



# CITY OF KYLE

## Community Development Department

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February 6, 2018

To: Kyle Mayor & City Council  
From: Howard J. Koontz, Director, Planning & Community Development  
Re: Amendment to Chapter 41 of the City Code, "Subdivision Regulations"

Pursuant to state enabling legislation, the regulation of subdivisions and signage are two extraterritorial police powers the city maintains outside our corporate limits. Kyle's subdivision regulations prescribe the manner that new lots should be drawn in the course of a property being subdivided.

One of those requirements is the creation of utility easements placed across the front, sides, and rear property lines for the current or future installation of underground utility lines that benefit local or regional properties. Recently, the building community has approached the city seeking greater latitude in the construction of new homes, specifically the permission to build structures into these easements, where portions of the new home structures would cantilever into the utility easements, essentially creating a block path in the airspace above the easement boundaries. In the absence of setbacks, which are function of zoning (which has no force of law in the ETJ), these easements preclude builders from erecting structures closer to the property line than the width of the easements.

To date, the city has not consciously approved these encroachments, as the easements are reserved as "Public Utility Easements", meaning their benefit is reserved to any qualified utility provider who chooses to install their utility conduits in the easements. Because the easements are not specifically reserved to the city, the city cannot assign such encroachments into the easements. With this text amendment, the creation of utility easements will be evaluated on a case-by-case basis, meaning in some instances where it is deemed appropriate, no easement will be required. Properties inside the city limits with zero lot line setbacks would not be required to provide a utility easement along that property line. Parcels with no expectation of utility connectivity would also be excepted from easement requirements. Additionally, the city will assume the privilege of the easement rights, and will assign permissions and locations for users to enter the easements after their creation. This will, in effect, allow the city to approve structures to encroach the airspace above the easement where appropriate.