

ORDINANCE NO. 21-S-49

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING PART III, SCHERTZ CODE OF ORDINANCES, THE UNIFIED DEVELOPMENT CODE (UDC) ARTICLE 15, SECTION 21.15.4 UTILITIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, pursuant to Ordinance No. 10-S-06, the City of Schertz, Texas (the “City”) adopted as Amended and Restated Unified Development Code on April 13, 2010, as further amended (the “Current UDC”); and

WHEREAS, City Staff has reviewed the Current UDC and have recommended certain revision and updates to, and reorganization of, the Current UDC;

WHEREAS, on November 17, 2021 the Planning and Zoning Commission conducted a public hearing and thereafter recommended approval; and

WHEREAS, on December 7, 2021 the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the proposed amendments are appropriate and in the interest of the public safety, health and welfare;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS: THAT:

Section 1. The current UDC is hereby amended as set forth on Exhibit A hereto.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter

of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Approved on first reading the 7th day of December, 2021.

PASSED, APPROVED AND ADOPTED on final reading the 14th day of December, 2021.

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary
(SEAL OF THE CITY)

Exhibit A

Unified Development Code
Article 15 Section 21.15.4 Utilities

See Attached

Current UDC Article 15 Section 21.15.4 to be removed:

~~All utilities, including, but not limited to, electrical wiring, natural gas, telephone, cable, internet and security systems, shall be located in the front yard, shall be installed underground and shall be maintained in accordance with all applicable City codes and regulations for such systems. Any utilities required to be placed above ground must be placed on steel poles meeting the requirements of the City and the applicable utility provider. The City Manager or his/her designee may waive the requirements of this section to allow wooden poles where he/she finds that unique conditions supporting such waiver exist within the development or along rights-of-ways.~~

UDC Article 15 Section 21.15.4 New Text Adopted via Ord. 21-S-14:

Article 15 – Easements and Utilities

Sec. 21.15.4. - Utilities.

- A. *Purpose.* Underground utility line facilities possess a logical relationship to the use and enjoyment of parcels within the City by:
1. Improving visibility along public rights-of-way.
 2. Protecting the utility facilities from damage due to vehicular impact.
 3. Reducing obstructions in the path of vehicles driving off of a right-of-way.
 4. Facilitating fewer wind outages with lower costs to utility providers for restoration of outages due to wind, translating into lower costs for utility customers.
 5. Reducing interference with the existing tree canopies.
 6. Improving the aesthetics of an area by removing above-ground utility poles, lines and above-ground appurtenances from view.
 7. Increasing property values.

It is in the City's best interest to coordinate and regulate the placement of public and private utilities in the public right-of-way and in easements on private property. Such regulations and coordination shall be managed under the UDC.

Utility easements shall be provided for the installation of utilities in accordance with the requirements of the City and maintained by the property owner, in accordance with Chapter 54 of the City Code of Ordinances. Trees and hardscapes, excluding driveways and sidewalks, and any other surface or subsurface improvement that could damage the utility infrastructure or limit the utility provider's ability to maintain their utility infrastructure shall not be installed within utility easement, except where a waiver is granted by the utility easement holder or expressly allowed in the easement language.

Existing overhead utilities, when altered by new development or development receiving an increase in or change in service may remain overhead or be placed underground. Utility expansions or extensions, including Primary Distribution expansions, required to serve new development or development receiving an increase in or change in service shall be placed underground in accordance with City Standards; or, if those utilities are waived to be installed overhead, the new service or change in service must be placed or located to one side of the street, alley, or thoroughfare in an easement or Right of Way as determined by the City. All utility crossings, including Secondary Distribution, shall cross a Right of Way, street, alley, or thoroughfare underground, even in instances where the Primary Distribution has a waiver to be installed overhead.

All underground utility lines shall be buried and utility connections are to be installed according to all applicable City Standards, as well as those of the City's franchised utilities authorized to provide service in Schertz. Underground utilities may be installed on both sides of a Right of Way, street, alley, or thoroughfare.

B. *Definitions*

Transmission Line-A line that carries electricity at voltages of 69kV or greater and is used to transmit electric power over relatively long distances, usually from a central generating station to main substation (This section does not apply to transmission lines or easements).

Primary Distribution-delivers power from distribution substations to distribution transformers that provide power to a secondary distribution system- (usually three phase power lines)

Secondary Distribution-carries power from distribution transformers to the electric meters of the end customers. This is also referred to as a "Service Line".

C. *Applicability*. The provisions of this section are deemed to be minimum standards and shall be applicable to all properties, facilities, and utilities within the Corporate City Limits and Extraterritorial Jurisdiction (ETJ).

D. *Residential*. All utilities in Residential Districts (all residential districts other than multi-family) including, but not limited to, electrical wiring, natural gas, telephone, and communication systems, shall be located in an easement or the Right of Way adjacent to the front yard of the property as defined by the address, shall be installed underground, and shall be maintained in accordance with all applicable City codes and regulations for such systems.

E. *Apartment/Multi-Family*. All utilities within Multi-Family Districts including, but not limited to, electrical wiring, natural gas, and communication systems, shall be installed underground and shall be maintained in accordance with all applicable City codes and regulations for such systems. Electrical primary distribution lines and telecommunication systems providing service to multi-family districts may be installed overhead along a single side of the perimeter of a subdivision, which is not adjacent and parallel to a Right of Way, within a utility easement. Installations which are adjacent and parallel to the Right of Way require an approved waiver to be installed. The secondary distribution lines providing electric service to each lot within the subdivision shall be installed underground.

F. *Public Use*. All utilities serving a public use district, including, but not limited to, electrical wiring, natural gas, and communication systems shall be installed underground. Utility connections, such as telecommunication, electricity, water and sanitary sewer stub outs shall be provided to all acreage dedicated as public parkland.

G. *Commercial*. All utilities in Commercial Districts including, but not limited to, natural gas, and communication systems, shall be installed underground and shall be maintained in accordance with all applicable City codes and regulations for such systems. Electrical primary distribution lines and telecommunication systems providing service to Commercial developments may be installed overhead along a single individual side of the perimeter of a property, which is not adjacent and parallel to a Right of Way, within a utility easement. Installations which are adjacent and parallel to the Right of Way require an approved waiver to be installed. Electrical primary distribution lines shall not be installed overhead within the perimeter or internal to a commercial development. Secondary distribution lines providing electric service to each lot within the subdivision shall be installed underground.

- H. *Industrial.* All utilities in Industrial Districts including, but not limited to, electric, natural gas, and communication systems, shall be installed underground and shall be maintained in accordance with all applicable City codes and regulations for such systems. Electrical primary distribution lines and telecommunication systems providing service to Industrial districts developments may be installed overhead along a single individual side of the perimeter of a property, which is not adjacent and parallel to a Right of Way, within a utility easement and shall not be installed within the property. Installations which are adjacent and parallel to the Right of Way require an approved waiver to be installed. Secondary distribution lines providing electric service to each lot within a subdivided industrial district development shall be installed underground.
- I. *On-Site Utilities.* Regardless of the type of zoning district, all on-site utilities (e.g. the edge of the property inward) must be located underground.
- J. *Street Lighting.* Installation of streetlights shall be the responsibility of the subdivider, developer, or property owner in new developments where streetlights are required to be installed by the City of Schertz Unified Development Code and shall meet the lighting and glare standards set forth in the City of Schertz Unified Development Code. The City of Schertz or electric provider may install streetlights within previous developed areas or areas where accommodations cannot be made to make the installation safe for the subdivider, developer, or property owner. The City of Schertz or utility provider may require the installation of conduit by the subdivider, developer, or property owner in this case. Service lines to streetlights shall be underground and shall be extended within an appropriate easement or right-of-way to available transformers and junction boxes. Service lines shall be provided and installed at the sole cost of the subdivider, developer or property owner. The City of Schertz or utility provider shall be responsible for streetlight maintenance for all nonmetered, public streetlights within the City of Schertz. Decorative or other nonstandard streetlight fixtures shall be approved by the Public Works Director or Assistant Public Works Director, except when City Council approves as part of a zoning ordinance. The subdivider, developer or property owner shall be responsible for the installation and maintenance of all private, metered streetlights.
- K. *Waivers.* The City Manager or the Public Works Director may waive the requirements of Section 21.15.4 or grant a waiver where he/she finds that unique conditions supporting such waiver exist within the development or along rights-of-ways.
1. *Decision and Appeal.* The Public Works Director shall either grant or deny the waiver within thirty (30) days of the application's receipt in the Public Works office. If the waiver is denied, the Public Works Director shall so notify the applicant in writing. If the waiver is denied, the applicant may appeal the decision to the City Manager by filing a written notice of appeal within ten (10) days of the applicant's receipt of the notice of denial of the waiver. The Public Works Director shall then schedule a meeting with the City Manager on the appeal at the earliest convenient opportunity and shall notify both the appellant and the City Manager of the hearing. After holding a hearing on the denial of the waiver, the City Manager may either sustain the decision or grant the waiver.

2. *Approval Criteria.* The City Manager or the Public Works Director may grant a waiver from the requirements of the City if either finds both of the following conditions:

The requirements to provide utilities to the owner/customer's property pose a degree of practical difficulty, such as natural barriers, presence of existing utilities, or other existing conditions outside of the property owner's control, and that approval of the waiver would not be contrary to public policy and would not substantially weaken the general purposes of this division and of the area of the City in which the property lies.

3. *Scope of Approval.* Whenever a waiver has been granted under this section, and thereafter the waiver date, utility services are disconnected from the property due to the request, direction or actions of the property owner, the waiver becomes null and void. Any reconnection of utility service to the property must be accomplished in a manner consistent with the requirements of this division and of the ordinance which established service.
4. *Above ground waiver.* Any utility given a waiver to be placed above ground must be placed on steel poles meeting the requirements of the City