

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING SEC. 53-5 "DEFINITIONS" AND SEC. 53-33 "GENERAL REQUIREMENTS AND LIMITATIONS.", OF CHAPTER 53 "ZONING", OF THE CITY OF KYLE CODE OF ORDINANCES, BY CLARIFYING DEFINITIONS AND APPROVED PLACEMENT, ESTABLISHING LIFE SAFETY SEPARATION DISTANCES, ESTABLISHING MAXIMUM HEIGHTS, AND CREATING MAXIMUM SQUARE FOOTAGE ALLOWANCES.

WHEREAS, the City of Kyle is authorized to regulate property development by establishing the strict guidelines for the time, manner, and place of certain improvements; and

WHEREAS, the City of Kyle is charged with providing for the health, safety and welfare of the citizens of the City; and

WHEREAS, the City's regulatory mechanism for the regulation of inhabitable buildings and other structures in Section 53-33, of Article II of Chapter 53 of the City Code currently has provisions for their construction and placement; and

WHEREAS, the City of Kyle seeks to provide direct guidance regarding the establishment of certain types of accessory structures on developed property; and

WHEREAS, the City seeks to expand and clarify the rules and regulations for constructing and maintaining these certain types of accessory structures; and

WHEREAS, in order to provide greater specificity in allowable locations, heights and square area of accessory structures; and

WHEREAS, in order to provide life safety assurances; and

WHEREAS, the regulation of these structures established within Kyle's corporate limits is a reasonable and lawful police power of Texas home rule jurisdictions; and

WHEREAS, the City of Kyle encourages constant evaluation of regulatory practices, procedures and allowances to ensure conformance with the previously established visions, goals, policies, and objectives outlined in the various master plans; and

WHEREAS, the Mayor and City Council have reviewed these recommended changes to the Kyle Zoning Ordinance and find that it furthers the City's intended provisions for health, safety and welfare; and

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made part hereof for all purposes as findings of fact. _____

Section 2. Definitions Section Amended. The Ordinance regulating the establishment and locations of accessory structures hereby amends portions of §53-5 by expanding upon a specific set of definitions to be used when administering accessory structures.

Section 3. Amendment of Approved Techniques. City of Kyle Ordinance No. 438, et seq., is hereby modified and amended by clarifying certain aspects of accessory structures construction, such as time of establishment, structure heights, locations, size, and in some instances, these aspects taken in combination.

Section 4. Conditions and Standards. Those changes noted in the attached Exhibit A are affected by this text amendment.

Section 5. Effective Date. This Ordinance language will be in full force and effective on the date of final approval by the City of Kyle Mayor and City Council.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed, was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 51, Texas Local Government Code.

PASSED AND APPROVED on first reading, this the 5th day of June, 2018.

PASSED AND APPROVED on second reading, this the 19th day of June, 2018.

Jennifer A. Vetrano, City Secretary
Date: _____

Travis Mitchell, Mayor
Date: _____

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EXHIBIT A

Chapter 53, Article I, Division 1, §53-5

~~Accessory structure means, in a residential district, a subordinate building detached and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, tool house, bath or greenhouse as a hobby (not as a business), home workshop, children's playhouse, storage house or garden shelter, but not involving the conduct of a business or occupancy by any longterm or paying guests.~~

Structure means any building, improvement, or anything constructed or erected on the ground or which is attached to something located on the ground. The term "structure" includes but is not limited to buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks, and paving, and other flat work shall not be considered structures ~~unless located within a public utility or drainage easement.~~

Structure, accessory: any real object, building, or assembly incidental and subordinate to the principal structure on the property, physically detached from the principal structure, and used for purposes that are customarily ancilliary and incidental to the primary use of the property.

Structure, principal: means the principal ~~structure~~ building, improvement, and/or assembly which fulfills the purpose for which the ~~building development~~ plot is intended.

Chapter 53, Article II, Division 1, §53-33(r)

Accessory uses and structures, separately and in combination:

- 1) Accessory uses and structures, when authorized by this chapter, are only permitted in connection with lawfully established principal uses and structures.
- 2) No accessory building shall be erected on a lot prior to the time of construction of the principal building/use to which it is accessory, and no accessory structure on a lot will be used and/or occupied until there is a valid certificate of occupancy or certificate of completion for the principal building/use to which it is accessory.
- 3) Location:
 - a) Accessory structures shall be permitted only in rear yards, except as otherwise provided in this chapter.

- b) An accessory use or structure shall be set back not less than five feet from any lot line. This includes eaves and other architectural elements that may protrude further than an exterior wall.
 - c) Accessory structures shall be separated from any other structure, on or off the property, by no less than 10' of clear space, as a life safety building separation
 - d) Accessory structures may extend into, on, and/or over platted easements, so long as they are not permanently affixed to the ground, other than by their own weight. Otherwise, all structures and associated permanent foundation materials like piers and footers must not be located in any easement.
- 4) In residential districts, accessory structures shall be no greater in overall height than the lot's primary structure, or 20', whichever is lower.
 - 5) In residential districts, the total aggregate square footage of all accessory structures shall not exceed one-half the gross square footage of the principal structure.
 - 6) Residential or commercial solar panels not affixed to the principal building shall be considered an accessory structure and shall be located on site according to this subsection.