

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-02**

AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, SUCH CHAPTER MORE COMMONLY KNOWN AS THE CITY'S ZONING CODE; BY AMENDING SAID CODE TO INCLUDE ADDING NEW DEFINITIONS, REVISING THE REQUIREMENT FOR VARIANCES, REQUIRING SIGNS FOR NOTIFICATION, AND OTHER AMENDMENTS AS PROVIDED HEREIN; PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; ORDERING PUBLICATION; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, on August 27, 2019, City Council adopted Ordinance No. 2019-17, which adopted the City's Zoning Code, which included a Land Use Table and Zoning Map, collectively referred to herein as the "Zoning Code"; and

WHEREAS, Ordinance No. 2019-17 was adopted in accordance with and pursuant to the City's Comprehensive Plan; and

WHEREAS, pursuant to several recent land development projects, City Council, the Planning and Zoning Commission, and City staff recommend the adoption of several amendments to the Zoning Code; and

WHEREAS, pursuant Section 60-73 of the Zoning Code, and in accordance with Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on March 8, 2022, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in a number of amendments to the Zoning Code as provided herein; and

WHEREAS, on March 8, 2022, City Council held a public hearing on various zoning amendments pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. Section 60-17 of the Zoning Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“Sec. 60-17. - Terms defined.

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Short-term rental unit means a facility, located in a residential zoning district, used for the purpose of providing short-term lodging for compensation, architecturally designed to look like a single-family dwelling, which may also be occupied concurrently as the residence for the owner, operator, or manager of the property, or providing separate lodging units such as cabins, guest homes, or similar residential-scale structures but in any instance, may not lodge more than ten (10) occupants, with no more than six bedrooms total on the property, and offering meals only to those who receive lodging, and providing that all bedrooms used as a permanent residence shall count toward the maximum six bedrooms of the short-term rental unit.

SECTION TWO. Section 60-28, subsection (2), of the Zoning Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“*Variances.* Pursuant to section 60-31, the board of adjustment may consider granting, upon written application, variances to the terms of the zoning code, excluding variances to the list of permitted land uses; provided these variances are not contrary to the public interest, and where the applicant can demonstrate that because of special land-related conditions unique to the property, a literal enforcement of the code would result in unnecessary hardship that is ~~neither financial nor not~~ self-imposed, and so that the spirit of the code will be observed and substantial justice done.”

SECTION THREE. Section 60-31, subsection (2), of the Zoning Code is amended by adding a new subsection c., with new language indicated by blue, underline (addition) as follows:

“c. A notification sign posted on the subject property by the Director, visible to persons using the public right-of-way, and which states the purpose and dates of the hearing. The Director shall install the sign at least 11 days before the first public hearing and the sign must remain posted and visible during the pendency of the variance. Such sign is exempt from the City’s sign code as a government sign.”

SECTION FOUR. Section 60-31, subsection (3), of the Zoning Code is amended with new language indicated by blue, underline (addition) as follows:

“(3) *Required findings of fact.* No variance shall be granted by the board of adjustment until it makes one or more of the following findings, which as applied to a structure, would result in an unnecessary hardship:

- a. That there are exceptional circumstances or conditions applicable to the property on which the application is made related to size, shape, area, topography, surrounding condition, or location that do not apply generally to other property in the same area and the same zoning district;
- b. That the exceptional circumstances or conditions are such that literal enforcement of the provisions of this chapter would result in an unnecessary hardship inconsistent with the general purpose and intent of this chapter;
- c. That the granting of such variance will not be contrary to the public interest, materially detrimental to the public welfare, or injurious to the property or improvements in the zoning district or area in which the property is located;
- d. That the granting of such variance will not be contrary to the objectives and principles contained in the comprehensive plan, as amended;
- e. That the variance to be granted is the minimum variance that will relieve the proven hardship;
- f. That the variance is not being granted to relieve the applicant of conditions or circumstances:
 1. Which are not inherent in the property itself, but are the result of the use or development of the property;
 2. Which are caused by a division of land on or after date of adoption, other than a division of land resulting from the sale of a property interest to a governmental entity, which division of land caused the property to be unusable for any reasonable development under the existing regulations; or
 3. Which were otherwise self-imposed by the present or a previous owner.
- g. That the variance is not grounded solely upon the opportunity to make the property more profitable or to reduce expense to the current or any future owner;

- h. That the variance would not modify or effectively repeal any development or use regulations set forth in a conditional use permit (CUP) or an ordinance or resolution adopting a concept plan or establishing a planned development district which are in addition to the generally applicable use and development regulations set forth in this zoning code;
- i. That the variance would only affect a specific parcel of property and is not of such a general nature as to effectively constitute a change in zoning of said parcel or a larger area without following the procedures for such as set forth herein;
- j. That the variance does not change the permitted, conditional, or prohibited uses in the zoning district in which the property is located;
- k. the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the City under Section 26.01, Tax Code;
- l. compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
- m. compliance would result in the structure not being in compliance with a requirement of a City ordinance, building code, or other requirement;
- n. compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- o. the City considers the structure to be a nonconforming structure, in accordance with its regulations.”

SECTION FIVE. Section 60-41 of the Zoning Code is amended with deleted language indicated by red, strikeout (~~deleted~~) as follows:

“Sec. 60-41. Use of Property Located in One Zoning District to Benefit Another.

No person shall use property located in one zoning district to provide parking for, or access to, a use located on property located in another zoning district~~unless~~:

(1) Parking:

- a. ~~The property being used for said parking is also zoned to permit the use for which such parking is desired;~~

- b. A variance is granted under the provisions of this Zoning Code or the Development Standards ordinance, whichever applies, to allow the off site parking; or,
- e. A Conditional Use Permit is secured for the off site parking in accordance with this Zoning Code.

(2) Mutual Access:

- a. The property being used for said access is also zoned to permit the use for which such access is desired;
- b. A variance is granted under the provisions of this Zoning Code or the Development Standards ordinance, whichever applies, to allow the mutual access; or,
- e. A Conditional Use Permit is secured for the mutual access in accordance with this Zoning Code.”

SECTION SIX. Section 60-52, subsection (b), of the Zoning Code is amended by adding a new subsection (10), with new language indicated by blue, underline (addition) as follows:

“(10) Traffic Impact Analysis: An application for MU zoning shall include a traffic impact analysis as defined herein.”

SECTION SEVEN. Section 60-52, subsection (c)(8), of the Zoning Code is amended by adding a new subsection d., with new language indicated by blue, underline (addition) as follows:

“d. Traffic Impact Analysis: An application for PD zoning shall include a traffic impact analysis as defined herein.”

SECTION EIGHT. Section 60-52, subsection (d)(3) of the Zoning Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

Maximum Building Height	<ul style="list-style-type: none">• 35 feet• <u>No limit except where A</u>ddjacent to a residential zoning district as defined in subsection (d)(3) above, <u>as follows:</u><ul style="list-style-type: none">• <u>Two stories of up to 35 feet when adjacent to a residential zoning district, plus one foot (1.0' of</u>
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	<p>additional building height permitted for each 1 foot (1.0') of setback from the residential zoning district</p> <ul style="list-style-type: none"> • An installation of a public or private utility <u>is</u> exempt from this requirement
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SECTION NINE. Section 60-60, subsection (9)a.2., of the Zoning Code is amended by adding a new subsection iii., with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“iii. These regulations do not apply to:

- A. A boarding home facility, as that term is defined within Chapter 30 of the Code of Ordinances; ~~or~~
- B. Cottage food production that meets the qualifications imposed under state law and subject to other City ordinances, rules, or regulations; or
- C. Garage sales, but where no more than four (4) are held per calendar year, none of which lasts longer than three (3) days.”

SECTION TEN. Section 60-60, subsection (13) of the Zoning Code, is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“(13) Travel Trailers and Recreational Vehicles: The use of a travel trailer or recreational vehicle shall be subject to the following regulations:

- a. The use of a travel trailer or recreational vehicle as a permanent residence or business anywhere within the City is prohibited, unless located within an RM or C-3 district and on property developed as a Mobile Home Rental Community (MHRC); on property which is being used as a recreational vehicle park even if the recreational vehicle park is a nonconforming use; or where one (1) travel trailer or one (1) recreational vehicle is located on property which is being used for the seasonal retail sale of holiday trees, such use to only occur between November 5 and December 31.
- b. Travel trailers or recreational vehicles parked in a recreational vehicle park or in an RM or C-3 zoning district shall meet the following requirements:

1. Remain road ready with tongue and towing equipment attached to the vehicle or stored onsite; and
2. Utilize temporary utility hookups, such that hardwired electricity and plumbing is prohibited, and

~~It shall be a defense to a violation of subsection (a), above, if:~~

- ~~1. The trailer or recreational vehicle is located on property within an RM district which is developed as a MHRC at the time of the offense; or~~
- ~~2. The trailer or recreational vehicle is located on property which is being used as a recreational vehicle park even if the recreational vehicle park is a nonconforming use; or~~
- ~~c3. The A travel trailer or recreational vehicle Is may be parked within a residential district and actively used for lodging but shall only be:~~
 - ~~i1. Parked on a lot developed with a dwelling unit with a valid certificate of occupancy;~~
 - ~~ii2. Occupied by one or more people who do not claim the dwelling unit as their permanent residence; and~~
 - ~~iii3. Has been located on the lot for a period not exceeding 14 days.~~
- d. A travel trailer or recreational vehicle may be stored, which means parked and not in active use, on a developed lot with a dwelling unit. The storage must not create any visibility obstruction or otherwise interfere with pedestrian or vehicular circulation.
- ~~4. One (1) travel trailer or one (1) recreational vehicle is located on property which is being used for the seasonal retail sale of holiday trees. This section shall only be valid between November 5 and December 31.”~~

SECTION ELEVEN. Section 60-60 of the Zoning Code is amended by adding a new subsection (17), with new language indicated by blue, underline (addition) as follows:

“(17) Shipping container. A shipping container is permitted within any public and institutional district (PI), on property of not less than five (5)

acres, and where the shipping container is located at least one-hundred feet (100.0') from a residential district. A container shall be setback behind a line parallel to the front wall of the nearest building. Each container must be permanently anchored in compliance with the building codes and receive a permit from the City.”

SECTION TWELVE. Section 60-51, subsection (3), of the Zoning Code is amended by correcting a typographical error with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“(3) If notice was originally sent pursuant to Section 211.007 65-84, Texas Local Government Code, the applicable fee necessary to reimburse the City for sending a notice of postponement to those originally notified.”

SECTION THIRTEEN. Section 60-65, subsection (4), of the Zoning Code is amended with new language indicated by blue, underline (addition) as follows:

“(4) **Review Process:** Upon receipt of a complete application for a zoning change request, the application shall be reviewed under the process governing the review of an application for rezoning under Chapter 211, Texas Local Government Code, including notification, a report from the Director, and public hearings before the Planning and Zoning Commission and City Council, allowing for testimony from the applicant and others who have an interest in the matter, facts, and opinions concerning the proposed change. Notification as referenced above shall include a notification sign posted on the subject property by the Director, visible to persons using the public right-of-way, and which states the purpose and dates of the hearings. The Director shall install the sign at least 11 days before the first public hearing and the sign must remain posted and visible during the pendency of the review. Such sign is exempt from the City’s sign code as a government sign.”

SECTION FOURTEEN. Table 1, Land Use Table, which was adopted as part of the Zoning Code, is amended as follows, such amendments as indicated on the attached table with amendments indicated:

- A. Add “shipping container” as an authorized use within a Public and Institutional District and Industrial and Manufacturing District.
- B. Add “medical office” as an authorized use within a Public and Institutional District.

SECTION FIFTEEN. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION SIXTEEN. The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION SEVENTEEN. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION EIGHTEEN. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 08 day of MARCH, A.D., 2022.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 22 of MARCH, A.D., 2022.

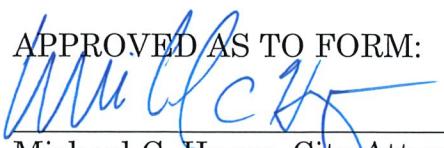

Bill Blackburn, Mayor

ATTEST:


Shelley McElhanon, City Secretary

KESHA FRANCHINA, DEPUTY CITY SECRETARY

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

The Kerrville

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DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY

Proposed Flood Hazard Determinations for Unincorporated Areas of Kerr County, Texas, Case No. 21-06-3101P. The Department of Homeland Security's Federal Emergency Management Agency (FEMA) solicits technical information or comments on proposed flood hazard determinations for the Flood Insurance Rate Map (FIRM), and where applicable, the Flood Insurance Study (FIS) report for your community. These flood hazard determinations may include the addition or modification of Base Flood Elevations, base flood depths, Special Flood Hazard Area boundaries or zone designations, or the regulatory floodway. The FIRM and, if applicable, the FIS report have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations. These determinations are the basis for the floodplain management measures that your community is required to adopt or show evidence of having in effect to qualify or remain qualified for participation in the National Flood Insurance Program. For more information on the proposed flood hazard determinations and information on the statutory 90-day period provided for appeals, please visit FEMA's website at https://www.floodmaps.fema.gov/fhm/BFE_Status/bfe_main.asp, or call the FEMA Mapping and Insurance eXchange (FMIX) toll free at 1-877-FEMA MAP (1-877-336-2627).

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