

AN ORDINANCE AMENDING CHAPTERS 8 AND 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING ARTICLE I IN GENERAL, ARTICLE IV DISTRICT REGULATIONS, AND ARTICLE V SUPPLEMENTAL REGULATIONS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

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

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

WHEREAS, the City Council desires to create land use regulations that will help ensure that future development is mutually compatible with surrounding areas and the community as a whole; and,

WHEREAS, the City Council desires to amend district regulations to preserve and enhance surrounding property values, prevent the overcrowding of land and undue concentration of population, to prevent undue overloading of municipal infrastructure, and to promote land use consistent with neighboring properties; and,

WHEREAS, the City Council finds that such amendments are necessary and will provide consistent and even application of zoning regulations to all applicants;

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

SECTION I. That Chapters 8 and 31 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

CHAPTER – 8 BUILDING AND CONSTRUCTION REGULATIONS

Sec. 8-31. - Limitations on buildings and structures placed in easements.

Buildings, accessory buildings or structures, ground signs, in-ground swimming pools and storable above ground swimming pools over twenty-four inches (24") inches in height are prohibited from being placed in public utility easements without prior written approval from the director of public works or his designee. Fences, portable sheds not anchored to a permanent

foundation and not more than 80 square feet, and landscaping (excluding trees) may be placed over public utility easements; however, these obstructions are subject to removal by the city or utility provider, at the landowner's sole expense, when access to the easement is necessary for the installation, removal, replacement and/or maintenance of utilities. In addition, no buildings, accessory buildings, ground signs, swimming pools, fences or other objects that may impede the functionality of a drainage easement shall be permitted to encroach into any public drainage easement without prior written approval from the director of public works or his designee.

CHAPTER – 31 ZONING: HEIGHT AND AREA EXCEPTIONS AND MODIFICATIONS

Sec. 31-472. - Front yards.

- (a) Where twenty-five (25) percent or more of the frontage upon the same side of a street between two (2) intersecting streets is occupied or partially occupied by a building or buildings with front yards of less depth than required by this chapter, or where the configuration of the ground is such that conformity with the front yard provisions of this chapter would work-create a hardship, the board of adjustment may permit modifications of the front yard requirements.
- (b) In districts "R-1," "SF-2," "R-2," or "R-3," "R-3F," or "R-3A" where twenty-five (25) percent or more of the frontage upon the same side of a street between intersecting streets is occupied or partially occupied by a building or buildings having front yards of greater depth than is required by this chapter, no other lot upon the same side of such street between such intersecting streets shall be occupied by a building with a front yard of less than the least depth of any such existing front yards, unless by permission of the board of adjustment.
- (c) Regarding the main building. ~~Open~~ and unenclosed terraces or porches and eaves and roof extensions may project into the required front yard for a distance not to exceed four (4) feet; provided, however that no supporting structure other than columns up to twelve (12) inches square/radius for such extensions may be located within the required front yard. An unenclosed canopy for a gasoline filling station may extend beyond the building line but shall never be closer to the property line than twelve (12) feet. ~~The building line of a gasoline filling station shall mean the actual wall of the building and shall not be~~

~~interpreted as being the curb of a walk or driveway or as the front of a canopy or the columns supporting same.~~

- (d) Where an official line has been established for future widening or opening of a street upon which a lot abuts, then the width of a front or side yard shall be measured from such official line to the nearest line of the building.

Sec. 31-473. - Side yards.

- (a) On a corner lot the width of the yard along the side street shall not be less than any required front yard on the same side of such street between intersecting streets; provided, however, that the buildable width of a lot of record shall not be reduced to less than thirty (30) feet.
- (b) No accessory building shall project beyond a required yard line along any side street except for residentially used or zoned property, a storage shed with a maximum overall height of eight (8) feet, may be placed five (5) feet from a side street property line.
- (c) For the purpose of side yard regulations, a two-family dwelling or multifamily dwelling shall be considered as one (1) building occupying one (1) lot.
- (d) Where a lot of record at the time of the effective date of the ordinance from which this section is derived is less than fifty (50) feet in width the required side yard may be reduced to provide a minimum buildable width of thirty (30) feet; provided, however, that no side yard shall be less than five (5) feet.
- (e) The area required in a yard shall be open to the sky, unobstructed except for the ordinary projections of windowsills, belt courses, cornices or other ornamental features and item (b) above.
- (f) A roof overhang, an open fire escape or an outside stairway may project not more than three (3) feet into a required side yard, but no closer than three (3) feet to a property line.

Sec. 31-474. - Rear yards.

Accessory buildings or structures to residential uses shall be limited to twenty (20) feet in height and in sum shall not occupy more than twenty-five (25) percent of the area when located in of a required rear yard, however no accessory building or structure shall be closer than ten five (105) feet to the main building, nor closer than ten five (105) feet to any rear lot line or five (5) feet to any interior side lot lines. In-ground swimming pools and above ground swimming pools shall be located only within the side yard or rear yard and shall not be placed in the front yard or

the side street yard, exclusive of any publically dedicated utility or drainage easements, and shall be no closer than five (5) feet from any side lot line and ten (10) feet from any rear lot line.

Regarding the main building, open and unenclosed terraces or porches and eaves and roof extensions may project into the required front yard for a distance not to exceed four (4) feet; provided, however that no supporting structure other than columns up to twelve (12) inches square/diameter for such extensions may be located within the required front yard. An unenclosed canopy for a gasoline filling station may extend beyond the building line but shall never be closer to the property line than twelve (12) feet. Regarding sheds and accessory buildings, eaves and roof extensions may project up to one (1) foot into the zoning setbacks above.

CHAPTER – 31 ZONING: FENCES AND WALLS

Sec. 31-851. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adjacent Finished grade shall mean the ~~natural~~ elevation of the ~~ground-finished ground~~ surface, ~~prior to construction, next to~~ the proposed ~~walls of a building~~ fence location.

Fence shall mean any barrier, constructed of stone, brick, pierced brick or block, ~~uniformly colored wood~~, chain-link, PVC, wood, metal, or similar material ~~other material approved in advance by the executive director of planning and development services or his/her designee~~, that is greater than 24 inches in height as measured from adjacent grade. Other materials not listed shall be approved in advance by the executive director of planning and development services or his/her designee.

Guy wire shall mean a tensioned cable designed to add stability to a fence.

~~*Natural grade* shall mean the natural contours of a land area generally unaltered by human intervention.~~

Sec. 31-852. - Compliance with other provisions.

Fences shall conform to the requirements of the city's code of ordinances, and nothing in this division shall be construed as permitting construction of a fence which would violate any

provisions of the code, including the zoning ordinance or section 28-241 ~~of the code~~, Visibility at Intersections, as the same now exists or may be hereafter amended.

Sec. 31-853. - Permit required; application; fee.

A building permit is required to erect new fence or, ~~move,~~ repair, or replace ~~an~~ existing fence ~~or repair fifty one (51) percent or more of an existing fence~~. A fence permit must be obtained from the building inspections division prior to installation of or replacement of a fence. The information required for such permit includes the height, materials, location of the fence, distances from each structure on the property, and lot size. ~~Tenants must have the property owner's authorization to apply for a permit.~~ Contractors are required to be properly registered with the City ~~licensed~~ and may apply for a permit with the property owner's authorization.

Sec. 31-854. - Exceptions to permit requirement.

Repair of an existing fence with like materials of original construction and with no change to the original design or placement shall be allowed without a permit for any improvement that does not exceed fifty twenty-five (5025) percent of the material area of the original fence (measured as length times width along the outside face of the fence) during a twelve month period.

Sec. 31-855. - Security or barbed-wire fences.

Barbed-wire, fencing topped with broken glass, concertina wire, sharp objects, or electric fencing shall not be allowed in ~~the "R1" through~~ residential, "B-DC," "HOD," or "B-1" zoning districts.

Sec. 31-856. - Design, Height and Location.

The smooth, finished side of the fence shall face outward, with the support posts on the inside, for property ~~fac~~ing-abutting public right-of-way. The height of the fence shall be the vertical distance between the ~~adjacent~~ finished grade and the top of the fence. In those instances where fences are attached or constructed on top of stem walls or retaining walls, the calculation of height shall include the combined fence and wall structure as measured from the ~~adjacent~~

finished grade. In those instances where there is a difference in surface elevation between two adjoining properties ~~along the property line of the back or side yard upon which the proposed fence is to be located~~, then the fence on the adjacent property with the lower elevation shall not exceed the maximum allowable height plus the difference in surface elevation between the adjoining yard areas at the property line, but in no instance shall it measure more than ~~nine-eight~~ (98) feet in vertical height along the property line of the back or side yard upon which the proposed fence is to be located.

- (a) Front yard (applies to zoning districts "A-R1" residential uses and through "B-1" zoning district). The maximum height of a fence in a front yard shall be ~~five-four~~ (54) feet overall height as measured from the ~~adjacent-finished~~ grade, except that wrought iron fences may not exceed six (6) feet overall height as measured from the finished grade. The ~~five-(5)-feet~~ height requirement shall extend horizontally from the front property line to the required front yard setback. Front yard fences are not permitted in the right-of-way or sight distance triangle areas. ~~Any front yard fence that measures greater than four (4) feet in height shall not be of an opaque character (e.g. solid wood), and shall not be constructed of chainlink. Fence columns shall not exceed twelve (12) inches above overall height of fence.~~
- (b) Side and rear yard (applies to ~~zoning districts "A-R1" through~~ residential uses and "B-1" zoning district). The maximum height of a fence in a side or rear yard shall be (78) ~~seven-eight~~ feet as measured from the ~~adjacent-finished~~ grade. Side or rear yard fences that exceed (6) six feet shall not be constructed of chainlink.
- ~~(c) Rear yard (applies to zoning districts "A-R1" through "B-1"). The maximum height of a fence in a rear yard shall be (8) eight feet as measured from the adjacent grade. Rear yard fences are not permitted in the right-of-way or sight distance triangle areas. Rear yard fences that exceed (6) six feet shall not be constructed of chainlink.~~

Sec. 31-858. -- Location in publicly dedicated utility easement.

~~Fences, guy wires, and braces are permitted in publicly dedicated utility easements located in the front, side yard and/or rear yard. However, a fence in a publicly dedicated utility easement is placed at the risk of the property owner as the city and utility providers have no responsibility for repair of any fence damaged by the city or a utility provider's construction or maintenance~~

~~activities on the property. Fences are not allowed to encroach within any portion of a drainage easement, without meeting the provisions of Killeen code of ordinances chapter 32 and receiving prior written permission from the executive director of public works or his/her designee. No privately owned fence, guy wires or braces or any other part of the same shall be constructed upon or caused to encroach into or over city right of way without prior written approval by the public works director or his/her designee. For purposes of this section, "city right of way" shall mean an area of land over which people and goods have the legal right to pass or travel to include, but not limited to, public streets, sidewalks, swales and ditches.~~

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

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

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

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

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 26th day of February, 2019, 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:

Lucy Aldrich , CITY SECRETARY

APPROVED AS TO FORM:

Kathryn H. Davis, CITY ATTORNEY