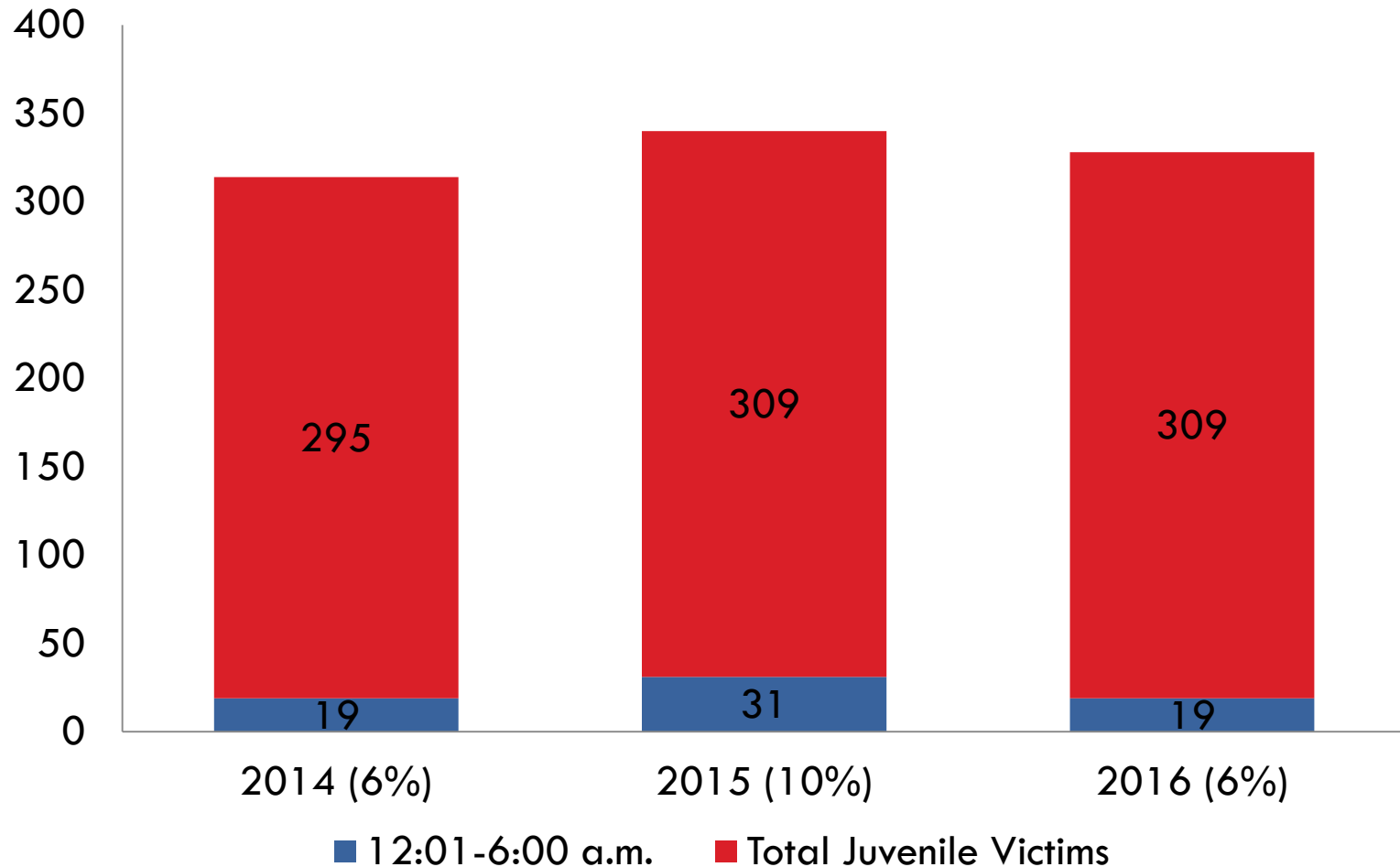
Adults



■ 12:01-6:00 a.m. ■ Total Adult Arrests

Juvenile Victims

6



Youth Curfew

7

Staff believes the statistics indicate that the enforcement of the curfew ordinance has kept juveniles off the streets during the curfew hours, thus making them less able to commit offenses or be victimized during those hours.



City of Killeen

Legislation Details

File #:	PH-17-014	Version:	1	Name:	Zoning 17-01
Type:	Ordinance/Public Hearing	Status:		Status:	Public Hearings
File created:	3/1/2017	In control:		In control:	City Council
On agenda:	5/9/2017	Final action:			
Title:	HOLD a public hearing and consider an ordinance requested by Victor Craig Mashburn and Denna Connel O'Connor to rezone approximately 1.39 acres out of the G.W. Farris Survey, Abstract No. 306, Killeen, Texas, from "B-3" (Local Business District) to "R-1" (Single-Family Residential District). The property is locally known as 708 E. Elms Road, Killeen, Texas.				
Sponsors:	Planning & Development Dept				
Indexes:					
Code sections:					
Attachments:	Staff Report Aerial Map Exhibit Minutes Ordinance Application Location Map Buffer Map Considerations Presentation				

Date	Ver.	Action By	Action	Result
5/2/2017	1	City Council Workshop		
3/28/2017	1	City Council	Reviewed and Referred	
3/21/2017	1	City Council Workshop		



STAFF REPORT

DATE: May 2, 2017

TO: Ronald L. Olson, City Manager

FROM: Ray Shanaa, Exec. Director of Planning and Development Svcs.

SUBJECT: ZONING CASE #Z17-01 "B-3" (LOCAL BUSINESS DISTRICT) TO "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT)

BACKGROUND AND FINDINGS:

Victor Craig Mashburn and Denna Connel O'Connor submit this request to rezone approximately 1.39 acres, being locally known as 708 E. Elms Road, Killeen, Texas, from "B-3" (Local Business District) to "R-1" (Single-Family Residential District) to allow for zoning consistency for the existing single-family residential house. The property is located along the south right-of-way of E. Elms Road, approximately 875' west of Trimmier Road.

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.

- (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.
- (15) Cemetery.

Property Specifics

Applicant/Property Owner: Victor Craig Mashburn and Denna Connel O'Connor

Property Location: The property is located along the south right-of-way of E. Elms Road, approximately 875' west of Trimmier Road.

Legal Description: G.W. Farris Survey, Abstract No. 306

Zoning/ Plat Case History:

- Ms. Doris Mashburn requested a rezone of the property from "R-1" (Single-Family Residential District) to "B-3" (Local Business District) in 1988. The City Council approved the "B-3" request on August 9, 1988, per Ordinance #88-78. The intent of the "B-3" zoning was to allow for an office building. The property has maintained the "B-3" zoning over the last 28 + years, with no change to the existing land use.
- This property has not been platted.

Character of the Area

Existing Land Use(s) on the Property: There is an existing single-family home on this property. The property abut another "R-1" zoned single-family residential home on its east boundary and "R-1" zoned churches on its western and southern boundaries.

Historic Properties: There are no historic structures on this property.

Figure 1. Zoning Map

See Attachment

Infrastructure and Community Facilities

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water and sewer infrastructure is immediately available to the property. The property owners and their agents are cautioned that unknown or unforeseen site conditions may require remedial action to provide safe and adequate water, sewer, or drainage service to the property. Further, City of Killeen development regulations require that capacity analyses related to development of the property are the sole responsibility of the owner. The owner or his agents, acting as the permit applicant for the subject property, shall coordinate tie-in to all publicly dedicated infrastructure with the Public Works Department.

Transportation:

Existing conditions: E. Elms Road is classified a 90' minor arterial on the City's adopted Thoroughfare Plan

Proposed Improvements: There are no proposed improvements

Projected Traffic Generation: A single-family home will generate 10 daily trips, with only one trip during peak AM and PM hours.

Environmental Assessment

Topography/Regulated Floodplain/Floodway/Creek: This site does not lie within a FEMA regulatory Special Flood Hazard Area (SFHA). Currently sheet flow runoff exits the property along the south property line and flows east for approximately 900 feet into Trimmier Road. From there it flows approximately 0.3 miles into Old Florence Ditch. The distance from this site and the confluence with Little Nolan Creek is approximately 1.66 miles. Little Nolan Creek flows into Nolan Creek prior to leaving the City. Both Little Nolan Creek and Nolan Creek are currently listed on the TCEQ's 303(d) water quality list for impairment due to bacteria and concerns for near non-attainment for nutrients. The applicant is advised that the area being zoned shall be platted prior to any new development on this parcel. As a result, the current DDM and IDDSM standards will apply for new development.

Land Use Analysis

Land Use Plan: This area is designated as 'General Commercial' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

Plan Recommendation: The 'General Commercial' character encourages a wide range of commercial, retail and service uses, at varying scales and intensities depending on the site.

Consistency: The "R-1" zoning request is not consistent with regard the FLUM designation of this property. However, the zoning request is consistent with the existing land use on the property and matches the zoning of all abutting property. Therefore, staff recommends no change to the FLUM for this request.

Public Notification

The staff notified six (6) surrounding property owners within a 200' notification boundary regarding this request.

THE ALTERNATIVES CONSIDERED:

Which alternative is recommended?

Staff is not recommending any alternative.

Why? The "R-1" zoning represents a down-zoning of the property as is consistent with its existing use.

CONFORMITY TO CITY POLICY:

This zoning request conforms to the city's policy and procedures as detailed in Chapter 31 of the Killeen Code of Ordinances.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

This zoning request does not involve the expenditure of city funds.

Is this a one-time or recurring expenditure?

This is not applicable

Is this expenditure budgeted?

This is not applicable

If not, where will the money come from?

This is not applicable

Is there a sufficient amount in the budgeted line-item for this expenditure?

This is not applicable

RECOMMENDATION:

The Planning and Zoning Commission recommended approval of the applicant's request for "R-1" zoning by a vote of 7 to 0. While the zoning request is not compatible with the FLUM, it is entirely consistent with the existing land use on the property. In the future, if there is interest in converting the property to a commercial zoning use, it will not be necessary to amend the FLUM.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by the Legal Department.

ATTACHED SUPPORTING DOCUMENTS:

Aerial Map Exhibit
Minutes
Ordinance
Application
Location Map
Buffer Map
Considerations

Figure 1. Zoning map



**MINUTES
PLANNING AND ZONING COMMISSION MEETING
MARCH 6, 2017**

**CASE #Z17-01
B-3 to R-1**

HOLD a public hearing and consider a request submitted by Victor Craig Mashburn and Denna Connel O'Connor to rezone approximately 1.39 acres out of the G. W. Farris Survey, Abstract No. 306, from "B-3" (Local Business District) to "R-1" (Single-Family Residential District). The property is located along the south right-of-way of E. Elms Road, approximately 875' west of Trimmier Road. The property is locally known as 708 E. Elms Road, Killeen, Texas.

Chairman Frederick requested staff comments.

City Planner Tony McIlwain stated that this property was rezoned from residential to commercial in 1988. The property owners wish to rezone it back to residential to be consistent with the existing single-family residential house. Staff supports the request.

The staff notified six (6) surrounding property owners within a 200' notification boundary regarding this request.

Mr. Victor Mashburn, 4735 Saddlebrook Drive, Fort Worth, Texas, was present to represent this request.

Chairman Frederick opened the public hearing. With no one requesting to speak, the public hearing was closed.

Vice Chair Dorroh motioned to approve the request. Commissioner Latham seconded the motion. The motion passed unanimously.

Chairman Frederick stated that this request will be forwarded to City Council with a recommendation to approve.

ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM “B-3” (LOCAL BUSINESS DISTRICT) TO “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT) ; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Victor Craig Mashburn and Denna Connel O’Connor have presented to the City of Killeen a request for amendment of the zoning ordinance of the City of Killeen by changing the classification of approximately 1.39 acres out of the G.W. Farris Survey, Abstract No. 306, which are more specifically known as 708 E. Elms Road, Killeen, Texas, from “B-3” (Local Business District) to “R-1” (Single-family Residential District), said request having been duly presented and recommended for approval of “R-1” (Single-family Residential District) by the Planning and Zoning Commission of the City of Killeen on the 6th day of March 2017, and due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 9th day of May 2017, at the City Hall, City of Killeen;

WHEREAS, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of a majority that the recommendation of “R-1” zoning should be approved;

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

Section I. That the zoning classification of the following described tract be changed from “B-3” (Local Business District) to “R-1” (Single-family Residential District) for approximately 1.39 acres out of the G.W. Farris Survey, Abstract No. 306, which are more

specifically known as 708 E. Elms Road, Killeen, Texas.

Section II. That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

Section III. That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section IV. 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 9th day of May 2017, 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:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, City Attorney

Case #17-01
Ord. # 17-



Date Paid:	1-25-17
Amount Paid:	\$ 300.00
Cash/MO #/Check #:	# 1104
Receipt #:	487

CASE #: 217-01

City of Killeen Zoning Change Application

☒ General Zoning Change \$300.00 ☐ Conditional Use Permit \$500.00

VILTOR CRAIG MASHBURN

Name(s) of Property Owner: DENNA CONNELL O'CONNOR

Current Address: 4735 SADDLEBROOK DRIVE

City: FORT WORTH State: TX Zip: 76116

Home Phone: (817) 244-2995 Business Phone: (8) Cell Phone: (817) 360-4153

Email: mashburn@charter.net

Name of Applicant: _____
(If different than Property Owner)

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: () _____ Business Phone: () _____ Cell Phone () _____

Email: _____

Address/Location of property to be rezoned: 708 E. ELMS ROAD, KILLEEN, TX. 76541

Legal Description: 1.39 A., PART OF A WEBB SURVEY, ABSTRACT 857

Metes & Bounds or Lot(s) Block Subdivision

Is the rezone request consistent with the Comprehensive Plan? YES NO
If NO, a FLUM amendment application must be submitted.

Type of Ownership: ☒ Sole Ownership ☐ Partnership ☐ Corporation ☐ Other

Present Zoning: B-3 Present Use: RESIDENTIAL

Proposed Zoning: R-1 Proposed Use: RESIDENTIAL

Conditional Use Permit for: _____

This property was conveyed to owner by deed dated FEB. 28, 1992 and recorded in Volume 2812
Page 653, Instrument Number 005398 of the Bell County Deed Records.
(Attached)

Is this the first rezoning application on a unilaterally annexed tract?
Yes _____ (Fee not required) No ☒ (Submit required fee)

APPOINTMENT OF AGENT

As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Home Phone: (____) _____ Business Phone: (____) _____ Email: _____

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

be the point of contact between myself and the City; make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me. This authorization only applies to this specific zoning request.

I understand that the City will deal only with a fully authorized agent. At any time it should appear that my agent has less than full authority to act, then the application may be suspended and I will have to personally participate in the disposition of the application. I understand that all communications related to this application are part of an official proceeding of City government and, that the City will rely upon statements made by my agent. Therefore, **I agree to hold harmless and indemnify the City of Killeen, its officers, agents, employees, and third parties who act in reliance upon my agent's words and actions from all damages, attorney fees, interest and costs arising from this matter.** If my property is owned by a corporation, partnership, venture, or other legal entity, then I certify that I have legal authority to make this binding appointment on behalf of the entity, and every reference herein to 'I', 'my', or 'me' is a reference to the entity.

Signature of Agent _____ Title _____

Printed/Typed Name of Agent _____ Date _____

Signature of Agent _____ Title _____

Printed/Typed Name of Agent _____ Date _____

Signature of Applicant _____ Title _____

Printed/Typed Name of Applicant _____ Date _____

Signature of Property Owner Victor Craig Mashburn Title 1/23/17

Printed/Typed Name of Property Owner Victor Craig Mashburn Date _____

Signature of Property Owner DENNA CONNELL O'CONNOR Title _____

Printed/Typed Name of Property Owner DENNA CONNELL O'CONNOR Date 1-17-17

Signature of Property Owner _____ Title _____

Printed/Typed Name of Property Owner _____ Date _____

*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.



**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

Z17-01

ZONING FROM:

B-3 To R-1

APPLICANT:

**VICTOR CRAIG MASHBURN
AND
DENNA CONNEL O'CONNER**




PROPERTY OWNER:

**VICTOR CRAIG MASHBURN
AND
DENNA CONNEL O'CONNER**

LEGAL DESCRIPTION:

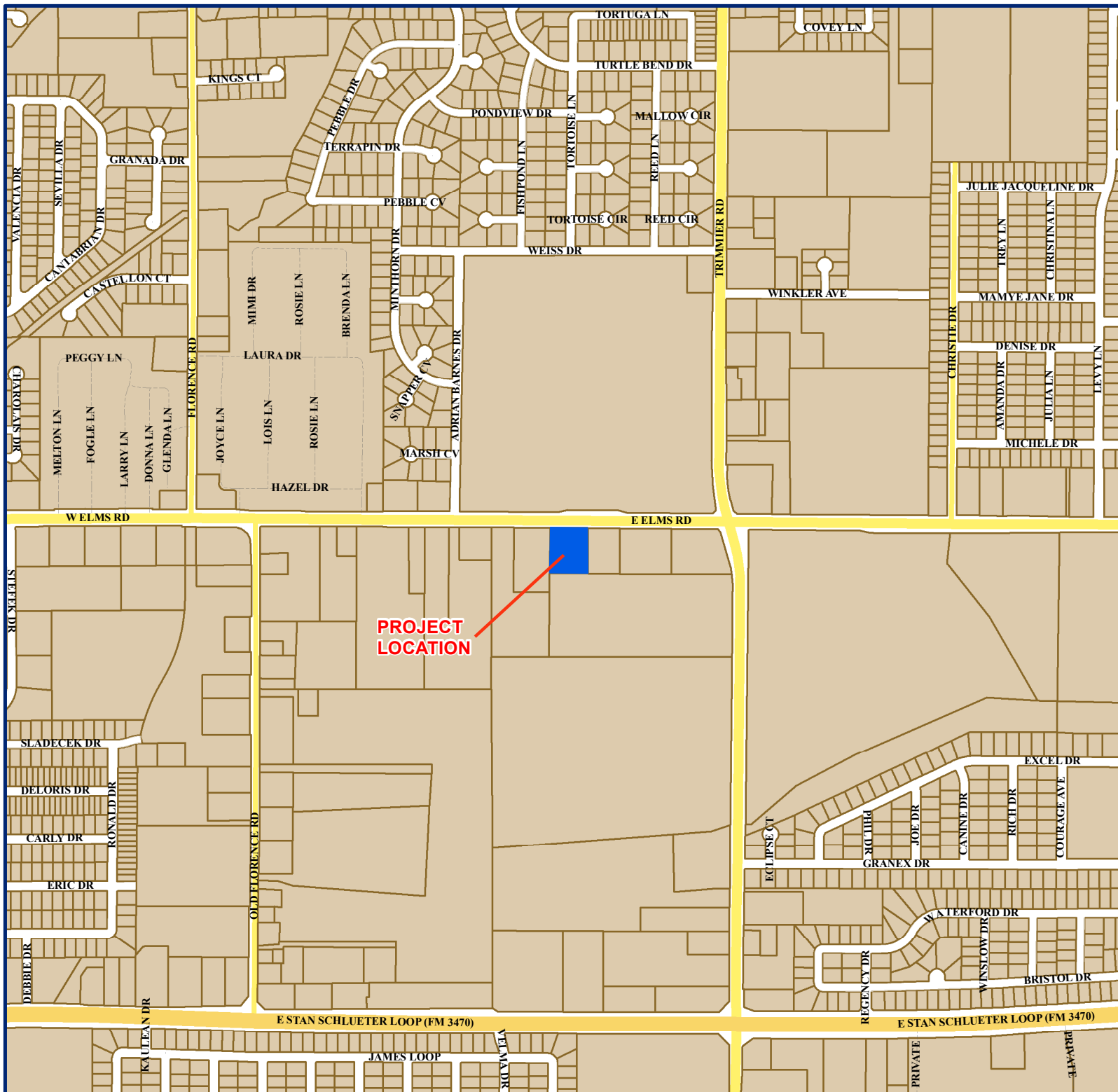
**A0306BC G W FARRIS, 12,
ACRES 1.39**

Legend

-  Zoning Case
-  Parcel
-  City Limits



Date: 2/13/2017





**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

Z17-01

ZONING FROM:

B-3 To R-1

APPLICANT:

**VICTOR CRAIG MASHBURN
AND
DENNA CONNEL O'CONNER**







PROPERTY OWNER:

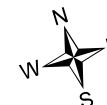
**VICTOR CRAIG MASHBURN
AND
DENNA CONNEL O'CONNER**

LEGAL DESCRIPTION:

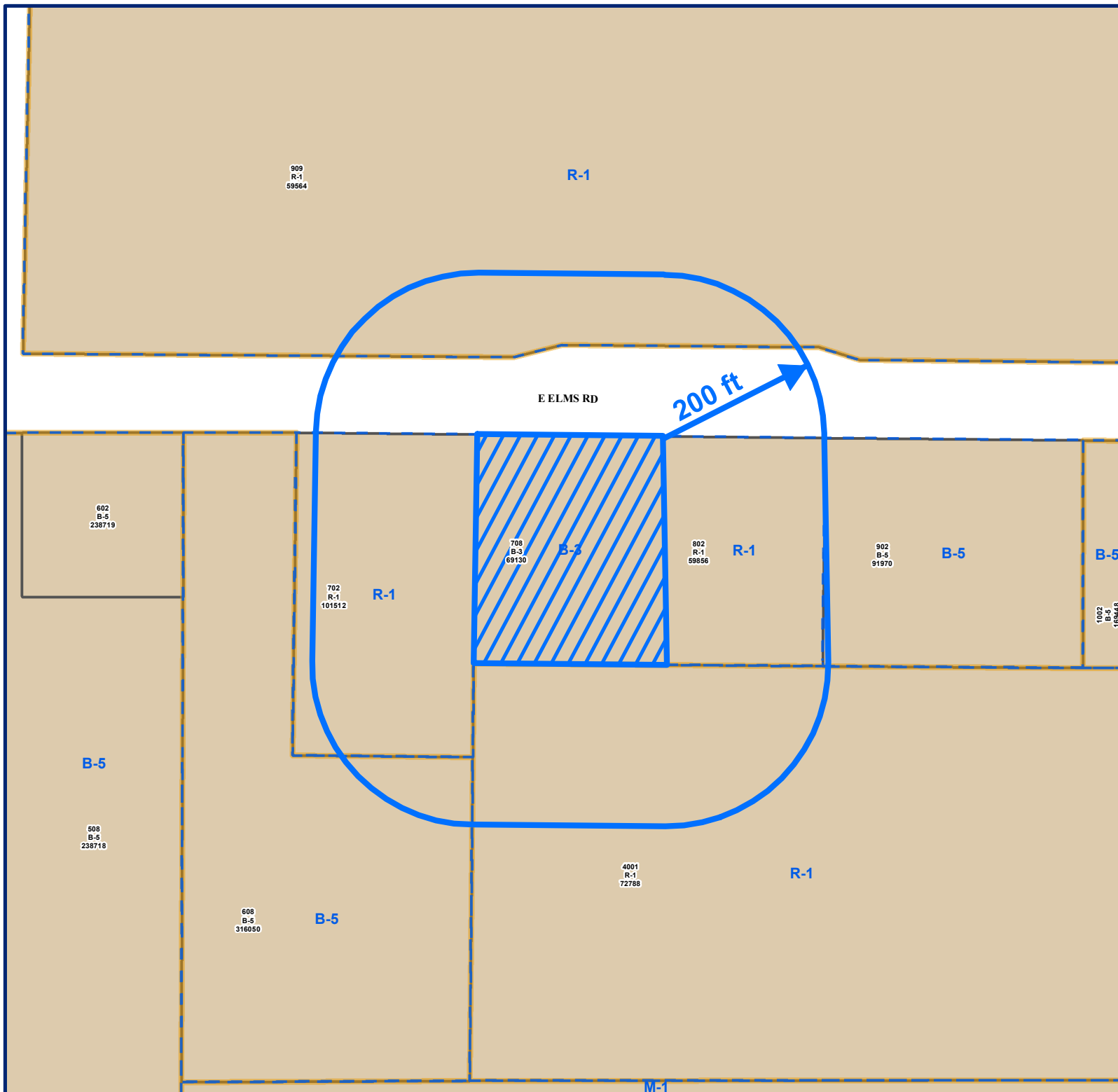
**A0306BC G W FARRIS, 12,
ACRES 1.39**

LEGEND

-  200' Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 2/13/2017



CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2nd 173 (Tex 1981) established general guidelines which the Planning and Zoning Commission and City Council should take into consideration when making their respective recommendation and decision on a zoning request.

A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

Any other factors which will substantially affect the health, safety, morals or general welfare.

B. Conditional Use Permit (if applicable)

Whether the use is in harmonious with and adaptable to buildings, structures and use of abutting property and other property in the vicinity of the premises under construction.

C. Conditions to Consider

1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
5. Cannot use any window display to advertise or call attention to the business.
6. Cannot have any signs
7. No off-street parking or on-street parking of more than two (2) vehicles at any one time for business related customer parking.
8. No retail sales.
9. Length of Permit.



ZONING CASE #Z17-01

“B-3” TO “R-1”

PH-17-014

May 2, 2017

ZONING CASE #Z17-01



- The property is an existing single-family residence that was zoned from “R-1” (Single Family Residential District) to “B-3” (Local Business District) for prospective office use in 1988
- The property has not been used for commercial purposes during this time
- The owners wish to have the zoning match the existing use



Exhibit 1. Zoning map

708 Elms Road, Killeen, Texas

ZONING CASE #17-01



- ❑ The property is designated as ‘General Commercial’ on the FLUM; however staff recommends no change to the FLUM for this request
- ❑ Staff received no protests from surrounding property owners
- ❑ The Planning and Zoning Commission recommended approval of “R-1” (Single Family Residential District) on March 6, 2017, by a vote of 7 to 0