

# CITY OF KYLE



## Notice of Regular City Council Meeting

KYLE CITY HALL  
100 W. Center Street

Notice is hereby given that the governing body of the City of Kyle, Texas will meet at 7:00 PM on 1/3/2012, at Kyle City Hall, 100 West Center Street, Kyle, Texas for the purpose of discussing the following agenda.

Posted this 29th day of December, 2011 prior to 7:00 p.m.

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### I. Call Meeting To Order

### II. Approval of Minutes

1. City Council Special Meeting - December 6, 2011 ~ *Amelia Sanchez, City Secretary*

 [Attachments](#)

2. City Council Regular Meeting - December 6, 2011 ~ *Amelia Sanchez, City Secretary*

 [Attachments](#)

3. City Council Special Meeting - December 13, 2011 ~ *Amelia Sanchez, City Secretary*

 [Attachments](#)

### III. Citizen Comment Period With City Council

The City Council welcomes comments from Citizens early in the agenda of regular meetings. Those wishing to speak must sign in before the meeting begins at the Kyle City Hall. Speakers may be provided with an opportunity to speak during this time period, and they must observe the three-minute time limit.

4. Public Hearing for the purpose of receiving Public Comment on the request by Monarch Utilities I, L.P. to increase system water rates by 62.3%

 [Attachments](#)

### IV. Presentation

5. Recognition of Employee of the Month for the Month of December ~ *Lanny Lambert, City Manager*

- *Luis Rosales, Human Resources Assistant*

 [Attachments](#)

6. Presentation of the Parks and Recreation Department 2011 Annual Report to Include Number of Attendees at Recreational Programs and Special Events, Facility Uses, Economic Impact, and Other Related Matters ~ *Kerry Urbanowicz, Director of Parks and Recreation*

 [Attachments](#)

7. Presentation of City of Kyle's Financial Performance Report (unaudited) for the 4th Quarter Ending

 [Attachments](#)

**V. Consent Agenda**

8. (*Second Reading*) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'CM' CONSTRUCTION MANUFACTURING DISTRICT TO APPROXIMATELY 10 ACRES, ON PROPERTY LOCATED AT 3700 KYLE CROSSING IN HAYS COUNTY, TEXAS. (3700 KYLE CROSSING, LLC. Z-11-013); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

 [Attachments](#)

9. (*Second Reading*) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 8.42 ACRES ON PROPERTY LOCATED ON THE SOUTHSIDE OF BEBEE ROAD, JUST WEST OF DACY LANE IN HAYS COUNTY, TEXAS. (DACY LANE, LLC. Z-11-012); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

 [Attachments](#)

10. (*Second Reading*) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 2.627 ACRES, ON PROPERTY LOCATED AT 1251 GOFORTH ROAD IN HAYS COUNTY, TEXAS. (LAS DELICIAS INVESTMENTS Z-11-010); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

 [Attachments](#)

11. (*Second Reading*) AN ORDINANCE AMENDING ORDINANCE NO. 311 (PLUM CREEK PLANNED UNIT DEVELOPMENT ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 11.1 ACRES FROM 'MXD' MIXED USE DEVELOPMENT DISTRICT TO 'OS' OPEN SPACE, AND REZONE APPROXIMATELY 4.3 ACRES FROM 'MXD' MIXED USE DEVELOPMENT DISTRICT TO 'LI' LIGHT INDUSTRIAL ON PROPERTY LOCATED WITHIN THE 4900 BLOCK OF SOUTH FM 1626 BETWEEN VANTAGE APARTMENTS AND RAIL ROAD TRACKS, IN HAYS COUNTY, TEXAS. (MOUNTAIN PLUM, LTD. Z-11-011); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS

ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

 [Attachments](#)

12. (*Second Reading*) AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ESTABLISHING A REQUIREMENT THAT A FISCAL NOTE BE PROVIDED FOR ALL CITY ORDINANCES AND RESOLUTIONS CONSIDERED BY THE CITY COUNCIL REQUIRING EXPENDITURE OR OBLIGATION OF CITY FUNDS AND OR AN INCREASE OR DECREASE IN RATES, FEES AND OTHER CHARGES FOR CITY SERVICES ~ *Council Member Jaime Sanchez*

 [Attachments](#)

13. (*Second Reading*) AN ORDINANCE OF THE CITY OF KYLE, TEXAS AMENDING CHAPTER 26 OF THE CITY CODE PERTAINING TO PARKS AND RECREATION RELATED TO FEES AND DEPOSITS ESTABLISHED AND THE ROLE OF THE PARKS AND RECREATION COMMITTEE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Mayor Lucy Johnson and Bill Nuekam, Chairman of the Parks & Recreation Committee*

 [Attachments](#)

14. SCC Bunton Creek Subd. Replat of Lots 3, 4, 5, 8, 11 & 12, Block A (SFP-11-008)  
Owner: SCC Kyle Partners, Ltd.  
30.038 acres; 6 Commercial Lots  
Located at 5754 Kyle Parkway  
Agent: Robert J. Smith, P.E., Doucet & Associates, Inc.  
Staff Recommendation: Statutorily Disapprove to meet the 30 day statutory requirement  
~ *Sofia Nelson, Director of Planning*

 [Attachments](#)

15. Shadow Creek Phase 1 Section 5 Replat of Lot 1, Block A (SFP-11-005)  
18.429 acres; 6 Residential Lots, 2 Greenbelt Lots, and 1 Commercial Lot  
Located at the entrance into the Shadow Creek Subdivision off of Windy Hill Rd.  
Owner: Hays Shadow Creek Development, Inc.  
Agent: Stephen Delgado, P.E., Texas Engineering Solutions  
~ *Sofia Nelson, Director of Planning*

*Planning and Zoning Commission voted 6-0 to approve the plat conditional on the acceptance and payment of the roadway improvement fee.*

 [Attachments](#)

16. (*Second Reading*) AN ORDINANCE OF THE CITY OF KYLE, TEXAS AUTHORIZING AND DIRECTING THE INSTALLATION AND ERECTION OF SPEED CONTROL SIGNS FOR THE ZONING OF TRAFFIC AND RATE OF SPEED ON KOHLERS CROSSING IN THE CITY LIMITS OF KYLE; AFFIRMING THE DEFINITION OF SPEEDING AND FIXING A PENALTY THEREFOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF ~ *James Earp, Assistant City Manager*

 [Attachments](#)

17. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, ACCEPTING THE HILL REPLAT OF LOTS 1 & 2 WASTEWATER AND STREET IMPROVEMENTS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Steven*

 [Attachments](#)

**VI. Consider and Possible Action**

18. A RESOLUTION OF THE CITY OF KYLE, TEXAS, INDICATING SUPPORT OF THE KYLE CITY COUNCIL RESPONDING TO THE APPLICATION OF MONARCH UTILITIES I, LP A WHOLLY OWNED SUBSIDIARY OF SOUTHWEST WATER COMPANY, TO INCREASE WATER AND SEWER RATES AND TO CONSOLIDATE RATES OF SEVERAL DIFFERENT UTILITIES INTO ONE SET OF TARIFFS; PARTICIPATE IN A "COALITION OF CITIES"; AUTHORIZING THE HIRING OF COUNSEL AND EXPERTS THROUGH THE COALITION; REQUIRING THE REIMBURSEMENT OF COSTS; AUTHORIZING THE CITY'S INTERVENTION IN CONJUNCTION WITH THE COALITION OF CITIES AT THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND AT STATE OFFICE OF ADMINISTRATIVE HEARINGS WITH REGARD TO ANY APPLICATIONS FILED ON BEHALF OF MONARCH UTILITIES I, LP TO INCREASE RATES OR TO TRANSFER OR CANCEL CERTIFICATES OF CONVENIENCE AND NECESSITY; DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE ~ *Jerry Hendrix, Director of Community Development*

 [Attachments](#)

19. Authorize Award and Execution of a Professional Services agreement with the BANK OF NEW YORK MELLON TRUST COMPANY, Dallas, Texas, in an amount Not to Exceed \$7,500.00 to perform arbitrage rebate services for the City's Series 2002 and 2007 Bonds ~ *Perwez Moheet, CPA, Director of Finance*

 [Attachments](#)

20. (*Public Hearing and First Reading*) AN ORDINANCE AMENDING ORDINANCE NO. 311 (PLUM CREEK PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT ZONING ORDINANCE) OF THE CITY OF KYLE, TEXAS FOR THE PURPOSE OF AMENDING THE FOLLOWING SECTIONS: ARTICLE 1/SECTION 4-DEFINITIONS OF TERMS AND USES WITHIN THE PLUM CREEK PUD DISTRICT: TO AMEND THE DEFINITION OF CORNER LOT, ADD A DEFINITION FOR COURTYARD, AMEND THE DEFINITION FOR SETBACK LINE, AMEND THE DEFINITION OF YARD, FRONT, AMEND THE DEFINITION OF YARD, SIDE; ARTICLE 2-PLANNED UNIT DEVELOPMENT ZONING DISTRICT PART A/SECTION 4 (7)(D)- ADMINISTRATIVE SITE PLAN REVIEW PROCESS: AMENDED TO ALLOW ADMINISTRATIVE APPROVAL OF SITE PLANS FOR R-1 AND R-2 USES WITHIN THE MXD DISTRICTS; ARTICLE 2-PLANNED UNIT DEVELOPMENT ZONING DISTRICT PART A/SECTION 4 (7)(E)- MXD SITE PLAN REVIEW PROCESS: EXEMPTED R-1 AND R-2 USES FROM SUBMITTING A SITE PLAN TO THE PLANNING AND ZONING COMMISSION AND CITY COUNCIL ; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4: R-2 RESIDENTIAL PUD DISTRICT- ADDED COURTYARDS AS A PERMITTED USE TO THE R-2 DISTRICT; ARTICLE 2-PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4 (f) MINIMUM SETBACKS (i)FRONT YARD-AMENDED THE MINIMUM FRONT YARD SETBACK FROM 15 FEET TO 8 FEET; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4 (f) MINIMUM SETBACKS (iii) REAR YARD-AMENDED THE MINIMUM REAR YARD SETBACK FROM 10 FEET TO 5 FEET; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4(6): ADDED A SECTION ESTABLISHING SITE DEVELOPMENT REGULATIONS FOR COURTYARD RESIDENTIAL DEVELOPMENT; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 5- R-3 MULTI-FAMILY RESIDENTIAL PUD DISTRICT/ (B) PERMITTED USES-AMENDED TO ALLOW SINGLE FAMILY RESIDENTIAL USES AS DESCRIBED IN ARTICLE 2, PART C, SECTION 3 TO BE PERMITTED; AN ORDINANCE AMENDING ORDINANCE NO. 308/CHAPTER 41 SUBDIVISION EXHIBIT A/SCHEDULE A/TWO-WAY ALLEY [RESIDENTIAL/COMMERCIAL]: TO AMEND THE REQUIRED ROW WIDTH FROM 25



FEET TO 20 FEET; AUTHORIZING THE CITY SECRETARY TO AMEND THE ORDINANCE 311 AND 308 OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION DATE; PROVIDING FOR SEVERABILITY; AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

- *Public Hearing*
- *P&Z Recommendation to City Council*

 [Attachments](#)

21. A RESOLUTION OF THE CITY OF KYLE, TEXAS, GRANTING A UTILITY EASEMENT UNTO PEDERNALES ELECTRIC COOPERATIVE, INC. OF JOHNSON CITY, TEXAS AND CONVEYANCE OF CONDUIT TO PROVIDE ELECTRICAL SERVICES TO LAKE KYLE PARK AS FURTHER DESCRIBED IN ATTACHED EXHIBITS; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS ~ *Kerry Urbanowicz, Director of Parks and Recreation*

 [Attachments](#)

22. A RESOLUTION OF THE CITY OF KYLE, TEXAS, ACCEPTING A 0.0042 ACRE (181.06 S.F.) TRACT OF LAND DONATED BY LAWRENCE MARK SCHMELTEKOPF; AND PROVIDING FOR RELATED MATTERS ~ *Steven Widacki, P.E., City Engineer*

 [Attachments](#)

23. Authorize Award and Execution of a Professional Services Agreement with LNV, INC./STATESIDE R.O.W. SERVICES to perform the attendant services to acquire the easements needed for the “K-11-12-1” Kyle Southside Sewer and Related Projects, inclusive of the Blanco Basin and Elliott Branch Wastewater Interceptor Projects ~ *Steven Widacki, P.E., City Engineer*

 [Attachments](#)

## VII. Planning and Zoning

### *Variances*

24. Walmart landscape variance request. A variance to the location of the required trees within a parking lot.  
~ *Sofia Nelson, Director of Planning*

*Planning and Zoning Commission voted 4-2 to approve the landscape variance request.*

 [Attachments](#)

### *Conditional Use Permit/Conditional Use Overlay District*

25. Consider a request by SCC Kyle Partners, LTD. (Walmart) for a Conditional Use Permit to construct a 150,898 square foot building located within the Interstate Highway 35 Corridor District.  
17.87 acres; 150,898 square foot building  
Located at 5754 Kyle Parkway in the Village at Kyle Shopping Center  
Applicant: SCC Kyle Partners, LTD.  
Agent: Doucet and Associates, Inc.  
~ *Sofia Nelson, Director of Planning*

*Planning and Zoning Commission voted 4-2 to approved the Conditional Use Permit.*

- *Public Hearing*

 [Attachments](#)

## VIII. City Managers Report

26. Update on Various Capital Improvement Projects, Road Projects, Building Program, and/or General Operational Activities ~ *Lanny Lambert, City Manager*

- Discuss Workshop to Prepare 2012 Goals for City Council

 [Attachments](#)

## IX. Executive Session

27. Convene into Executive Session pursuant to Section 551.071, Tex. Gov't Code, and Section 1.05, Tex. Disciplinary Rules of Professional Conduct to Consult with Legal Counsel regarding the status of Meet and Confer negotiations with Kyle Police Association

 [Attachments](#)

28. Convene into Executive Session pursuant to Tex. Gov't. Code, § 551.074 to deliberate the evaluation, performance and employment of the City Manager

 [Attachments](#)

29. Reconvene into Open Session to take action as deemed appropriate in the City Council's discretion regarding the status of Meet and Confer negotiations with Kyle Police Association

 [Attachments](#)

30. Reconvene into Public Session and take action as appropriate regarding the evaluation, performance and employment of the City Manager.

 [Attachments](#)

## X. ADJOURN

*At any time during the Regular City Council Meeting, the City Council may adjourn into an Executive Session, as needed, on any item listed on the agenda for which state law authorizes Executive Session to be held*

\*Per Texas Attorney General Opinion No. JC-0169; Open Meeting & Agenda Requirements, Dated January 24, 2000: The permissible responses to a general member communication at the meeting are limited by 551.042, as follows: "SEC.551.042. Inquiry Made at Meeting. (a) If, at a meeting of a government body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by the subchapter, the notice provisions of this subchapter, do not apply to:(1) a statement of specific factual information given in response to the inquiry; or (2) a recitation of existing policy in response to the inquiry. (b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.



# CITY OF KYLE, TEXAS

City Council Special Meeting - December  
6, 2011

**Meeting Date:** 1/3/2012  
**Date time:** 7:00 PM

**Subject/Recommendation:** City Council Special Meeting - December 6, 2011 ~ *Amelia Sanchez, City Secretary*

**Other Information:** This item is for formal approval of the minutes from the December 6th Special Meeting of the City Council, a copy of which is included with the meeting packet.

**Budget Information:** N/A

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[City Council Special Meeting Minutes - December 6, 2011](#)

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Cover Memo

Item # 1

## REGULAR CITY COUNCIL MEETING

The City Council of the City of Kyle, Texas met in Regular Session on December 6, 2011 at 6:00 pm at Kyle City Hall, with the following persons present:

Mayor Lucy Johnson	Jim Havis
Mayor Pro Tem David Wilson	
Council Member Diane Hervol	
Council Member Jaime Sanchez	
Council Member Becky Selbera	
Council Member Russ Huebner	
Council Member Brad Pickett	
Lanny Lambert, City Manager	
Frank Garza, City Attorney	

## CALL MEETING TO ORDER

Mayor Johnson called the meeting to order at 6:04 pm.

## ROLL CALL

Mayor Johnson called for roll call. Present were Mayor Johnson, Council Members Sanchez, Huebner and Pickett.

Mayor Pro Tem Wilson arrived at 6:05 pm, Council Member Selbera arrived at 6:13 pm and Council Member Hervol arrived at 6:20 pm.

## CITIZEN COMMENT PERIOD WITH CITY COUNCIL

Mayor Johnson opened the citizens comment period at 6:05 pm and called for comments on items not on the agenda or posted for public hearing. Jim Havis, a resident of Amberwood asked the Council to consider holding a public hearing on the recent rate increase by Southwest Water Company. With no one else wishing to speak Mayor Johnson closed the public hearing at 6:06 pm.

## EXECUTIVE SESSION

THE CITY COUNCIL WILL CONVENE INTO CLOSED-DOOR EXECUTIVE SESSION TO DISCUSS MATTERS AUTHORIZED BY TEXAS GOVERNMENT CODE §551.072 (DELIBERATIONS ABOUT REAL PROPERTY) REGARDING RIGHT OF WAY ACQUISITION FOR FM 150

Mayor Johnson moves to Convene into Executive Session at 6:07 pm to discuss matters authorized by Texas Government Code §551.072 (Deliberations about Real Property) regarding Right of Way Acquisition for FM 150. Council Member Huebner seconds the motion. All votes aye. Motion carried.

## CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 2

Kyle City Hall

RECONVENE INTO OPEN SESSION TO TAKE ANY AND ALL ACTIONS AS DEEMED APPROPRIATE IN THE CITY COUNCIL'S DISCRETION REGARDING RIGHT OF WAY ACQUISITION FOR FM 150

Mayor Johnson moves to Reconvene into Open Session at 6:24 pm to take any and all actions as deemed appropriate in the City Council's discretion regarding Right of Way Acquisition for FM 150. Mayor Pro Tem Wilson seconds the motion. All votes aye. Motion carried.

Mayor Johnson states that no action was taken during Executive Session and no action will be taken now.

ADJOURN

With no further business to discuss Council Member Huebner moves to adjourn. Mayor Johnson seconds the motion. All votes aye. Motion carried.

The City Council meeting adjourned at 6:24 pm.

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Lucy Johnson, Mayor

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Amelia Sanchez, City Secretary



# CITY OF KYLE, TEXAS

City Council Regular Meeting - December  
6, 2011

Meeting Date: 1/3/2012  
Date time: 7:00 PM

**Subject/Recommendation:** City Council Regular Meeting - December 6, 2011 ~ *Amelia Sanchez, City Secretary*

**Other Information:** This item is for formal approval of the minutes from the December 6th Regular Meeting of the City Council, a copy of which is included with the meeting packet.

**Budget Information:** N/A

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[City Council Regular Meeting Minutes - December 6, 2011](#)

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Cover Memo

Item # 2



## REGULAR CITY COUNCIL MEETING

The City Council of the City of Kyle, Texas met in Regular Session on December 6, 2011 at 7:00 pm at Kyle City Hall, with the following persons present:

Mayor Lucy Johnson	Alan McPherson
Mayor Pro Tem David Wilson	Tony Spano
Council Member Diane Hervol	Marilyn Farrell
Council Member Jaime Sanchez	Lanny Lambert
Council Member Becky Selbera	
Council Member Russ Huebner	
Council Member Brad Pickett	
Lanny Lambert, City Manager	
James Earp, Asst. City Manager	
Jerry Hendrix, Director of Communications	
Perwez Moheet, Director of Finance	
Diana Blank, Director of Economic Development	
Connie Brooks, Library Director	
Sofia Nelson, Director of Planning	
Steven Widacki, City Engineer	
Frank Garza, City Attorney	
Chief Barnett, Police Chief	

## CALL MEETING TO ORDER

Mayor Johnson called the meeting to order at 7:01 pm.

## ROLL CALL

Mayor Johnson called for roll call. Present were Mayor Johnson, Mayor Pro Tem Wilson, Council Members Hervol, Sanchez, Selbera, Huebner and Pickett.

## APPROVAL OF MINUTES

CITY COUNCIL WORKSHOP MEETING - November 8, 2011 ~ *AMELIA SANCHEZ, CITY SECRETARY*

CITY COUNCIL REGULAR MEETING - November 15, 2011 ~ *AMELIA SANCHEZ, CITY SECRETARY*

Council Member Huebner moves to approve the minutes of the November 8, 2011 City Council Workshop Meeting and the November 15, 2011 City Council Regular Meeting. Council Member Hervol seconds the motion. All votes aye. Motion carried.

## CITIZEN COMMENT PERIOD WITH CITY COUNCIL

## CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 2

Kyle City Hall

Mayor Johnson opened the citizens comment period at 7:03 pm and called for comments on items not on the agenda or posted for public hearing. Alan McPherson, the new Director of Economic Development and Tourism Committee spoke about the time it takes to go through the process of a new business regarding locations, time and money and asks that Council continue to support Economic Development. Tony Spano with Plum Creek Development presented Council with a book of near future Plum Creek developments to look over before this item is brought to Council. Marilyn Farrell a resident of Amberwood spoke about concerns with the recent increase on the sewer rates and was directed by the Mayor to provide staff with her information and staff would contact her. Lanny Lambert introduced the employee of the month of November Jennifer Vetrano from the Parks and Recreation Department. With no one else wishing to speak Mayor Johnson closes citizen's comments at 7:13 pm.

PEDERNALES ELECTRIC COOPERATIVE'S UPDATE ON CURRENT PEC HAPPENINGS ~ *TRISTA FUGATE, COMMUNITY DEVELOPMENT SUPERVISOR, PEDERNALES ELECTRIC COOPERATIVE*

Trista Fugate, Community Development Supervisor for Pedernales Electric Cooperative provided a short report on PEC's community programs, and that a Franchise fee check was deposited into the City's bank account on August 15<sup>th</sup> in the amount of \$396,914.10.

## PRESENTATION

PRESENTATION OF THE PARKS AND RECREATION DEPARTMENT 2011 ANNUAL REPORT TO INCLUDE NUMBER OF ATTENDEES AT RECREATIONAL PROGRAMS AND SPECIAL EVENTS, FACILITY USES, ECONOMIC IMPACT, AND OTHER RELATED MATTERS ~ *KERRY URBANOWICZ, DIRECTOR OF PARKS AND RECREATION*

Council Member Huebner moves to table this item until the first meeting in January.

Council Member Sanchez seconds the motion. All votes aye. Motion carried.

## CONSENT AGENDA

*(Second Reading)* AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING ORDINANCE NO. 673 ADOPTED ON SEPTEMBER 13, 2011 TO INCREASE TOTAL APPROPRIATIONS BY \$10,265.00 FOR THE CITY'S GENERAL FUND FOR THE PURCHASE OF ELECTION EQUIPMENT FOR THE CITY OF KYLE ~ *Lanny Lambert, City Manager*

APPROVAL OF SUPPLEMENTAL LEASE AGREEMENT WITH UNION PACIFIC RAILROAD TO EXPAND THE LEASED AREA IN ORDER TO ACCOMMODATE

IMPROVEMENTS TO KYLE'S HISTORIC TRAIN DEPOT AS PART OF THE RESTORATION PROJECT ~ *JERRY HENDRIX, DIRECTOR OF COMMUNITY DEVELOPMENT/COMMUNICATIONS*

CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 3

Kyle City Hall

AUTHORIZE EXTENSION TO LICENSE AGENT AGREEMENT WITH TEXAS PARKS AND WILDLIFE DEPARTMENT ~ *KERRY URBANOWICZ, DIRECTOR OF PARKS AND RECREATION*

PLUM CREEK PHASE 1 SECTION 11A - LOT 3A (FP-11-007) 5.144 ACRES; 1 LOT LOCATION: LOTS 3 & 4 OF PLUM CREEK PHASE 1 SECTION 11. APPLICANT: MOUNTAIN PLUM, LTD. AGENT: LAWRENCE HANRAHAN, P.E. ~ *SOFIA NELSON, DIRECTOR OF PLANNING*

*Planning and Zoning Commission voted 6-0 to Statutorily Disapprove the final plat to meet the 30 day statutory requirement*

PLUM CREEK PHASE 1 SECTION 11-C (FP-11-006) 16.304 ACRES; 2 LOTS AND RIGHT-OF-WAY EXTENSION OF CROMWELL. LOCATION: VANTAGE AT PLUM CREEK APARTMENTS TO THE NORTHEAST; FUTURE UNPLATTED TO THE NORTH; PLUM CREEK GOLF COURSE TO THE WEST; AND UNION PACIFIC RIGHT-OF-WAY TO THE SOUTH. APPLICANT: MOUNTAIN PLUM, LTD. AGENT: LAWRENCE M. HANRAHAN, P.E.

*~Sofia Nelson, Director of Planning*

*Planning and Zoning Commission voted 6-0 to Statutorily Disapprove the final plat to meet the 30 day statutory requirement.*

PLUM CREEK PHASE 1 SECTION 1-H - FINAL PLAT (FP-11-005) 4.616 ACRES; 4 COMMERCIAL LOTS LOCATED AT THE NORTHEAST CORNER OF FM 150 AND FM 2770; APPLICANT: NOMOLAND COMPANY, LP AGENT: JOHN PATTON, AUSTIN SONICS, LTD.

*~Sofia Nelson, Director of Planning*

*Planning and Zoning Commission voted 6-0 to approve the final plat*

PLUM CREEK PHASE 1 SECTION 1-H - PRELIMINARY PLAN (PP-11-001) 4.616 ACRES; 4 COMMERCIAL LOTS LOCATED AT THE NORTHEAST CORNER OF FM 150 AND FM 2770 APPLICANT: NOMOLAND COMPANY, LP AGENT: JOHN PATTON, AUSTIN SONICS, LTD.

*~Sofia Nelson, Director of Planning*

## CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 4

Kyle City Hall

*Planning and Zoning Commission voted 6-0 to approve the preliminary plan*

SUNRISE ACRES REPLAT OF LOTS 20 AND 21 (SFP-10-006) 18.823 ACRES; 3 LOTS, LOCATED OFF OF BEBEE ROAD JUST EAST OF DACY LANE. APPLICANT: ELGIN GROCERY INC.

AGENT: MICHAEL SAMFORD, R.P.L.S., SAMFORD AND ASSOCIATES

~ Sofia Nelson, Director of Plannin

*Planning and Zoning Commission voted 6-0 to approve the replat*

WATERLEAF SUBDIVISION PHASE A SECTION 4 - FINAL PLAT (FP-10-002) 14.706 ACRES; 65 SINGLE FAMILY LOTS LOCATED OFF OF FM 150 EAST AND WATERLEAF BLVD. APPLICANT: KB HOME LONE STAR, LP

AGENT: STEVEN P. CATES, P.E., CARLSON, BRIGANCE & DOERING, INC.

~Sofia Nelson, Director of Planning

*Planning and Zoning Commission voted 6-0 to approve the final plat*

Council Member Pickett asks to remove Item #5 from Consent Agenda.

Council Member Huebner moves to approve Consent Agenda **Items #6** ~ A Supplemental Lease Agreement with Union Pacific Railroad to Expand the leased area in order to accommodate improvements to Kyle's Historic Train Depot as part of the Restoration Project; **Item # 7** ~ Authorize Extension to License Agent Agreement with Texas Parks and Wildlife Department; **Item # 8** ~ Plum Creek Phase 1 Section 11A - Lot 3A (FP-11-007) 5.144 acres; 1 Lot Location: Lots 3 & 4 of Plum Creek Phase 1 Section 11A; **Item #9** ~ Plum Creek Phase 1 Section 11-C (FP-11-006) 16.304 acres; 2 Lots and Right-of-way extension of Cromwell. Location: Vantage at Plum Creek Apartments to the Northeast; future unplatted to the north; Plum Creek Golf Course to the west; and Union Pacific right-of-way to the south; **Item # 10** ~ Plum Creek Phase 1 Section 1-H - Final Plat (FP-11-005) 4.616 acres; 4 Commercial Lots Located at the northeast corner of FM 150 and FM 2770; **Item # 11** ~ Plum Creek Phase 1 Section 1-H - Preliminary Plan (PP-11-001) 4.616 acres; 4 Commercial Lots Located at the northeast corner of FM 150 and FM 2770; **Item # 12** ~ Sunrise Acres Replat of Lots 20 and 21 (SFP-10-006) 18.823 acres; 3 Lots Located off of Bebee Road just east of Dacy Lane; and **Item #13** ~ Waterleaf Subdivision Phase A Section 4 - Final Plat (FP-10-002) 14.706 acres; 65 Single Family Lots Located off of FM 150 East and Waterleaf Blvd. Mayor Pro Tem Wilson seconds the motion. All votes aye. Motion carried.

*(Second Reading)* AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING ORDINANCE NO. 673 ADOPTED ON SEPTEMBER 13, 2011 TO INCREASE TOTAL APPROPRIATIONS BY \$10,265.00 FOR THE CITY'S GENERAL FUND

FOR THE PURCHASE OF ELECTION EQUIPMENT FOR THE CITY OF KYLE ~  
*Lanny Lambert, City Manager*

CITY COUNCIL REGULAR MEETING  
 December 6, 2011 – Page 5  
 Kyle City Hall

Council Member Selbera moved to approve An Ordinance of the City of Kyle, Texas, Amending Ordinance # 673 Adopted on September 13, 2011 to increase total appropriations by \$10,265.00 for the City's General Fund for the purpose of Election Equipment for the City of Kyle. Mayor Pro Tem Wilson seconds the motion. Mayor Johnson calls for a roll call vote. Council Members Hervol and Selbera, Mayor Johnson, Council Member Huebner, and Mayor Pro Tem Wilson vote aye. Council Members Pickett and Sanchez vote nay. Motion carried 5-2.

CONSIDER AND POSSIBLE ACTION

CONSIDERATION AND POSSIBLE ACTION TO CANCEL THE DECEMBER 20, 2011 CITY COUNCIL MEETING DUE TO THE CHRISTMAS HOLIDAYS ~ *MAYOR LUCY JOHNSON*

Council Member Huebner moves to approve the cancellation of the December 20, 2011 City Council Meeting due to the Christmas Holidays. Mayor Pro Tem Wilson seconds the motion. All votes aye. Motion carried.

*(Public Hearing and First Reading)* AN ORDINANCE OF THE CITY OF KYLE, TEXAS AMENDING CHAPTER 26 OF THE CITY CODE PERTAINING TO PARKS AND RECREATION RELATED TO FEES AND DEPOSITS ESTABLISHED AND THE ROLE OF THE PARKS AND RECREATION COMMITTEE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Mayor Lucy Johnson and Bill Nuekam, Chairman of the Parks & Recreation Committee*

*Public Hearing*

Mayor Johnson opens the Public Hearing at 7:33 pm on An Ordinance of the City of Kyle, Texas, Amending Chapter 26 of the City Code pertaining to Parks and Recreation Related to Fees and Deposits established and the Role of the Parks and Recreation Committee. Patrick Corona Vice Chair of the Kyle Parks Committee asks Council to support the changes in item # 15. and that the Parks and Recreation Committee reserve the right to lower or waive any and all fees, deposits, and charges listed in this article, and that the Director at his discretion may reduce or waive fees upon demonstration that the entity making payment is a non profit organization or youth function. With no one else wishing to speak Mayor Johnson closes the Public Hearing at 7:35 pm.

## CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 6

Kyle City Hall

Mayor Johnson moves to approve An Ordinance of the City of Kyle, Texas, Amending Chapter 26 of the City Code pertaining to Parks and Recreation Related to Fees and Deposits established and the Role of the Parks and Recreation Committee and to eliminate the 1<sup>st</sup> sentence of Section 2 Subsection B and setting a cap on any passes or fee waivers of \$1000.00 per annual fiscal budget. Council Member Selbera seconds the motion. Mayor Johnson amends the motion to clarify that any such fee waivers or other pool pass donations only be given to non profit organizations and youth oriented functions. Council Member Selbera seconds the amendment. All votes aye. Motion carried.

*(First Reading)* AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ESTABLISHING A REQUIREMENT THAT A FISCAL NOTE BE PROVIDED FOR ALL CITY ORDINANCES AND RESOLUTIONS CONSIDERED BY THE CITY COUNCIL REQUIRING EXPENDITURE OR OBLIGATION OF CITY FUNDS AND OR AN INCREASE OR DECREASE IN RATES, FEES AND OTHER CHARGES FOR CITY SERVICES ~ *Council Member Jaime Sanchez*

Council Member Selbera moves to table First Reading of An Ordinance of the City of Kyle, Texas, Establishing a Requirement that a Fiscal Note be Provided for all City Ordinances and Resolutions considered by the City Council Requiring Expenditure of Obligation of City Funds and or an Increase or Decrease in Rates, Fees and other charges for City Services until it goes to the Strategic and Finance Committee. No one seconds the motion and motion fails.

Council Member Pickett moves to approve An Ordinance of the City of Kyle, Texas, Establishing a Requirement that a Fiscal Note be Provided for all City Ordinances and Resolutions considered by the City Council Requiring Expenditure of Obligation of City Funds and or an Increase or Decrease in Rates, Fees and other charges for City Services. Council Member Sanchez seconds the motions. All votes aye. Motion carried.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, AUTHORIZING THE CITY MANAGER OR THEIR DESIGNEE TO JOIN U.S. COMMUNITIES GOVERNMENT PURCHASING ALLIANCE, A COOPERATIVE PURCHASING PROGRAM FOR GOODS AND SERVICES BY REGISTERING AND ACCEPTING THE TERMS AND CONDITIONS OF THE PROGRAM ~ *Perwez Moheet, CPA, Director of Finance*

Council Member Huebner moves to approve A Resolution of the City Council of the City of Kyle, Texas, Authorizing the City Manager or their Designee to join U.S. Communities Government Purchasing Alliance, a Cooperative Purchasing Program for Goods and Services by Registering and Accepting the Terms and Conditions of the



Program. Council Member Pickett seconds the motion. All votes aye, with Council Member Sanchez off the dais and not voting. Motion carried.

#### CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 7

Kyle City Hall

A RESOLUTION OF THE CITY OF KYLE, TEXAS, ACCEPTING A 0.2929 ACRE OF LAND DONATED BY LAWRENCE MARK SCHMELTEKOPF; AND PROVIDING FOR RELATED MATTERS ~ *Kerry Urbanowicz, Director of Parks and Recreation*

Mayor Johnson moves to approve A Resolution of the City of Kyle, Texas, Accepting a 0.2929 Acre of Land donated by Lawrence Mark Schmeltekopf pending purchase of a title search by Mr. Schmeltekopf. Council Member Selbera seconds the motion. Mayor Johnson amends the motion to table this item pending a title search by Mr. Schmeltekopf. Council Member Selbera seconds the motion. Council Members Hervol, Sanchez, Selbera, Mayor Johnson, Council Member Pickett, and Mayor Pro Tem Wilson vote aye. Council Member Huebner votes nay. Motion carried 6-1.

AUTHORIZE AWARD AND EXECUTION OF A PURCHASE ORDER TO AAA FENCE COMPANY, AUSTIN, TEXAS, IN AN AMOUNT NOT TO EXCEED \$1,250.00 TO PURCHASE FENCING MATERIALS AND INSTALLATION OF SAID FENCING AROUND THE AIR CONDITIONER UNITS IN CITY SQUARE PARKS THAT SERVICE THE HISTORIC KYLE CITY HALL ~ *KERRY URBANOWICZ, DIRECTOR OF PARKS AND RECREATION*

Council Member Huebner moves to Authorize Award and Execution of a Purchase Order to AAA Fence Company, Austin, Texas, in an amount not to exceed \$1,250.00 to purchase fencing materials and installation of said fencing around the air conditioner units in City Square Parks that service the Historic Kyle City Hall. Council Member Hervol seconds the motion. All votes aye. Motion carried.

AUTHORIZE THE CITY MANAGER TO APPLY TO THE TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT HAZARD MITIGATION GRANT PROGRAM IN ORDER TO PURCHASE CITIZEN OBSERVER CRIME AND EMERGENCY NOTIFICATION WEB-BASED SYSTEM IN THE AMOUNT OF \$4800, AND TO CERTIFY A \$1200, OR 25% CASH MATCH BY THE CITY OF KYLE AS REQUIRED BY THE TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT ~ *JEFF BARNETT, CHIEF OF POLICE*

Mayor Johnson moves to Authorize the City Manager to apply to the Texas Department of Emergency Management Hazard Mitigation Grant Program to purchase Citizen Observer crime and emergency notification web-based system in the amount of \$4800, and to certify a \$1200, or 25% cash match by the City of Kyle from the asset seizure and

forfeiture account. Council Member Selbera seconds the motion. All votes aye. Motion carried.

CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 8

Kyle City Hall

AUTHORIZE AWARD AND EXECUTION OF A PURCHASE ORDER TO AGATI, INC., OF CHICAGO, ILLINOIS, IN AN AMOUNT NOT TO EXCEED \$114,346.00 TO PURCHASE VARIOUS DISPLAY UNITS AND FURNITURE ITEMS FOR THE KYLE PUBLIC LIBRARY ~ *CONNIE BROOKS, DIRECTOR OF PUBLIC LIBRARY*

AUTHORIZE AWARD AND EXECUTION OF A PURCHASE ORDER TO BERCO, INC., OF ST. LOUIS, MISSOURI, IN AN AMOUNT NOT TO EXCEED \$5,585.12 TO PURCHASE VARIOUS FURNITURE ITEMS FOR THE KYLE PUBLIC LIBRARY ~ *CONNIE BROOKS, DIRECTOR OF PUBLIC LIBRARY*

AUTHORIZE AWARD AND EXECUTION OF A PURCHASE ORDER TO DAVIS FURNITURE INDUSTRIES, INC., OF HIGH POINT, NORTH CAROLINA, IN AN AMOUNT NOT TO EXCEED \$23,601.10 TO PURCHASE VARIOUS FURNITURE ITEMS FOR THE KYLE PUBLIC LIBRARY ~ *CONNIE BROOKS, DIRECTOR OF PUBLIC LIBRARY*

AUTHORIZE AWARD AND EXECUTION OF A PURCHASE ORDER TO PETER PEPPER PRODUCTS, INC. OF COMPTON, CALIFORNIA, IN AN AMOUNT NOT TO EXCEED \$2,019.99 TO PURCHASE WALL CLOCKS AND TRASH RECEPTACLES FOR THE KYLE PUBLIC LIBRARY ~ *CONNIE BROOKS, DIRECTOR OF PUBLIC LIBRARY*

AUTHORIZE AWARD AND EXECUTION OF A PURCHASE ORDER TO WATSON, OF POULSBO, WASHINGTON, IN AN AMOUNT NOT TO EXCEED \$9,921.64 TO PURCHASE VARIOUS FURNITURE ITEMS FOR THE KYLE PUBLIC LIBRARY ~ *CONNIE BROOKS, DIRECTOR OF PUBLIC LIBRARY*

AUTHORIZE AWARD AND EXECUTION OF A PURCHASE ORDER TO WORKPLACE RESOURCE, LLC, OF AUSTIN, TEXAS, IN AN AMOUNT NOT TO EXCEED \$162,919.67 TO PURCHASE VARIOUS FURNITURE ITEMS INCLUDING DESIGN SERVICES FOR THE KYLE PUBLIC LIBRARY ~ *CONNIE BROOKS, DIRECTOR OF PUBLIC LIBRARY*

Council Member Huebner moves to approve **Items #21** ~ Authorize Award and Execution of a Purchase Order to AGATI, INC., of Chicago, Illinois, in an amount Not to Exceed \$114,346.00 to Purchase various display units and furniture items for the Kyle Public Library **#22** ~ Authorize Award and Execution of a Purchase Order to BERCO, INC., of St. Louis, Missouri, in an amount Not to Exceed \$5,585.12 to Purchase various furniture items for the Kyle Public Library Purchase Order to DAVIS FURNITURE;

## CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 9

Kyle City Hall

**#23** ~ Authorize Award and Execution of a INDUSTRIES, INC., of High Point, North Carolina, in an amount Not to Exceed \$23,601.10 to Purchase various furniture items for the Kyle Public Library **#24** ~ Authorize award and execution of a Purchase Order to PETER PEPPER PRODUCTS, INC. of Compton, California, in an amount Not to Exceed \$2,019.99 to purchase wall clocks and trash receptacles for the Kyle Public Library **#25**~ Authorize Award and Execution of a Purchase Order to WATSON, of Poulsbo, Washington, in an amount Not to Exceed \$9,921.64 to purchase various furniture items for the Kyle Public Library **#26** ~ Authorize Award and Execution of a Purchase Order to WORKPLACE RESOURCE, LLC, of Austin, Texas, in an amount Not to Exceed \$162,919.67 to Purchase various furniture items including design services for the Kyle Public Library. Council Member Selbera seconds the motion. All votes aye. Motion carried.

CONSIDER AND POSSIBLE ACTION FOR APPROVAL OF A FRANCHISE AGREEMENT BETWEEN SOUTHERN CROSS AMBULANCE SERVICE AND THE CITY OF KYLE FOR PROVIDING NON-EMERGENCY AMBULANCE SERVICES WITHIN THE KYLE CITY LIMITS ~ *JERRY HENDRIX, DIRECTOR OF COMMUNITY DEVELOPMENT/COMMUNICATIONS*

Mayor Johnson moves to approve a franchise agreement between Southern Cross Ambulance Service and the City of Kyle for providing non-emergency ambulance services within the Kyle City Limits. Council Member Pickett seconds the motion. Mayor Johnson calls for a roll call vote. Mayor Pro Tem Wilson, Council Members Pickett, Hervol, Sanchez, and Mayor Johnson, vote aye. Council Members Selbera and Huebner vote nay. Motion carried 5-2.

*(First Reading)* AN ORDINANCE OF THE CITY OF KYLE, TEXAS AUTHORIZING AND DIRECTING THE INSTALLATION AND ERECTION OF SPEED CONTROL SIGNS FOR THE ZONING OF TRAFFIC AND RATE OF SPEED ON KOHLERS CROSSING IN THE CITY LIMITS OF KYLE; AFFIRMING THE DEFINITION OF SPEEDING AND FIXING A PENALTY THEREFORE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF ~ *James Earp, Assistant City Manager*

Mayor Pro Tem Wilson moves to Approve *(First Reading)* An Ordinance of the City of Kyle, Texas, Authorizing and Directing the Installation and Erection of Speed Control Signs for the Zoning of Traffic and Rate of Speed on Kohlers Crossing in the City Limits of Kyle; Affirming the Definition of Speeding and Fixing a Penalty therefore; Providing for Severability; Providing for Repeal of Conflicting Ordinances; and Ordaining other Provisions Related to the Subject Matter thereof. Council Member Pickett seconds the motion. All votes aye. Motion carried.

## CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 10

Kyle City Hall

CONSIDERATION AND POSSIBLE ACTION ON THE TIME WARNER CABLE  
FRANCHISE RENEWAL REQUEST~ *FRANK GARZA, CITY ATTORNEY*

City Attorney Frank Garza provided information on the Time Warner Franchise fees and stated that no action was required at this time.

## PLANNING AND ZONING

## ZONING

*(First Reading)* AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF ‘CM’ CONSTRUCTION MANUFACTURING DISTRICT TO APPROXIMATELY 10 ACRES, ON PROPERTY LOCATED AT 3700 KYLE CROSSING IN HAYS COUNTY, TEXAS. (3700 KYLE CROSSING, LLC Z-11-013); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

*Planning and Zoning Commission voted 6-0 to recommend approval of the zoning request*

## PUBLIC HEARING

Mayor Johnson opens the Public Hearing at 9:28 pm. With no one wishing to speak Mayor Johnson closes the Public Hearing at 9:28 pm.

Council Member Huebner moves to approve *(First Reading)* An Ordinance Amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the Purpose of Assigning Original Zoning of ‘CM’ Construction Manufacturing District to approximately 10 acres, on property located at 3700 Kyle Crossing in Hays County, Texas. (3700 Kyle Crossing, LLC Z-11-013); Authorizing the City Secretary to Amend the Zoning Map of the City of Kyle so as to reflect this change; Providing for Publication and Effective Date; Providing for Severability; and Ordaining other Provisions Related to the Subject Matter hereof; Finding and Determining that the Meeting at which this Ordinance was Passed was Open to the Public as Required by Law. Council Member Sanchez seconds the motion. All votes aye. Motion carried.

CITY COUNCIL REGULAR MEETING  
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Kyle City Hall

*(First Reading)* AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 8.42 ACRES; 'R-3-3' APARTMENT RESIDENTIAL 3 TO APPROXIMATELY 9.90 ACRES; AND 'R-1-T' RESIDENTIAL TOWNHOME TO APPROXIMATELY 5.45 ACRES ON PROPERTY LOCATED ON THE SOUTHSIDE OF BEBEE ROAD, JUST WEST OF DACY LANE IN HAYS COUNTY, TEXAS. (DACY LANE, LLC. Z-11-012); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

*The Planning and Zoning Commission voted 6-0 to recommend approve of the applicant's request to assign original zoning of "RS" Retail Service District to approximately 8.42, and voted 6 - 0 to recommend denial of R-3-3 Apartment Residential 3 to approximately 9.90 acres and R-1-T Residential Townhome to approximately 5.45 acres*

PUBLIC HEARING

Mayor Johnson opens the Public Hearing at 9:30 pm. With no one wishing to speak Mayor Johnson closes the Public Hearing at 9:30 pm.

Council Member Sanchez moves to approve Staff's recommendation. Mayor Johnson reiterates that it is approval of the retail services designation and pausing on the R-3-3 and the R-T-T. Sophia Nelson, Planning Director states it is postponing of the R-3-3 and R-T-T until the update to the Transportation Master Plan is made. Mayor Pro Tem Wilson seconds the motion. All votes aye. Motion carried.

*(First Reading)* AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 2.627 ACRES, ON PROPERTY LOCATED AT 1251 GOFORTH ROAD IN HAYS COUNTY, TEXAS. (LAS DELICIAS INVESTMENTS Z-11-010); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILTIY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS

PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

CITY COUNCIL REGULAR MEETING  
December 6, 2011 – Page 12  
Kyle City Hall

*Planning and Zoning Commission voted 6-0 to recommend approval of the zoning request*

#### PUBLIC HEARING

Mayor Johnson opens the Public Hearing at 9:44 pm. With no one wishing to speak Mayor Johnson closes the Public Hearing at 9:44 pm.

Council Member Huebner moves to Approve (*First Reading*) An Ordinance Amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the Purpose of Assigning Original Zoning of 'RS' Retail Services District to Approximately 2.627 acres, on Property located at 1251 Goforth Road in Hays County, Texas. (Las Delicias Investments Z-11-010); Authorizing the City Secretary to Amend the Zoning Map of the City of Kyle so as to Reflect this Change; Providing for Publication and Effective Date; Providing for Severability; and Ordaining other Provisions Related to the Subject Matter hereof; Finding and Determining that the Meeting at which this Ordinance was passed was Open to the Public as Required by Law. Mayor Pro Tem Wilson seconds the motion. All votes aye. Motion carried.

(*First Reading*) AN ORDINANCE AMENDING ORDINANCE NO. 311 (PLUM CREEK PLANNED UNIT DEVELOPMENT ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 11.1 ACRES FROM 'MXD' MIXED USE DEVELOPMENT DISTRICT TO 'OS' OPEN SPACE, AND REZONE APPROXIMATELY 4.3 ACRES FROM 'MXD' MIXED USE DEVELOPMENT DISTRICT TO 'LI' LIGHT INDUSTRIAL ON PROPERTY LOCATED WITHIN THE 4900 BLOCK OF SOUTH FM 1626 BETWEEN VANTAGE APARTMENTS AND RAIL ROAD TRACKS, IN HAYS COUNTY, TEXAS. (MOUNTAIN PLUM, LTD. Z-11-011); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

*Planning and Zoning Commission voted 6-0 to recommend approval of the zoning request*



## CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 13

Kyle City Hall

## PUBLIC HEARING

Mayor Johnson opens the Public Hearing at 9:47 pm. With no one wishing to speak  
Mayor Johnson closes the Public Hearing at 9:47 pm.

Mayor Pro Tem Wilson moves to Approve (*First Reading*) An Ordinance Amending Ordinance No. 311 (Plum Creek planned Unit Development Zoning) of the City of Kyle, Texas, for the Purpose of Rezoning Approximately 11.1 Acres from ‘MXD’ Mixed Use Development District to ‘OS’ Open Space, and Rezone Approximately 4.3 Acres from ‘MXD’ Mixed Use Development District to ‘LI’ Light Industrial on Property located within the 4900 block of South FM 1626 between Vantage Apartments and Rail Road Tracks, in Hays County, Texas. (Mountain Plum, LTD. Z-11-011); Authorizing the City Secretary to Amend the Zoning Map of the City of Kyle so as to reflect this change; Providing for Publication and Effective Date; Providing for Severability; and Ordaining other Provisions related to the subject matter hereof; Finding and Determining that the Meeting at which this Ordinance was Passed was Open to the Public as Required by Law. Council Member Selbera seconds the motion. Council Members Hervol, Sanchez, Selbera, Mayor Johnson, Council Member Huebner and Mayor Pro Tem vote aye. Council Member Pickett votes nay. Motion carried 6-1.

## CONDITIONAL USE PERMIT/CONDITIONAL USE OVERLAY DISTRICT

Consider a request by Kanton Labaj for a Conditional Use Permit for an existing 2,027 square foot building (Third Coast Auto) located within the IH-35 Zoning Overlay District. Located at 1930 Kyle Crossing. Owner: Kanton Labaj  
Agent: Kurt Prossner, P.E., Prossner & Associates, Inc.  
~ *Sofia Nelson, Director of Planning*

*Planning and Zoning Commission voted 6-0 to approve the conditional use permit*

## Public Hearing

Mayor Johnson opens the Public Hearing at 9:59 pm. With no one wishing to speak  
Mayor Johnson closes the Public Hearing at 9:59 pm.

Council Member Huebner moves to Approve a Conditional Use Permit for an existing 2,027 square foot building (Third Coast Auto) located within the IH-35 Zoning Overlay District. Located at 1930 Kyle Crossing. Mayor Pro Tem Wilson seconds the motion. All votes aye. Motion carried.

## CITY MANAGERS REPORT

CITY COUNCIL REGULAR MEETING  
 December 6, 2011 – Page 14  
 Kyle City Hall

UPDATE ON VARIOUS CAPITAL IMPROVEMENT PROJECTS, ROAD PROJECTS, BUILDING PROGRAM, AND/OR GENERAL OPERATIONAL ACTIVITIES ~ *LANNY LAMBERT, CITY MANAGER*

- Status Report on First Amended and Restated Interlocal Agreement between Hays County and the City of Kyle regarding FM 150
- Status Report and Discussion to Extend the Interlocal Agreement for Commercial Office Lease of 111 N. Front Street, formerly known as the Wells Fargo Building, to Hays County for One Year

City Manager Lanny Lambert states that next weeks Special Meeting to discuss the Plum Creek Effluent Agreement can be held at the new library if they would like. All agree to hold the meeting there. Other items to discuss at the meeting will be the FM Interlocal Agreement with Hays County on the extended lease agreement with the County for the Wells Fargo building.

EXECUTIVE SESSION

CONVENE INTO EXECUTIVE SESSION PURSUANT TO SECTION 551.087, TEX. GOV'T CODE, TO DELIBERATE OFFERS OF FINANCIAL OR OTHER INCENTIVES TO AND ECONOMIC DEVELOPMENT NEGOTIATIONS WITH BUSINESS PROSPECTS THAT THE CITY SEEKS TO HAVE LOCATE, STAY, OR EXPAND IN OR NEAR THE CITY

Mayor Johnson moves to Convene into Executive Session pursuant to Section 551.087, Tex. Gov't Code at 10:05 pm to deliberate offers of financial or other incentives to and economic development negotiations with business prospects that the City seeks to have locate, stay, or expand in or near the City Council Member Huebner seconds the motion. All votes aye. Motion carried.

RECONVENE INTO OPEN SESSION TO TAKE ACTION AS DEEMED APPROPRIATE IN THE CITY COUNCIL'S DISCRETION REGARDING OFFERS OF FINANCIAL OR OTHER INCENTIVES TO AND ECONOMIC DEVELOPMENT NEGOTIATIONS WITH BUSINESS PROSPECTS THAT THE CITY SEEKS TO HAVE LOCATE, STAY, OR EXPAND IN OR NEAR THE CITY

Mayor Johnson moves to Reconvene into Open Session at 10:31 pm to take any and all actions as deemed appropriate in the City Council's discretion regarding offers of financial or other incentives to and economic development negotiations with business prospects that the City seeks to have locate, stay, or expand in or near the City. Council Member Huebner seconds the motion. All votes aye. Motion carried.

## CITY COUNCIL REGULAR MEETING

December 6, 2011 – Page 15

Kyle City Hall

Mayor Johnson states that no action was taken during Executive Session but action will be taken now.

Mayor Johnson moves to authorize staff to continue negotiations with the business prospects seeking to expand within the City of Kyle. Council Member Huebner seconds the motion. Council Member Pickett was off the dais. All votes aye. Motion carried.

## ADJOURN

With no further business to discuss Council Member Huebner moves to adjourn. Mayor Johnson seconds the motion. All votes aye. Motion carried.

The City Council meeting adjourned at 10:32 pm.

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Lucy Johnson, Mayor

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Amelia Sanchez, City Secretary



# CITY OF KYLE, TEXAS

City Council Special Meeting - December  
13, 2011

**Meeting Date: 1/3/2012**  
**Date time: 7:00 PM**

**Subject/Recommendation:** City Council Special Meeting - December 13, 2011 ~ *Amelia Sanchez, City Secretary*

**Other Information:** This item is for formal approval of the minutes from the December 13th Special Meeting of the City Council, a copy of which is included with the meeting packet.

**Budget Information:** N/A

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

[City Council Special Meeting Minutes - December 13, 2011](#)

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## SPECIAL CITY COUNCIL MEETING

The City Council of the City of Kyle, Texas met in Special Session on December 13, 2011 at 7:00 pm at the Kyle Public Library, 550 Scott St, Kyle, TX, with the following persons present:

Mayor Lucy Johnson	Jerry Kolacny
Mayor Pro Tem David Wilson	Alan McPherson
Council Member Diane Hervol	Leo Hernandez
Council Member Jaime Sanchez	
Council Member Becky Selbera	
Council Member Russ Huebner	
Lanny Lambert, City Manager	
Perwez Moheet, Director of Finance	
Diana Blank, Director of Economic Development	
Connie Brooks, Library Director	
Steve Pena, City Attorney	
Harper Wilder, Director of Public Works	

### CALL MEETING TO ORDER

Mayor Johnson called the meeting to order at 7:05 pm.

### ROLL CALL

Mayor Johnson called for roll call. Present were Mayor Johnson, Mayor Pro Tem Wilson, Council Members Hervol, Sanchez and Pickett. Mayor Johnson stated she heard from Council Member Huebner and he would be a little late.

### CITIZEN COMMENT PERIOD WITH CITY COUNCIL

Mayor Johnson opened the citizens comment period at 7:06 pm and called for comments on items not on the agenda or posted for public hearing. Jerry Kolacny spoke and stated that the City of Kyle had no air pollution standards in place. He stated that there are ordinances in place to prevent people from burning all kinds of trash as they do on weekends and that the City Council needs to take action as well as allowing the Code Enforcement Officer to issue citations. Alan McPherson, representing the Economic Development and Tourism Committee stated that the committee supports Micro Systems and states that by occupying the old Palm Harbor site the City will be getting rid of an eyesore. He also states that the stop light that will be going in at 2770 and 150 will benefit the citizens and that they are also 100% behind that. Leo Hernandez, a student at Negley Elementary, spoke about the Blue Santa program and that he had raised money last year as well as this year for meals for the needy and worked in the soup kitchens in Austin and that if anyone wanted to donate money for the Blue Santa program he would be available to collect it. With no one else wishing to speak Mayor Johnson closed the public hearing at 7:15 pm.

CITY COUNCIL SPECIAL MEETING  
December 13, 2011 – Page 2  
Kyle City Hall

PRESENTATION

PRESENTATION OF KYLE LEADERSHIP ACADEMY CERTIFICATIONS ~ *JERRY HENDRIX, DIRECTOR OF COMMUNICATIONS*

Level 1: Chuck Moerbe

Jerry Hendrix, Director of Communications stated that Mr. Moerbe was not in attendance and asked Mayor Johnson to skip this item.

CONSIDER AND POSSIBLE ACTION

AUTHORIZE AWARD AND EXECUTION OF A PURCHASE ORDER TO KEILHAUER, OF TORONTO, CANADA, IN AN AMOUNT NOT TO EXCEED \$16,633.41 (U.S. DOLLARS) TO PURCHASE VARIOUS FURNITURE ITEMS FOR THE KYLE PUBLIC LIBRARY ~ *CONNIE BROOKS, DIRECTOR OF PUBLIC LIBRARY*

Mayor Pro Tem Wilson moves to Authorize Award and Execution of a Purchase Order to KEILHAUER, of Toronto, Canada, in an amount Not to Exceed \$16,633.41 (U.S. Dollars) to purchase various furniture items for the Kyle Public Library. Council Member Pickett seconds the motion. All votes aye. Motion carried.

AUTHORIZE THE CHIEF OF POLICE TO EXPEND AN AMOUNT NOT TO EXCEED \$3,464.00 IN DONATED FUNDS FOR THE BLUE SANTA PROGRAM AND TO TRANSFER THE ADMINISTRATION AND MANAGEMENT RESPONSIBILITIES OF THE BLUE SANTA PROGRAM TO THE POLICE ASSOCIATION INCLUDING COLLECTION, DISTRIBUTION, ACCOUNTING, AND REPORTING FOR SUCH DONATED FUNDS ~ *JEFF BARNETT, CHIEF OF POLICE*

Council Member Pickett moves to Authorize the Chief of Police to Expend an amount Not to Exceed \$3,464.00 in donated funds for the Blue Santa Program and to transfer the administration and management responsibilities of the Blue Santa Program to the Police Association including collection, distribution, accounting, and reporting for such donated funds. Council Member Hervol seconds the motion. All votes aye. Motion carried.

Council Member Heubner arrived at 7:19 pm.

AUTHORIZE AWARD AND EXECUTION OF A 12-MONTH LEASE CONTRACT WITH COWBOY HARLEY-DAVIDSON OF AUSTIN, TEXAS, FOR TWO (2) 2012 FLHP ROAD KING HARLEY-DAVIDSON POLICE MOTORCYCLES IN AN



AMOUNT NOT TO EXCEED \$9,360.00 FOR THE 12-MONTH TERM ~ *JEFF BARNETT, CHIEF OF POLICE*

CITY COUNCIL SPECIAL MEETING

December 13, 2011 – Page 3

Kyle City Hall

Council Member Hervol moves to Authorize Award and Execution of a 12-month lease contract with COWBOY HARLEY-DAVIDSON OF AUSTIN, TEXAS, for two (2) 2012 FLHP Road King Harley-Davidson police motorcycles in an amount Not to Exceed \$9,360.00 for the 12-month term. Mayor Pro Tem Wilson seconds the motion. All votes aye. Motion carried.

AUTHORIZE AWARD AND EXECUTION OF A PURCHASE ORDER TO PRIORITY PUBLIC SAFETY UNIFORMS & EQUIPMENT (FORMERLY DOING BUSINESS AS COP STUFF) OF VAN ALSTYNE, TEXAS, IN AN AMOUNT NOT TO EXCEED \$10,189.00 TO PURCHASE AND INSTALL EMERGENCY EQUIPMENT FOR TWO LEASED POLICE MOTORCYCLES FOR THE CITY OF KYLE POLICE DEPARTMENT. (RELATED TO ITEM NO. 4) ~ *JEFF BARNETT, CHIEF OF POLICE*

Mayor Pro Tem Wilson move to Authorize Award and Execution of a Purchase Order to PRIORITY PUBLIC SAFETY UNIFORMS & EQUIPMENT (formerly doing business as Cop Stuff) of Van Alstyne, Texas, in an amount Not to Exceed \$10,189.00 to purchase and install emergency equipment for two leased police motorcycles for the City of Kyle Police Department. (Related to Item No. 4). Council Member Hervol seconds the motion. All votes aye. Motion carried.

Mayor Johnson moves to Item # 8.

CONSIDERATION AND POSSIBLE ACTION AS MAY BE REQUIRED REGARDING INITIATING ACTION AND TAKING ACTION TO AMEND THE 2010 TRANSPORTATION MASTER PLAN TO INCLUDE BEBEE ROAD AS A MINOR ARTERIAL ROADWAY, DIRECTING STAFF AND THE PLANNING AND ZONING COMMISSION TO MAKE SUCH AMENDMENT TO THE 2010 MASTER TRANSPORTATION PLAN AND SUBMIT SAID AMENDED PLAN TO CAMPO FOR AN AMENDMENT TO THE CAMPO 2035 PLAN AND INCLUSION IN SUCH PLAN FOR POSSIBLE CONSIDERATION FOR FUTURE 2011/2012 TIP FUNDING ~ *COUNCIL MEMBER JAIME SANCHEZ*

Council Member Huebner moves to Amend the 2010 Transportation Master Plan to include Bebee Road as a Minor Arterial Roadway, directing staff and the Planning and Zoning Commission to make such amendment to the 2010 Master Transportation Plan and submit said amended plan to CAMPO for an amendment to the CAMPO 2035 Plan and inclusion in such plan for possible consideration for future 2011/2012 TIP Funding. Council Member Sanchez seconds the motion. All votes aye. Motion carried.

## CITY COUNCIL SPECIAL MEETING

December 13, 2011 – Page 4

Kyle City Hall

CONSIDERATION AND POSSIBLE ACTION REGARDING THE FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN HAYS COUNTY AND THE CITY OF KYLE REGARDING FM 150 ~ *LANNY LAMBERT, CITY MANAGER*

Lanny Lambert, City Manager asks the Council to table this item because the County Attorney does not have the First Amended and Restated Interlocal Agreement between Hays County and the City of Kyle regarding FM 150 ready.

Mayor Johnson moves to table this item. Mayor Pro Tem seconds the motion. All votes aye. Motion carried.

CONSIDERATION AND POSSIBLE ACTION TO EXTEND THE INTERLOCAL AGREEMENT FOR COMMERCIAL OFFICE LEASE OF 111 N. FRONT STREET, FORMERLY KNOWN AS THE WELLS FARGO BUILDING, TO HAYS COUNTY FOR ONE YEAR ~ *LANNY LAMBERT, CITY MANAGER*

Mayor Johnson moves to table the item to Extend the Interlocal Agreement for Commercial Office Lease of 111 N. Front Street, formerly known as the Wells Fargo Building, to Hays County for One Year. Council Member Huebner seconds the motion. All votes aye. Motion carried.

## EXECUTIVE SESSION

## CONVENE INTO EXECUTIVE SESSION PURSUANT TO SECTION 551.087, TEX. GOV'T CODE, TO DELIBERATE OFFERS OF FINANCIAL OR OTHER INCENTIVES AND ECONOMIC DEVELOPMENT NEGOTIATIONS WITH BUSINESS PROSPECTS THAT THE CITY SEEKS TO HAVE LOCATE, STAY OR EXPAND IN OR NEAR THE CITY

Mayor Johnson moves to Convene into Executive Session at 7:40 pm pursuant to Section 551.087, Tex. Gov't Code, to deliberate offers of financial or other incentives and economic development negotiations with business prospects that the City seeks to have locate, stay or expand in or near the City. Council Member Sanchez seconds the motion. Mayor Johnson, Mayor Pro Tem Wilson, Council Members Sanchez, Hervol, Huebner vote aye. Council Member Pickett votes nay. Motion carried 5-1.

Council Member Selbera arrived at 7:45 pm.

## RECONVENE INTO OPEN SESSION TO TAKE ANY AND ALL ACTIONS AS DEEMED APPROPRIATE IN THE CITY COUNCIL'S DISCRETION REGARDING OFFERS OF FINANCIAL OR OTHER INCENTIVES AND ECONOMIC DEVELOPMENT NEGOTIATIONS WITH BUSINESS PROSPECTS

THAT THE CITY SEEKS TO HAVE LOCATE, STAY OR EXPAND IN OR NEAR THE CITY

CITY COUNCIL SPECIAL MEETING

December 13, 2011 – Page 5

Kyle City Hall

Mayor Johnson moves to Reconvene into Open Session at 8:30 pm to take any and all actions as deemed appropriate in the City Council's discretion regarding offers of financial or other incentives and economic development negotiations with business prospects that the City seeks to have locate, stay or expand in or near the City. Council Member Huebner seconds the motion. All votes aye. Motion carried.

Mayor Johnson states that no action was taken during executive session.

Mayor Johnson moves to item #6.

CONSIDER AND POSSIBLE ACTION ON THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF KYLE AND IMAGE MICROSYSTEMS ~ *DIANA BLANK, DIRECTOR OF ECONOMIC DEVELOPMENT*

Council Member Huebner moves to approve the Economic Development Agreement between the City of Kyle and Image Microsystems. Council Member Sanchez seconds the motion. Mayor Johnson requests that Council Member Huebner amends that motion to say that Council moved to approve the Economic Development Agreement amending the agreement to reflect the 1.0% general sales tax eligible for reimbursement and to include the projected estimate of economic incentives into the agreement as exhibit E. Council Member Huebner agrees to the amendment and Council Member Sanchez seconds the amendment. All votes aye. Motion carried.

CONSIDER AND POSSIBLE ACTION ON THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF KYLE AND NOMOLAND COMPANY, LP ~ *DIANA BLANK, DIRECTOR OF ECONOMIC DEVELOPMENT*

Council Member Pickett moves to approve the Economic Development Agreement between the City of Kyle and Nomoland Company, LP. with an amendment to the agreement to reflect the 1.0% general sales tax eligible for reimbursement. Council Member Hervol seconds the motion. All votes aye. Motion carried. Mayor Johnson asks to let the record show that Council Members Huebner and Selbera were off the dais and did not vote.

CONSIDERATION AND POSSIBLE ACTION OF ANY AND ALL ISSUES RELATING TO THE RENEWAL AND EXTENSION OF THE RECLAIMED WATER AGREEMENT FOR THE PLUM CREEK GOLF COURSE; AND RELATED MATTERS ~ *DIANA BLANK, DIRECTOR OF ECONOMIC DEVELOPMENT*

CITY COUNCIL SPECIAL MEETING  
December 13, 2011 – Page 6  
Kyle City Hall

Mayor Johnson moves to approve the Reclaimed Water Agreement for the Plum Creek Golf Course amending the agreement to reflect the changes suggested by the City Attorney as follows, noting that some of these additions may already be included in the amended and restated Reclaimed Water Use Agreement.

Contract section 3d, 3rd paragraph: The Purchaser shall not be entitled to all available reclaimed water

Section 1.6 We will not be guarantying them a minimum of 900,000 gallons a day but a maximum of 900,000 gallons per day

Section 1.7 The point of delivery will be at the mixer box

Section 1.13 The City is not obligated to acquire right of way or easements for utility lines if the plant moves

Section 2.2 If the facilities are conveyed to the City the cost of conveyance will be identified in the contract

Section 3.1 The City will not guarantee or warrant quality of the reclaimed water

Section 3.3 End use should be specified as for the golf course irrigation only

Section 4.2 The Purchaser may not sell reclaimed water to anyone

Section 7.4 The emergency situation clause should require 30 days written notice not 120 days as specified

Section 9.3 The effluent water will belong to the City of Kyle

Section 10.1 The term of this contract will be no longer the ten years

Section 10.2 The option to renew will not be automatic and will have to come back to City Council for approval

Council Member Pickett seconds the motion.

Mayor Johnson moves to amend her motion adding a clause to section 10.2 that if the City Council decides not to renew the contract for 10 years that the City will be subject to acquiring the effluent pumping facilities the effluent transportation and distribution facility or both from the purchaser in pursuant to terms and conditions acceptable to the purchaser in the purchasers reasonable discretion.

Mayor Johnson withdraws her amendment

## CITY COUNCIL SPECIAL MEETING

December 13, 2011 – Page 7

Kyle City Hall

Mayor Johnson amends her motion to change Section 10.1 to state the term shall now be twenty years and amend Section 2.2 saying that the City will have the option to acquire the effluent pumping facility the effluent transportation and distribution facilities from the purchaser for free at any time. Council Member Pickett seconds the amended motion. Mayor Johnson calls for a roll call vote. Council Members Hervol and Sanchez vote nay. Mayor Johnson, Mayor Pro Tem Wilson, Council Members Sanchez, Hervol, and Huebner vote aye. Motion carried 5-2.

## ADJOURN

With no further business to discuss Council Member Huebner moves to adjourn. Council Member Pickett seconds the motion. All votes aye. Motion carried.

The City Council meeting adjourned at 9:42 pm.

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Lucy Johnson, Mayor

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Amelia Sanchez, City Secretary



# CITY OF KYLE, TEXAS

## Monarch Water Rates Public Hearing

**Meeting Date: 1/3/2012**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Public Hearing for the purpose of receiving Public Comment on the request by Monarch Utilities I, L.P. to increase system water rates by 62.3%

**Other Information:**

**Budget Information:**

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Attachments / click to download

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# CITY OF KYLE, TEXAS

## Employee of the Month December

**Meeting Date: 1/3/2012**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Recognition of Employee of the Month for the Month of December ~ *Lanny Lambert, City Manager*

- *Luis Rosales, Human Resources Assistant*

**Other Information:**

**Budget Information:** n/a

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[Employee of the Month - Luis Rosales, Human Resources Assistant](#)

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# CITY OF KYLE, TEXAS

## Parks Department 2011 Annual Report

**Meeting Date: 1/3/2012**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Presentation of the Parks and Recreation Department 2011 Annual Report to Include Number of Attendees at Recreational Programs and Special Events, Facility Uses, Economic Impact, and Other Related Matters ~ *Kerry Urbanowicz, Director of Parks and Recreation*

**Other Information:** This will be the annual activity report for the FY2010-11 for the Parks, Recreation and Facilities Department for the City of Kyle

**Budget Information:**

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[FY2011 PARD Annual Activity Report](#)

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Cover Memo

Item # 6



**FY2011**  
**Kyle Parks Department's**  
**Annual Activity Report**

*Kyle Parks Department*  
*Established October 1, 2000*

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## *2011 Departmental Strategic Values & Goals*

The Administrative Staff of the Parks Department held a planning retreat in October of 2010 to discuss the upcoming year. During this workshop, the 2011 event calendar was reviewed and updated, departmental strategic goals and objectives were developed and guiding principals were established. Team building and leadership activities rounded out the retreat.

### **1.Safety:**

To continue improvement of risk management by being proactive.

- a.continue with monthly safety presentations
- b.provide staff with proper training and certifications
- c.continue to provide incentives to staff for days without accident

### **2.Customer Services:**

To provide outstanding customer service daily.

- a.educate, inform, and cross train all staff so that customers can be helped promptly and effectively
- b.promote all programs and event though effective marketing and media to keep community informed of what the department is providing
  - i.send press releases in a timely manner to all media sources in Kyle and surrounding area
  - ii.utilize technology, i.e. website and email
- c.maintain the social networking programs initiated in 2010
- d.maintain the flippable e-program guide initiated in 2010

### **3.Staff Development:**

To make sure all staff gets adequate continuing education and training as well as promoting a positive work atmosphere.

- a.allow all staff to attend at least one workshop, conference or continuing education session of their choice pertaining to their current job duties
- b.review department and staff goals monthly
- c.continue weekly staff meetings and promote an open forum for discussion on any issues or problems
- d.provide staff with the proper time to allow for participation on committees with in professional and partner organizations

### **4.Park Development:**

To repair, replace and/or maintain parks while continuing the development of new park land.

- a.begin development phases on the Plum Creek Preserve project
- b.establish timeline, budget, and projects for the next 5 years, including Plum Creek Preserve
- c.continue to repair and maintain existing playscapes

### **5.Recreation/Programs:**

To provide well rounded, family friendly programs and events for the community.

- a.reprioritize and re-establish focus of contract programs
- b.provide at least one new program for 2011
- c. provide at least one new program for the seniors in the community

**6. Marketing:**

To market the department using our service “mantra”, and promoting the benefits of parks and recreation.

- a. establish a service “mantra” by the end of February
- b. make sure that the mantra is on all our promotional materials
- c. once a Month put a quote on our webpage that state facts about the benefits of Parks and Recreation
- d. celebrate “July is Parks and Recreation Month” and promote it to the community

**7. Special Events:**

To maintain and improve the quality of our current special events.

- a. attempt to secure sponsorships to cover at least half of the event
- b. market all events through all available media outlets in Kyle and surrounding communities
- c. promote community involvement in all special events

**8. Budget:**

To utilize and manage the current budget effectively while securing alternative funding sources.

- a. research grants for programs and equipment
- b. secure sponsorships for programs and events
- c. provide programs that are self sustaining

**9. Facilities:**

To maximize usage of our existing facilities while keeping them clean and maintained.

- a. maximize rental space with current facilities
- b. tidy and beautify maintenance yard with zero dollars
- c. establish usage of the New/Old City Hall Community Center
- d. find more city owned facilities for program usage

## Section 1 – Parks, Facilities, Trails & Open Spaces

### ***New Parkland Acquisitions***

Parkland accepted this year:

0 Acres

0 Acres

***Total Parkland acres acquired this year:***

***0 Acres***

Possible or potential Parkland formally being considered this year:

***Total possible or potential Parkland this year:***

***0 Acres***

### ***Parkland Inventory***

City Square Park, City Hall Yard & Train Depot Park

2 Acres



Gregg-Clarke Park and Maintenance Yard

(Developed)

32 Acres



Steeplechase Park

(Developed)

31 Acres



Waterleaf Park

(Developed)  
(Un-Developed)

20 Acres  
72 Acres



Kyle Vista Park

(Un-Developed)

42 Acres



Post Oak Parkland/Open Space

(Un-Developed)

4 Acres



Four Seasons Farm Parkland/Open Space

(Un-Developed)

5 Acres





Bunton Creek Village Parkland/Open Space

(Un-Developed)

26 Acres



Lake Kyle Preserve

(Un-Developed)

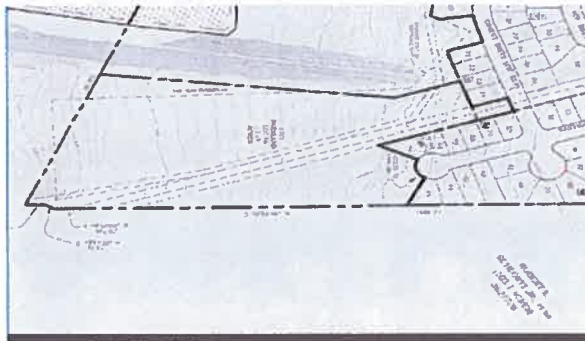
119 Acres



Kensington Trails Parkland/Open Space

(Un-Developed)

14 Acres



Seton/SCC Parkland/Open Space

(Un-Developed)

45 Acres





Linebarger Lake

(Un-Developed)

52 Acres



Oso Oro Park (255 Creekside Trail)

(Un-Developed)

4 Acres



**Total Parkland/Open Space Developed:**

**83 Acres**

**Total Parkland/Open Space Un-Developed:**

**383 Acres**

**Total Parkland/Open Space in Kyle:**

**466 Acres**

**Private and HOA Parks**

**72 Areas**

**209.46 Acres**

*These private park areas are within the City Limits but are not maintained by the City and access is limited. Includes parks, trails and open spaces*

**Parkland Goals**

The adopted Parks Master Plan has established these goals for the City:

Community/Regional Parks	6 Acres per	1000 residents
Linear Parks/Trails	3 Acres per	1000 residents
Open Spaces/Preserves	15 Acres per	1000 residents
<b>Total Parkland Goal</b>	<b>24 Acres per</b>	<b>1000 residents</b>

Estimated Residents in Kyle 31,500 residents

Goal for Parks & Trails (Developed Parkland)	283.5 Acres
Actual Parks & Trails (Developed Parkland)	83 Acres
<b>Current Deficit of Developed Parkland</b>	<b>200.5 Acres</b> <b>29% of goal</b>

Goal for Open Spaces & Preserves (Un-Developed Parkland)	472.5 Acres
Actual Open Spaces & Preserves (Un-Developed Parkland)	383 Acres
<b>Current Deficit of Un-Developed Parkland</b>	<b>89.5 Acres</b> <b>81% of goal</b>

Total Parkland goal of 24 acres per 1,000 resident is: 756 Acres

Kyle's current total Parkland is: 466 Acres

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**Kyle is currently in a Parkland Deficit of 290 Acres**

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**\*\* The largest deficit is currently in the developed parkland, therefore Staff highly recommends that no further parkland be accepted unless the land enlarges current park or until more development of existing parkland can be completed.**

### New Construction Projects

Kyle Pool Slide



Plum Creek Preserve's Nature Trail



Gregg-Clarke Playground Improvements



Gregg-Clarke Park Sports Complex




**Annual Maintenance Totals**

All the City's parks, public grounds, right of ways and areas of responsibility to mow - we have mowed:	<b>2,924.09</b> Acres
All the City's parks, public grounds, right of ways and areas of responsibility to trim - we have trimmed	<b>1,198.88</b> Miles
All the City's parks, public grounds, right of ways and areas of responsibility to pick trash - we have picked:	<b>68,320</b> Pounds
The numerous Dog-E-Doo stations throughout the park has mits for the public to use. Number of mits used:	<b>549</b> Mits
Total number of extra man hours <b>Grounds</b> Staff works above routine & scheduled duties:	<b>116.0</b> Hours
Total number of extra man hours <b>Facility</b> Staff works above routine custodial duties:	<b>0.0</b> Hours
Total number of extra man hours <b>All Maintenance</b> Staff works Special Events and Recreational Programs:	<b>3,431.5</b> Hours
Total number of man hour Maintenance Staff worked to remove graffiti from the city:	<b>69.0</b> Hours
<b>Total Number of Extra Man Hours All Maintenance Staff works above routine duties (2080 hours = 1 person)</b>	<b>3,547.5</b> Hours
Total number of Public Facilities/Buildings inspected For damages, preventative maintenance and repairs	<b>48.00</b> Buildings



## Section 2 – Recreation Programs

*The general definition of Recreational Programs in Kyle used by the PARD are those community activities and events that has a registration for participant process.*

### **New Recreational Programs Offered this Year: (\*DPI in parentheses)**

Senior Fit	(	1182	)
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Hooked On Fishing Tournaments & Events	(	188	)
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<b>Total New Recreational Programs Offered This Year:</b>		<b>1,370</b>	
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### **Recreational Programs Offered this Year: (\*DPI in parentheses)**

#### Swim Lessons:



Pre-School -	(	1,024	)
Level 1 -	(	482	)
Level 2 -	(	634	)
Level 3 -	(	760	)
Level 4 -	(	416	)
Parent - Tot -	(	280	)
Private Swim Lessons -	(	140	)
Swim Lesson Guests -	(	705	)
Swim Team and guests -	(	356	)

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#### Summer Camps:



Youth - Voyagers (at Negley)	(	4,055	)
Teen - Adventurers (At Wallace)	(	2,050	)
Challenger Soccer Camp	(	100	)

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#### Fitness Programs:



Including Water, Senior, Bootcamps, etc	(	3,600	)
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American Red Cross Training Courses:



**American Red Cross**  
of Central Texas

Life Guard Training Class ( 23 )

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Water Safety Education Program @ Hays CISD:



Negley Elementary School ( 4 )

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Kyle Pool Patrons during open swim hours



Capacity Closures this year - 0

( 14,870 )

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Adult Kickball Leagues:



( 27,770 )

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## Family Fun Bike Ride November of Last Year



( 52 )

Kyle Area Senior Zone Activities within the Historic Kyle City Hall Programs may not be sponsored by the City of Kyle or Kyle Parks & Recreation, but they take place within a City Facility and use City Resources

( 6,774 )

## Steeplechase Disc Golf Course - Leagues &amp; Tournament:



( 8,372 )

**Total Number of Recreational Program Participants:**

**73,737**

### Section 3 – Special Events and Community Activities

*The general definition of Special Events and Community Activities in Kyle used by the PARD are those that do not have a registration process for participants*

**Special Events & Activities Offered this Year: (Number of estimated participants)**

Polar Bear Splash

( 179 )



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This Years polar bear splas was a great success, we had bon fires, smores, and snow machines.

Keep Texas (and Kyle) Beautiful Creek Clean Up Project

( 185 )



Easter Egg-Stravaganza

( 2,000 )





Kyle Earth Day Share Fair

( 200 )



This year's event was well organized and full of fun activities, workshops, vendors and live music. We offered 18 different activities and crafts; there were 4 mini workshop sessions, along about 22 vendors. The attendance was about 150 to 200 participants and those that attended were happy and had fun

Kyle Market Days

( 4,125 )



Movies in the Park

( 1,125 )



Teen Night at the Pool

( 282 )



Independence Day Celebration (Fireworks)

( 40,000 )



H-E-B Plus-Kyle July 4th Day at the Pool

( 129 )



Kyle Fair & Music Festival

( 25,000 )



*Occurred October 2010*

Halloween Carnival

( 3,500 )



*Occurred October 2010*

Trash Clean Up Day (Sponsored by TDS)

( 1,450 )



*Occurred November 2010*

Santa's Arrival, School Choirs & Tree Lighting

( 2,350 )



*Occurred December 2010*

<b>Total Special Event/Community Activity Participants:</b>	<b>80,525</b>
<b>Total Kyle Pool Users &amp; Visitors:</b>	<b>27,894</b>
<b>Total Recreation &amp; Special Events Participants:</b>	<b>154,262</b>

## Section 4 – Facility Use

These numbers are accumulated from actual Reservation Use Permits  
They **do not** include all users and visitors to the parks and buildings, only paid reservations.

### Parks & Amenities:

<b>Gregg-Clarke Park:</b>		
Covered Pavilion:	28 Reservations	2,585 Guests
Softball Fields:	94 Reservations	4,062 Guests
Football/Soccer Field:	0 Reservations	0 Guests
Kyle Pool:	48 Reservations	4,014 Guests
<b>Total Gregg-Clarke Park:</b>	<b>170 Reservations</b>	<b>10,661 Guests</b>
<hr/>		
<b>Steeplechase Park:</b>		
Covered Pavilion:	12 Reservations	825 Guests
Baseball Fields:	62 Reservations	1,910 Guests
Football/Soccer Field:	0 Reservations	0 Guests
Disc Golf/Other:	2 Reservations	190 Guests
<b>Total Steeplechase Park:</b>	<b>76 Reservations</b>	<b>2,925 Guests</b>
<hr/>		
<b>Total Parks &amp; Amenities:</b>	<b>246 Reservations</b>	<b>13,586 Guests</b>

<b>Facilities &amp; Conference Rooms:</b>		
Kyle City Hall:	8 Reservations	173 Guests
Historic Kyle City Hall:	15 Reservations	1,051 Guests
Train Depot Freight Room:	3 Reservations	42 Guests
Fire Station #2 Community Room:	26 Reservations	660 Guests
<hr/>		
<b>Total Facilities &amp; Rooms:</b>	<b>52 Reservations</b>	<b>1,926 Guests</b>

**Total Facility Use:                      298 Reservations                      15,512 Guests**

*\*DPI - Daily Participation Index is a factor derived from the number of the participants x days of program*

**Total Number of Participants, Guests and Visitors  
Attending Recreational Programs, Special Events,  
Community Activities and Facilities that we can count:**

**169,774**

## Section 5 – Economic Impact on the Community

Economic Impact on the Community – On Average, each visitor attending a special event, each person going to the park and each participant in a program spends some money and impacts our local economy by spending that money in Kyle. The length of the event, the type of event and number of vendors at the event determine how much special event attendees spend. Plus the vendors spend money in Kyle as well. This includes gas, groceries, hotel rooms and merchandise. There is also a “multiplier” that is figured in when the workers at the gas station, grocery store and hotels get paid by visitors spending their money in Kyle. And finally, the residents spend “incremental” money in Kyle because of the special event, visiting the parks or participating in a program. This extra money is above and beyond the resident’s normal spending habits and is directly influenced by the Park and Recreation Department. This money is passed around Kyle in a similar multiplying formula. These dollar amounts are estimates and should be used as incremental dollars being spent in Kyle as a direct impact of these activities:

Polar Bear Splash	\$ 179.00
Plum Creek Watershed & Park Clean Up	\$ 185.00
Easter Egg-Stravaganza	\$ 4,000.00
Kyle Market Days	\$ 16,500.00
Movies in the Park	\$ 1,125.00
Independence Day Celebration	\$ 80,000.00
Kyle Fair & Music Festival	\$750,000.00
Halloween Carnival	\$ 7,000.00
Santa's Arrival & Tree Lighting	\$ 2,350.00
Program Participants	\$221,211.00
Facility Users	\$ 15,512.00

**Total Economic Impact From PARD: \$ 1,097,883.00**

## Section 6 – Marketing and Information

### Social Network Sources

FaceBook - Number of Friends	1391
PARD e-Guide Subscribers	177

### Website Statistics

PARD Home Page Hits Year-To-Date	33,709 Hits
Highest Month with recorded hits - June 2010 with 5,162 Hits	
Average number of Hits per month Y-T-D	13,358 Hits
Average Number of Hits per Day Y-T-D	445.26 Hits

#### Top 20 PARD Website Pages this year:

Kyle Fair & Music Festival	33,709
Kyle PARD Home Page	31,267
Aquatics & Pool Pages	17,111
Independence Day Celebration	13,554
Sports Leagues-Kickball/Flag Football	10,873
Recreation Programs	6,805
Market Days	5,845
Summer Camp Programs	5,153
Special Events, Summer, Spring	4,476
Parks and Facilities	4,448
Movies in the Park	4,087
Plum Creek Preserve, Lake Kyle	3,984
Hooked on Fishing	2163
Fitness Programs	1968
Fajita Fiesta	1769
Calendar	1531
Gregg-Clarke Park	1476
Halloween Carnival	1450
Steeplechase Park & Disc Golf	1438
Rec Center	1238
Tree Lighting	1041
City Square Park	922
Contact/Staff Info	755
E-Guide	615
Trails	590
Trash Clean Up	524
Tree Recycling	491
Polar Bear Splash	432
Family Fun Ride	313
Parks Committee	266

## Section 7 – Staff Development & Continued Education

### Kerry Urbanowicz - Director

- :Attended TRAPS State Finance Committee meeting 10.28.10
- :Participated in Texas State University's Park Development Class Projects December
- :Participated in Kyle ES Strategic Planning Meetings January - February
- Conducted Leadership Academy Session March 9
- : Participated in the Hays County Parks Master Plan Stakeholders meeting - April
- : Attended the PEC Community Resources Workshop - May 4
- :Completed FEMA/NIMS Incident Command System ICS-100 Course
- :Completed FEMA/NIMS Incident Command System ICS-200.b Course

### Jennifer Vetrano - Administrative Assistant

- :Attended Texas Notary Law and Procedure Seminar 11.4.10
- :Attended TAAF Annual Conference 9.16.11-9.20.11

### Deidre Flores - Recreation Division Manager

- :TRAPS Regional Wkshop Planning Meeting 10.6.10 & 10.27.10
- :TRAPS Regional Wkshop 11.19.10
- :Children In Nature Conference 12.3.10 to 12.4.10
- :TRAPS Annual Institute 3.1.11 to 3.4.11
- :TX State Univ. Recreation Division Accrediation Board Meeting 3.24.11
- :TAAF/TRAPS Sports Management School 5.18.11 to 5.19.11
- :TAAF Sports Marketing/Promotions & Membership Committee Mtgs. 5.19.11
- :TAAF Summer Games of Texas Liaison 7.28.11 ot 7.31.11
- :Attended TRAPS Regional workshop planning meeting July
- :Attended TAAF Annual Conference 9.16.11-9.20.11

### Sarah Grady - Recreation Program Coordinator

- Attended TRAPS Regional Conference 11.19.10
- Attended TAAF Regional Meeting 1.11.2011
- TAAF Winter Games of Texas Liaison 1.14.2011-1.17.2011
- Attended TRAPS Regional Meeting 4.27.11
- Attended TAAF Regional Meeting 5.11.11
- TAAF Regional Track Meet Liaison 7.8.2011
- Attended TRAPS Regional workshop planning meeting 7.26.2011
- Attended Shelter Manager Training 8.10.11
- Attended TAAF Regional Meeting 8.18.2011
- Attended TAAF Annual Conference 9.16.11-9.20.11

### Michael Sony - Maintenance Division Manager

- Attended TRAPS Regional Conference 11.19.10
- Attended Servpro "Restorative Drying for Water Damages" 4.28.11
- Attended TAAF Training in Waco

### Arthur Zamarippa - Parks Maintenance Supervisor

- : Safety Training - "Defensive Driving" - 10.1.10
- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- :Safety Training- "Bloodborne Pathogen" 2.9.11
- :Safety Training- "Chainsaw Safety" 3.4.11

- :Safety Training- "On the Job Safety" 4.1.11
- :Safety Training- "Work Zone Safety" 5.12.11
- :Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- :Safety Training-"Fire Extinguisher Training" 8.10.11
- :Safety Training- "Job Safety Analysis & Task Training" 9.7.11

**Max Herrera - Grounds & Facilities Maintenance Supervisor**

- : Safety Training - "Defensive Driving" - 10.1.10
- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- Attended Customer Service Training
- :Safety Training- "Bloodborne Pathogen" 2.9.11
- :Safety Training- "Chainsaw Safety" 3.4.11
- :Safety Training- "On the Job Safety" 4.1.11
- Customer Service- April
- :Safety Training- "Work Zone Safety" 5.12.11
- :Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- :Safety Training- "Job Safety Analysis & Task Training" 9.7.11

**Nathan Wehrman - Facility Maintenance Tech II**

- : Safety Training - "Defensive Driving" - 10.1.10
- : Safety Training - "Electrical Safety" - 11.5.10
- 2010 Region 5 & 7 Equipment Rodeo 3rd Place Backhoe Event, Qualifies for State in Feb 2011
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- Attended Servpro "Restorative Drying for Water Damages" 4.28.11
- :Safety Training- "Bloodborne Pathogen" 2.9.11
- :Safety Training- "Chainsaw Safety" 3.4.11
- :Safety Training- "On the Job Safety" 4.1.11
- :Safety Training- "Work Zone Safety" 5.12.11
- :Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- :Safety Training- "Job Safety Analysis & Task Training" 9.7.11

**David Espinoza - Park Maintenance Equipment Operator**

- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- : 2011 Laws and Regulations Texas Pest Control Update
- :Safety Training- "Bloodborne Pathogen" 2.9.11
- :Safety Training- "On the Job Safety" 4.1.11
- Attended TAAF Training in Waco
- Safety Training- "Rattlesnake Safety" 07.13.11
- :Safety Training-"Fire Extinguisher Training" 8.10.11
- :Safety Training- "Job Safety Analysis & Task Training" 9.7.11

**Amado Gomez - Park Maintenance Tech II**

- : Safety Training - "Defensive Driving" - 10.1.10
- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- : Safety Training- "Bloodborne Pathogen" 2.9.11
- : Safety Training- "Chainsaw Safety" 3.4.11
- : Safety Training- "Work Zone Safety" 5.12.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- : Safety Training- "Fire Extinguisher Training" 8.10.11
- : Safety Training- "Job Safety Analysis & Task Training" 9.7.11

**Joe Cantu - Park Maintenance Tech II**

- : Safety Training - "Defensive Driving" - 10.1.10
- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- : Safety Training- "Bloodborne Pathogen" 2.9.11
- : Safety Training- "Chainsaw Safety" 3.4.11
- : Safety Training- "On the Job Safety" 4.1.11
- : Safety Training- "Work Zone Safety" 5.12.11
- : Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- : Safety Training- "Fire Extinguisher Training" 8.10.11
- : Safety Training- "Job Safety Analysis & Task Training" 9.7.11

**Robert Bartlett - Equipment Operator**

- : Safety Training - "Defensive Driving" - 10.1.10
- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- : 2011 Laws and Regulations Texas Pest Control Update
- : Safety Training- "Bloodborne Pathogen" 2.9.11
- : Safety Training- "Chainsaw Safety" 3.4.11
- : Safety Training- "Work Zone Safety" 5.12.11
- : Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- : Safety Training- "Job Safety Analysis & Task Training" 9.7.11

**Ronnie Esparza - Park Maintenance Tech I**

- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- : Safety Training- "Bloodborne Pathogen" 2.9.11
- : Safety Training- "On the Job Safety" 4.1.11
- : Safety Training- "Work Zone Safety" 5.12.11
- : Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- : Safety Training- "Fire Extinguisher Training" 8.10.11
- : Safety Training- "Job Safety Analysis & Task Training" 9.7.11



**Gabriel Garza - Park Maintenance Tech II**

- : Safety Training - "Defensive Driving" - 10.1.10
- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- Attended TML Workzone Traffic Control 4.19.11
- :Safety Training- "Bloodborne Pathogen" 2.10.11
- :Safety Training- "Chainsaw Safety" 3.4.11
- :Safety Training- "On the Job Safety" 4.1.11
- Attended TAAF Training in Waco
- :Safety Training- "Work Zone Safety" 5.12.11
- :Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- :Safety Training-"Fire Extinguisher Training" 8.10.11
- :Safety Training- "Job Safety Analysis & Task Training" 9.7.11

**David Rocha - Grounds Maintenance Tech I**

- : Safety Training - "Defensive Driving" - 10.1.10
- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- Attended TML Workzone Traffic Control 4.19.11
- :Safety Training- "Bloodborne Pathogen" 2.9.11
- :Safety Training- "On the Job Safety" 4.1.11
- :Safety Training- "Work Zone Safety" 5.12.11
- :Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- :Safety Training-"Fire Extinguisher Training" 8.10.11
- :Safety Training- "Job Safety Analysis & Task Training" 9.7.11

**Belinda Frazier - Facility Maintenance Tech I**

- : Safety Training - "Defensive Driving" - 10.1.10
- Customer Recognition Received-Black Shirt Awarded 10/1
- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- Attended Servpro "Restorative Drying for Water Damages" 4.28.11
- :Safety Training- "Bloodborne Pathogen" 2.9.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- :Safety Training-"Fire Extinguisher Training" 8.10.11
- :Safety Training- "Job Safety Analysis & Task Training" 9.7.11

**David Johnson - Parks/Grounds Maintenance Tech I**

- : Safety Training - "Defensive Driving" - 10.1.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- :Safety Training- "Bloodborne Pathogen" 2.9.11
- :Safety Training- "Chainsaw Safety" 3.4.11
- :Safety Training- "On the Job Safety" 4.1.11
- :Safety Training- "Work Zone Safety" 5.12.11
- :Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11

- : Safety Training- "Fire Extinguisher Training" 8.10.11
- : Safety Training- "Job Safety Analysis & Task Training" 9.7.11

Jose Tespan - Parks/Grounds Maintenance Tech I

- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- Attended Customer Service Training
- : Safety Training- "Bloodborne Pathogen" 2.9.11
- : Safety Training- "Chainsaw Safety" 3.4.11
- Customer Service- April
- : Safety Training- "Work Zone Safety" 5.12.11
- : Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- : Safety Training- "Fire Extinguisher Training" 8.10.11
- : Safety Training- "Job Safety Analysis & Task Training" 9.7.11

Sotero Nino - Parks/Grounds Maintenance Tech I

- : Safety Training - "Defensive Driving" - 10.1.10
- : Safety Training - "Electrical Safety" - 11.5.10
- : Safety Training - "Safety Harness" & "Holiday Safety Tips" - 12.3.10
- Attended TRAPS Regional Conference 11.19.10
- : Safety Training - "Carbon Monoxide" 1.7.11
- : Safety Training- "Bloodborne Pathogen" 2.9.11
- : Safety Training- "Chainsaw Safety" 3.4.11
- : Safety Training- "On the Job Safety" 4.1.11
- : Safety Training- "Work Zone Safety" 5.12.11
- : Safety Training- Work Zone Safety II" 6.8.11
- Safety Training- "Rattlesnake Safety" 07.13.11
- : Safety Training- "Fire Extinguisher Training" 8.10.11
- : Safety Training- "Job Safety Analysis & Task Training" 9.7.11

## Section 8 – Recognitions, Awards & Honors (RAH RAH)

### ***Individuals***

Joe Cantu - January Team Player of the Month

Sotero Nino- February Team Player of the Month

David Espinoza- April Team Player of the Month

Nathan Wehrman- May Team Player of the Month

Belinda Frazier- City of Kyle Employee of the Month

Michael Sony- PARD Most Outstanding Supervision & Corrections Agency

Amado Gomez-June Team Player of the Month

Sabrina Grubbs-July Team Player of the Month

### ***Department***

Received Certificate of Appreciation from Community Action of Hays, Caldwell & Blanco (Head Start)

## Section 9 – Parks Committee, Community Service & Friends of PARD

### ***Kyle Parks & Recreation Community Committee Members***

<u>Member</u>	<u>Date Appointed</u>	<u>Term Expires</u>
<i>Chairperson:</i> Mayor Lucy Johnson	Elected May 2009	Election May 2011
<i>District 2 Representative:</i> Katie Rhodes	October 4, 2010	September 30, 2012
<i>At-large Representative:</i> Bill Neukam	October 1, 1999	September 30, 2011
<i>District 4 Representative:</i> Patrick Corona	November 1, 2004	September 30, 2012
<i>At-large Representative:</i> Cindy Hoffman	October 1, 2007	September 30, 2011
<i>District 6 Representative:</i> Jim Hough	February, 2011	September 30, 2012
<i>At-large Representative:</i> Dennis Bailey	June 1, 2004	September 30, 2011

Community Service

RECEIVED

SEP 22 2011



**Community Supervision and Corrections Department**  
*Serving the Courts and Communities of Caldwell, Comal and Hays Counties*

Mike Hartman -- Programs Director

Ray Castillo—CSR Director

P.O. Box 1684 ~ San Marcos, Texas 78667-1684 ~ (512) 353-8923 ~ Fax (512) 396-9028

Date: September 20, 2011

KERRY URBANOWICZ  
 Kyle Parks & Recreation  
 P O Box 40  
 Kyle, Texas 78640

RE: LETTER OF APPRECIATION

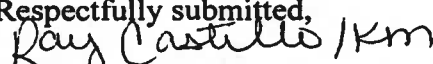
DEAR KERRY URBANOWICZ:

The Hays County Adult Probation Office and its Community Service Restitution Program (CSR) would like to take a moment to express our appreciation for your involvement.

I want to thank you for your participation and dedication to our CSR Program. CSR agencies like yours have made it mutually beneficial for your office, clients, community and this CR Program. I look forward to another year of providing you with CSR service.

In addition, I want to inform you that 4745.5 hours were completed at your agency for this past fiscal year. This comes to a financial benefit of \$29671.90 to your agency. A \$6.25 rate per hour was used to determine your financial benefit.

Please feel free to call me at (512) 353-0174/353-8923 if you have any question.

Respectfully submitted,  
  
 RAY CASTILLO  
 CSR PROBATION DIRECTOR  
 HAYS COUNTY, TEXAS

700 N. LBJ  
 San Marcos, TX 78666  
 (512) 353-5892

160 E. Bridge St.  
 New Braunfels, TX 78132  
 (830) 620-5596

100 E. Market St.  
 Lockhart, TX 78644  
 (512) 398-4431

**Friends of the Kyle PARD**

*These are a few of the "Friends" that have donated, sponsored or contributed to the PARD in 2011*

Ernie Anderson  
 H-E-B Grocery Stores  
 H-E-B Plus - Kyle Store  
 Corridor Primary Care Pediatrics  
 Texas Pie Company  
 Hays City Chinese Cuisine  
 Tyler's Towing LLC  
 Whataburger  
 PEC  
 Gattitown  
 American Girl  
 T.G.I.Fridays  
 Golds Gym  
 Carino's Italian Restaurant  
 Wonder World  
 Jumpy Gym  
 The Comprehensive ENT Center of Texas & NEWU Plastic Surgery  
 Pediatric Junction  
 Texas Medical Association  
 Total Child Therapy Center  
 GNC  
 Arrowhead Bicycles  
 The HUB -San Marcos

Fox's Pizza Den  
 Southwest Water Solutions  
 Milt's BBQ  
 Jack Brown Cleaners  
 Hays Free Press  
 Wal-Mart





# CITY OF KYLE, TEXAS

## Financial Performance Report for 4th Quarter Ending September 30, 2011

Meeting Date: 1/3/2012

Date time: 7:00 PM

**Subject/Recommendation:**

Presentation of City of Kyle's Financial Performance Report (unaudited) for the 4th Quarter Ending September 30, 2011 ~ *Perwez Moheet, CPA, Director of Finance*

**Other Information:**

We are pleased to provide for your review and information the City of Kyle's Financial Performance Report (unaudited) for the 12-month period ending September 30, 2011. The purpose of the quarterly Financial Performance Report is to present the City's financial status in order to keep the City Council, City management, and the citizens of Kyle fully informed.

This report includes summary financial information and highlights for the City's following four major Operating Funds:

1. General Fund (110)
2. Community Development Fund (121)
3. Recreation Fund (125)
4. Utility Operating Fund (310)

In addition, this Financial Performance Report for the 12-month period ending September 30, 2011 includes summary reports on the status of all other Funds of the City. We have included twenty three (23) additional summary reports covering operations, capital improvements program, debt obligations, and investments as attachments for this reporting period.

A Fund is defined as a separate fiscal and accounting entity with a self-balancing set of accounts established to account for specific program activities including revenue and associated expenditures. For example, General Fund, Community Development Fund, Recreation Fund, Utility Operating Fund, Impact Fee Fund, 2010 Bond Fund, etc.

The Financial Performance Report for the 12-month period ending September 30, 2011 includes the following detailed reports as attachments:

1. All Fund Summary - Citywide
2. Detailed Fund Summary Budget Status – General Fund (110)
3. Detailed Fund Summary Budget Status – Community Development Fund (121)
4. Detailed Fund Summary Budget Status – Recreation Fund (125)
5. Detailed Fund Summary Budget Status – Utility Operating Fund (310)
6. Detailed Fund Summary Budget Status – Police Forfeiture Fund (131)
7. Detailed Fund Summary Budget Status - Police Special Revenue Fund (132)
8. Detailed Fund Summary Budget Status – Court Special Revenue Fund (133)
9. Detailed Fund Summary Budget Status – Hotel Occupancy Fund (135)
10. Detailed Fund Summary Budget Status – Debt Service Fund (151)
11. Detailed Fund Summary Budget Status – SIB/TIF Loan I&S Fund (152)
12. Capital Projects Budget Status Report – 2007 CO Bond Fund (182)
13. Capital Projects Budget Status Report – 2008 CO Bond Fund (184) Cover Memo
14. Capital Projects Budget Status Report – 2009 Tax Notes Fund (185)

Item # 7

15. Capital Projects Budget Status Report – 2010 CO Bond Fund (187)
16. Capital Projects Budget Status Report – Water CIP Operating Revenue Fund (331)
17. Capital Projects Budget Status Report – Sewer CIP Operating Revenue Fund (341)
18. Capital Projects Budget Status Report – Water CIP Impact Fee Fund (332)
19. Capital Projects Budget Status Report – Sewer CIP Impact Fee Fund (342)
20. Schedule of Fund Balance for All Active Funds of the City
21. Schedule of Debt Outstanding (Principal & Interest)
22. Schedule of Investment Market Values and Earnings
23. Schedule of Investments by Type and Earnings

**Budget Information:**

A complete copy of the City of Kyle's Financial Performance Report (unaudited) for the 4th Quarter Ending September 30, 2011 is attached.

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

 [Financial Performance Report for 9-30-2011](#)

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## MEMORANDUM

**TO:** Mayor and City Council Members  
Lanny Lambert, City Manager  
James R. Earp, CPM, Assistant City Manager  
Jerry Hendrix, Director of Community Development  
Amelia Sanchez, City Secretary  
All City Department Directors

**FROM:** Perwez A. Moheet, CPA  
Director of Finance

**DATE:** December 16, 2011

**SUBJECT:** Financial Performance Report: 12-Month Period Ending September 30, 2011

---

We are pleased to provide for your review and information the City of Kyle's Financial Performance Report for the 12-month period ending September 30, 2011. The purpose of the quarterly Financial Performance Report is to present the City's financial status in order to keep the City Council, City management, and the citizens of Kyle fully informed.

This Financial Performance Report for the 12-month period ending September 30, 2011 includes summary reports on the status of all Funds of the City. We have included twenty three (23) summary reports covering operations, capital improvements program, debt obligations, and investments as attachments for this reporting period.

In addition, this report highlights the financial performance results for the City's following four major Operating Funds including all City Departments:

1. General Fund (110)
2. Community Development Fund (121)
3. Recreation Fund (125)
4. Utility Operating Fund (310)

A Fund is defined as a separate fiscal and accounting entity with a self-balancing set of accounts established to account for specific program activities including revenue and associated expenditures. For example, General Fund, Community Development Fund, Recreation Fund, Utility Operating Fund, Impact Fee Fund, 2010 Bond Fund, etc.

Financial Performance Report  
 12-Month Period Ending September 30, 2011 (Unaudited)  
 December 16, 2011

The Financial Performance Report for the 12-month period ending September 30, 2011 includes the following detailed reports as attachments:

1. All Fund Summary - Citywide
2. Detailed Fund Summary Budget Status – General Fund (110)
3. Detailed Fund Summary Budget Status – Community Development Fund (121)
4. Detailed Fund Summary Budget Status – Recreation Fund (125)
5. Detailed Fund Summary Budget Status – Utility Operating Fund (310)
6. Detailed Fund Summary Budget Status – Police Forfeiture Fund (131)
7. Detailed Fund Summary Budget Status – Police Special Revenue Fund (132)
8. Detailed Fund Summary Budget Status – Court Special Revenue Fund (133)
9. Detailed Fund Summary Budget Status – Hotel Occupancy Fund (135)
10. Detailed Fund Summary Budget Status – Debt Service Fund (151)
11. Detailed Fund Summary Budget Status – SIB/TIF Loan I&S Fund (152)
12. Capital Projects Budget Status Report – 2007 CO Bond Fund (182)
13. Capital Projects Budget Status Report – 2008 CO Bond Fund (184)
14. Capital Projects Budget Status Report – 2009 Tax Notes Fund (185)
15. Capital Projects Budget Status Report – 2010 CO Bond Fund (187)
16. Capital Projects Budget Status Report – Water CIP Operating Revenue Fund (331)
17. Capital Projects Budget Status Report – Sewer CIP Operating Revenue Fund (341)
18. Capital Projects Budget Status Report – Water CIP Impact Fee Fund (332)
19. Capital Projects Budget Status Report – Sewer CIP Impact Fee Fund (342)
20. Schedule of Fund Balance for All Active Funds of the City
21. Schedule of Debt Outstanding (Principal & Interest)
22. Schedule of Investment Market Values and Earnings
23. Schedule of Investments by Type and Earnings

Highlights of unaudited revenue and expenditures for the 12-month period ending September 30, 2011 are shown below for each of the City's four major Operating Funds. As outlined above, a detailed report for each Fund is also attached for your information.

**GENERAL FUND**  
**Financial Performance Highlights (Unaudited)**

	FY 2008-09 At 9-30-2009	FY 2009-10 At 9-30-2010	FY 2010-11 Amended Budget	Year to Date w/Encumbrance
Beginning Balance	\$ 3,689,149	\$ 3,907,982	\$ 2,975,126	\$ 2,975,126
Revenue & Transfers-In	\$ 9,208,818	\$ 9,235,133	\$ 10,642,452	\$ 10,959,498
Expenditures & Transfers-Out	\$ 8,989,985	\$ 10,133,354	\$ 10,914,737	\$ 10,127,066
Ending Balance	\$ 3,907,982	\$ 2,975,126	\$ 2,702,841	\$ 3,807,558

Item # 7

Financial Performance Report  
12-Month Period Ending September 30, 2011 (Unaudited)  
December 16, 2011

Revenue:

1. Year to date revenue and transfers-in from all sources for the General Fund through September 30, 2011 totaled \$10,959,498 or 103.0% of amended budget for the year.
2. Property tax receipts (M&O portion) for the year totaled \$3,052,966 or 103.4% of amended budget for the year.
3. Sales tax receipts for the year totaled \$3,155,933 or 105.6% of amended budget.
4. Charges for services totaled \$1,533,870 or 96.5% of amended budget for the year. This includes Solid Waste Collections and Billable City Work.
5. Municipal Court fines totaled \$469,246 or 124.3% of amended budget.
6. Transfers-in from the Utility Fund for the year totaled \$1,732,348 or 100.0 % of budget.

Expenditures:

1. Total expenditures and transfers-out the General Fund through September 30, 2011 totaled \$10,127,066 or 92.8% of amended budget.
2. Administration Departments' expenditures totaled \$1,351,753 or 92.4% of amended budget. These departments are Mayor & Council, Office of the City Manager, Human Resources, and Information Technology.
3. Financial Services Department expenditures totaled \$761,174 or 93.0% of amended budget. This includes Budget & Accounting and Municipal Court Divisions. The Utility Billing Division is accounted for in the City's Utility Operating Fund.
4. Parks and Recreation Department expenditures totaled \$1,285,606 or 90.6% of amended budget. This includes Parks Administration, Maintenance & Operations, and Facilities Maintenance. All recreation program activities are accounted for in the Recreation Fund which is reported separately.
5. Public Library Department expenditures totaled \$347,083 or 75.6% of amended budget.
6. Police Department expenditures totaled \$3,403,276 or 94.8% of amended budget.
7. Public Works Department expenditures supported by the General Fund totaled \$1,993,873 or 91.2% of amended budget. This includes \$544,105 for Street Maintenance or 76.9% of budget and \$1,449,767 for contracted Sanitation Services or 98.0% of budget.
8. Transfers-Out from the General Fund to the Community Development and Recreation Funds totaled \$816,486 or 100.0% of amended budget.
9. A detailed Fund Summary Budget Status Report for the General Fund is provided in the attached reports.

Financial Performance Report  
 12-Month Period Ending September 30, 2011 (Unaudited)  
 December 16, 2011

**COMMUNITY DEVELOPMENT FUND**  
**Financial Performance Highlights (Unaudited)**

	FY 2008-09 At 9-30-2009	FY 2009-10 At 9-30-2010	FY 2010-11 Amended Budget	Year to Date w/Encumbrance
Beginning Balance	(\$ 593,430)	(\$ 761,415)	(\$ 721,168)	(\$ 721,168)
Revenue & Transfers-In	\$ 703,853	\$ 1,041,566	\$ 944,271	\$ 925,261
Expenditures & Transfers-Out	\$ 871,838	\$ 1,001,318	\$ 1,376,273	\$ 1,184,955
Ending Balance	(\$ 761,415)	(\$ 721,168)	(\$ 1,153,170)	(\$ 980,862)

Revenue:

1. Total revenue and transfers-in from all sources for the Community Development Fund totaled \$925,261 or 98.0% of amended budget. It should be noted that the approved budget did not include Transfers-in totaling \$461,853 from the General Fund. This was corrected in the budget amendment.
2. Construction inspection fees for the year totaled \$427,709 or 93.9% of amended budget for the year.
3. Other inspection fees totaled \$799 or 9.3% of amended budget. Other inspections include signs, house moving, contractor license, and swimming pools.
4. Land use planning and review fees for the year totaled \$32,498 or 204.0% of amended budget. These include development review fees, zoning amendment fees, and other planning fees.
5. Transfers-in from the General Fund for the year totaled \$461,855 or 100.0% of amended budget in the General Fund. Please refer to explanation in item number 1 above.

Expenditures:

1. Operating expenditures in the Community Development Fund including encumbrances totaled \$1,184,955 or 86.1% of amended budget.
2. Building Inspection Department expenditures totaled \$398,851 or 85.4% of amended budget.
3. Planning Department expenditures totaled \$249,305 or 88.4% of amended budget.
4. Economic Development Department expenditures totaled \$536,799 or 85.6% of amended budget. Due to an oversight, budget amounts for economic development incentive payments for Seton and DDR/DB were not included in the approved budget. This was corrected in the budget amendment.

Financial Performance Report  
 12-Month Period Ending September 30, 2011 (Unaudited)  
 December 16, 2011

5. A detailed Fund Summary Budget Status Report for the Community Development Fund is provided in the attached reports.

**RECREATION FUND**  
**Financial Performance Highlights (Unaudited)**

	FY 2008-09 At 9-30-2009	FY 2009-10 At 9-30-2010	FY 2010-11 Amended Budget	Year to Date w/Encumbrance
Beginning Balance	\$ 20,572	\$ 39,013	\$ 124,872	\$ 124,872
Revenue & Transfers-In	\$ 640,763	\$ 613,583	\$ 678,183	\$ 668,458
Expenditures & Transfers-Out	\$ 622,322	\$ 527,725	\$ 677,099	\$ 517,327
Ending Balance	\$ 39,013	\$ 124,872	\$ 125,956	\$ 276,002

**Revenue:**

1. Total revenue and transfers-in from all sources for the Recreation Fund through September 30, 2011 totaled \$668,458 or 98.6% of amended budget.
2. Recreation program fees totaled \$184,689 or 98.5% of amended budget. This includes summer camps, recreation programs, and sport leagues.
3. Special event program fees totaled \$57,771 or 80.0% of amended budget. This includes July 4<sup>th</sup>, Halloween, Fair & Music Festival, etc.
4. Swimming pool fees for the year totaled \$71,363 or 111.7% of amended budget.
5. Transfers-in from the General Fund totaled \$354,635 or 100.0% of amended budget.

**Expenditures:**

1. Operating expenditures in the Recreation Fund including encumbrances through September 30, 2011 totaled \$517,327 or 76.4% of amended budget.
2. Recreation program expenditures totaled \$352,486 or 78.7% of amended budget.
3. Aquatic program expenditures totaled \$164,841 or 71.9% of amended budget.
4. A detailed Fund Summary Budget Status Report for the Recreation Fund is provided in the attached reports.

Financial Performance Report  
 12-Month Period Ending September 30, 2011 (Unaudited)  
 December 16, 2011

**UTILITY OPERATING FUND**  
**Financial Performance Highlights (Unaudited)**

	FY 2008-09 At 9-30-2009	FY 2009-10 At 9-30-2010	FY 2010-11 Amended Budget	Year to Date w/Encumbrance
Beginning Balance	\$ 6,446,276	\$ 6,749,063	\$ 4,507,079	\$ 4,507,079
Revenue & Transfers-In	\$ 6,494,303	\$ 6,122,847	\$ 8,521,059	\$ 7,968,909
Expenditures & Transfers-Out	\$ 6,191,516	\$ 8,364,831	\$ 10,603,757	\$ 8,896,510
Ending Balance	\$ 6,749,063	\$ 4,507,079	\$ 2,424,381	\$ 3,579,478

\* Fund Balance is based on working capital basis and accordingly, excludes non-current assets and long term liabilities.

**Revenue:**

1. Total revenue and transfers-in from all sources for the Utility Operating Fund through September 30, 2011 totaled \$7,968,909 or 93.5% of amended budget for the year.
2. Water sales revenue totaled \$4,441,370 or 89.2% of amended budget.
3. Water service charges totaled \$414,609 or 102.3% of amended budget. Water service charges include tap fees, reconnect fees, and late payment penalties.
4. Wastewater service fees totaled \$2,330,981 or 78.6% of amended budget. Wastewater service fees include volume charge and lift station charges for Hays CISD.
5. Wastewater service charges totaled \$37,397 or 60.3% of amended budget. Wastewater service charges include tap fees and other miscellaneous fees.
6. Miscellaneous revenue totaled \$7,966 or 7.2% of amended budget. Interest income and billable work by City crews is reported in the miscellaneous revenue category.

**Expenditures:**

1. Total expenditures including encumbrances and transfers-out through September 30, 2011 totaled \$8,896,510 or 83.9% of amended budget.
2. Water Administration expenditures totaled \$771,934 or 71.7% of amended budget.
3. Utility Billing expenditures totaled \$361,962 or 84.3% of amended budget.
4. Water Operations expenditures totaled \$1,091,129 or 96.3% of amended budget.
5. Water Supply expenditures totaled \$2,548,759 or 94.8% of amended budget.
6. Wastewater Operations expenditures totaled \$1,155,303 or 58.2% of amended budget.
7. Transfers-out to the City's General Fund, CIP Funds, and to the Debt Service Fund totaled \$2,966,824 or 90.2% of amended budget. The approved budget did not include



Financial Performance Report  
12-Month Period Ending September 30, 2011 (Unaudited)  
December 16, 2011

Transfers-out in the amount of \$643,350 to the Utility CIP Fund. This was corrected in the budget amendment.

8. A detailed Fund Summary Budget Status Report for the Utility Operating Fund is provided in the attached reports.

Please let me know if you have any questions or need additional information.



Perwez A. Moheet, CPA  
Director of Finance

**Attachments**

cc: Posted on City of Kyle Website  
Kyle Public Library  
Financial Services Department Staff

City of Kyle, Texas  
ALL FUNDS SUMMARY - CITY WIDE  
For Fiscal Year 2010-11

	General Fund 110	Community Development 121	Recreation Programming 125	Transportation Fund 127	Police Forfeiture Fund 131	Police Sp. Revenue Fund 132	Court Special Rev. Fund 133
1. * Beginning Balance	\$ 2,975,126	\$ (721,168)	\$ 124,872	\$ (151,315)	\$ 19,619	\$ 6,783	\$ 100,102
2. Revenue	\$ 9,227,150	\$ 463,406	\$ 313,823	\$ -	\$ 2,303	\$ 3,608	\$ 29,009
3. Transfers-in	1,732,348	461,855	354,635				
4. Total Revenue & Transfers-in:	\$ 10,959,498	\$ 925,261	\$ 668,458	\$ -	\$ 2,303	\$ 3,608	\$ 29,009
5. Expenditures	\$ 9,308,177	\$ 1,184,955	\$ 517,327	\$ 3,139	\$ -	\$ -	\$ 33,856
6. Transfers-Out	818,889	-	-	-	-	-	-
7. Total Expenditures & Transfers-Out:	\$ 10,127,066	\$ 1,184,955	\$ 517,327	\$ 3,139	\$ -	\$ -	\$ 33,856
8. Revenue in Excess of Expenditures	\$ 832,431	\$ (259,694)	\$ 151,130	\$ (3,139)	\$ 2,303	\$ 3,608	\$ (4,847)
9. Estimated Ending Balance:	\$ 3,807,558	\$ (980,862)	\$ 276,002	\$ (154,454)	\$ 21,922	\$ 10,391	\$ 95,255

Item # 7



City of Kyle, Texas  
 ALL FUNDS SUMMARY - CITY WIDE  
 For Fiscal Year 2010-11

	Hotel Occupancy Fund 135	Economic Dev. Fund 136	Library Building Fund 138	Debt Service Fund 151	TIRZ Debt Service Fund 152	Park Development Fund 172	2007 CO Bond Fund 182
1. * Beginning Balance	\$ 120,559	\$ (87,363)	\$ 161,624	\$ (39,317)	\$ 251,070	\$ (142,846)	\$ 419,278
2. Revenue	\$ 132,765	\$ -	\$ 282	\$ 2,856,447	\$ 311,559	\$ 222,986	\$ 52,825
3. Transfers-in				1,373,801	275,732	-	-
4. Total Revenue & Transfers-in:	<u>\$ 132,765</u>	<u>\$ -</u>	<u>\$ 282</u>	<u>\$ 4,230,248</u>	<u>\$ 587,291</u>	<u>\$ 222,986</u>	<u>\$ 52,825</u>
5. Expenditures	\$ 131,391	\$ -	\$ -	\$ 3,898,324	\$ 769,442	\$ -	\$ -
6. Transfers-Out	36,000	-	-	275,732	-	-	-
7. Total Expenditures & Transfers-Out:	<u>\$ 167,391</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 4,174,056</u>	<u>\$ 769,442</u>	<u>\$ -</u>	<u>\$ -</u>
8. Revenue in Excess of Expenditures	<u>\$ (34,626)</u>	<u>\$ -</u>	<u>\$ 282</u>	<u>\$ 56,192</u>	<u>\$ (182,151)</u>	<u>\$ 222,986</u>	<u>\$ 52,825</u>
9. Estimated Ending Balance:	<u>\$ 85,933</u>	<u>\$ (87,363)</u>	<u>\$ 161,906</u>	<u>\$ 16,874</u>	<u>\$ 68,919</u>	<u>\$ 80,140</u>	<u>\$ 472,103</u>

City of Kyle, Texas  
ALL FUNDS SUMMARY - CITY WIDE  
For Fiscal Year 2010-11

	2008 CO Bond Fund 184	2009 Tax Notes Fund 185	2010 CO Bond Fund 187	Utility Fund 310	Water CIP Fund 331	Water Impact Fee Fund 332
1. * Beginning Balance	\$ 5,861,474	\$ 1,467,891	\$ (285,298)	\$ 4,507,079	\$ 82,667	\$ (1,545,561)
2. Revenue	\$ 72,485	\$ 2,266	\$ 4,293,928	\$ 7,968,909	\$ -	\$ 307,950
3. Transfers-in	-	-	-	-	159,175	-
4. Total Revenue & Transfers-in:	\$ 72,485	\$ 2,266	\$ 4,293,928	\$ 7,968,909	\$ 159,175	\$ 307,950
5. Expenditures	\$ 706,987	\$ 481,392	\$ 3,219,757	\$ 5,929,686	\$ 17,675	\$ -
6. Transfers-Out	-	-	-	2,966,824	-	-
7. Total Expenditures & Transfers-Out:	\$ 706,987	\$ 481,392	\$ 3,219,757	\$ 8,896,510	\$ 17,675	\$ -
8. Revenue in Excess of Expenditures	\$ (634,502)	\$ (479,126)	\$ 1,074,171	\$ (927,601)	\$ 141,500	\$ 307,950
9. Estimated Ending Balance:	\$ 5,226,972	\$ 988,765	\$ 788,873	\$ 3,579,478	\$ 224,167	\$ (1,237,611)

Item # 7

City of Kyle, Texas  
 ALL FUNDS SUMMARY - CITY WIDE  
 For Fiscal Year 2010-11

	Wastewater CIP Fund 341	Wastewater Impact Fee Fund 342	Grant Fund 410	OPEB Liability Fund 810	Total Fund Balance
1. * Beginning Balance	\$ -	\$ 6,875,054	\$ (464,781)	\$ (2,125)	\$ 20,047,053
2. Revenue	\$ -	\$ 526,406	\$ 1,625,162	\$ -	\$ 27,636,041
3. Transfers-in	\$ 162,500	\$ -	\$ -	\$ 79,132	\$ 3,461,013
4. Total Revenue & Transfers-in:	\$ 162,500	\$ 526,406	\$ 1,625,162	\$ 79,132	\$ 31,097,054
5. Expenditures	\$ -	\$ 537,136	\$ 841,412	\$ 4,617	\$ 25,865,319
6. Transfers-Out	\$ -	\$ -	\$ -	\$ -	\$ 4,097,445
7. Total Expenditures & Transfers-Out:	\$ -	\$ 537,136	\$ 841,412	\$ 4,617	\$ 29,962,764
8. Revenue in Excess of Expenditures	\$ 162,500	\$ (10,730)	\$ 783,750	\$ 74,515	\$ 1,134,291
9. Estimated Ending Balance:	\$ 162,500	\$ 6,864,323	\$ 318,969	\$ 287,047	\$ 21,181,343

Item # 7

City of Kyle, Texas  
Fund Summary Budget Status Report  
GENERAL FUND  
For Fiscal Year Ended September 30, 2011 (Unaudited)

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
<b>BEGINNING FUND BALANCE</b>	\$ 3,689,149	\$ 3,907,982	\$ 2,975,126	\$ 2,975,126			
<b>REVENUE</b>							
Property Taxes	\$ 2,212,625	\$ 2,457,089	\$ 2,952,019	\$ 3,052,966	103.42%	\$ (100,947)	-3.42%
Sales Taxes	2,637,721	2,422,594	2,968,387	3,155,933	105.61%	(167,546)	-5.61%
Other Taxes	11,951	8,620	12,211	5,012	41.04%	7,199	58.96%
Gross Receipts & Franchise Fees	636,963	701,786	729,044	764,348	104.84%	(35,304)	-4.84%
Charges for Services	1,149,587	1,363,731	1,589,175	1,533,870	96.52%	55,305	3.48%
Fines and Forfeitures	891,177	567,347	377,674	469,246	124.25%	(91,572)	-24.25%
Licenses, Fees and Permits	7,979	11,755	10,690	2,430	22.73%	8,260	77.27%
Library Revenue	47,183	51,768	74,529	53,048	71.18%	21,481	28.82%
Interest and Other	263,632	170,486	176,372	190,299	107.90%	(13,927)	-7.90%
<b>TOTAL REVENUE:</b>	<b>\$ 7,858,818</b>	<b>\$ 7,755,177</b>	<b>\$ 8,910,101</b>	<b>\$ 9,227,150</b>	<b>103.56%</b>	<b>\$ (317,049)</b>	<b>-3.56%</b>
<b>TRANSFERS IN:</b>							
Utility Fund	1,350,000	1,479,956	1,732,351	1,732,348	100.00%	4	0.00%
<b>TOTAL TRANSFERS IN:</b>	<b>\$ 1,350,000</b>	<b>\$ 1,479,956</b>	<b>\$ 1,732,351</b>	<b>\$ 1,732,348</b>	<b>100.00%</b>	<b>\$ 4</b>	<b>0.00%</b>
<b>TOTAL REVENUE AND TRANSFERS IN:</b>	<b>\$ 9,208,818</b>	<b>\$ 9,235,133</b>	<b>\$ 10,642,452</b>	<b>\$ 10,959,498</b>	<b>102.98%</b>	<b>\$ (317,046)</b>	<b>-2.98%</b>
<b>EXPENDITURES</b>							
Administration							
Mayor and Council	\$ 59,017	\$ 71,661	\$ 77,561	\$ 77,042	99.33%	\$ 519	0.67%
Office of the City Manager	1,023,887	1,008,103	700,022	705,659	100.81%	(5,637)	-0.81%
Human Resources	1,899	208,254	263,134	207,726	78.94%	55,408	21.06%
Information Technology	174,471	174,088	421,866	361,326	85.65%	60,540	14.35%
Total Administration:	\$ 1,259,274	\$ 1,462,106	\$ 1,462,583	\$ 1,351,753	92.42%	\$ 110,830	7.58%
Financial Services							
Budget & Accounting	\$ 462,717	\$ 456,857	\$ 549,583	\$ 524,613	95.46%	\$ 24,970	4.54%
Municipal Court	210,827	227,231	268,703	236,561	88.04%	32,142	11.96%
Utility Billing	363,410	-	-	-	0.00%	-	0.00%
Total Financial Services:	\$ 1,036,954	\$ 684,088	\$ 818,286	\$ 761,174	93.02%	\$ 57,112	6.98%
Parks and Recreation							
Administration	\$ 197,432	\$ 216,702	\$ 235,284	\$ 225,647	95.90%	\$ 9,637	4.10%
Parks Maintenance & Operations	591,086	674,449	835,229	740,951	88.71%	94,278	11.29%
Facilities Maintenance & Operations	410,955	313,771	347,814	319,008	91.72%	28,806	8.28%
Total Parks and Recreation:	\$ 1,199,474	\$ 1,204,922	\$ 1,418,327	\$ 1,285,606	90.64%	\$ 132,721	9.36%
Public Library	\$ 305,578	\$ 295,991	\$ 459,355	\$ 347,083	75.56%	\$ 112,272	24.44%

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
Police Department							
Police Operations	\$ 2,580,310	\$ 2,971,459	\$ 2,962,917	\$ 2,888,743	96.84%	\$ 94,174	3.16%
Police Support Services	392,401	368,728	605,392	514,533	84.99%	90,859	15.01%
Total Police Department	\$ 2,972,711	\$ 3,340,187	\$ 3,568,309	\$ 3,403,276	94.84%	\$ 185,033	5.16%
Emergency Medical Services (Contract)	\$ 75,975	\$ 73,635	\$ 165,000	\$ 165,412	100.25%	\$ (412)	-0.25%
Public Works							
Street Maintenance	\$ 621,406	\$ 780,146	\$ 707,491	\$ 544,105	76.91%	\$ 163,386	23.09%
Sanitation (Contract)	1,093,870	1,281,490	1,478,900	1,449,767	98.03%	29,133	1.97%
Total Public Works:	\$ 1,715,276	\$ 2,061,636	\$ 2,186,391	\$ 1,993,873	91.19%	\$ 192,518	8.81%
Non Departmental	\$ 424,743	\$ 1,010,790	\$ 816,486	\$ 818,889	100.29%	\$ (2,403)	-0.29%
<b>TOTAL EXPENDITURES:</b>	\$ 8,989,985	\$ 10,133,354	\$ 10,914,737	\$ 10,127,066	92.78%	\$ 787,671	7.22%
<b>TOTAL REVENUE &amp; TRANSFERS-IN IN EXCESS (DEFICIT) OVER EXPENDITURES</b>	\$ 218,833	\$ (898,221)	\$ (272,285)	\$ 832,431			
<b>ESTIMATED ENDING FUND BALANCE</b>	\$ 3,907,982	\$ 2,975,126	\$ 2,702,841	\$ 3,807,558			

**City of Kyle, Texas**  
**Fund Summary Budget Status Report**  
**COMMUNITY DEVELOPMENT FUND**  
**For Fiscal Year Ended September 30, 2011 (Unaudited)**

	Actual 2008-09	Actual 2009-10	Approved Budget 2010-11	Year to Date w/Encumbrance 2010-11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
<b>BEGINNING FUND BALANCE</b>	\$ (593,430)	\$ (761,415)	\$ (721,168)	\$ (721,168)			
<b>REVENUE:</b>							
Construction Inspection	\$ 512,153	\$ 362,599	\$ 455,144	\$ 427,709	93.97%	\$ 27,435	6.03%
Other Inspection	10,980	8,273	8,600	799	9.29%	7,801	90.71%
Land Use Planning & Review	18,006	14,103	15,933	32,498	203.97%	(16,565)	-103.97%
Other Revenue	5,163	10,598	2,741	2,400	87.56%	341	12.44%
<b>TOTAL REVENUE:</b>	<u>\$ 546,301</u>	<u>\$ 395,573</u>	<u>\$ 482,418</u>	<u>\$ 463,406</u>	<u>96.06%</u>	<u>\$ 19,012</u>	<u>3.94%</u>
<b>TRANSFERS IN:</b>							
General Fund	\$ 157,552	\$ 645,993	\$ 461,853	\$ 461,855	100.00%	\$ (2)	0.00%
<b>TOTAL TRANSFERS IN:</b>	<u>\$ 157,552</u>	<u>\$ 645,993</u>	<u>\$ 461,853</u>	<u>\$ 461,855</u>	<u>100.00%</u>	<u>\$ 2,786</u>	<u>0.60%</u>
<b>TOTAL REVENUE AND TRANSFERS IN:</b>	<u>\$ 703,853</u>	<u>\$ 1,041,566</u>	<u>\$ 944,271</u>	<u>\$ 925,261</u>	<u>97.99%</u>	<u>\$ 21,796</u>	<u>2.31%</u>
<b>EXPENDITURES:</b>							
Building Inspection	\$ 446,311	\$ 456,570	\$ 467,155	\$ 398,851	85.38%	\$ 68,304	14.62%
Planning	268,760	228,087	281,922	249,305	88.43%	32,617	11.57%
Economic Development	156,767	316,661	627,196	536,799	85.59%	90,397	14.41%
<b>TOTAL EXPENDITURES:</b>	<u>\$ 871,838</u>	<u>\$ 1,001,318</u>	<u>\$ 1,376,273</u>	<u>\$ 1,184,955</u>	<u>86.10%</u>	<u>\$ 191,318</u>	<u>13.90%</u>
<b>TOTAL REVENUE &amp; TRANSFERS-IN IN EXCESS (DEFICIT) OVER EXPENDITURES</b>	<u>\$ (167,985)</u>	<u>\$ 40,247</u>	<u>\$ (432,002)</u>	<u>\$ (259,694)</u>			
<b>ESTIMATED ENDING FUND BALANCE</b>	<u>\$ (761,415)</u>	<u>\$ (721,168)</u>	<u>\$ (1,153,170)</u>	<u>\$ (980,862)</u>			

City of Kyle, Texas  
Fund Summary Budget Status Report  
RECREATION FUND  
For Fiscal Year Ended September 30, 2011 (Unaudited)

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
<b>BEGINNING FUND BALANCE</b>	\$ 20,572	\$ 39,013	\$ 124,872	\$ 124,872			
<b>REVENUE:</b>							
Recreation Program	\$ 216,305	\$ 178,138	\$ 187,500	\$ 184,689	98.50%	\$ 2,811	1.50%
Special Events	82,876	72,113	72,185	57,771	80.03%	14,414	19.97%
Swimming Pool	70,953	61,600	63,865	71,363	111.74%	(7,498)	-11.74%
<b>TOTAL REVENUE:</b>	<u>\$ 370,135</u>	<u>\$ 311,852</u>	<u>\$ 323,550</u>	<u>\$ 313,823</u>	<u>96.99%</u>	<u>\$ 9,727</u>	<u>3.01%</u>
<b>TRANSFERS IN:</b>							
General Fund	\$ 270,628	\$ 301,731	\$ 354,633	\$ 354,635	100.00%	\$ (2)	0.00%
<b>TOTAL TRANSFERS IN:</b>	<u>\$ 270,628</u>	<u>\$ 301,731</u>	<u>\$ 354,633</u>	<u>\$ 354,635</u>	<u>100.00%</u>	<u>\$ 9,725</u>	<u>2.74%</u>
<b>TOTAL REVENUE AND TRANSFERS IN:</b>	<u>\$ 640,763</u>	<u>\$ 613,583</u>	<u>\$ 678,183</u>	<u>\$ 668,458</u>	<u>98.57%</u>	<u>\$ 9,724</u>	<u>1.43%</u>
<b>EXPENDITURES:</b>							
Recreation Programs	\$ 404,784	\$ 388,911	\$ 447,934	\$ 352,486	78.69%	\$ 95,448	21.31%
Aquatic Programs	217,538	138,814	229,165	164,841	71.93%	64,324	28.07%
<b>TOTAL EXPENDITURES:</b>	<u>\$ 622,322</u>	<u>\$ 527,725</u>	<u>\$ 677,099</u>	<u>\$ 517,327</u>	<u>76.40%</u>	<u>\$ 159,772</u>	<u>23.60%</u>
<b>TOTAL REVENUE &amp; TRANSFERS-IN IN EXCESS (DEFICIT) OVER EXPENDITURES</b>	<u>\$ 18,441</u>	<u>\$ 85,858</u>	<u>\$ 1,084</u>	<u>\$ 151,130</u>			
<b>ESTIMATED ENDING FUND BALANCE</b>	<u>\$ 39,013</u>	<u>\$ 124,872</u>	<u>\$ 125,956</u>	<u>\$ 276,002</u>			

Item # 7

City of Kyle, Texas  
Fund Summary Budget Status Report  
UTILITY FUND  
For Fiscal Year Ended September 30, 2011 (Unaudited)

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
BEGINNING FUND BALANCE	\$ 6,446,276	\$ 6,749,063	\$ 4,507,079	\$ 4,507,079			
<b>REVENUE:</b>							
Water Sales	\$ 3,708,165	\$ 3,436,754	\$ 4,978,230	\$ 4,441,370	89.22%	\$ 536,860	10.78%
Water Service Charges	437,025	425,798	405,284	414,609	102.30%	(9,325)	-2.30%
Wastewater Service Fees	2,101,297	2,117,394	2,965,537	2,330,981	78.60%	634,556	21.40%
Wastewater Service Charges	156,824	122,125	62,007	37,397	60.31%	24,610	39.69%
Interest and Other	90,993	20,776	110,001	7,966	7.24%	102,035	92.76%
<b>TOTAL REVENUE:</b>	<b>\$ 6,494,303</b>	<b>\$ 6,122,847</b>	<b>\$ 8,521,059</b>	<b>\$ 7,232,323</b>	<b>84.88%</b>	<b>\$ 1,288,736</b>	<b>15.12%</b>
<b>TRANSFERS IN:</b>							
Transfer In	\$ -	\$ -	\$ -	\$ 736,586	0.00%	\$ (736,586)	0.00%
<b>TOTAL TRANSFERS IN:</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 736,586</b>	<b>0.00%</b>	<b>\$ (736,586)</b>	<b>0.00%</b>
<b>TOTAL REVENUE AND TRANSFERS IN:</b>	<b>\$ 6,494,303</b>	<b>\$ 6,122,847</b>	<b>\$ 8,521,059</b>	<b>\$ 7,968,909</b>	<b>93.52%</b>	<b>\$ 552,150</b>	<b>6.48%</b>
<b>EXPENDITURES:</b>							
Plum Creek Watershed Grant	\$ -	\$ -	\$ -	\$ 600	0.00%	\$ (600)	0.00%
Water Administration	541,963	666,677	1,077,113	771,934	71.67%	305,179	28.33%
Utility Billing	-	402,379	429,406	361,962	84.29%	67,444	15.71%
Water Operations	916,454	867,420	1,132,971	1,091,129	96.31%	41,842	3.69%
Water Supply	1,475,696	2,129,641	2,689,474	2,548,759	94.77%	140,715	5.23%
Wastewater Operations	1,448,018	1,731,698	1,986,291	1,155,303	58.16%	830,988	41.84%
<b>TOTAL EXPENDITURES:</b>	<b>\$ 4,382,131</b>	<b>\$ 5,797,815</b>	<b>\$ 7,315,255</b>	<b>\$ 5,929,686</b>	<b>81.06%</b>	<b>\$ 1,385,569</b>	<b>18.94%</b>
<b>TRANSFERS OUT:</b>							
Transfers Out - General Fund	\$ 1,372,034	\$ 1,479,956	\$ 1,732,351	\$ 1,732,348	100.00%	\$ 4	0.00%
Transfers Out - CIP	120,000	86,327	643,350	321,675	50.00%	321,675	50.00%
Transfers Out - Debt Service	279,095	980,948	912,801	912,801	100.00%	(0)	0.00%
Transfers Out - OPEB Fund	38,257	19,785	-	-	0.00%	-	0.00%
<b>TOTAL TRANSFERS OUT:</b>	<b>\$ 1,809,386</b>	<b>\$ 2,567,016</b>	<b>\$ 3,288,502</b>	<b>\$ 2,966,824</b>	<b>90.22%</b>	<b>\$ 321,678</b>	<b>9.78%</b>
<b>TOTAL EXPENDITURES &amp; TRANSFERS OUT</b>	<b>\$ 6,191,516</b>	<b>\$ 8,364,831</b>	<b>\$ 10,603,757</b>	<b>\$ 8,896,510</b>	<b>83.90%</b>	<b>\$ 1,707,247</b>	<b>16.10%</b>
<b>TOTAL REVENUE &amp; TRANSFERS-IN</b>	<b>\$ 302,787</b>	<b>\$ (2,241,984)</b>	<b>\$ (2,082,698)</b>	<b>\$ (927,601)</b>			
<b>IN EXCESS (DEFICIT) OVER EXPENDITURES</b>	<b>\$ 6,749,063</b>	<b>\$ 4,507,079</b>	<b>\$ 2,424,381</b>	<b>\$ 3,579,478</b>			
<b>ESTIMATED ENDING FUND BALANCE</b>							

# 7



City of Kyle, Texas  
 Fund Detail Budget Status Report  
 POLICE FORFEITURE FUND  
 For Fiscal Year Ended September 30, 2011

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
BEGINNING FUND BALANCE (UNAUDITED)			\$ 19,619	\$ 19,619			
REVENUE:							
131-353-41551 Police Seizure Revenue	\$ 866	\$ 1,375	\$ 1,375	\$ 2,303	167.49%	\$ (928)	-67.49%
131-441-42412 Investment Income	-	-	-	-	0.00%	-	0.00%
TOTAL REVENUE:	\$ 866	\$ 1,375	\$ 1,375	\$ 2,303	167.49%	\$ (928)	-67.49%
EXPENDITURES:							
131-511-52182 Fire Arms Supplies	\$ -	\$ -	\$ -	\$ -	0.00%	\$ -	0.00%
131-511-55329 Other Contract Services	80	-	-	-	0.00%	-	0.00%
TOTAL EXPENDITURES:	\$ 80	\$ -	\$ -	\$ -	0.00%	\$ -	0.00%
TOTAL REVENUE & TRANSFERS-IN	\$ 786	\$ 1,375	\$ 1,375	\$ 2,303	167.49%	\$ (928)	-67.49%
IN EXCESS (DEFICIT) OVER EXPENDITURES			\$ 20,994	\$ 21,922			
ESTIMATED ENDING FUND BALANCE			\$ 20,994	\$ 21,922			

City of Kyle, Texas  
Fund Detail Budget Status Report  
POLICE SPECIAL REVENUE  
For Fiscal Year Ended September 30, 2011

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
<b>BEGINNING FUND BALANCE (UNAUDITED)</b>							
<b>REVENUE:</b>							
132-412-42221				6,783			
LEOSE Revenue					101.80%	(47)	-1.80%
132-412-42222	\$ 1,848	\$ 2,621	\$ 2,620	\$ 2,667	0.00%	-	0.00%
LEAD Grant Revenue	-	-	-	-	0.00%	-	0.00%
132-441-42412	-	-	-	-	0.00%	-	0.00%
Invest Income on Bank Bal	-	-	-	-	0.00%	-	0.00%
132-451-42512	-	-	-	100	0.00%	(100)	0.00%
Blue Santa Donations	-	-	-	841	0.00%	(841)	0.00%
132-451-42516	-	-	-	-	0.00%	-	0.00%
VFW Donation	-	-	-	-	0.00%	-	0.00%
132-451-42517	18,000						
Blue Santa/Christmas Program							
132-461-42613	19,848	\$ 2,621	\$ 2,620	\$ 3,608	137.71%	(988)	-37.71%
Transfers in From Gen Fund							
<b>TOTAL REVENUE:</b>	<b>\$ 19,848</b>	<b>\$ 2,621</b>	<b>\$ 2,620</b>	<b>\$ 3,608</b>	<b>137.71%</b>	<b>(988)</b>	<b>-37.71%</b>
<b>EXPENDITURES:</b>							
132-520-51185	\$ -	\$ 1,355	\$ -	\$ -	0.00%	\$ -	0.00%
Tuition							
132-520-52171	-	-	-	-	0.00%	-	0.00%
Training Supplies							
132-520-52188	-	550	2,620	-	0.00%	2,620	100.00%
LEOSE Expenses							
132-520-52189	-	-	-	-	0.00%	-	0.00%
LEAD Expenses							
<b>TOTAL EXPENDITURES:</b>	<b>\$ -</b>	<b>\$ 1,905</b>	<b>\$ 2,620</b>	<b>\$ -</b>	<b>0.00%</b>	<b>2,620</b>	<b>100.00%</b>
<b>TOTAL REVENUE &amp; TRANSFERS-IN</b>							
	\$ 19,848	\$ 716	\$ -	\$ 3,608	#DIV/0!	\$ (3,608)	#DIV/0!
<b>IN EXCESS (DEFICIT) OVER EXPENDITURES</b>							
<b>ESTIMATED ENDING FUND BALANCE</b>							
	\$ -	\$ 6,783	\$ -	\$ 10,391			

**City of Kyle, Texas**  
**Fund Detail Budget Status Report**  
**COURT SPECIAL REVENUE FUND**  
**For Fiscal Year Ended September 30, 2011**

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
<b>BEGINNING FUND BALANCE (UNAUDITED)</b>							
<b>REVENUE:</b>							
133-351-41521							
Technology Fee		\$ 12,326	\$ 9,500	\$ 14,713	154.87%	\$ (5,213)	-54.87%
133-351-41522	\$ 8,379	\$ 9,230	\$ 7,500	\$ 11,032	147.10%	\$ (3,532)	-47.10%
Security Fee		\$ 1,707	\$ 1,200	\$ 2,077	173.12%	\$ (877)	-73.12%
133-351-41523	\$ 1,460	\$ 1,707	\$ 1,200	\$ 2,077	395.71%	\$ (887)	-295.71%
Judicial Training Fee		\$ 430	\$ 300	\$ 1,187	156.81%	\$ (10,509)	-56.81%
133-351-41524	\$ 361	\$ 23,694	\$ 18,500	\$ 29,009			
Child Safety Fee							
<b>TOTAL REVENUE:</b>	<b>\$ 21,372</b>	<b>\$ 23,694</b>	<b>\$ 18,500</b>	<b>\$ 29,009</b>		<b>\$ (10,509)</b>	
<b>EXPENDITURES:</b>							
<b>Technology Expenses</b>							
133-533-54175	\$ 347	\$ 704	\$ 1,000	\$ -	0.00%	\$ 1,000	100.00%
Office Equipment Rental		\$ 413	\$ 19,495	\$ 18,900	96.95%	\$ 595	3.05%
133-533-52214	-	\$ 900	\$ 1,000	\$ 3,600	360.00%	\$ (2,600)	-260.00%
Computer Hardware			\$ 1,900	\$ -	0.00%	\$ 1,900	100.00%
133-533-52215	-						
Computer Software							
133-533-52218	-	\$ 1,797	\$ -	\$ -	0.00%	\$ -	0.00%
General Electronic Equipment			\$ 5,000	\$ 5,000	100.00%	\$ -	0.00%
133-533-52219	-						
Other Office Equipment			\$ 100	\$ -	0.00%	\$ 100	100.00%
133-533-55331	-						
IT Service Maint/License Fees			\$ 28,495	\$ 27,500	96.51%	\$ 995	3.49%
133-533-55337	-						
IT Warranties							
<b>Total Technology Expenses</b>	<b>\$ 347</b>	<b>\$ 3,882</b>	<b>\$ 28,495</b>	<b>\$ 27,500</b>		<b>\$ 995</b>	
<b>Security Expenses</b>							
133-534-51181	\$ 269	\$ 100	\$ 100	\$ 100	100.00%	\$ -	0.00%
Training/Registration							
Security Improvements							
133-534-55329	\$ 1,570	\$ 5,670	\$ 6,000	\$ 6,156	102.60%	\$ (156)	-2.60%
Services - Bailiff							
133-534-55348	\$ 1,850						
OCS							
<b>Total Security Expenses</b>	<b>\$ 3,689</b>	<b>\$ 5,770</b>	<b>\$ 6,100</b>	<b>\$ 6,256</b>	<b>102.56%</b>	<b>\$ (156)</b>	<b>-2.56%</b>
<b>Training Expenses</b>							
133-535-51181	\$ 102	\$ 50	\$ 100	\$ 100	100.00%	\$ -	0.00%
Training/Registration							
Total Training Expenses	\$ 102	\$ 50	\$ 100	\$ 100	100.00%	\$ -	0.00%
<b>TOTAL EXPENDITURES:</b>	<b>\$ 4,138</b>	<b>\$ 9,702</b>	<b>\$ 34,695</b>	<b>\$ 33,856</b>	<b>97.58%</b>	<b>\$ 839</b>	<b>2.42%</b>
<b>TOTAL REVENUE &amp; TRANSFERS-IN</b>							
<b>IN EXCESS (DEFICIT) OVER EXPENDITURES</b>							
	\$ 17,235	\$ 13,992	\$ (16,195)	\$ (4,847)			
<b>ESTIMATED ENDING FUND BALANCE</b>							
		\$ 83,907	\$ 95,255				

City of Kyle, Texas  
Fund Detail Budget Status Report  
HOTEL OCCUPANCY FUND  
For Fiscal Year Ended September 30, 2011

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
<b>BEGINNING FUND BALANCE (UNAUDITED)</b>							
135-313-41546				\$ 120,559			
135-441-42412				\$ 120,559			
<b>REVENUE:</b>							
	\$ 131,950	\$ 95,351	\$ 122,195	\$ 132,581	108.50%	\$ (10,386)	-8.50%
	1,535	363	307	185	60.22%	122	39.78%
<b>TOTAL REVENUE:</b>	<u>\$ 133,485</u>	<u>\$ 95,714</u>	<u>\$ 122,502</u>	<u>\$ 132,765</u>	<u>108.38%</u>	<u>\$ (10,263)</u>	<u>-8.38%</u>
<b>EXPENDITURES:</b>							
135-450-58119	\$ -	\$ 36,118	\$ 37,000	\$ 36,000	97.30%	\$ 1,000	2.70%
135-540-52157	-	-	5,000	-	0.00%	5,000	100.00%
135-540-55243	5,450	-	-	-	0.00%	-	0.00%
135-540-58111	130,525	134,639	134,639	131,391	97.59%	3,248	2.41%
<b>TOTAL EXPENDITURES:</b>	<u>\$ 135,975</u>	<u>\$ 170,757</u>	<u>\$ 176,639</u>	<u>\$ 167,391</u>	<u>94.76%</u>	<u>\$ 9,248</u>	<u>5.24%</u>
<b>TOTAL REVENUE &amp; TRANSFERS-IN</b>							
	<u>\$ (2,490)</u>	<u>\$ (75,042)</u>	<u>\$ (54,137)</u>	<u>\$ (34,626)</u>			
<b>IN EXCESS (DEFICIT) OVER EXPENDITURES</b>							
<b>ESTIMATED ENDING FUND BALANCE</b>							
			<u>\$ 66,422</u>	<u>\$ 85,933</u>			

**City of Kyle, Texas**  
**Fund Detail Budget Status Report**  
**DEBT SERVICES**  
**For Fiscal Year Ended September 30, 2011**

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
<b>BEGINNING FUND BALANCE ( UNAUDITED)</b>							
<b>REVENUE:</b>							
Property Taxes							
151-310-40111	\$ 2,511,421	\$ 3,182,636	\$ 2,900,000	\$ 2,783,677	95.99%	\$ 116,323	4.01%
151-310-40112	16,533	16,243	13,000	23,310	179.31%	(10,310)	-79.31%
151-310-40114	1,727	-	-	4,853	0.00%	(4,853)	0.00%
151-310-40115	17,434	15,072	12,000	22,316	185.96%	(10,316)	-85.96%
Total Property Taxes	\$ 2,547,116	\$ 3,213,951	\$ 2,925,000	\$ 2,834,155	96.89%	\$ 90,845	3.11%
Investment Income & Other							
151-441-42412	\$ 13,327	\$ 55,545	\$ 50,000	\$ 22,292	44.58%	\$ 27,708	55.42%
151-445-42451	183,319	-	-	-	0.00%	-	0.00%
151-445-42452	-	-	-	-	0.00%	-	0.00%
Total Investment Income & Other	\$ 196,647	\$ 55,545	\$ 50,000	\$ 22,292	44.58%	\$ 27,708	55.42%
Transfer In							
151-452-42521	\$ 511,075	\$ -	\$ -	\$ -	0.00%	\$ -	0.00%
151-452-42522	-	-	-	-	0.00%	-	0.00%
151-462-42621	-	980,948	912,801	912,801	100.00%	-	0.00%
151-462-42634	-	-	-	-	0.00%	-	0.00%
151-462-42635	-	-	-	-	0.00%	-	0.00%
151-462-42624	-	36,118	36,000	36,000	100.00%	-	0.00%
151-463-42631	-	-	425,000	425,000	100.00%	-	0.00%
Total Transfer In	\$ 511,075	\$ 1,017,066	\$ 1,373,801	\$ 1,373,801	100.00%	\$ -	0.00%
<b>TOTAL REVENUE AND TRANSFERS IN:</b>	<b>\$ 3,254,837</b>	<b>\$ 4,286,562</b>	<b>\$ 4,348,801</b>	<b>\$ 4,230,248</b>	<b>97.27%</b>	<b>\$ 118,553</b>	<b>2.73%</b>
<b>EXPENDITURES:</b>							
Bank Charges/Paying Agent Fees							
151-570-55221	\$ 2,072	\$ 2,800	\$ -	\$ 1,990	0.00%	\$ (1,990)	0.00%
151-570-58114	1,080,987	228,286	300,000	275,732	91.91%	24,268	8.09%
151-570-58211	-	-	-	-	0.00%	-	0.00%
151-570-59111	-	-	-	-	0.00%	-	0.00%
151-570-59112	-	-	-	-	0.00%	-	0.00%
151-570-59121	-	-	-	-	0.00%	-	0.00%
151-570-59122	-	-	-	-	0.00%	-	0.00%
151-570-59132	-	-	-	-	0.00%	-	0.00%
151-570-59133	-	-	-	-	0.00%	-	0.00%
151-570-59200	63,380	4,500	-	-	0.00%	-	0.00%
151-570-59202	175,930	169,788	162,920	162,920	100.00%	-	0.00%
151-570-59203	51,336	41,768	31,832	31,832	100.00%	-	0.00%
151-570-59207	401,200	394,200	382,800	382,800	100.00%	-	0.00%
151-570-59208	1,396,725	1,007,706	987,581	987,581	100.00%	-	0.00%
151-570-59209	3,150	170,919	131,056	131,056	100.00%	(0)	0.00%
151-570-59210	-	27,788	42,020	42,020	100.00%	(0)	0.00%
151-570-58121	-	-	-	-	0.00%	-	0.00%

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
151-570-59211	-	-	-	-	0.00%	-	0.00%
151-570-59212	-	-	-	-	0.00%	-	0.00%
151-570-59300	40,000	75,000	-	-	0.00%	-	0.00%
151-570-59302	195,000	205,000	210,000	210,000	100.00%	-	0.00%
151-570-59303	260,000	270,000	275,000	275,000	100.00%	-	0.00%
151-570-59307	175,000	285,000	395,000	395,000	100.00%	-	0.00%
151-570-59308	290,000	575,000	505,000	505,000	100.00%	-	0.00%
151-570-59309	-	710,000	755,000	755,000	100.00%	-	0.00%
151-570-59310	-	25,000	18,125	18,125	100.00%	-	0.00%
151-570-58122	-	-	-	-	0.00%	-	0.00%
151-570-59311	-	-	-	-	0.00%	-	0.00%
151-570-59312	-	-	-	-	0.00%	-	0.00%
151-570-59389	30,000	-	-	-	0.00%	-	0.00%
<b>TOTAL EXPENDITURES:</b>	<b>\$ 4,164,779</b>	<b>\$ 4,192,754</b>	<b>\$ 4,196,334</b>	<b>\$ 4,174,056</b>	<b>99.47%</b>	<b>\$ 22,278</b>	<b>0.53%</b>

TOTAL REVENUE & TRANSFERS-IN  
IN EXCESS (DEFICIT) OVER EXPENDITURES

\$ (909,942)

\$ 93,808

\$ 56,192

ESTIMATED ENDING FUND BALANCE

\$ 113,150

\$ 16,874

Item # 7

**City of Kyle, Texas**  
**Fund Detail Budget Status Report**  
**TIRZ LOAN I & S FUND**  
**For Fiscal Year Ended September 30, 2011**

	Actual 2008-09	Actual 2009-10	Amended Budget 2010-11	Year to Date w/Encumbrance as of 9/30/11	YTD As % of Budget	Budget Remaining	% of Budget Remaining
<b>BEGINNING FUND BALANCE ( UNAUDITED)</b>							
<b>REVENUE:</b>							
<b>Property Taxes</b>							
152-310-41111	\$ 1,950	\$ 1,008	\$ 390,450	\$ -	0.00%	\$ 390,450	100.00%
152-310-40120	-	424,406	-	311,444	0.00%	(311,444)	0.00%
	\$ 1,950	\$ 425,414	\$ 390,450	\$ 311,444	79.77%	\$ 79,006	20.23%
<b>Investment Income</b>							
152-441-42412	\$ 1,902	\$ 190	\$ 3,000	\$ 115	3.84%	\$ 2,885	96.16%
	\$ 1,902	\$ 190	\$ 3,000	\$ 115	3.84%	\$ 2,885	96.16%
<b>Transfer In</b>							
152-450-42623	\$ 1,080,987	\$ 228,286	\$ 300,000	\$ 275,732	91.91%	\$ 24,268	8.09%
	\$ 1,080,987	\$ 228,286	\$ 300,000	\$ 275,732	91.91%	\$ 24,268	8.09%
	\$ 1,084,839	\$ 653,890	\$ 693,450	\$ 587,291	84.69%	\$ 106,159	15.31%
<b>TOTAL REVENUE AND TRANSFERS IN:</b>							
<b>EXPENDITURES:</b>							
152-570-59210	\$ -	\$ 408,966	\$ 537,568	\$ 537,567	100.00%	\$ 1	0.00%
152-570-59310	-	-	231,875	231,875	100.00%	-	0.00%
152-572-55221	-	82,500	-	-	0.00%	-	0.00%
152-572-59134	647,801	-	-	-	0.00%	-	0.00%
152-572-59135	615,688	-	-	-	0.00%	-	0.00%
	\$ 1,263,489	\$ 491,466	\$ 769,443	\$ 769,442	100.00%	\$ 1	0.00%
<b>TOTAL REVENUE &amp; TRANSFERS-IN</b>							
<b>IN EXCESS (DEFICIT) OVER EXPENDITURES</b>							
	\$ (178,650)	\$ 162,424	\$ (75,993)	\$ (182,151)			
<b>ESTIMATED ENDING FUND BALANCE</b>							
		\$ 175,077	\$ 175,077	\$ 68,919			

City of Kyle, Texas  
 Summary Capital Projects Budget Status Report - By Fund  
 for the Period Ended September 30, 2011  
 Project Management Fund 182 (2007 CO Bond Fund - \$9,910,000.00)

Project Name	Approved Project Budget	Expenditures Year to Date	Expenditures Inception To Date	Encumbrances	Total Funds Obligated	% Obligated	Funds Available	% Budget/ Funds Available
Cost of Issuance	\$ 267,060.65	\$ -	\$ 267,060.65	\$ -	\$ 267,060.65	100.00%	\$ -	0.00%
Net Offering Premium/Accrued Int on Issuance	-	-	(123,322.87)	-	(123,322.87)	0.00%	123,322.87	0.00%
Kohlrs Crossing	7,853,730.41	-	7,907,765.22	-	7,907,765.22	100.69%	(54,034.81)	-0.69%
Kohlrs Crossing-Hays Co Reimbursement	(1,868,000.00)	-	(1,868,000.00)	-	(1,868,000.00)	100.00%	-	0.00%
TXDOT Reimb - Hometown Kyle	448,116.17	-	448,116.17	-	448,116.17	100.00%	-	0.00%
TXDOT Reimb-FM2770/Kohlrs to FM150	750,000.00	-	849,601.44	-	849,601.44	113.28%	(99,601.44)	-13.28%
Lehman HS-Safety Improv-Sidewalk	15,381.51	-	15,381.51	-	15,381.51	100.00%	-	0.00%
SCC/Seton - Engineering	-	-	12,897.08	-	12,897.08	0.00%	(12,897.08)	0.00%
Dry Hole Rd	492,410.00	-	492,410.00	-	492,410.00	100.00%	-	0.00%
Downtown Streetscape/Employee Parkg Lot	1,664,932.00	-	1,867,344.13	-	1,867,344.13	112.16%	(202,412.13)	-12.16%
Spring Branch Dr-Corridor Study	-	-	20,718.44	-	20,718.44	0.00%	(20,718.44)	0.00%
Parking Lot-225 Rebel Dr	-	-	13,393.65	-	13,393.65	0.00%	(13,393.65)	0.00%
Transfer to Debt Service	251,287.22	-	251,287.22	-	251,287.22	100.00%	-	0.00%
Transferred 2002 & 2003 CO into 2007	(250,577.40)	-	(250,577.40)	-	(250,577.40)	100.00%	-	0.00%
Center St/FM150 Extension	-	-	14,541.72	-	14,541.72	0.00%	(14,541.72)	0.00%
TXDOT Improv - Aesthetics	285,659.44	-	11,400.00	-	11,400.00	3.99%	274,259.44	96.01%
<b>Total All Projects in Fund 182</b>	<b>\$ 9,910,000.00</b>	<b>\$ -</b>	<b>\$ 9,930,016.96</b>	<b>\$ -</b>	<b>\$ 9,930,016.96</b>	<b>100.20%</b>	<b>\$ (20,016.96)</b>	<b>-0.20%</b>



City of Kyle, Texas  
 Summary Capital Projects Budget Status Report - By Fund  
 For the Period Ended September 30, 2011

Project Management Fund 184 (2008 CO Bond Fund - \$22,800,000.00)

Project Name	Approved Project Budget	Expenditures YTD	Expenditures Inception To Date	Encumbrances	Total Funds Obligated	% Obligated	Funds Available	% Budget/ Funds Available
Bank Building	\$ 1,500,000.00	\$ -	\$ 1,062,614.38	\$ 437,385.62	\$ 1,500,000.00	100%	-	0.00%
Public Works Facility Development	1,500,000.00	(32.62)	2,676,425.04	-	2,676,425.04	100%	(1,176,425.04)	-78.43%
Park Land Purchase & Improvements	460,000.00	-	526,504.00	-	526,504.00	100%	(66,504.00)	-14.46%
Safety Improvements - Lehman HS	-	-	-	-	-	100%	-	0.00%
Dacy Lane Engr & Const	-	10,572.33	83,416.75	1,991,583.25	2,075,000.00	100%	(2,075,000.00)	0.00%
Tenorio Addition Ph1A - WW line	-	246,864.36	338,564.46	(4,384.96)	334,179.50	100%	(334,179.50)	0.00%
IT Improvements	471,000.00	-	656,470.58	-	656,470.58	100%	(185,470.58)	-39.38%
Traffic Signals	550,000.00	-	-	-	-	100%	550,000.00	100.00%
Extension of FM1626 (Seton)	9,500,000.00	-	9,079,117.88	-	9,079,117.88	100%	420,882.12	4.43%
Eco Dev Industrial Park Road	4,000,000.00	-	27,599.62	-	27,599.62	100%	3,972,400.38	99.31%
HCPUA O&M Expenses	-	-	191,774.00	-	191,774.00	100%	(191,774.00)	0.00%
HCPUA O&M Expenses	-	-	383,487.00	-	383,487.00	100%	(383,487.00)	0.00%
HCPUA Capital Expense	-	-	59,157.00	-	59,157.00	100%	(59,157.00)	0.00%
Water Well #5	500,000.00	-	484,495.00	-	484,495.00	100%	15,505.00	3.10%
Sewer Imprv-Thiele & Front @ RR	550,000.00	6,018.20	94,374.49	-	94,374.49	100%	455,625.51	82.84%
Asset Valuation	-	-	87,240.52	-	87,240.52	100%	(87,240.52)	0.00%
SIB II Suppl-I35 & FM150 Improv	3,000,000.00	2,436.38	2,436.38	997,563.62	1,000,000.00	100%	2,000,000.00	66.67%
Tenorio Addition Ph1B	-	16,128.00	16,128.00	100,933.05	117,061.05	100%	(117,061.05)	0.00%
Cost of Issuance	769,000.00	-	880,867.07	-	880,867.07	100%	(111,867.07)	-14.55%
Trf to SIB Loan (Incode 275-530-3100)	-	-	14,475.00	-	14,475.00	100%	(14,475.00)	0.00%
Post Oak 0.75MG EST	-	-	915,030.92	-	915,030.92	100%	(915,030.92)	0.00%
Old Stagecoach Rd GST	-	-	49,335.18	-	49,335.18	100%	(49,335.18)	0.00%
Yarrington Rd GST	-	-	58,347.75	-	58,347.75	100%	(58,347.75)	0.00%
Plum Creek 16" WL	-	-	99,155.65	-	99,155.65	100%	(99,155.65)	0.00%
Transfer to I&S to pay down debt	-	425,000.00	425,000.00	1,275,000.00	1,700,000.00	100%	(1,700,000.00)	0.00%
<b>Total All Projects in Fund 184</b>	<b>\$ 22,800,000.00</b>	<b>\$ 706,986.65</b>	<b>\$ 18,212,016.67</b>	<b>\$ 4,798,080.58</b>	<b>\$ 23,010,097.25</b>	<b>100%</b>	<b>\$ (210,097.25)</b>	<b>-0.91%</b>

City of Kyle, Texas  
 Summary Capital Projects Budget Status Report - By Fund  
 for the Period Ended September 30, 2011

Project Management Fund 185 (2009 Tax Notes Fund - \$5,600,000.00)

Project Name	Approved Project Budget	Expenditures Year to Date	Expenditures Inception To Date	Encumbrances	Total Funds Obligated	% Obligated	Funds Available	% Budget/ Funds Available
Cost of Issuance	\$ 78,000.00	\$ -	\$ 74,275.68	\$ -	\$ 74,275.68	95.23%	3,724.32	4.77%
Historic City Hall	900,000.00	-	806,844.06	-	806,844.06	89.65%	93,155.94	10.35%
Equipment Purchases	643,763.00	-	637,561.73	-	637,561.73	99.04%	6,201.27	0.96%
SCADA System	393,000.00	60,708.70	444,137.70	-	444,137.70	113.01%	(51,137.70)	-13.01%
Recreation Center - Architect/Engr Fees	1,177,237.00	-	1,333,222.98	-	1,333,222.98	113.25%	(155,985.98)	-13.25%
Police Records Mgmt System	503,000.00	367,515.85	398,509.25	51,490.75	450,000.00	89.46%	53,000.00	10.54%
Flex-Net Meter Reading System	870,000.00	2,400.04	50,880.46	-	50,880.46	5.85%	819,119.54	94.15%
Building Permits/Planning Software-Edgesoft	163,000.00	-	169,858.40	-	169,858.40	104.21%	(6,858.40)	-4.21%
Comprehensive Plan Consultant Svcs	272,000.00	-	299,253.93	-	299,253.93	110.02%	(27,253.93)	-10.02%
Train Depot Renovation	250,000.00	50,767.41	69,852.02	180,147.98	250,000.00	100.00%	-	0.00%
Library Land Purchase	350,000.00	-	342,748.27	-	342,748.27	97.93%	7,251.73	2.07%
<b>Total All Projects in Fund 185</b>	<b>\$ 5,600,000.00</b>	<b>\$ 481,392.00</b>	<b>\$ 4,627,144.48</b>	<b>\$ 231,638.73</b>	<b>\$ 4,858,783.21</b>	<b>86.76%</b>	<b>\$ 741,216.79</b>	<b>13.24%</b>

City of Kyle, Texas  
 Summary Capital Projects Budget Status Report - By Fund  
 for the Period Ended September 30, 2011

Project Management Fund 187 (2010 CO Bond Fund - \$4,290,000.00)

Project Name	Amended Project Budget 6/7/11	Expenditures Year to Date	Expenditures Inception To Date	Encumbrances	Total Funds Obligated	% Obligated	Funds Available	% Budget/ Funds Available
Cost of Issuance	\$ 62,756.13	\$ 62,756.13	\$ 62,756.13	\$ -	\$ 62,756.13	100.00%	\$ -	0.00%
Library Construction	3,567,000.00	3,002,279.26	3,280,557.90	286,442.10	3,567,000.00	100.00%	-	0.00%
Library FF&E	500,000.00	-	-	500,000.00	500,000.00	100.00%	-	0.00%
PW Utility Improvements	54,739.47	54,739.47	54,739.47	-	54,739.47	55.76%	-	0.00%
PW Sidewalk Improvements	30,150.00	28,319.13	28,319.13	1,830.87	30,150.00	119.20%	-	0.00%
Engineer-City	25,000.00	19,184.57	25,104.30	(104.30)	25,000.00	169.26%	-	0.00%
PSI Testing & Inspection	11,361.00	9,798.00	10,898.00	463.00	11,361.00	100.00%	-	0.00%
Legal Services		1,373.94	1,373.94					
Construction Proj. Mgr.	38,993.40	36,900.00	36,900.00	2,093.40	38,993.40	366.45%	-	0.00%
<b>Total All Projects in Fund 187</b>	<b>\$ 4,290,000.00</b>	<b>\$ 3,215,350.50</b>	<b>\$ 3,500,648.87</b>	<b>\$ 790,725.07</b>	<b>\$ 4,290,000.00</b>	<b>100.00%</b>	<b>\$ -</b>	<b>0.00%</b>

City of Kyle, Texas  
 Summary Capital Projects Budget Status Report - By Fund  
 for the Period Ended September 30, 2011

**Project Management Fund 331 (Water Operating Revenue Fund)**

Project Name	Approved Project Budget	Expenditures YTD	Expenditures Inception To Date	Encumbrances	Total Funds Obligated	% Obligated	Funds Available	% Budget/ Funds Available
<b>Projects</b>								
Kohl's Electrical Project	20,000.00	-	-	-	-	0.00%	20,000.00	100.00%
Well #3 Electrical Upgrade	20,000.00	-	-	-	-	0.00%	20,000.00	100.00%
Pump House Rd/Melinda Ln Upgrade	102,850.00	1,279.86	1,419.86	-	1,419.86	1.38%	101,430.14	98.62%
Old Highway 81 12" Waterline	90,500.00	8,142.00	18,956.56	-	18,956.56	20.95%	71,543.44	79.05%
Old Stagecoach Rd WL Project	-	260.00	9,394.32	-	9,394.32	0.00%	(9,394.32)	0.00%
Well #3 CL2 Analyzers w/spare	27,500.00	(284.76)	(284.76)	-	(284.76)	-1.04%	27,784.76	101.04%
Well #4 CL2 Analyzers w/spare	27,500.00	8,277.95	8,277.95	-	8,277.95	30.10%	19,222.05	69.90%
PW Building, Ph II (.5)	30,000.00	-	-	-	-	0.00%	30,000.00	100.00%
<b>Total All Projects in Fund 331</b>	<b>318,350.00</b>	<b>17,675.05</b>	<b>37,763.93</b>	<b>-</b>	<b>37,763.93</b>	<b>12%</b>	<b>280,586.07</b>	<b>88%</b>

City of Kyle, Texas  
 Summary Capital Projects Budget Status Report - By Fund  
 for the Period Ended September 30, 2011

**Project Management Fund 341 (Sewer Operating Revenue Fund)**

Project Name	Approved Project Budget	Expenditures YTD	Expenditures Inception To Date	Encumbrances	Total Funds		% Obligated	Funds Available	% Budget/ Funds Available
					Obligated	Available			
<u>Current Year Revenue</u>									
<u>Transfer from Utility Fund</u>	325,000.00	162,500.00							
<b>Projects</b>									
Sewer Rehabilitation	100,000.00		-		-	0%	100,000.00	100.00%	
PW Building Ph II (.5)	30,000.00		-		-	0%	30,000.00	100.00%	
Effluent Line Upgrades	100,000.00		-		-	0%	100,000.00	100.00%	
Abandon Barton Lift Station	95,000.00		-		-	0%	95,000.00	100.00%	
<b>Total All Projects in Fund 341</b>	<b>325,000.00</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>0%</b>	<b>325,000.00</b>	<b>100%</b>	

City of Kyle, Texas  
 Summary Capital Projects Budget Status Report - By Fund  
 for the Period Ended September 30, 2011

**Project Management Fund 332 (Water CIP Impact Fee Fund)**

Project Name	Approved Project Budget	Expenditures		Encumbrances	Total Funds Obligated	% Obligated	Funds Available	% Budget/ Funds Available
		YTD	Inception To Date					
Debt Service - SM Expansion	346,680.00	-	-	-	-	0.00%	346,680.00	100.00%
Planning & Asset Valuation - Water	25,000.00	-	-	-	-	0.00%	25,000.00	100.00%
<b>Total All Projects in Fund 332</b>	<b>371,680.00</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>0.00%</b>	<b>371,680.00</b>	<b>100%</b>

City of Kyle, Texas  
 Summary Capital Projects Budget Status Report - By Fund  
 for the Period Ended September 30, 2011

**Project Management Fund 342 (Sewer CIP Impact Fee Fund)**

Project Name	Approved Project Budget	Expenditures YTD	Expenditures Inception To Date	Encumbrances	Total Funds Obligated	% Obligated	Funds Available	% Budget/ Funds Available
Aqua-Texas Debt on Plant Expansion Planning & Asset Valuation - Water	365,692.00	526,431.56	526,431.56		526,431.56	143.95%	(160,739.56)	-43.95%
Bunton Ck WW Intcptr, Ph 3	16,000.00	-	-		-	0.00%	16,000.00	100.00%
Southside Sewer Project	-	846.00	846.00		846.00	0.00%	(846.00)	0.00%
ACC/Plum Creek WW CIP	5,000,000.00	-	-		-	0.00%	5,000,000.00	100.00%
Reclaimed Water Study	-	858.76	1,217.26		1,217.26	0.00%	(1,217.26)	0.00%
	9,000.00	9,000.00	9,000.00		9,000.00	100.00%	-	0.00%
<b>Total All Projects in Fund 342</b>	<b>5,390,692.00</b>	<b>537,136.32</b>	<b>537,494.82</b>	<b>-</b>	<b>537,494.82</b>	<b>9.97%</b>	<b>4,853,197.18</b>	<b>90.03%</b>

City of Kyle, Texas  
Unaudited Fund Balance  
As of September 30, 2011

Item	Fund Number	Name of Fund/Title	Unaudited Fund Balance
1	110	General Fund	\$ 3,807,557.53
2	121	Community Development Fund	(980,861.62)
3	125	Recreation Fund	276,001.89
4	127	Transportation Fund	(154,454.43)
5	131	Police Seizure Fund	21,921.92
6	132	Police Special Revenue Fund	10,391.10
7	133	Court Special Revenue Fund	95,255.02
8	135	Hotel Occupancy Tax Fund	85,933.18
9	136	Economic Development Fund	(87,362.55)
10	138	Library Building Fund	161,906.39
11	151	General Debt Service I&S Fund	16,874.35
12	152	SIB (State Infrastructure Loan) I&S Fund	68,918.90
13	171	CIP Current Projects Fund	-
14	172	CIP Park Development Fund	80,140.00
15	182	2007 CO Road Improvement Fund	472,102.95
16	184	2008 CO Bond Fund - CIP	5,226,971.98
17	185	2009 Tax Notes Fund	988,764.58
18	187	2010 CO Library Building Fund	788,873.13
19	310	Utility Operating Fund	3,579,478.09
20	331	Water CIP Operating Revenue Fund	224,166.95
21	332	CIP Water Impact Fee Fund	(1,226,950.11)
22	341	Sewer CIP Operating Revenue Fund	162,500.00
23	342	Sewer CIP Impact Fee Fund	6,864,323.45
24	410	General Government Grant Funds	318,968.78
25	610	Structural Demolition Services	(326.62)
26	810	OPEB/Deferred Comp Fund	287,046.87
27	999	Pooled Cash Fund - Operating	-
Total All Fund Balance (Unaudited):			<u><u>\$ 21,088,141.73</u></u>



City of Kyle, Texas  
 Schedule of Debt Outstanding  
 As of September 30, 2011

Debt Issue	Original Principal Amount	Principal Amount Retired	Principal Amount Outstanding	Interest on Outstanding Principal	Total Principal & Interest
1. Tax & Sewer System Refunding Bonds Series 1989A	\$ 185,000	\$ 185,000	\$ -	\$ -	\$ -
2. Combination Tax & Certificate of Obligation Series 2000	1,385,000	1,385,000	-	-	-
3. Combination Tax & Certificate of Obligation Series 2002	5,135,000	4,690,000	445,000	24,125	469,125
4. Combination Tax & Certificate of Obligation Series 2003	2,340,000	1,750,000	590,000	32,752	622,752
5. State (TXDOT) Infrastructure Bond Loan I	14,911,978	14,911,978	-	-	-
6. Combination Tax & Certificate of Obligation Series 2007	9,910,000	855,000	9,055,000	3,408,800	12,463,800
7. Combination Tax & Certificate of Obligation Series 2008	22,800,000	1,370,000	21,430,000	13,426,469	34,856,469
8. State (TXDOT) Infrastructure Bond Loan II	12,462,951	-	12,462,951	5,291,804	17,754,755
9. Limited Tax Notes Series 2009	5,600,000	1,465,000	4,135,000	333,266	4,468,266
10. General Obligations Refunding Bonds, Series 2009	15,315,000	275,000	15,040,000	4,835,681	19,875,681
11. Combination Tax & Certificate of Obligation Series 2010	4,290,000	-	4,290,000	1,901,912	6,191,912
12. General Obligations Refunding Bonds, Series 2011	3,390,000	-	3,390,000	816,181	4,206,181
<b>Total:</b>	<b>\$ 97,724,929</b>	<b>\$ 26,886,978</b>	<b>\$ 70,837,951</b>	<b>\$ 30,070,990</b>	<b>\$ 100,908,941</b>

City of Kyle, Texas  
 Schedule of Investment Market Values and Interest Income  
 As of September 30, 2011

Account	Account Description	Market Value	Interest/ Dividends
110-000-11060	General Fund - TexPool	\$ 1,213,664.15	\$ 2,476.35
110-000-11070	General Fund - TexSTAR	1,676,221.79	1,221.79
110-000-11071	General Fund - TexSTAR - Bunton Creek PID	776.44	1.01
110-000-11090	General Fund - Agency Bonds VSR	151,500.52	12,194.90
135-000-11070	Hotel Occupany Fund - TexSTAR	142,618.65	184.88
138-000-11060	Library Building Donation Fund - TexPool	132,743.85	169.54
151-000-11070	Debt Service Fund - TexSTAR	483,798.44	368.56
152-000-11070	Debt Service Fund (TIRZ) - TexSTAR	88,951.06	115.29
182-000-11060	CO Bonds Series 2007 - TexPool	1,053,308.21	308.21
182-000-11090	CO Bonds Series 2007 - Agency Bonds VSR	946,127.58	52,516.74
184-000-11070	CO Bonds Series 2008 - TexSTAR	5,092,253.13	2,453.13
184-000-11090	CO Bonds Series 2008 - Agency Bonds VSR	90,679.75	70,031.50
185-000-11070	Tax Notes Series 2009 - TexSTAR	878,218.32	924.87
185-000-11090	Tax Notes Series 2009 - Agency Bonds VSR	-	1,340.71
187-000-11070	CO Bonds Series 2010 - TexSTAR	1,023,313.32	3,928.38
310-000-11060	Utility Fund - TexPool	2,073,578.16	2,648.84
332-000-11060	Water CIP Impact Fee Fund - TexPool	6,125.27	7.61
342-000-11060	Wastewater CIP Impact Fee Fund - TexPool	5,049,306.25	3,907.86
342-000-11090	Wastewater CIP Impact Fee Fund - Agency Bonds VSR	603,467.87	65,378.09
Total / Average:		<u><u>\$ 20,706,652.76</u></u>	<u><u>\$ 220,178.26</u></u>

City of Kyle, Texas  
 Schedule of Investments by Type and Interest Income  
 As of September 30, 2011

<u>Investment Type</u>	<u>Name of Investment/Issuer</u>	<u>Market Value</u>	<u>Dividends</u>
Agency Bonds	Federal Farm Credit Bank	\$ -	\$ 45,503.59
Agency Bonds	Federal Home Loan Bank	-	-
Agency Bonds	Federal Home Loan Mortgage Corporation	1,647,763.05	131,063.79
Agency Bonds	Federal National Mortgage Association	67,806.28	7,899.94
Money Market	Local Government Investment Pools	18,914,877.04	18,716.32
Money Market	Money Market	-	16,738.39
Mutual Fund	Vanguard Mutual Fund	76,206.39	256.23
	Total / Average:	<u>\$ 20,706,652.76</u>	<u>\$ 220,178.26</u>



# CITY OF KYLE, TEXAS

3700 Kyle Crossing, LLC.

Meeting Date: 1/3/2012

Date time: 7:00 PM

**Subject/Recommendation:**

*(Second Reading)* AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'CM' CONSTRUCTION MANUFACTURING DISTRICT TO APPROXIMATELY 10 ACRES, ON PROPERTY LOCATED AT 3700 KYLE CROSSING IN HAYS COUNTY, TEXAS. (3700 KYLE CROSSING, LLC. Z-11-013); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

**Other Information:**

Please see attachments.

**Budget Information:**

N/A

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- [Exhibit A](#)
- [Exhibit B](#)
- [City Council Memo](#)



**CITY COUNCIL AGENDA**  
**December 6, 2011**

---

**Item/Subject:** AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CODE OF ORDINANCES, CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'CM' CONSTRUCTION MANUFACTURING DISTRICT, TO APPROXIMATELY 10 ACRES ON PROPERTY LOCATED AT 3700 KYLE CROSSING, IN HAYS COUNTY, TEXAS. (3700 KYLE CROSSING, LLC. - Z-11-013)  
(Public Hearing and First Reading of Ordinance).

**Initiating Dept:** Planning

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**Commentary**

Applicant's Request:

To assign original zoning of "CM" Construction Manufacturing District (3700 Kyle Crossing, LLC.).

Planning & Zoning Commission Recommendation to the City Council:

The Planning and Zoning Commission voted 6-0 to recommend approval of the applicant's request to assign original zoning of "CM" Construction Manufacturing District to approximately 10 acres (3700 Kyle Crossing, LLC.);

In Favor: Chairman Cale Baese, Vice-Chair Samantha Bellows, Commissioner Mike Fulton, Commissioner Jenny DiLeo, Commissioner Cicely Kay, and Commissioner Pat Fernandez.

Planning & Zoning Commission Public Hearing:

The Planning and Zoning Commission held a public hearing on November 29, 2011.

During the public hearing, one person expressed concern regarding the proposed rezoning and its compliance with the Comprehensive Master Plan.

Background:

Owner: 3700 Kyle Crossing, LLC.

Agent: Liz Walker

Public Information Plan:

*November 9, 2011:* Public notice of the Planning and Zoning Commission and City Council public hearings published in the Hays Free Press.

*November 29, 2011:* Planning and Zoning Commission public hearing and recommendation to City Council.

*December 6, 2011:* City Council public hearing and first reading of ordinance

**SITE INFORMATION:*****Transportation:***

The subject property fronts on both Kyle Crossing and Dry Hole Drive. The Transportation Master Plan indicates that the intersection of the two streets are planned to be developed into a parkway loop and regional connector.

**STAFF ANALYSIS AND RECOMMENDATION:**

The subject property is approximately 10 acres in size and is located at the intersection of Kyle Crossing and Dry Hole Drive (behind the Home Depot). The property has been developed as a manufacturing site and was previously used by Palm Harbor for the manufacturing and assembly of premanufactured homes. Since the site was developed prior to being annexed into the City the property has retained the interim zoning designation of Agriculture, the zoning designation assigned to properties at the time of annexation. The applicant is proposing to utilize the existing building however due to the location of the site within the IH-35 Overlay any additional development will require full compliance with the Overlay requirements.

**Surrounding Zoning and Land Use**

	<b>Zoning</b>	<b>Land Use</b>
<b>North</b>	Agriculture and Retail Services	Pet Services
<b>East</b>	Retail Services	Home Depot
<b>South</b>	Retail Services	undeveloped
<b>West</b>	Construction Manufacturing	Quarry

The Comprehensive Master Plan has identified the future land use designation of the property as New Town District. The New Town District is generally located in the northern portion of Kyle on both the east and west sides of I-35. The New Town land use designation is intended to contain a horizontal mix of land uses integrated across the area to express a cohesive community form. In general, Single Family Residential, residential condominiums and townhomes and multi-family zoning designations are recommended for the New Town District. While Construction/Manufacturing, Entertainment, Hospital Services, Warehouse zoning designations are conditionally recommended for development with the New Town District.

Staff has reviewed the request and recommending approval for the following reasons:

- The uses permitted and the standards applicable in the proposed zoning designation will be appropriate in the immediate area.
- The proposed zoning change is consistent with the policies and intent of the future land use map and comprehensive master plan
- The zoning change will not substantially affect the public health, safety, or general welfare of the surrounding area.

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'CM' CONSTRUCTION MANUFACTURING DISTRICT TO APPROXIMATELY 10 ACRES, ON PROPERTY LOCATED AT 3700 KYLE CROSSING IN HAYS COUNTY, TEXAS. (3700 KYLE CROSSING, LLC Z-11-013); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to assign original zoning of 'CM' Construction Manufacturing District to approximately 10 acres, on property located at 3700 Kyle Crossing, as set forth in the legal description labeled Exhibit A, and the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.



READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_ day of \_\_\_\_\_, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Lucy Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Amelia Sanchez, City Secretary

3700 Kyle Crossing, Kyle, TX

**EXHIBIT A****Legal Description of the Property**

BEING A 10.00 ACRE TRACT OF LAND OUT OF THE THOMAS G. ALLEN SURVEY, HAYS COUNTY, TEXAS, AND BEING THE SAME TRACE OF LAND, AS NOW FOUND UPON THE GROUND, CALLED 10.00 ACRES AS DESCRIBED IN VOLUME 417, PAGES 718-722 OF THE REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS, AND ALL BEARINGS REFERRED TO IN THIS DESCRIPTION ARE ROTATED TO AND REFERENCED TO A BEARING OF N 81° 29' 19" W BETWEEN IRON PINS FOUND ALONG THE SOUTH LINE OF THE ABOVE REFERENCED 10.00 ACRE TRACT, SAID 10.00 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING: AT AN IRON PIN SET ON THE SOUTH LINE OF WHAT IS CALLED HAYS COUNTY ROAD NO. 210, FOR THE NORTHEAST CORNER OF THIS TRACT, THE NORTHEAST CORNER OF THE ABOVE REFERENCED 10.00 ACRE TRACT AND ALSO BEING THE NORTHWEST CORNER OF THAT CERTAIN TRACT OF LAND CALLED 26.026 ACRES DESCRIBED IN VOLUME 612, PAGE 318 OF THE REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS;

THENCE: ALONG THE EAST LINE OF THE ABOVE REFERENCED 10.00 ACRE TRACT, SAME BEING THE WEST LINE OF SAID 26.026 ACRE TRACT, S 08° 16' 11" W 755.75 FEET TO AN IRON PIN FOUND FOR THE SOUTHEAST CORNER OF THIS TRACT, THE SOUTH EAST CORNER OF THE ABOVE REFERENCED 10.00 ACRE TRACT, SAME BEING THE SOUTHWEST CORNER OF THE ABOVE REFERENCED 26.026 ACRE TRACT;

THENCE: GENERALLY WITH FENCE AND ALONG THE SOUTH LINE OF THE ABOVE REFERENCED 10.00 ACRE TRACT, SAME BEING THE NORTH LINE OF THAT CERTAIN TRACT CALLED 70.41 ACRES DESCRIBED IN VOLUME 407, PAGES 444-448 OF THE REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS, N 81° 29' 19" W 594.58 FEET TO AN IRON PIN FOUND ON THE EAST LINE OF WHAT IS CALLED HAYS COUNTY ROAD NO. 210, FOR THE SOUTHWEST CORNER OF THIS TRACT, THE SOUTHWEST CORNER OF THE ABOVE REFERENCED 10.00 ACRE TRACT, AND ALSO BEING THE NORTHWEST CORNER OF THE AFOREMENTIONED 70.41 ACRE TRACT;

THENCE: ALONG THE EAST LINE OF HAYS COUNTY ROAD NO. 210, AS FOLLOWS:  
 N 08° 16' 34" E 598.94 FEET, AN IRON PIN SET  
 N 22° 43' 18" E 75.72 FEET, AN IRON PIN SET  
 N 49° 22' 59" E 47.88 FEET, AN IRON PIN SET  
 N 78° 22' 12" E 59.22 FEET, AN IRON PIN SET ON THE SOUTH LINE OF SAID HAYS COUNTY ROAD NO. 210, FOR A NORTHERLY CORNER OF THIS TRACT, SAME BEING A NORTHERLY CORNER OF THE ABOVE REFERENCED 10.00 ACRE TRACT;

THENCE: ALONG SAID SOUTH LINE, N 83° 46' 54" E 200.07 FEET TO AN IRON PIN SET AND S 85° 13' 06" E 289.04 FEET TO THE POINT OF BEGINNING AND CONTAINING 10.00 ACRES OF LAND, MORE OR LESS.

# Exhibit B Z-11-013





# CITY OF KYLE, TEXAS

Dacy Lane, LLC

Meeting Date: 1/3/2012

Date time: 7:00 PM

**Subject/Recommendation:**

*(Second Reading)* AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 8.42 ACRES ON PROPERTY LOCATED ON THE SOUTHSIDE OF BEBEE ROAD, JUST WEST OF DACY LANE IN HAYS COUNTY, TEXAS. (DACY LANE, LLC. Z-11-012); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

**Other Information:**

Please see attachments.

**Budget Information:**

N/A

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- [Exhibit B](#)
- [City Council memo](#)

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 8.42 ACRES; ON PROPERTY LOCATED ON THE SOUTHSIDE OF BEBEE ROAD, JUST WEST OF DACY LANE IN HAYS COUNTY, TEXAS. (DACY LANE, LLC. Z-11-012); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to assign original zoning of 'RS' Retail Services District to approximately 8.42 acres, on property located on the Southside of Bebee Road, just west of Dacy Lane, as set forth in the legal description labeled Exhibit A, and the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_ day of \_\_\_\_\_, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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Lucy Johnson, Mayor

ATTEST:

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Amelia Sanchez, City Secretary

**EXHIBIT A**

FIELD NOTE DESCRIPTION FOR A 8.42 ACRE TRACT OF LAND (TRACT 3):

BEING A TRACT OR PARCEL OF LAND, CONTAINING 8.42 ACRES, MORE OR LESS, SAID TRACT LYING PARTIALLY WITHIN THE AUGUSTUS BRICHTA SURVEY, ABSTRACT NO. 517, AND THE ELISHA PRUETT SURVEY NO. 23, ABSTRACT NO. 376, AND BEING OUT OF THAT CERTAIN 23.77 ACRE TRACT OF LAND CONVEYED BY GENERAL WARRANTY DEED WITH VENDOR'S LIEN TO DACY LANE LLC., AS RECORDED IN DOCUMENT NO. 2011-11022936, OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

BEGINNING at a ½ inch iron found lying in the west right-of-way line of Dacy Lane, also marking the southeast corner of that certain 23.77 acre tract of land conveyed by General Warranty Deed with Vendor's Lien to Dacy Lane LLC., as recorded in Document No. 2011-11022936, of the Deed Records of Hays County, Texas, said point marking the northeast corner of the Thomas Survivor's Trust tract recorded in Volume 3811, Page 391 of the Deed Records of Hays County, Texas, for the southeast corner of this tract;

THENCE North 61°02'58" West, along the south line of said 23.77 acre tract common with the south line of this tract, same being the north line of said Thomas Survivor's Trust tract, a distance of 767.48 feet, to a calculated point, marking the southeast corner of this tract;

THENCE North 25°15'38" East, along the west line of this tract, a distance of 93.23 feet to a calculated point lying in a curve to the left, for angle corner of this tract;

THENCE along said curve to the left an arc distance of 105.64 feet, said curve having a radius of 55.00 feet, a delta angle of 110°02'55", and a chord which bears North 33°43'03" East, for a distance of 90.13 feet to a calculated point, for an angle corner of this tract;

THENCE South 64°44'22" East, along the west line of this tract a distance 67.19 feet to a ½ inch iron rod set for an angle corner of this tract;

THENCE North 25°15'38" East, along the west line of this tract, a distance 335.06 feet to a calculated lying on the south right-of-way of Bebee Road, common with the north line of said 23.77 acre tract, for the northwest corner of this tract;

THENCE South 64°44'22" East, along the north line of this tract and north line of said 23.77 acre Dacy Lane LLC. tract and south right-of-way of Bebee Road, a distance of 99.89 feet to a ½ inch iron rod found lying in the beginning of a curve to the right for an angle corner of this tract;

THENCE along said curve to the right, an arc distance of 307.51 feet, said curve having a radius of 956.45 feet, a delta angle of 18°25'17", and a chord which bears South



55°31'56" East for a distance of 306.19 feet to a ½ inch iron rod found, for an angle corner of this tract;

THENCE South 46°19'50" East, along the north line of this tract and south right-of-way of Bebee Road, a distance of 338.19 feet to ½ inch iron rod found, marking the intersection of Bebee Road and Dacy Lane for the northeast corner of this tract;

THENCE South 06°09'52" East, along the southwest right-of-way line of the intersection of Bebee Road and Dacy Lane and east line of this tract, a distance of 38.25 feet to a ½ inch iron rod found, for an angle corner of this tract;

THENCE South 33°54'16" West, along the east line of this tract and west right-of-way of Dacy Lane, a distance of 382.75 feet to ½ inch iron rod found, marking the Southeast corner and POINT OF BEGINNING, containing 8.42 acres of land, more or less.



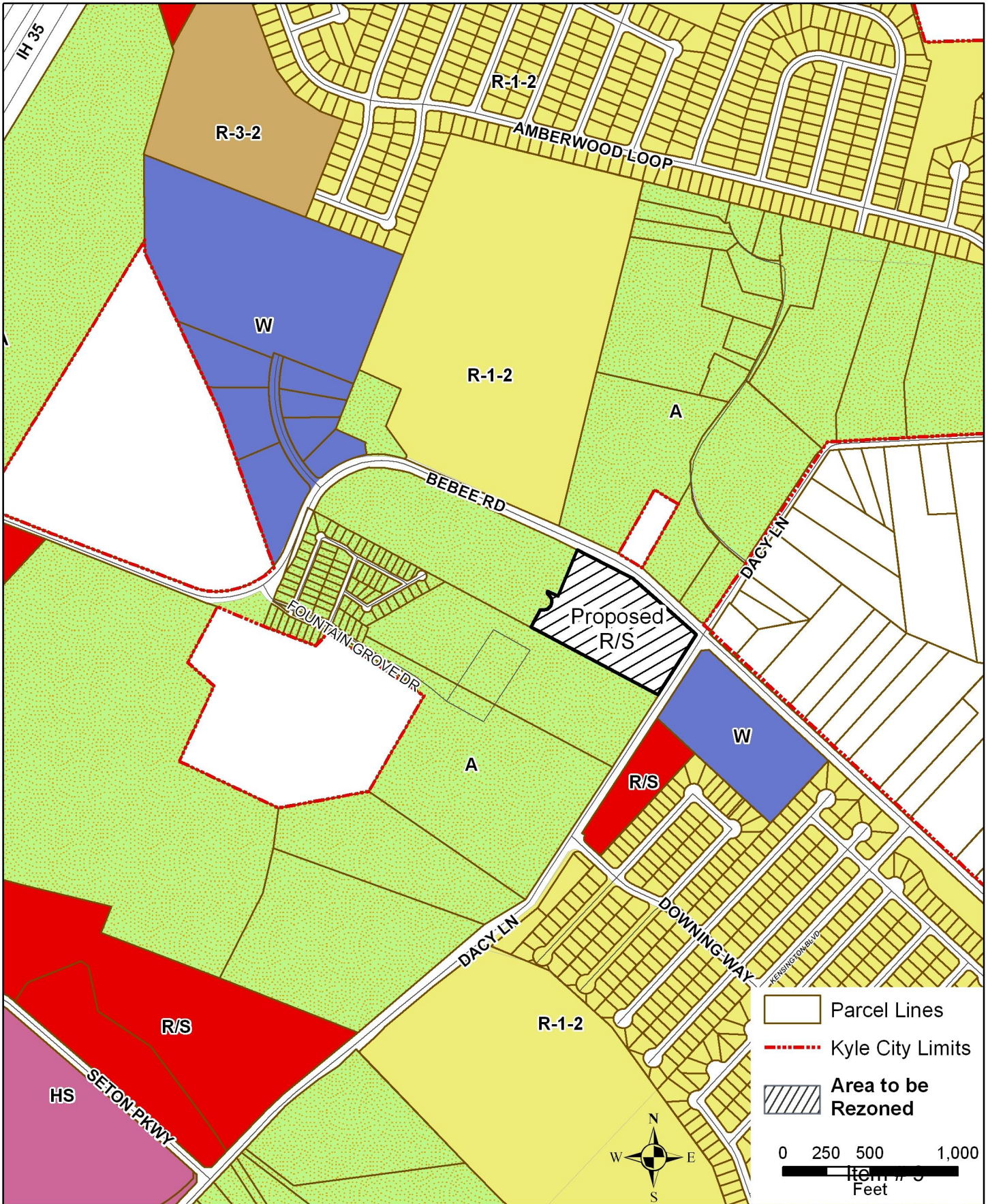
George E. Lucas  
R.P.L.S. No. 4160  
State of Texas  
October 13, 2011





# Exhibit B

## Z-11-012





**CITY COUNCIL AGENDA**  
**January 3, 2012**

---

**Item/Subject:** AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CODE OF ORDINANCES, CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT, TO APPROXIMATELY 8.42 ACRES LOCATED ON THE SOUTHSIDE OF BEBEE ROAD AND JUST WEST OF DACY LANE, IN HAYS COUNTY, TEXAS. (DACY LANE, LLC - Z-11-012)  
 (Second Reading of Ordinance).

**Initiating Dept:** Planning

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**Commentary**

Applicant's Request:

To assign original zoning of "RS" Retail Service District to approximately 8.42 acres. (Dacy Lane, LLC – Z-11-012).

Planning & Zoning Commission Recommendation to the City Council:

The Planning and Zoning Commission voted 6-0 to recommend approve of the applicant's request to assign original zoning of "RS" Retail Service District to approximately 8.42 acres (Dacy Lane, LLC – Z-11-012).

In Favor: Chairman Cale Baese, Vice-Chair Samantha Bellows, Commissioner Mike Fulton, Commissioner Jenny DiLeo, Commissioner Cicely Kay, and Commissioner Pat Fernandez.

Planning & Zoning Commission Public Hearing:

The Planning and Zoning Commission held a public hearing on November 29, 2011.

During the public hearing, one person spoke in opposition to the request and expressed concern regarding the additional traffic on Bebee Road and requested a high-quality commercial development be developed if the retail services zoning designation is approved.



**Background:**

Owner: Dacy Lane, LLC

Agent: Hugo Elizondo, Jr., P.E., Cuatro Consultants

**Public Information Plan:***November 9, 2011:* Public notice of the Planning and Zoning Commission and City Council public hearings published in the Hays Free Press.*November 29, 2011:* Planning and Zoning Commission public hearing and recommendation to City Council.*December 6, 2011:* City Council public hearing and first reading of ordinance**SITE INFORMATION:*****Transportation:***

The subject property fronts both on Bebee Road and Dacy Lane.

**PUBLIC INPUT:**

Currently, Staff has not received any comments regarding the zoning change.

**REQUEST:**

The subject property is located at the intersection of Dacy Lane and Bebee Road. The property in its entirety is approximately 23 acres; however the applicant is seeking the following three zoning designations over the tract: R-3-3 (Multi-family Apartments), R-1-T (Townhomes), and RS (Retail Services). At December 6<sup>th</sup> City Council meeting the Council held a public hearing and approved the request for Retail Services and postponed action on the townhome and multi-family zoning requests to allow for Bebee Road to be added back to the Transportation Master Plan.

The proposed rezoning site is located within the New Town Future Land Use District which has been identified to harness economic development potential and establish its position as the sustainable center of surrounding growth. This district is identified as an area where form and design are critical to ensuring transitions between neighboring uses.

**Surrounding Zoning and Existing Land Use**

	Zoning	Land Use
North	R-1-2 (Single Family Residential)	undeveloped
East	Warehouse	Dacy Lane
South	Agriculture	Mobile home subdivision

West	Warehouse	Bebee Road
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Staff has reviewed the request and is recommending approval of the Retail Services rezoning request.



# CITY OF KYLE, TEXAS

## Las Delicias Investments, LLC

Meeting Date: 1/3/2012

Date time: 7:00 PM

**Subject/Recommendation:**

*(Second Reading)* AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 2.627 ACRES, ON PROPERTY LOCATED AT 1251 GOFORTH ROAD IN HAYS COUNTY, TEXAS. (LAS DELICIAS INVESTMENTS Z-11-010); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

**Other Information:**

Please see attachments.

**Budget Information:**

N/A

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**Attachments / click to download**

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- [Exhibit B](#)
- [City Council Memo](#)
- [Exhibit A](#)



**CITY COUNCIL AGENDA**  
**December 6, 2011**

---

**Item/Subject:** AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CODE OF ORDINANCES, CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT, TO APPROXIMATELY 2.627 ACRES ON PROPERTY LOCATED AT 1251 GOFORTH ROAD, IN HAYS COUNTY, TEXAS. (LAS DELICIAS INVESTMENTS - Z-11-010) (Public Hearing and First Reading of Ordinance).

**Initiating Dept:** Planning

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**Commentary**

Applicant's Request:

To assign original zoning of "RS" Retail Service District (Las Delicias Investments).

Planning & Zoning Commission Recommendation to the City Council:

The Planning and Zoning Commission voted 6-0 to recommend approval of the applicant's request to assign original zoning of "RS" Retail Service District to approximately 2.627 acres (Las Delicias Investments);

In Favor: Chairman Cale Baese, Vice-Chair Samantha Bellows, Commissioner Mike Fulton, Commissioner Jenny DiLeo, Commissioner Cicely Kay, and Commissioner Pat Fernandez.

Planning & Zoning Commission Public Hearing:

The Planning and Zoning Commission held a public hearing on November 29, 2011.

During the public hearing, one person spoke in opposition to the request and was concerned her taxes would be raised as a result of the commercial development within the area. Another person expressed concern regarding the upgrades and right-of-way dedication need for the expansion and improvements needed on Goforth Rd.

**Background:**

Owner: Las Delicias Investments/Jose Bucio  
 Agent: Hugo Elizondo, Jr., P.E., Cuatro Consultants

**Public Information Plan:**

*November 2, 2011:* Public notice of the Planning and Zoning Commission and City Council public hearings published in the Hays Free Press.  
*November 29, 2011:* Planning and Zoning Commission public hearing and recommendation to City Council.  
*December 6, 2011:* City Council public hearing and first reading of ordinance

**SITE INFORMATION:*****Transportation:***

The subject property is located along Goforth Road, east of Dacy Lane. Goforth Road is a major arterial roadway that connects several residential neighborhoods and Lehman High School to IH-35.

***Subdivision:***

The subject property is located in the Kyle Heights Subdivision Section 2. A subdivision that was originally subdivided prior to the area being incorporated into the City of Kyle ETJ or the City limits.

**STAFF ANALYSIS AND RECOMMENDATION:**

The subject property is currently located in area where both rural and suburban development is located in very close proximity to each other, with Goforth Road generally separating the rural development from the suburban development to the south. However due to growth taking place in this area of the city redevelopment of the rural development within this area is quickly approaching. As a result of the growth taking place in this area of the city the future land use map identifies this area as the New Town District. The New Town District is designed to contain a horizontal mix of land uses intended to provide a balance of residential and commercial uses.

As indicated above the applicant is requesting a zoning designation of Retail Services "R/S" for the subject property. The Retail Services district generally allows retail sales of consumable products and is identified in the Comprehensive Master Plan as a "conditional" zoning designation for the New Town District.

Staff has analyzed the request and is recommending approval of the request for the following reasons:

- The proposed change is consistent with the future land use map and the intent of the future land use designation.
- The uses permitted and the standards applicable in the proposed zoning designation will be appropriate in the immediate area.
- The developer of the property will be responsible for any infrastructure upgrades that will be required.



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 2.627 ACRES, ON PROPERTY LOCATED AT 1251 GOFORTH ROAD IN HAYS COUNTY, TEXAS. (LAS DELICIAS INVESTMENTS Z-11-010); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to assign original zoning of 'RS' Retail Services District to approximately 2.627 acres, on property located at 1251 Goforth Road, as set forth in the legal description labeled Exhibit A, and the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_ day of \_\_\_\_\_, 2012, at which a quorum was

present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Lucy Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Amelia Sanchez, City Secretary

# Exhibit B





1001025

# STEVE H. BRYSON SURVEYING CO.

1715 Cap. of TX Hwy. S., Suite 208  
Austin, TX 78746  
(512) 347-9505  
Fax: (512) 347-9510

## FIELD NOTES

BEING ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE JOHN STEWART LEAGUE SURVEY, ABSTRACT NO. 14, SITUATED IN HAYS COUNTY, TEXAS, SAID TRACT MORE PARTICULARLY DESCRIBED AS BEING A PORTION OF LOT 20, KYLE HEIGHTS SECTION TWO (2), A SUBDIVISION OF RECORD IN VOLUME 6, PAGE 395, HAYS COUNTY, TEXAS PLAT RECORDS, SAID TRACT BEING 2.627 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at an iron pin found in the Easterly right-of-way line of Hays County Rd. No. 157, at the most Westerly corner of said Lot 20, same being the most Southerly corner of Lot 19 of said subdivision, (a.k.a. Goforth Road), for the most Westerly corner and the POINT OF BEGINNING of the herein described tract,

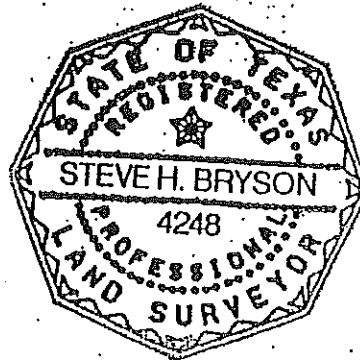
THENCE, N45°00'00"E, with the common division line of said Lot 20 and Lot 19, 740.02 feet to an iron pin found in the Southwesterly line of Lot 14 of said subdivision, at the most Northerly corner of said Lot 20, same being the most Easterly corner of said Lot 19, for the most Northerly corner of the herein described tract,

THENCE, S45°00'00"E, with the common division line of said Lot 14 and Lot 20, 154.57 feet to an iron pin set, for the most Easterly corner of the herein described tract,

THENCE, S45°00'00"W, crossing said Lot 20, 740.99 feet to an iron pin set in the Easterly right-of-way line of said County Rd., same being the Westerly line of said Lot 20, for the Southerly corner of the herein described tract,

THENCE, N44°38'19"W, with said right-of-way line, 154.57 feet to the POINT OF BEGINNING containing 2.627 Acres Of Land.

Surveyed By: Steve H. Bryson  
Steve H. Bryson ~ R.P.L.S. No. 4248  
STEVE H. BRYSON SURVEYING CO.  
1715 Capital of Texas Hwy., So., Suite 208  
Austin, Texas, 78746  
Ph: (512) 347-9505 Fax: (512) 347-9510





# CITY OF KYLE, TEXAS

Mountain Plum, Ltd.

Meeting Date: 1/3/2012

Date time: 7:00 PM

**Subject/Recommendation:**

*(Second Reading)* AN ORDINANCE AMENDING ORDINANCE NO. 311 (PLUM CREEK PLANNED UNIT DEVELOPMENT ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 11.1 ACRES FROM 'MXD' MIXED USE DEVELOPMENT DISTRICT TO 'OS' OPEN SPACE, AND REZONE APPROXIMATELY 4.3 ACRES FROM 'MXD' MIXED USE DEVELOPMENT DISTRICT TO 'LI' LIGHT INDUSTRIAL ON PROPERTY LOCATED WITHIN THE 4900 BLOCK OF SOUTH FM 1626 BETWEEN VANTAGE APARTMENTS AND RAIL ROAD TRACKS, IN HAYS COUNTY, TEXAS. (MOUNTAIN PLUM, LTD. Z-11-011); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

**Other Information:**

Please see attachments.

**Budget Information:**

N/A

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

- [Ordinance](#)
- [Exhibit B](#)
- [City Council Memo](#)
- [Exhibit A](#)



**CITY COUNCIL AGENDA  
December 6, 2011**

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**Item/Subject:** AN ORDINANCE AMENDING ORDINANCE NO. 311 (PLUM CREEK PLANNED UNIT DEVELOPMENT ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 11.1 ACRES FROM ‘MXD’ MIXED USE DEVELOPMENT DISTRICT TO ‘OS’ OPEN SPACE DISTRICT AND TO REZONE APPROXIMATELY 4.3 ACRES FROM ‘MXD’ MIXED USE DEVELOPMENT DISTRICT TO ‘LI’ LIGHT INDUSTRIAL DISTRICT, ON PROPERTY LOCATED WITHIN THE 4900 BLOCK OF SOUTH FM 1626 BETWEEN VANTAGE APARTMENTS AND THE RAILROAD TRACKS, IN HAYS COUNTY, TEXAS. (MOUNTAIN PLUM, LTD. Z-11-011)  
(Public Hearing And First Reading of Ordinance).

**Initiating Dept:** Planning

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**Commentary**

Applicant’s Request:

To rezone approximately 11.1 acres from “MXD” Mixed Use Development District to “OS” Open Space and to rezone approximately 4.3 acres from “MXD” Mixed Use Development District to “LI” Light Industrial District within the Plum Creek Planned Unit Development.

Planning & Zoning Commission Recommendation to the City Council:

The Planning and Zoning Commission voted 6-0 to recommend approval of the applicant’s request to rezone approximately 11.1 from “MXD” Mixed Use to “OS” Open Space and 4.3 acres from “MXD” Mixed Use to “LI” Light Industrial District within the Plum Creek Planned Unit Development.

In Favor: Chairman Cale Baese, Vice-Chair Samantha Bellows, Commissioner Cicely Kay, Commissioner Jenny DiLeo, Commissioner Mike Fulton, and Commissioner Pat Fernandez.

Planning & Zoning Commission Public Hearing:

The Planning and Zoning Commission held a public hearing on November 29, 2011.

One person spoke in opposition to the request and voiced concern of the location of the Light Industrial base zoning request.

Background:

Owner: Mountain Plum Ltd.

Agent: Myra Goepp, P.E.

Public Information Plan:

*November 2, 2011:* Public notice of the Planning and Zoning Commission and City Council public hearings published in the Hays Free Press.

*November 29, 2011:* Planning and Zoning Commission public hearing and recommendation to City Council.

*December 6, 2011:* City Council public hearing and first reading of ordinance

**SITE INFORMATION:*****Transportation:***

The subject property fronts on FM 1626, however will take access off the extension Cromwell Drive.

***Subdivision:***

A Final Plat is required, and under staff review.

**STAFF RECOMMENDATION:**

The subject property is currently undeveloped and is located at the terminus of the proposed extension of Cromwell Drive. The applicant is proposing to develop the 15.4 acres into a self storage business and regional detention area, which in dry conditions could be used for recreation purposes.

The Future Land Use map identifies the subject property to be located within the Super Regional Node and the Riparian landscape zone. The Comprehensive Master Plan identifies the desire to have a mixture of uses within the super regional node and specifies that appropriate land use transitions should be analyzed when new development takes place next to existing communities. The Riparian District is identified in the Comprehensive Master Plan as an area characterized by primary waterways and surrounding floodplains.

### Surrounding Zoning and Existing Land Use

	<b>Zoning</b>	<b>Land Use</b>
<b>North</b>	Plum Creek PDD	Kyle Parkway
<b>East</b>	Retail Services	Rail Road
<b>South</b>	Plum Creek PDD- Open Space	Golf Course
<b>West</b>	Plum Creek PDD- Mixed Use	Vantage Apartments

Staff has reviewed the request and recommending approval for the following reasons:

- The uses permitted and the standards applicable in the proposed zoning designation will be appropriate in the immediate area.
- The proposed zoning change is consistent with the intent of the comprehensive master plan future land use map designation
- The zoning change will not substantially affect the public health, safety, or general welfare of the surrounding area.



## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE NO. 311 (PLUM CREEK PLANNED UNIT DEVELOPMENT ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 11.1 ACRES FROM 'MXD' MIXED USE DEVELOPMENT DISTRICT TO 'OS' OPEN SPACE, AND REZONE APPROXIMATELY 4.3 ACRES FROM 'MXD' MIXED USE DEVELOPMENT DISTRICT TO 'LI' LIGHT INDUSTRIAL ON PROPERTY LOCATED WITHIN THE 4900 BLOCK OF SOUTH FM 1626 BETWEEN VANTAGE APARTMENTS AND RAIL ROAD TRACKS, IN HAYS COUNTY, TEXAS. (MOUNTAIN PLUM, LTD. Z-11-011); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map for the Plum Creek Planned Unit Development adopted in Ordinance No. 311 be and the same is hereby amended to rezone approximately 11.1 acres from "MXD" Mixed Use Development District to "OS" Open Space and rezone approximately 4.3 acres from "MXD" Mixed Use Development District to "LI" Light Industrial, on property located within the 4900 block South FM 1626 between Vantage Apartments and Rail Road tracks, as set forth in the legal description labeled Exhibit A, and the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the Plum Creek Planned Unit Development zoning district map and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_ day of \_\_\_\_, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

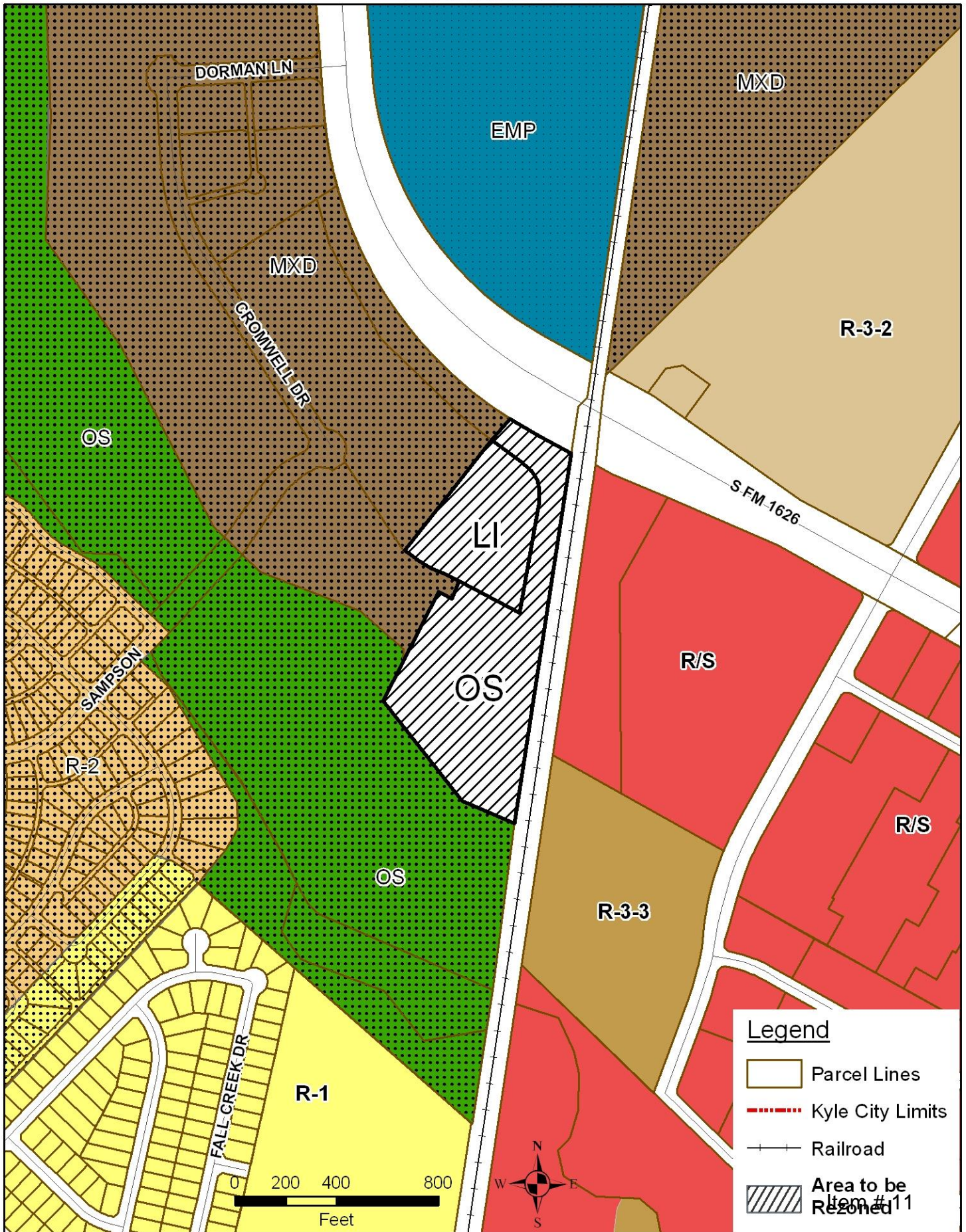
APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Lucy Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Amelia Sanchez, City Secretary

# Exhibit B



**EXHIBIT A**



### FIELD NOTES DESCRIPTION

DESCRIPTION OF 15.346 ACRES (668,493 SQUARE FEET) OF LAND IN THE JESSE DAY SURVEY, A-159, THE JOHN KING SURVEY NO. 20, A-276, AND THE HENRY LOLLER SURVEY NO. 19, A-290, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF A CERTAIN 849.267 ACRE TRACT DESCRIBED IN THE DEED TO WILLIAM NEGLEY, LIFE TENNANT OF RECORD IN VOLUME 322, PAGE 589, DEED RECORDS OF HAYS COUNTY, TEXAS, AND ALSO IN THE DEED TO MOUNTAIN PLUM, LTD, OF RECORD IN VOLUME 2047, PAGE 133, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, SAID 15.346 ACRE TRACT BEING ALSO A PORTION OF THAT CERTAIN CALLED 3.145 ACRE TRACT, DESIGNATED AS TRACT 1-I AND DESCRIBED IN THE DEED TO PLUM CREEK DEVELOPMENT PARTNERS, LTD. OF RECORD IN VOLUME 2126, PAGE 504, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 15.346 ACRES OF LAND, AS SURVEYED BY LOOMIS PARTNERS AND SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2-inch iron rod with plastic cap stamped "LAI" previously set for the southeast corner of the southern terminus of Cromwell Drive, an 80 foot wide right-of-way as shown on the plat of Plum Creek Phase 1, Section 11A Replat, a subdivision according to the plat of record in Cabinet 15, Page 80, Plat Records of Hays County, Texas, same being a point in the west line of Lot 1, Block A, Plum Creek Phase 1, Section 11B Vantage at Plum Creek, a subdivision according to the plat of record in Cabinet 15, Page 136, Plat Records of Hays County, Texas;

**THENCE** S 32° 50' 31" E, with the southwest line of said Lot 1, a distance of 419.25 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" previously set for the south corner of said Lot 1, for a northwest corner and the **POINT OF BEGINNING** of the tract described herein;

**THENCE** N 39° 01' 50" E, with the southeast line of said Lot 1, at a distance of 554.82 feet passing a 1/2-inch iron rod with plastic cap stamped "LAI" previously set for the east corner of said Lot 1 and the southwest corner of Lot 5, Block A, said Plum Creek Phase 1, Section 11A and continuing with a southeast line of said Lot 5 for a total distance of 667.62 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" previously set in the curving southwest right-of-way line of Kyle Parkway (F.M. 1626), being the curving southwest line of that certain called 22.83 acre tract described in the deed to the City of Kyle, Texas, of record in Volume 1871, Page 232, Official Public Records of Hays County, Texas, and corrected in Volume 1904, Page 813, Official Public Records of Hays County, Texas, for the north corner of the tract described herein;

**THENCE** with the southwest right-of-way line of said Kyle Parkway, the following two (2) courses and distances:

1. with the arc of a curve to the left, having a radius of 1569.89 feet, an arc distance of 76.66 feet and a chord which bears S 58° 42' 39" E a distance of 76.65 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" previously set for a point of tangency, from which a Texas Department of Transportation (TXDOT), Type II right-of-way marker found bears S 38° 22' E a distance of 0.55 feet, and
2. S 60° 06' 35" E a distance of 192.09 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" previously set in the west line of a Union Pacific Railroad 100-ft wide right-of-way, said right-of-way described in a deed to International Great Northern Railroad Company of record in Volume N, Page 158, Deed Records of Hays County, Texas, for the east corner of the tract described herein, from which a TXDOT, Type II right-of-way marker found bears N 79° 10' W a distance of 1.01 feet;

**THENCE** S 09° 03' 16" W, with the west line of said railroad right-of-way, a distance of 1,472.97 feet to a 1/2-inch iron rod with plastic cap stamped "LOOMIS" set for the northeast corner of the that certain called 38.773 acre tract of land designated as Tract II, Parcel 3 and described in the Substitute Trustee's Deed to Plum Creek Development Partners, Ltd of record in Volume 4072, Page 566, Official Public Records of Hays County, Texas, same being the southeast corner of the said 3.145 acre tract, designated as Tract 1-I, for the south corner of the tract described herein, from which a 5/8-inch iron rod found for reference bears N 64° 42' 16" W a distance of 0.65 feet;

**THENCE** with the southwest line of the said 3.145 acre tract, designated as Tract 1-I, the following two (2) courses and distances:

1. N 64° 42' 16" W a distance of 291.63 feet to a 1/2-inch iron rod with cap stamped "McAngus Surveying" found at an angle point, and
2. N 36° 19' 56" W a distance of 444.43 feet to a 1/2-inch iron rod with cap stamped "McAngus Surveying" found at an angle point, for the west corner of the tract described herein;

**THENCE** crossing the said 3.145 acre tract, designated as Tract 1-I and the said 849.267 acre tract, with the west line of the tract described herein, the following four (4) courses and distances:

1. N 34° 33' 51" E at a distance of 170.51 feet passing the east line of the said 3.145 acre tract, designated as Tract 1-I and continuing across the said 849.267 acre tract for a total distance of 392.09 feet to a 1/2-inch iron rod with a plastic cap stamped "LOOMIS" set for a point of curvature, and
2. with the arc of a curve to the left, having a radius of 60.00 feet, an arc distance of 159.47 feet and a chord which bears N 18° 18' 12" E a distance of 116.51 feet to a 1/2-inch iron rod with a plastic cap stamped "LOOMIS" set for a point of reverse curvature,
3. with the arc of a curve to the right, having a radius of 470.00 feet, an arc distance of 205.06 feet and a chord which bears N 45° 20' 28" W a distance of 203.44 feet to a 1/2-inch iron rod with a plastic cap stamped "LOOMIS" set for a point of tangency, and
4. N 32° 50' 31" W a distance of 14.77 to the **POINT OF BEGINNING** and containing 15.346 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD83, Grid.

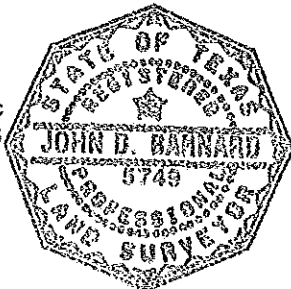
LOOMIS WORD FILE: FN1288  
(jdb)


THE STATE OF TEXAS           §  
  §           KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS         §

That I, John D. Barnard, a Registered Professional Land Surveyor, do hereby certify that the above description and the accompanying sketch is true and correct to the best of my knowledge and belief and that the property described herein was determined by a series of surveys made on the ground during the months of March through November 2011, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 1<sup>st</sup> day of December 2011 A.D.

Loomis Partners, Inc  
Austin, Texas 78746



  
 John D. Barnard  
 Registered Professional Land Surveyor  
 No. 5749 – State of Texas

Item # 11



**BEARING BASIS NOTES:**

1. BEARING BASIS IS TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83, GRID.

2. DISTANCES SHOWN HEREON ARE BASED ON SURFACE MEASUREMENTS; TO CONVERT SURFACE DISTANCES TO GRID, MULTIPLY BY THE COMBINED SCALE FACTOR.

3. THE COMBINED SCALE FACTOR FOR THIS PROJECT IS 0.999907.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 60°06'35" E	192.09'
	<i>[N 60°06'35" W]</i>	<i>[191.86']</i>
L2	N 34°33'51" E	170.51'
L3	N 34°33'51" E	221.58'
L4	N 32°50'31" W	14.77'
L5	N 39°01'50" E	112.80'
	<i>[S 39°01'50" W]</i>	<i>(112.80')</i>
	<i>[S 39°00'37" W]</i>	<i>[112.83']</i>
L6	N 39°01'50" E	13.26'
L7	N 39°01'50" E	99.54'
L8	S 58°17'34" E	95.49'
L9	S 09°03'36" W	165.22'
L10	S 18°59'10" W	159.32'
L11	S 17°48'23" W	171.17'
L12	S 82°20'46" W	44.49'
L13	S 57°09'29" W	60.00'
	<i>[S 57°09'41" W]</i>	<i>(60.00')</i>
L14	N 13°13'05" W	104.09'
	<i>[(N 12°38'22" W)]</i>	<i>[(104.06')]</i>
L15	S 04°25'57" W	133.12'
	<i>[(S 04°59'58" W)]</i>	<i>[(133.11')]</i>
	<i>[(S 04°59'58" W)]</i>	<i>[(133.11')]</i>
L16	N 04°25'57" E	63.14
L17	N 04°25'57" E	69.98
L18	S 48°04'23" E	226.10'
	<i>[(S 47°31'39" E)]</i>	<i>[(226.10')]</i>
	<i>[(S 47°31'39" E)]</i>	<i>[(226.10')]</i>
L19	S 67°59'36" E	420.43'
	<i>[(S 67°26'37" E)]</i>	<i>[(420.42')]</i>
	<i>[(S 67°26'37" E)]</i>	<i>[(420.42')]</i>
L20	N 62°19'55" W	144.23'
	<i>[(N 61°42'32" W)]</i>	<i>[(144.26')]</i>

**LEGEND**

- 1/2" IRON ROD FOUND
- MS 1/2" IRON ROD W/ CAP STAMPED "McANGUS SURVEYING" FOUND
- LAI 1/2" IRON ROD W/ PLASTIC CAP STAMPED "LAI" PREVIOUSLY SET
- 1/2" IRON ROD W/ PLASTIC CAP STAMPED "LOOMIS" SET
- △ CALCULATED POINT
- P.O.C. POINT OF COMMENCING
- P.O.B. POINT OF BEGINNING
- D.R.H.C.TX. DEED RECORDS OF HAYS COUNTY, TEXAS
- P.R.H.C.TX. PLAT RECORDS OF HAYS COUNTY, TEXAS
- O.P.R.H.C.TX. OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS
- { } RECORD INFORMATION
- ( ) RECORD INFORMATION PER CAB.15/P.80-81, P.R.H.C.TX.
- [ ] RECORD INFORMATION PER CAB.15/P.136-137, P.R.H.C.TX.
- ( [ ] ) RECORD INFORMATION PER VOL.2126/P.504, O.P.R.H.C.TX.
- (( )) RECORD INFORMATION PER VOL.4072/P.566, O.P.R.H.C.TX.
- P.C.D.P., LTD. PLUM CREEK DEVELOPMENT PARTNERS, LTD.

Item # 11

**CURVE TABLE**

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	1569.89'	76.66'	S 58°42'39" E	76.65'
	<i>(1569.89')</i>	<i>(76.66')</i>	<i>(S 58°42'39" E)</i>	<i>(76.65')</i>
	<i>[1569.89']</i>	<i>[76.67']</i>	<i>[N 58°42'38" W]</i>	<i>[76.66']</i>
C2	60.00'	159.47'	N 18°18'12" E	116.51'
C3	470.00'	205.06'	N 45°20'28" W	203.44'
C4	112.00'	131.66'	S 24°36'59" E	124.21'
C5	157.00'	27.20'	S 14°01'23" W	27.17'
C6	470.00'	134.11'	N 75°50'50" W	133.65'
C7	60.00'	106.92'	N 43°23'47" E	93.32'
C8	60.00'	52.55'	N 32°44'49" W	50.89'



**LOOMIS PARTNERS**

ENGINEERING ■ LAND SURVEYING ■ ENVIRONMENTAL CONSULTING ■  
 3101 Bee Cave Road, Suite 100 ■ Austin, Texas 78746  
 [TEL] 512.327.1180 ■ [FAX] 512.327.4062 ■ www.loomis-partners.com

EXHIBIT TO ACCOMPANY  
 FIELD NOTES DESCRIPTION  
 FN1288





# CITY OF KYLE, TEXAS

## Ordinance Fiscal Note Requirements

Meeting Date: 1/3/2012  
Date time: 7:00 PM

### Subject/Recommendation:

(*Second Reading*) AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ESTABLISHING A REQUIREMENT THAT A FISCAL NOTE BE PROVIDED FOR ALL CITY ORDINANCES AND RESOLUTIONS CONSIDERED BY THE CITY COUNCIL REQUIRING EXPENDITURE OR OBLIGATION OF CITY FUNDS AND OR AN INCREASE OR DECREASE IN RATES, FEES AND OTHER CHARGES FOR CITY SERVICES ~ *Council Member Jaime Sanchez*

### Other Information:

The City Council of the City of Kyle, Texas wants to ensure that when an Ordinance, Resolution, and or any other City business related item proposed for consideration and action by the City Council that a Fiscal Note is to be provided indicating the fiscal impact of the item and to identify the source and availability funds, if applicable.

The City Council understands that the City Charter under Article VIII, Section 8.01 requires the City's Director of Finance to certify the availability of funds for all proposed expenditures, and unless the Director of Finance shall certify that unencumbered balance exists in the appropriations and funds available, no appropriation shall be encumbered and no expenditure shall be made.

The City Council also understands that while the implementation of this Ordinance will enhance fiscal accountability and transparency in City government, it will also increase workload for the City Manager and the City's Financial Services Department.

Under this Ordinance, the City Manager will establish a management system necessary to prepare and provide a Fiscal Note for all proposed Ordinance, Resolution, and or any other City business related item proposed for City Council's consideration and action that requires:

1. The expenditure and or obligation of budgeted City funds;
2. The expenditure and or obligation of non budgeted City funds;
3. A new local tax, fee, license, service charge, or penalty;
4. An increase or decrease in an existing local tax, fee, license, service charge, or penalty;
5. Implementation of a new City program or service.

**Fiscal Note Requirements.** The Fiscal Note shall be a separate document prepared by the City's Financial Services Department and signed off by the Director of Finance that, at a minimum, provides the following information:

1. Total fiscal impact of the proposed Council action item;
2. Availability of Funds; and
3. Source of Funds.

**Procedures for City Staff.** The City Manager will ensure that prior to the posting of the Agenda for all regular City Council meetings; the following procedures are adhered to by appropriate City staff in City Departments responsible for an agenda

Cover Memo  
Item # 12

item:

1. Prepare a draft Request for Council Action (RCA) document providing detailed background information including what action is being requested of the City Council and why. (Please refer to attached example)
2. Seek City Manager's review and approval to place an item on the agenda for a future City Council meeting.
3. Submit the proposed Request for Council Action (RCA) item at least ten (10) business days before the City Manager's internal agenda submission deadline to the Director of Finance to allow for review and preparation of the required Fiscal Note.
4. If appropriate, the Financial Services Department staff will prepare a separate document titled FISCAL NOTE (example attached) based on the financial impact of the item to include at least the following information:
  - i. Total fiscal impact of the proposed Council action item;
  - ii. Availability of Funds; and
  - iii. Source of Funds.

5. The City's Director of Finance shall review the Request for Council Action (RCA) Form to determine the accuracy of information provided in the accompanying Fiscal Note and if appropriate, sign-off on the Fiscal Note.

6. The City Manager will ensure that no City Department staff will be allowed to place an agenda item for a City Council meeting without a fully completed and signed Fiscal Note, if one is required. The Fiscal Note must be attached to the agenda item at the time the City Council agenda is posted.

**Procedures for City Council.** The City Council will postpone (table) consideration of any proposed Ordinance, Resolution, and or any other City business related item that requires the expenditure and or obligation of City funds unless a fully completed and signed Fiscal Note is accompanied with the Request of Council Action (RCA) at the time the agenda is posted along with all supporting documentation.

**Other Procedural Considerations.** City Departments shall anticipate when City Council's consideration and approval would be required and accordingly, shall plan ahead on proposed Council agenda items so as to not cause delays while allowing sufficient time for review by City Committees when appropriate as well as for the development of Fiscal Notes. Given the numerous responsibilities including other competing duties assigned to the Director of Finance, it is anticipated that the Director of Finance may not be able to complete the required Fiscal Note. Under such circumstances, the agenda item requiring a Fiscal Note shall be deferred to a future City Council meeting when the Fiscal Note can be completed and posted at the time of agenda posting.

**Budget Information:**

A Fiscal Note is not necessary.

Other attachments included:

1. Draft City Ordinance
2. Sample Request for Council Action (RCA)
3. Sample Fiscal Note

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

[Draft City Ordinance](#)

[Sample Request for Council Action \(RCA\)](#)

[Sample Fiscal Note](#)

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**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ESTABLISHING A REQUIREMENT THAT A FISCAL NOTE BE PROVIDED BY THE FOR ALL CITY ORDINANCES AND RESOLUTIONS CONSIDERED BY THE CITY COUNCIL REQUIRING EXPENDITURE OR OBLIGATION OF CITY FUNDS AND OR AN INCREASE OR DECREASE IN RATES, FEES AND OTHER CHARGES FOR CITY SERVICES.**

**WHEREAS**, the City Council of the City of Kyle, Texas wants to ensure that when an Ordinance, Resolution, and or any other City business related item proposed for consideration and action by the City Council that a Fiscal Note is to be provided indicating the fiscal impact of the item and to identify the source and availability funds, if applicable;

**WHEREAS**, the City Council of the City of Kyle, Texas understands that the City Charter under Article VIII, Section 8.01 requires the City's Director of Finance to certify the availability of funds for all proposed expenditures, and unless the Director of Finance shall certify that unencumbered balance exists in the appropriations and funds available, no appropriation shall be encumbered and no expenditure shall be made;

**WHEREAS**, the City Council of the City of Kyle, expects that while the implementation of this Ordinance will enhance fiscal accountability and transparency in City government, it will also increase workload for the City Manager and the City's Financial Services Department;

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

**Section 1. Findings.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**Section 2. Fiscal Note Management System.** The City Manager will establish a management system necessary to prepare and provide a Fiscal Note for all proposed Ordinance, Resolution, and or any other City business related item proposed for City Council's consideration and action that requires:

1. The expenditure and or obligation of budgeted City funds;
2. The expenditure and or obligation of non budgeted City funds;
3. A new local tax, fee, license, service charge, or penalty;
4. An increase or decrease in an existing local tax, fee, license, service charge, or penalty;
5. Implementation of a new City program or service.

**Section 3. Fiscal Note Requirements.** The Fiscal Note shall be separate document prepared by the City's Financial Services Department and signed off by the Director of Finance that, at a minimum, provides the following information:

1. Total fiscal impact of the proposed Council action item;
2. Availability of Funds; and

### 3. Source of Funds.

**Section 4. Procedures for City Staff.** The City Manager will ensure that prior to the posting of the Agenda for all regular City Council meetings; the following procedures are adhered to by appropriate City staff in City Departments responsible for an agenda item:

1. Prepare a draft Request for Council Action (RCA) document providing detailed background information including what action is being requested of the City Council and why. Please refer to attached example.
2. Seek City Manager's review and approval to place an item on the agenda for a future City Council meeting.
3. Submit the proposed Request for Council Action (RCA) item **at least ten (10) business days before** the City Manager's internal agenda submission deadline to the Director of Finance to allow for review and preparation of the required Fiscal Note.
4. If appropriate, the Financial Services Department staff will prepare a separate document titled FISCAL NOTE (example attached) based on the financial impact of the item to include at least the following information:
  - i. Total fiscal impact of the proposed Council action item;
  - ii. Availability of Funds; and
  - iii. Source of Funds.
5. The City's Director of Finance shall review the Request for Council Action (RCA) Form to determine the accuracy of information provided in the accompanying Fiscal Note and if appropriate, sign-off on the Fiscal Note.
6. The City Manager will ensure that no City Department staff will be allowed to place an agenda item for a City Council meeting without a fully completed and signed Fiscal Note, if one is required. The Fiscal Note must be attached to the agenda item at the time the City Council agenda is posted.

**Section 5. Procedures for City Council.** The City Council will postpone (table) consideration of any proposed Ordinance, Resolution, and or any other City business related item that requires the expenditure and or obligation of City funds unless a fully completed and signed Fiscal Note is accompanied with the Request of Council Action (RCA) at the time the agenda is posted along with all supporting documentation.

**Section 6. Other Procedural Considerations.** City Departments shall anticipate when City Council's consideration and approval would be required and accordingly, shall plan ahead on proposed Council agenda items so as to not cause delays while allowing sufficient time for review by City Committees when appropriate as well as for the development of Fiscal Notes. Given the numerous responsibilities including other competing duties assigned to the Director Finance, it is anticipated that the Director of Finance may not be able to complete the required Fiscal Note. Under such circumstances, the agenda item requiring a Fiscal Note shall be deferred to a future City Council meeting when the Fiscal Note can be completed and posted at the time of agenda posting.

**Section 7. Amendment of Conflicting Ordinances.** All Ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or Ordinance of the City, the terms and provisions of this Ordinance shall govern.

**Section 8. Savings Clause.** All rights and remedies of the City of Kyle are expressly saved as to any and all violations of the provisions of any Ordinances affecting rates, fees, and charges within the City which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 9. Severability.** If any section, subsection, sentence or phrase of this Ordinance is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance shall not be affected. It is the intent of the City Council in adopting this Ordinance, that no provision or regulation contained herein shall become inoperative, or fail by reason of the unconstitutionality or invalidity of any other section, subsection, sentence or phrase of this Ordinance.

**Section 10. Effective Date.** This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of Chapter 52 of the Texas Local Government Code.

**Section 11. 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 551 of the Texas Government Code.

**PASSED AND APPROVED** on this \_\_\_\_ day of December, 2011.

**PASSED AND FINALLY APPROVED** on second reading on this \_\_\_\_ day of November, 2011.

**CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Lucy Johnson, Mayor

**ATTEST:**

\_\_\_\_\_  
Amelia Sanchez, City Secretary



## **REQUEST FOR COUNCIL ACTION**

**Meeting Date: 2/1/2011**  
**Meeting Time: 7:00 PM**

### **Subject/Recommendation:**

Authorize award and execution of Contract Amendment No. 1 to the construction contract with T.F. HARPER & ASSOCIATES, LP, Austin, Texas, in an amount not to exceed \$527,649.41 to construct all Lake Kyle Project improvements included in the specifications, for a total amended contract amount not to exceed \$1,291,171.26 ~ Kerry Urbanowicz, Director of Parks & Recreation

### **City Council Action Requested:**

This City Council action authorizes three related items associated with the contract amendment; (1) award and execution of Contract Amendment No.1, (2) amendment of certain provisions of the Construction Contract dated 10/1/2011, and (3) the reallocation of project budgets previously approved by City Council.

In addition to increasing the amount of total contract award to T.F. HARPER AND ASSOCIATES, LP, this Contract Amendment No. 1 will also amend certain provisions of the Standard General Conditions of the Construction Contract dated October 1, 2010 as accepted by the City.

This City Council action will also authorize the reallocation of project budgets previously approved by City Council for total project costs and related grant funding for the three City park improvement projects to reflect as shown below under budget information.

### **Background Information:**

On \_\_\_\_\_, the City Council awarded a construction contract to T.F. HARPER & ASSOCIATES, LP, Austin, Texas, in an amount not to exceed \$763,521.85 to construct all improvements at the City's Gregg-Clarke Park. All improvements constructed by T.F. HARPER AND ASSOCIATES at the Gregg-Clarke Park have been completed to City's satisfaction and have been accepted by the City. Upon final payment to the contractor, a total of \$45,584.37 will remain unexpended from the original \$763,521.85 contract award for the Gregg-Clarke Park Project. The \$45,584.37 unexpended amount will become available for the Lake Kyle Project improvements.

This Contract Amendment No. 1 will add \$527,649.41 to the original contract award of \$763,521.85 with T.F. HARPER & ASSOCIATES, LP for the construction of all improvements included in the specifications for the Lake Kyle Project. Contract Amendment No. 1 will increase the total contract award (cumulative) to T.F. HARPER & ASSOCIATES, LP by \$527,649.41 for a total amended contract amount not to exceed \$1,291,171.26.

The total construction budget for the completion of Lake Kyle Project improvements is \$573,233.78 of which \$45,584.37 is available in the original construction contract with T.F. HARPER AND ASSOCIATES, LP, therefore requiring a net increase in contract

award of \$527,649.41 to pay for the cost of all Lake Kyle Project improvements. The total budget authorization for the Lake Kyle Project improvements is comprised of the following:

Unexpended Contract Balance:	\$ 45,584.37
Contract Amendment No. 1:	<u>\$527,649.41</u>
Total Authorization for Lake Kyle:	<u>\$573,233.78</u>

**Budget Information:**

See Fiscal Note Attached.

SAMPLE



City of Kyle, Texas  
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: February 1, 2011  
 CONTACT CITY DEPARTMENT: Parks & Recreation  
 CONTACT CITY STAFF: Kerry Urbanowicz, Director

SUBJECT: Authorize award and execution of Contract Amendment No. 1 to the construction contract with T.F. HARPER & ASSOCIATES, LP, Austin, Texas, in an amount not to exceed \$527,649.41 to construct all Lake Kyle Project improvements included in the specifications, for a total amended contract amount not to exceed \$1,291,171.26

CURRENT YEAR FISCAL IMPACT:

This Contract Amendment No. 1 to the construction contract with T.F. HARPER AND ASSOCIATES, LP will increase the total contract award by \$527,649.41 for a total amended contract amount (cumulative) not to exceed \$1,291,171.26.

1. City Department::	Parks and Recreation
2. Project Name:	Lake Kyle CIP
3. Budget/Accounting Code(s):	410-723-57222
4. Funding Source:	Grants: Hays County and Texas Parks & Wildlife
5. Current Appropriation:	\$1,700,000.00
6. Unencumbered Balance:	\$ 563,977.93
7. Amount of This Action:	<u>\$ (527,649.41)</u>
8. Remaining Balance:	<u>\$ 36,328.52</u>

FUNDING SOURCE OF THIS ACTION:

The source of funds for Contract Amendment No. 1 in the amount of \$527,649.41 is provided from two different grants as follows:

Hays County Parks Grant:	\$380,170.63
Texas Parks & Wildlife Dept.	<u>\$147,478.78</u>
Total Contract Amendment:	<u>\$527,649.41</u>

ADDITIONAL INFORMATION/COUNCIL ACTION:

This City Council action will also authorize reallocation of budget authorizations previously approved by City Council for total project costs and related grant funding for the three City park improvement projects to reflect as follows:

Total Grant Funding:

1. Hays County Parks Grant:	\$1,200,000.00
2. Texas Parks & Wildlife:	<u>\$ 500,000.00</u>
Total Grants:	<u>\$1,700,000.00</u>

Project Expenditure Budget:

1. Gregg-Clarke Park:	\$ 717,937.48	(Hays County Parks Grant)
2. Lake Kyle Park:	\$ 445,734.00	(Hays County Parks Grant)
3. Lake Kyle Park:	\$ 500,000.00	(Parks & Wildlife Grant)
4. City Square Park:	<u>\$ 36,288.89</u>	(Hays County Parks Grant)
Total Budget:	<u>\$1,699,960.37</u>	



# CITY OF KYLE, TEXAS

## Parks Committee Role Ordinance Amendment

Meeting Date: 1/3/2012  
Date time: 7:00 PM

**Subject/Recommendation:**

*(Second Reading)* AN ORDINANCE OF THE CITY OF KYLE, TEXAS AMENDING CHAPTER 26 OF THE CITY CODE PERTAINING TO PARKS AND RECREATION RELATED TO FEES AND DEPOSITS ESTABLISHED AND THE ROLE OF THE PARKS AND RECREATION COMMITTEE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ Mayor Lucy Johnson and Bill Nuekam, Chairman of the Parks & Recreation Committee

**Other Information:**

This amendment would limit the ability of Director of Parks and Recreation to reduce or waive fees or deposits to a total amount of \$1,000 a fiscal year for non-profit organizations holding or sponsoring youth-oriented activities.

**Budget Information:**

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Attachments / click to download

[Park Fees Ordinance](#)

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS AMENDING CHAPTER 26 OF THE CITY CODE PERTAINING TO PARKS AND RECREATION RELATED TO FEES AND DEPOSITS ESTABLISHED AND THE ROLE OF THE PARKS AND RECREATION COMMITTEE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**Whereas**, the City of Kyle, Texas (the “City”) adopted Chapter 26 of the City Code pertaining to Parks and Recreation, and desires to amend Chapter 26 Section 26-145 related to Fees and deposits established and the role of the Parks and Recreation Committee;

**Whereas**, the City previously, in Ordinance #330-3, empowered the Parks and Recreation Committee (Board) with the right to lower or waive any or all of the fees, charges or deposits without burdening the City Council with requests and applications; and

**Whereas**, the Kyle Parks and Recreation Committee has recommended the adoption of this amendment;

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

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**Section 2. Amendment of Section 26-145.** Chapter 26, City of Kyle Code of Ordinances, is hereby amending Section 26-145 to read as follows:

(a) The fees and charges are as set forth in appendix A to this Code.

(b) The director, at his sole discretion, may reduce or waive fees upon proper demonstration that the entity making the payment is a nonprofit organization and youth-oriented function with a limit of \$1,000 total during a fiscal year and report documenting reductions and waivers.

(c) Deposits. A deposit established to protect the city against possible cleanup, lost key, and repair expenses. The deposit is to be paid with cash, check or money order. Any refund of deposit will be repaid by the city with a city check within 30 working days after the event. The key is to be returned to the city the day after the event. It shall be an offense under this article for anyone to duplicate, retain or copy any such key. If the key is not returned, the entire deposit will be forfeited.

(d) All damages and cleanup charges, if any, will be deducted from the deposit prior to the city providing any refund as described under this subsection. Any and all damage or cleanup charges in excess of the deposit will be billed to the responsible person or organization for payment to the city. Should any person or organization responsible fail to pay for any additional damage or cleanup charges within 15 days of notification by the city, that person or organization shall be barred from using the facility as deemed appropriate. Appeals pursuant to this policy shall be made to the city council. Council shall have final authority to waive or lower charges, to extend the deadline for payment, or to shorten or waive the penalty.

**Section 3. Amendment of Code of Ordinances.** The City Code is hereby amended in as set forth in this Ordinance, and all prior ordinances of the City dealing with or applicable to fees and deposits as related to the Kyle Parks and Recreation Committee to the extent of any conflict herewith, and all ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, the terms and provisions of this Ordinance shall govern.

**Section 4. Savings Clause.** All rights and remedies of the City of Kyle are expressly saved as to any and all violations of the provisions of any ordinances affecting fees and deposits which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 5. Effective Date.** This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code and the City Charter.

**Section 6. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation into this Ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

**Section 8. 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.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Lucy Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Amelia Sanchez, City Secretary



## CITY OF KYLE, TEXAS

### SCC Bunton Creek Subdivision Replat of Lots 3, 4, 5, 8, 11 and 12, Block A

Meeting Date: 1/3/2012  
Date time: 7:00 PM

**Subject/Recommendation:**

SCC Bunton Creek Subd. Replat of Lots 3, 4, 5, 8, 11 & 12, Block A (SFP-11-008)  
Owner: SCC Kyle Partners, Ltd.  
30.038 acres; 6 Commercial Lots  
Located at 5754 Kyle Parkway  
Agent: Robert J. Smith, P.E., Doucet & Associates, Inc.  
Staff Recommendation: Statutorily Disapprove to meet the 30 day statutory  
requirement  
~ Sofia Nelson, Director of Planning

**Other Information:**

*(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue though the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the Planning Commission and City Council).*

**Budget Information:**

N/A

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Attachments / click to download

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## CITY OF KYLE, TEXAS

### Shadow Creek Phase 1 Section 5 Replat of Lot 1, Block A

**Meeting Date: 1/3/2012**  
**Date time: 7:00 PM**

**Subject/Recommendation:**

Shadow Creek Phase 1 Section 5 Replat of Lot 1, Block A (SFP-11-005)  
18.429 acres; 6 Residential Lots, 2 Greenbelt Lots, and 1 Commercial Lot  
Located at the entrance into the Shadow Creek Subdivision off of Windy Hill Rd.  
Owner: Hays Shadow Creek Development, Inc.  
Agent: Stephen Delgado, P.E., Texas Engineering Solutions  
~ *Sofia Nelson, Director of Planning*

*Planning and Zoning Commission voted 6-0 to approve the plat conditional on the acceptance and payment of the roadway improvement fee.*

**Other Information:**

Please see the attached staff report

**Budget Information:**

N/A

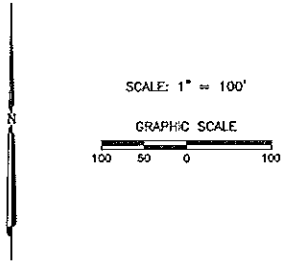
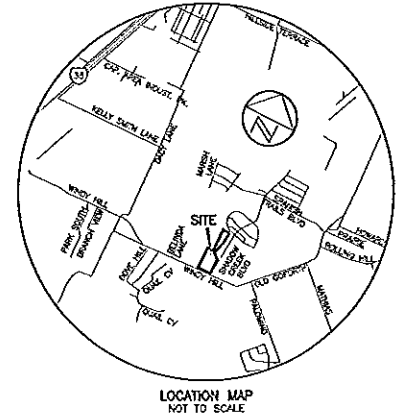
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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

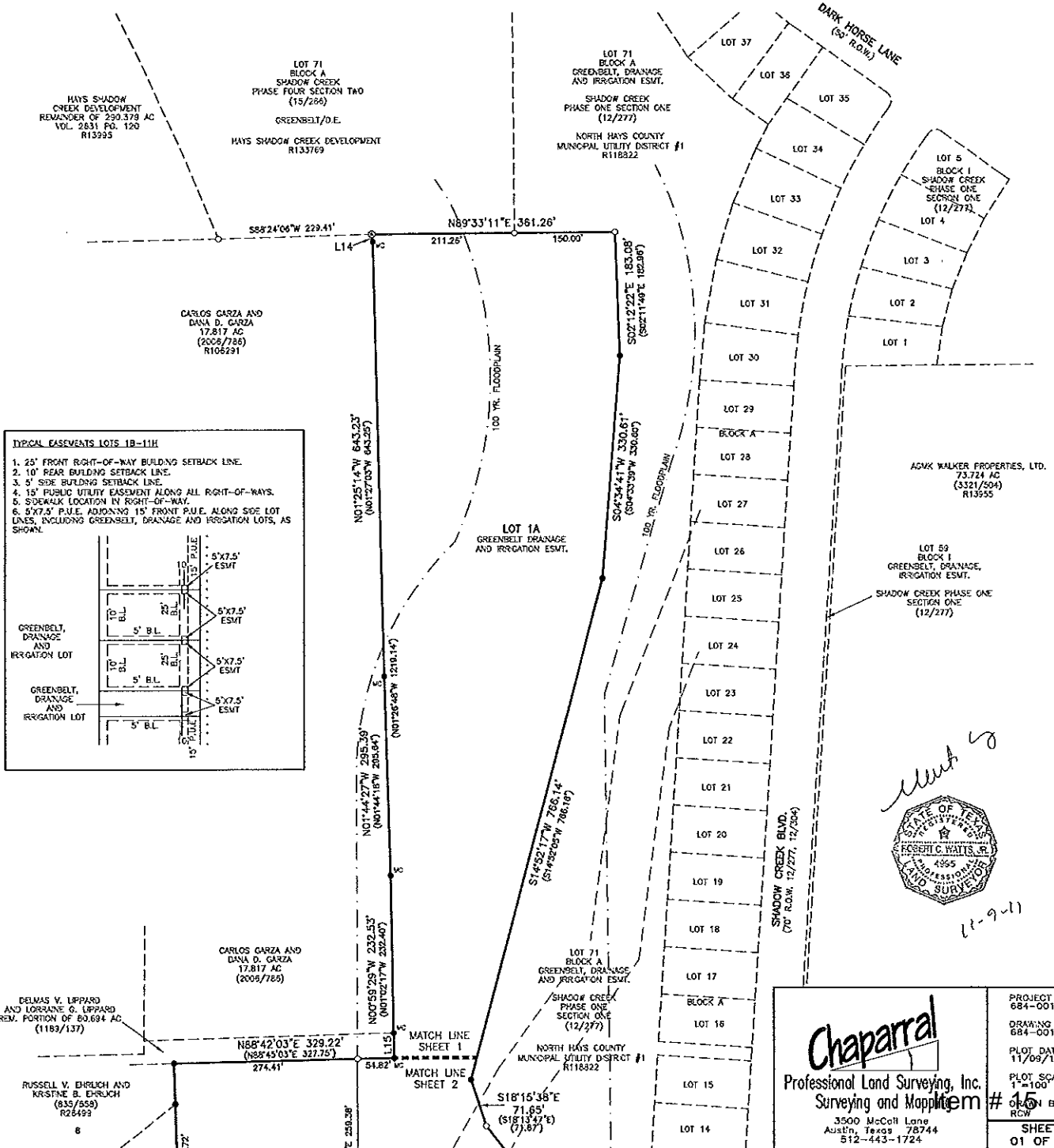
- [Plat](#)
- [City Council memo](#)

# RESUBDIVISION OF LOT 1, BLOCK A SHADOW CREEK PHASE ONE SECTION FIVE AND COMMERCIAL ADDITION



LEGEND

●	1/2" REBAR FOUND (OR AS NOTED)
○	1/2" REBAR WITH CHAPARRAL CAP SET
○	1/2" REBAR WITH C.F.E. CAP FOUND
○	1/2" REBAR WITH MCVILLAN CAP FOUND
○	1/2" REBAR WITH RUST CAP FOUND
○	1/2" REBAR WITH RDS CAP FOUND
⊙	DOTION SPINDLE SET IN CONCRETE
⊙	CALCULATED POINT
⊙	BENCHMARK/CONTROL POINT LOCATION
D.E.	DRAINAGE EASEMENT
E.E.	ELECTRIC EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
---	SIDEWALK LOCATION



*Must go*

*11-9-11*

**Chaparral**  
Professional Land Surveying, Inc.  
Surveying and Mapping

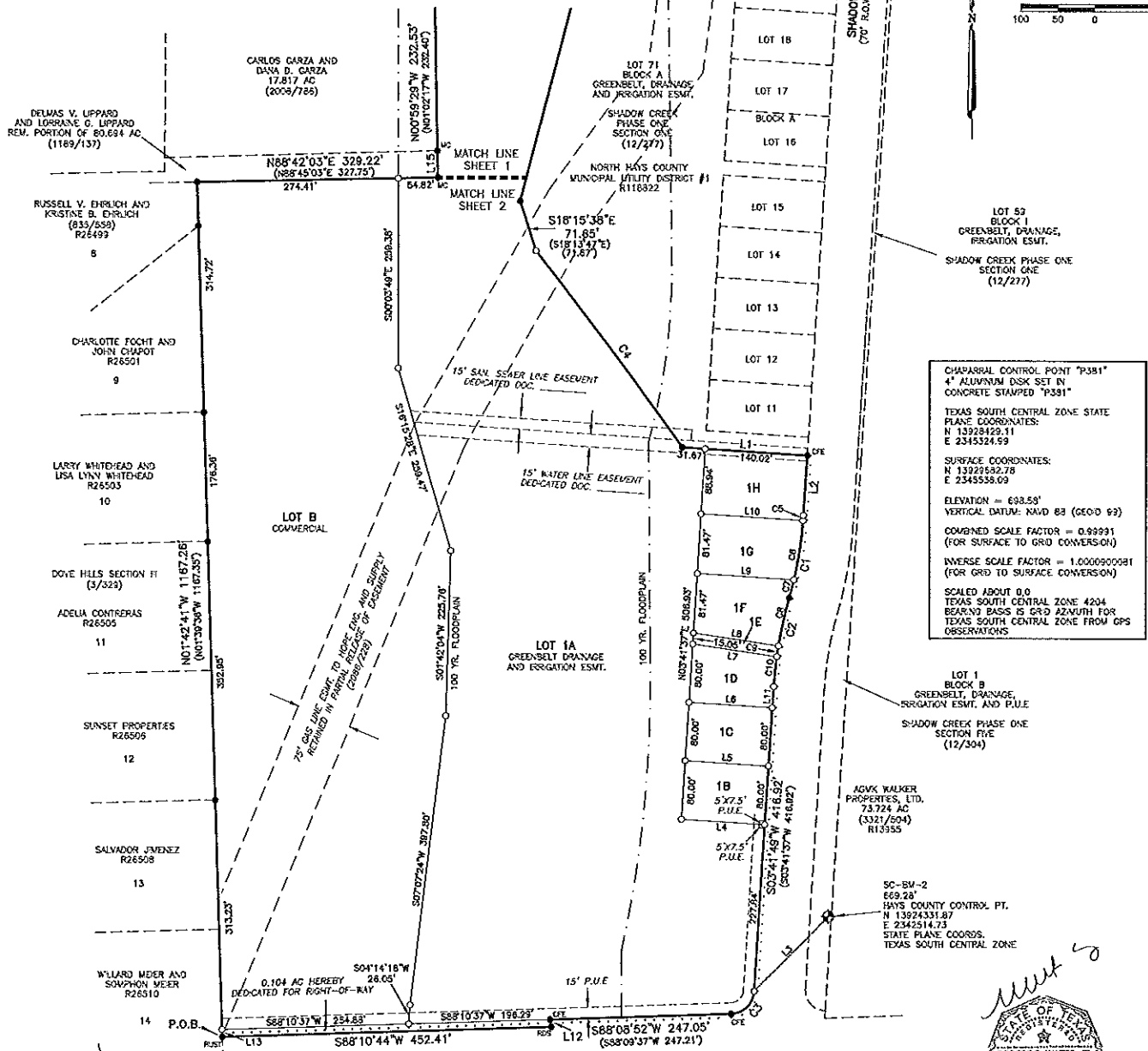
3500 McCall Lane  
Austin, Texas 78744  
512-443-1724

PROJECT NO.: 684-001  
DRAWING NO.: 684-001-PL4  
PLOT DATE: 11/09/11  
PLOT SCALE: 1"=100'  
DRAWN BY: RCW  
SHEET 01 OF 03



# RESUBDIVISION OF LOT 1, BLOCK A SHADOW CREEK PHASE ONE SECTION FIVE AND COMMERCIAL ADDITION

SCALE: 1" = 100'  
GRAPHIC SCALE



CHAPARRAL CONTROL POINT "P381"  
4" ALUMINUM DISK SET IN  
CONCRETE STAMPED "P381"  
TEXAS SOUTH CENTRAL ZONE STATE  
PLANE COORDINATES:  
N 13228429.11  
E 2345324.99  
SURFACE COORDINATES:  
N 1322842.78  
E 2345358.09  
ELEVATION = 698.55'  
VERTICAL DATUM: NAVD 83 (GEOID 69)  
COMBINED SCALE FACTOR = 0.99991  
(FOR SURFACE TO GRID CONVERSION)  
INVERSE SCALE FACTOR = 1.000090091  
(FOR GRID TO SURFACE CONVERSION)  
SCALED ABOUT 0.0  
TEXAS SOUTH CENTRAL ZONE 4204  
BEARING BASIS IS 680 AZMUTH FOR  
TEXAS SOUTH CENTRAL ZONE FROM GPS  
OBSERVATIONS



WINDY HILL ROAD - COUNTY RD. NO. 131  
(R.O.W. WIDTH VARIES)

**SUMMARY**  
OWNER: HAYS SHADOW CREEK DEVELOPMENT INC.,  
A TEXAS CORPORATION  
ACREAGE: 26.195 ACRES  
SURVEY: GEORGE W. SPEAR LEAGUE  
TOTAL NO. OF LOTS: 9  
SINGLE FAMILY/RESIDENTIAL LOTS: 6  
GREENBELT, DRAINAGE AND P.U.E. LOTS: 2  
COMMERCIAL LOTS: 1  
DATE: NOVEMBER 8, 2011  
SURVEYOR:  
CHAPARRAL PROFESSIONAL LAND SURVEYING, INC.  
3500 MCCOLL LANE  
AUSTIN, TEXAS 78744  
(512) 443-1724  
ENGINEER:  
ENGINEERING BY:  
TEXAS ENGINEERING SOLUTIONS, LLC  
5000 BEE CAVES RD, ST 206  
AUSTIN, TX 78746  
O: 512 904-0505  
F: 512 904-0509

No.	BEARING	LENGTH	RECORD
L1	S86°17'55"E	171.68'	(S86°18'23"E 171.65')
L2	S03°43'11"W	88.00'	(S03°41'37"W 88.00')
L3	N46°08'37"E	142.08'	
L4	N86°18'23"W	114.92'	
L5	N86°18'23"W	114.92'	
L6	N86°18'23"W	114.93'	
L7	N81°25'25"W	118.83'	
L8	N81°25'25"W	118.12'	
L9	N86°18'23"W	133.10'	
L10	N86°18'23"W	139.98'	
L11	S03°41'49"W	29.08'	
L12	S08°46'33"E	10.09'	(S08°29'50"E 10.07')
L13	S04°14'18"W	10.09'	
L14	N08°17'52"W	11.11'	(N06°07'54"W 10.95')
L15	N01°11'11"W	36.63'	

**LOT SUMMARY**

LOT	AREA (AC.)	USE
1A	16.857	GREENBELT/DRAINAGE/IRREGATION
1E	0.040	GREENBELT/DRAINAGE/IRREGATION
1B	0.211	RESIDENTIAL
1C	0.211	RESIDENTIAL
1D	0.189	RESIDENTIAL
1F	0.248	RESIDENTIAL
1G	0.257	RESIDENTIAL
1H	0.258	RESIDENTIAL
B	7.782	COMMERCIAL
	0.104	R.O.W. DEDICATION
<b>TOTAL</b>	<b>26.195</b>	

NO.	DELTA	RADIUS	TAN	ARC	CHORD	BEARING	RECORD CHORD
C1	12°24'18"	500.00'	54.34'	108.25'	108.04'	S09°55'32"W	(S09°53'55"W 108.08')
C2	12°24'11"	570.00'	61.84'	123.39'	123.15'	S09°54'10"W	(S09°53'55"W 123.22')
C3	84°28'42"	33.05'	29.89'	48.71'	44.42'	S45°55'49"W	(S45°55'37"W 44.42')
C4	03°37'08"	5300.00'	167.43'	334.75'	334.69'	S36°39'42"E	(S36°39'64"E 334.76')
C5	0°08'20"	500.00'	0.46'	0.92'	0.92'	N03°46'33"E	
C6	9°22'45"	500.00'	41.02'	81.85'	81.76'	N08°31'05"E	
C7	2°55'13"	500.00'	12.76'	25.48'	25.48'	N14°40'05"E	
C8	6°46'21"	570.00'	33.73'	67.38'	67.34'	S12°43'05"W	
C9	1°30'28"	570.00'	7.50'	15.00'	15.00'	S08°34'40"W	
C10	4°07'21"	570.00'	20.52'	41.01'	41.00'	S03°45'46"W	

Professional Land Surveying, Inc.  
Surveying and Mapping

3500 McColl Lane  
Austin, Texas 78744  
512-443-1724

PROJECT NO.: 684-001  
DRAWING NO.: 684-001-PL4  
PLOT DATE: 11/09/11  
PLOT SCALE: 1" = 100'  
DRAWN BY: RCW  
SHEET 02 OF 03

**RESUBDIVISION OF LOT 1, BLOCK A  
SHADOW CREEK  
PHASE ONE SECTION FIVE AND COMMERCIAL ADDITION**

STATE OF TEXAS

COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:

THAT HAYS SHADOW CREEK DEVELOPMENT INC., A TEXAS CORPORATION, BEING OWNER OF LOT 1, BLOCK A, SHADOW CREEK PHASE ONE SECTION FIVE, A SUBDIVISION OF RECORD IN BOOK 12, PAGE 304 OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS, BEING 20.899 ACRES OUT OF THE JESSE B. EAVES SURVEY NO. 5, ABSTRACT NO. 168, AS CONVEYED BY DEED OF RECORD IN VOLUME 2453, PAGE 750 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS AND BEING OWNER OF 21.23 ACRES OUT OF THE JESSE B. EAVES SURVEY NO. 5, ABSTRACT NO. 168, AS CONVEYED BY DEED OF RECORD IN VOLUME 2750, PAGE 193 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS;

DO HEREBY RE-SUBDIVIDE LOT 1, CONSISTING OF 4.932 ACRES AND SUBDIVIDE SAID 21.23 ACRES IN ACCORDANCE WITH THE MAP OR PLAT ATTACHED HERETO, TO BE KNOWN AS

"RESUBDIVISION OF LOT 1, BLOCK A, SHADOW CREEK PHASE ONE SECTION FIVE AND COMMERCIAL ADDITION"

AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF ALL STREETS AND EASEMENTS SHOWN HEREON, SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED.

WITNESS MY HAND THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D.

BY:

RICHARD H. TOPFER, PRESIDENT  
HAYS SHADOW CREEK DEVELOPMENT, INC.  
3600 N. CAPITAL OF TX. HWY, BLDG B, SUITE 320  
AUSTIN, TEXAS 78746

STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED RICHARD H. TOPFER, PRESIDENT, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

WITNESS MY HAND AND SEALED IN MY OFFICE, THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D.

NOTARY PUBLIC, STATE OF TEXAS

PRINTED NAME MY COMMISSION EXPIRES

SURVEYOR'S CERTIFICATION

I, HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACCURATE AND ON-THE-GROUND SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, AND THAT THE CORNER MONUMENTS WERE PROPERLY PLACED UNDER MY PERSONAL SUPERVISION, IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS OF HAYS COUNTY, TEXAS, DATE OF SURVEY 11/8/11.

ROBERT C. WATTS, JR., R.P.L.S. 4995 DATE 11-9-11

SURVEYING BY:  
CHAPARRAL PROFESSIONAL LAND SURVEYING, INC.  
3500 MCCALL LANE  
AUSTIN, TEXAS 78744  
(512) 443-1724



ENGINEER'S CERTIFICATION:

I, STEPHEN L. DELGADO, P.E., A LICENSED PROFESSIONAL ENGINEER, DO HEREBY CERTIFY THAT PORTIONS OF THIS TRACT ARE LOCATED WITHIN A DESIGNATED 100-YEAR FLOOD ZONE AREA, AS DELINEATED ON THE FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL 48209C0281P, DATED SEPTEMBER 2, 2005. ADDITIONALLY, STORM WATER RUNOFF FROM THE 100-YEAR STORM EVENT SHALL BE CONTAINED WITHIN DRAINAGE EASEMENTS SHOWN ON THE ATTACHED PLAT.

STEPHEN L. DELGADO, P.E. 69342 DATE

ENGINEERING BY:  
TEXAS ENGINEERING SOLUTIONS, LLC  
5000 BEE CAVES RD, ST 206  
AUSTIN, TX 78746  
O: 512 904-0505  
F: 512 904-0509

GENERAL NOTES:

1. THIS FINAL PLAT IS LOCATED ENTIRELY WITHIN HAYS COUNTY.
2. NO PORTION OF THIS PLAT LIES WITHIN THE BOUNDARIES OF THE EDWARDS AQUIFER RECHARGE ZONE.
3. NO PORTION OF THIS PLAT LIES WITHIN THE BOUNDARIES OF THE CONTRIBUTING ZONE OF THE BARTON SPRINGS SEGMENT OF THE EDWARDS AQUIFER.
4. THIS PLAT IS LOCATED WITHIN THE BOUNDARY OF THE HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT.
5. A PORTION OF THIS TRACT IS WITHIN THE BOUNDARIES OF THE 100 YEAR FLOOD OF A WATERWAY THAT IS WITHIN THE LIMITS OF STUDY OF THE FEDERAL FLOOD INSURANCE ADMINISTRATION FIRM PANEL 48209C0281P, DATED SEPTEMBER 2, 2005 FOR HAYS COUNTY, TEXAS AND INCORPORATED AREAS.
6. ALL STREETS SHALL BE DESIGNED IN ACCORDANCE WITH APPLICABLE HAYS COUNTY REQUIREMENTS AND APPROVED BY THE HAYS COUNTY ROAD DEPARTMENT AND UPON ACCEPTANCE SHALL BE DEDICATED TO THE COUNTY FOR MAINTENANCE.
7. STREETS TO BE ACCESSED WILL BE CONSTRUCTED WITH CURB AND GUTTER.
8. LINEAR FOOTAGE OF STREET IMPROVEMENTS: N/A
9. THIS PLAT HAS BEEN PREPARED IN ACCORDANCE WITH THE HAYS COUNTY REQUIREMENTS AS APPLICABLE TO THIS DEVELOPMENT.
10. AREA WITHIN NEW ROAD RIGHT-OF-WAY = 0.104 AC.
11. ALL STREETS TO BE PAVED, PUBLIC AND MAINTAINED BY THE COUNTY.
12. NO OBJECT INCLUDING FENCING OR LANDSCAPING WHICH WOULD INTERFERE WITH CONVEYANCE OF STORM WATER SHALL BE PLACED OR ERRECTED WITHIN DRAINAGE EASEMENTS.
13. GREENBELT/DRAINAGE EASEMENTS SHALL BE MAINTAINED BY THE HOME OWNERS ASSOCIATION.
14. SIDEWALKS SHALL BE CONSTRUCTED ALONG BOTH SIDES OF EACH RESIDENTIAL STREET.
15. THIS SUBDIVISION IS WITHIN THE ETJ OF THE CITY OF KYLE'S MUNICIPALITY.
16. GAS IS PROVIDED BY CENTERPOINT ENERGY.
17. TELEPHONE/CABLE PROVIDED BY ORANGE COMMUNICATIONS.
18. ELECTRICITY PROVIDED BY FEDERNULES ELECTRIC COMPANY.
19. THE WASTEWATER TREATMENT PLANT IS OWNED BY NORTH HAYS COUNTY MUD #1 AND OPERATED BY GUADALUPE-BLANCO RIVER AUTHORITY OF TEXAS.
20. WASTEWATER SERVICES IS PROVIDED BY NORTH HAYS COUNTY MUD #1 (SEE NOTE ABOVE).
21. WATER IS PROVIDED BY GOFORTH SPECIAL UTILITY DISTRICT.
22. THE REQUIREMENT CONCERNING CONSTRUCTION STANDARDS FOR MAILBOXES INSTALLED WITHIN THE RIGHT-OF-WAY OF STREETS AND HIGHWAYS AND REQUIRING ALL SUCH MAILBOXES TO BE MADE OF COLLAPSIBLE MATERIALS, AS DEFINED IN THE ORDINANCE.

THIS SUBDIVISION IS LOCATED ENTIRELY WITHIN THE BOUNDARIES AND SERVICE AREA OF GOFORTH WATER SUPPLY CORPORATION (GOFORTH S.U.D.), AS REGULATED BY THE TEXAS COMMISSION ON THE ENVIRONMENTAL QUALITY.

GOFORTH SPECIAL UTILITY DISTRICT

MARIO TOSAS, GENERAL MANAGER

DATE

CITY ENGINEER'S CERTIFICATION

STATE OF TEXAS  
COUNTY OF HAYS

I, UNDERSIGNED, CITY ENGINEER OF THE CITY OF KYLE, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION ORDINANCE AND HEREBY RECOMMEND APPROVAL.

JOHN BARTLE, P.E.  
NEPTUNE-WILKINSON, INC.

DIRECTOR OF PUBLIC WORKS CERTIFICATION:

STATE OF TEXAS  
COUNTY OF HAYS

I, THE UNDERSIGNED, DIRECTOR OF PUBLIC WORKS OF THE CITY OF KYLE, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION ORDINANCE AND HEREBY RECOMMEND APPROVAL.

HARPER WILDER  
DIRECTOR OF PUBLIC WORKS

PLANNING AND ZONING COMMISSION CERTIFICATION:

STATE OF TEXAS  
COUNTY OF HAYS

THE FINAL PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KYLE, TEXAS, AND IS HEREBY APPROVED BY SUCH PLANNING AND ZONING COMMISSION.

DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

CALE BAESE, CHAIRPERSON

CERTIFICATION OF THE CITY SECRETARY:

STATE OF TEXAS  
COUNTY OF HAYS

I HEREBY CERTIFY THAT THE ABOVE AND FOREGOING PLAT OF RESUBDIVISION OF LOT 1, BLOCK A, SHADOW CREEK PHASE ONE SECTION FIVE AND COMMERCIAL ADDITION, AN ADDITION TO THE CITY OF KYLE, TEXAS, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF KYLE ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ SAID ADDITION SHALL BE SUBJECT TO ALL THE REQUIREMENTS OF THE SUBDIVISION OF THE CITY OF KYLE, TEXAS.

AVELIA SANCHEZ  
CITY SECRETARY

SEWAGE DISPOSAL/INDIVIDUAL WATER SUPPLY CERTIFICATE, TO-WIT:

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO AN INDIVIDUAL WATER SUPPLY OR A STATE -- APPROVED COMMUNITY WATER SYSTEM. DUE TO DECLINING WATER SUPPLIES AND EVAPORATING WATER QUALITY, PROSPECTIVE PROPERTY OWNERS ARE CAUTIONED BY HAYS COUNTY TO QUESTION THE SELLER CONCERNING GROUND WATER AVAILABILITY, RAIN WATER COLLECTION IS ENCOURAGED AND IN SOME AREAS MAY OFFER THE BEST RENEWABLE WATER RESOURCE.

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC SEWER OR TO AN ON-SITE WASTEWATER SYSTEM WHICH HAS BEEN APPROVED AND PERMITTED BY HAYS COUNTY ENVIRONMENTAL HEALTH.

NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL HAYS COUNTY DEVELOPMENT PERMIT REQUIREMENTS HAVE BEEN MET.

JERRY BORCHERDINO, DIRECTOR  
HAYS COUNTY ENVIRONMENTAL HEALTH

DATE

TOM POPE  
HAYS COUNTY FLOODPLAIN ADMINISTRATOR

DATE

IN ORDER TO PROMOTE SAFE USE OF ROADWAYS AND PRESERVE THE CONDITIONS OF PUBLIC ROADWAYS, NO DRIVEWAY CONSTRUCTED ON ANY LOT WITHIN THIS SUBDIVISION SHALL BE PERMITTED ACCESS ONTO A PUBLICLY DEDICATED ROADWAY UNLESS (A) A DRIVEWAY PERMIT HAS BEEN ISSUED BY THE ROAD DEPARTMENT OF HAYS COUNTY AND (B) THE DRIVEWAY SATISFIES THE REQUIREMENT FOR DRIVEWAYS SET FORTH IN SECTIONS 7.4 AND 7.5, CHAPTER 721, OF THE HAYS COUNTY SUBDIVISION REGULATIONS.

IN APPROVING THIS PLAT BY THE COMMISSIONERS COURT OF HAYS COUNTY TEXAS, IT IS UNDERSTOOD THAT THE BUILDING OF ALL STREETS, ROADS, AND OTHER PUBLIC THOROUGHFARES DELINEATED AND SHOWN ON THIS PLAT, AND ALL BRIDGES AND CULVERTS NECESSARY TO BE CONSTRUCTED OR PLACED IN SUCH STREETS, ROADS, OR OTHER PUBLIC THOROUGHFARES, OR IN CONNECTION THEREWITH SHALL BE THE RESPONSIBILITY OF THE OWNER AND OR THE DEVELOPER OF THE TRACT OF LAND COVERED BY THIS PLAT IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS PRESCRIBED BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS AND THE COMMISSIONERS OF HAYS COUNTY, TEXAS, ASSUMES NO OBLIGATION TO BUILD THE STREETS, ROADS, OR OTHER PUBLIC THOROUGHFARES SHOWN ON THIS PLAT OR OF CONSTRUCTING ANY BRIDGES OR CULVERTS IN CONNECTION THEREWITH.

THE STATE OF TEXAS  
COUNTY OF HAYS

I, LIZ Q. GONZALEZ, CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D., THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS PASSED AN ORDER AUTHORIZING THE FILING FOR RECORD OF THIS PLAT AND SAID ORDER HAS BEEN ENTERED IN THE MINUTES OF SAID COURT IN MY BOOK \_\_\_\_ PAGE \_\_\_\_

WITNESS MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D.

BY:

BERT COBB, MD  
COUNTY JUDGE  
HAYS COUNTY, TEXAS

BY:

LIZ Q. GONZALEZ  
COUNTY CLERK  
HAYS COUNTY, TEXAS

THE STATE OF TEXAS  
COUNTY OF HAYS

I, LIZ Q. GONZALEZ, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING, WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE

ON THE \_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_ AT \_\_\_\_ O'CLOCK \_\_\_\_ M., IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS IN BOOK \_\_\_\_ PAGE(S) \_\_\_\_ WITNESS MY HAND AND SEAL OF OFFICE, THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D.

BY:

LIZ Q. GONZALEZ  
COUNTY CLERK  
HAYS COUNTY, TEXAS

Item # 15

SHEET  
03 OF 03

## MEMORANDUM

TO: City Council

FROM: Sofia Nelson, Director of Planning

DATE: December 16, 2011

SUBJECT: Short Form Plat  
SHADOW CREEK PLAT- Lot 1 Block A- Phase 1 Section 5 and  
Commercial Addition  
(SFP-11-05)

### **BACKGROUND**

#### **Site Information and Proposal**

The subject property is approximately 26.195 acres and is located within the City of Kyle ETJ and is subject to the approval of the City of Kyle and Hays County prior to recordation. The project is a resubdivision of the Shadow Creek Phase 1, Section 5 plat and is located within the Shadow Creek Subdivision adjacent to County Road 131, also known as Windy Hill Road. The proposed subdivision creates 6 residential lots, 1 lot for Greenbelt/Drainage and 1 commercial lot fronting on Windy Hill Road.

#### **Utilities**

The water provided to the site is being serviced by the Goforth Special Utility District (water) and wastewater is being provided by the North Hays County Municipal Utility District (MUD).

#### **Parkland**

The six new residential lots created via this plat are subject to the parkland dedication fee of \$7,200.00.

#### **Access**

Access to the residential portion of the site will be via Shadow Creek Boulevard. Access to the Commercial site will be via Windy Hill Road. Approximately 10' of ROW has been dedicated to Windy Hill Road to help facilitate the expansion of the roadway.

### **STAFF RECOMMENDATION:**

Staff is recommending approval.

### **PLANNING AND ZONING COMMISSION RECOMMENDATION:**

On December 13<sup>th</sup> the Planning and Zoning Commission held a public hearing and recommended approval of the plat conditional on the acceptance and payment of the Roadway Improvement Fee.





# CITY OF KYLE, TEXAS

## Speed Limit on Kohler's Crossing

Meeting Date: 1/3/2012  
Date time: 7:00 PM

**Subject/Recommendation:**

*(Second Reading)* AN ORDINANCE OF THE CITY OF KYLE, TEXAS AUTHORIZING AND DIRECTING THE INSTALLATION AND ERECTION OF SPEED CONTROL SIGNS FOR THE ZONING OF TRAFFIC AND RATE OF SPEED ON KOHLERS CROSSING IN THE CITY LIMITS OF KYLE; AFFIRMING THE DEFINITION OF SPEEDING AND FIXING A PENALTY THEREFOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF ~ *James Earp, Assistant City Manager*

**Other Information:**

**Budget Information:**

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**Attachments / click to download**

[11.11.30 Kohlers Speed 45\\_SDW rev](#)

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS AUTHORIZING AND DIRECTING THE INSTALLATION AND ERECTION OF SPEED CONTROL SIGNS FOR THE ZONING OF TRAFFIC AND RATE OF SPEED ON KOHLERS CROSSING IN THE CITY LIMITS OF KYLE; AFFIRMING THE DEFINITION OF SPEEDING AND FIXING A PENALTY THEREFOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF.**

**Whereas**, the regulation of traffic, motor vehicles and conveyances upon all public streets, roadways, and right-of-ways constituting a speed zone within the city limits is essential and necessary to protect and preserve the public safety of the City of Kyle, Texas (the "City"), and;

**Whereas**, after review, inquiry of the public through citizen participation at a public hearing, the City Council has found the speed control signs hereinafter set forth and listed in this ordinance are reasonable and necessary for the public safety and are supported by sound and accepted public safety and traffic engineering criteria.

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

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

**Section 2. Ratification and Confirmation.** The installation, placement, erection and enforcement of the traffic and speed control signs are hereby confirmed and ratified by the City Council as follows:

- a) *Kohler's Crossing*, from the intersection of FM2770 East to the crossing of the Union Pacific Railroad, a distance of approximately 1.36 miles - **45 MPH** (miles per hour) in both directions.

Speed control signs will be erected in their current locations or in locations determined most suitable by the City Engineer, giving notice of the prima facie speed limit in effect at all times unless otherwise changed by another traffic control device duly placed, such as a school speed zone or temporary construction speed zone.

**Section 6. Traffic Control Speed Signs.** The City Council hereby supports and acknowledges that the traffic speed zone signs hereinafter set forth will be placed, installed, and erected at the locations designated, and that each such sign/device be hereafter enforced by the City. The signs shall indicate the prima facie speed limit in the direction facing the sign.

**Section 7. Violation and Penalties.** It shall be unlawful for any person to drive or operate a motor vehicle that enters the speed zone identified in this ordinance without observing the prima facie maximum speed limit which shall remain in effect at all times unless changed by another traffic control device duly placed. Further, it shall be unlawful for any person to tamper with, alter, remove, destroy, cover or hinder the visibility, of any traffic device control device erected by this Ordinance in a manner which is inconsistent with its use as a traffic control device. Any person who violates this Ordinance or part thereof shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$200.00.

**Section 8. Repeal of Conflicting Ordinances.** All parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of the most restrictive ordinance shall govern.

**Section 9. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

**Section 10. Open Meetings.** That 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 notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, LG Code.

**Section 11. Effective Date.** This Ordinance shall be in full force and effect from and after the date of its final passage and adoption in accordance with the provisions of the Kyle City Charter.

**PASSED AND APPROVED on First Reading this \_\_\_\_ day of \_\_\_\_\_, 2011.**

**FINALLY PASSED AND APPROVED on this the \_\_\_\_ day of \_\_\_\_\_, 2012.**

**ATTEST:**

**CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Amelia Sanchez, City Secretary

\_\_\_\_\_  
Lucy Johnson, Mayor



# CITY OF KYLE, TEXAS

## The Hill Replat of Lots 1 & 2

Meeting Date: 1/3/2012

Date time: 7:00 PM

**Subject/Recommendation:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, ACCEPTING THE HILL REPLAT OF LOTS 1 & 2 WASTEWATER AND STREET IMPROVEMENTS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Steven Widacki, P.E., City Engineer*

**Other Information:**

This is the formal acceptance of The Hill Replat of Lots 1&2 installed public improvements. Public Works Department and Engineering Department staff recommend acceptance of these improvements. A draft resolution is attached for Council's approval as well as the attendant attachments. It is recommended that this item be placed on the CONSENT agenda.

**Budget Information:**

N/A

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**Attachments / click to download**

[Resolution Accept of Improve Hill Repl 1&2 2011 12 28](#)

[Acceptance Ltr 2011 12 14](#)



**RESOLUTION NO. \_\_\_\_\_****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, ACCEPTING THE HILL REPLAT OF LOTS 1 & 2 WASTEWATER AND STREET IMPROVEMENTS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW**

**Whereas**, the developer of this subdivision has completed construction of the improvements in general accordance with plans approved by the City of Kyle; and

**Whereas**, the subdivision improvements are defined as wastewater and street facilities installed within public rights-of-way and any dedicated public utility easements within the subdivision; and

**Whereas**, the contractor has also provided the City a two (2) year maintenance bond in an amount of fifty percent (50%) of the cost of the construction for any repairs that may be necessary during a one-year period from the date of acceptance by City Council.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS** hereby accepts the public improvements and certifies completion of the improvements for The Hill Replat Lots 1 & 2. The current maintenance surety is hereby \$109,927.35 being fifty percent of the total cost of required improvements, to be held for two years from this date.

**Section 1.** That the subdivision improvements within The Hill Replat Lots 1 & 2 are hereby accepted for operation and maintenance.

**Section 2.** That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**Attest:**

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Amelia Sanchez, City Secretary

\_\_\_\_\_  
Lucy Johnson, Mayor



# CITY OF KYLE

100 W. Center • P.O. Box 40 • Kyle, Texas 78640 • (512) 262-1010 • FAX (512) 262-3800

December 14, 2011

City Manager  
City of Kyle  
100 W. Center St.  
Kyle, TX 78640

RE: The Hill Replat of Lots 1 & 2  
FINAL ACCEPTANCE

The referenced subdivision is recommended for acceptance by the City of Kyle.

A final walkthrough was completed on September 19, 2011, and the documented punch list items have been completed for the project. The wastewater lines and streets have been constructed in substantial accordance with the City's subdivision ordinance and technical specifications. Additionally, record drawings have been provided to the City.

A Maintenance Bond (No. K08462264) has been provided for a period of two (2) years.

Sincerely,

A handwritten signature in cursive script that reads "Steven D. Widacki".

Steven D. Widacki, P.E.  
City Engineer  
City of Kyle Engineering Dept.

Cc: Harper Wilder, Public Works Dept.  
Perwez Moheet, Finance Dept.

Date: December 8,2011

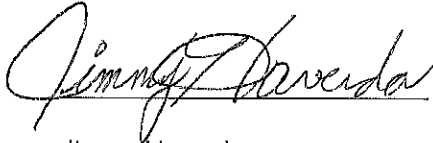
Subdivision: The Hill Replat of Lots 1 & 2

RE: Final Acceptance

This letter is to document that the City of Kyle accepts the above referenced subdivision that was held on September 19,2011.

The punch list items have been completed in accordance with the City of Kyle subdivision ordinance and specifications and all wastewater lines,and streets have met all requirements for acceptance of the subdivision.

Sincerely,

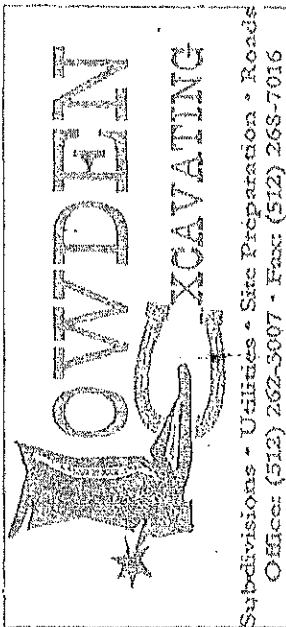
A handwritten signature in black ink, appearing to read "Jimmy Haverda", written over a horizontal line.

Jimmy Haverda  
Public Works Inspector

**EXHIBIT A**

April 20 2011

Gary Whitfield Project  
Kyle, TX



**General Conditions**

Mobilization	1	ls	\$1,900.00	\$1,900.00
Construction Entrance	2	ea	\$954.00	\$1,908.00
Silt Fence	3876	lf	\$1.98	\$7,674.48
Rock Berm	100	lf	\$20.34	\$2,034.00
Clear and Grub Water and WWater Routes	1	ls	\$4,140.00	\$4,140.00
Locate Existing Utilities	16444	sy	\$0.34	\$5,590.96
Re-Vegetation (irrigation for establishment by others)	1	ls	\$6,600.00	\$6,600.00
Traffic Control				
<b>Sub Total</b>				<b>\$29,747.44</b>

By Owner

**Street Improvements**

Shoulder Excavation, Sub Grade Preparation	1843	sy	\$7.51	\$13,840.93
10" Flex - Base Shoulder Widen	1843	sy	\$11.52	\$21,231.36
6" Curb With Gutter (2ea #2 Bars Continuous)	1512	lf	\$9.00	\$14,508.00
1" Type D Shoulders	1202	sy	\$8.95	\$10,757.90
1" Type D Over-Lay	2983	sy	\$6.93	\$20,651.17
Demo Existing Sloped End Treatments	1	ls	\$1,296.00	\$1,296.00
Extend Existing Double Barrel 18" CMP	30	lf	\$83.50	\$2,505.00
Sloped Double Barrel HD Wall	2	ea	\$1,800.00	\$3,600.00
<b>Sub Total</b>				<b>\$88,590.36</b>

By Owner

\$103,014.36

Waste Water Extension				
4" Dia Manhole Installed Over Existing 8" WW	1	ea	\$6,608.00	\$6,608.00
Street, Curb, and Sidewalk Repair for 8" WW Connection	1	ls	\$5,566.00	\$5,566.00
4" Dia Manhole	11	ea	\$2,048.00	\$22,528.00
10" SDR 26 Waste Water (0-6' Depth)	1616	lf	\$19.75	\$31,916.00
8" SDR 26 Waste Water (6-8' Depth)	1318	lf	\$18.02	\$23,750.36
8" Waste Water Service Stub	4	ea	\$1,057.00	\$4,228.00
4" Concrete Cap with Welded Wire Mesh				
Waste Water Pressure Testing and Mandrel Pull	2218	lf	\$4,000.00	\$4,000.00
Transit Safety				
<b>Sub Total</b>				<b>\$2,218.00</b>

fax: 512 268-7016

1108 Porter Street Kyle, TX

office: 512.262-3007


**MAINTENANCE BOND****Bond No. K08462264**KNOW ALL BY THESE PRESENTS, That we, Dale Lowden Excavating, Inc.Po Box 1298 Kyle, TX 78640as Principal, and Westchester Fire Insurance Company,a corporation organized under the laws of the State of Pennsylvania and duly authorized to do business inthe State of TX, as Surety, are held and firmly bound untoThe City of Kyle, 100 West Center Street, Kyle, TX 78640as Obligee, in the penal sum of One Hundred Nine Thousand Nine Hundred Twenty Seven And 35/100(\$109,927.35)

to which payment well and truly to be made we do bind ourselves, our and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal entered into a Contract with the

Dantian Enterprises, LLC dated April 20, 2011for Infrastructure Improvements The Hills ReplatWHEREAS, said Contract has been completed, and was approved on 23<sup>rd</sup>  
day of September, 2011.NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That if the Principal shall guarantee that the work will be free of any defective materials or workmanship which became apparent during the period of Two (2)  
year(s) following completion of the Contract then this obligation shall be void, otherwise to remain in full force and effect, provided however, any additional warranty or guarantee whether expressed or implied is extended by the Principal or Manufacturer only, and the Surety assumes no liability for such a guarantee.Signed an sealed this 6th day of October, 2011.Dale Lowden Excavating, Inc. (Seal)By:  (Seal)

(Seal)

Westchester Fire Insurance CompanyBy:  (Seal) **Item # 17**

Scott D. Chapman

Attorney-in-Fact

# Power of Attorney

## WESTCHESTER FIRE INSURANCE COMPANY

Know all men by these presents: That WESTCHESTER FIRE INSURANCE COMPANY, a corporation of the Commonwealth of Pennsylvania pursuant to the following Resolution, adopted by the Board of Directors of the said Company on December 11, 2006, to wit:

RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
- (2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such persons written appointment as such attorney-in-fact.
- (3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (4) Each of the Chairman, the President and Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested.

Does hereby nominate, constitute and appoint Elaine Lewis, Justin McQuain, Kevin McQuain, Marc V Halvorsen, Rhesa F Boulton, Rosalyn D Hassell, Scott D Chapman, all of the City of HOUSTON, Texas, each individually if there be more than one named, its true and lawful attorney-in-fact, to make, execute, seal and deliver on its behalf; and as its act and deed any and all bonds, undertakings, recognizances, contracts and other writings in the nature thereof in penalties not exceeding Five million dollars & zero cents (\$5,000,000.00) and the execution of such writings in pursuance of these presents shall be as binding upon said Company, as fully and amply as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office.

IN WITNESS WHEREOF, the said Stephen M. Haney, Vice-President, has hereunto subscribed his name and affixed the Corporate seal of the said WESTCHESTER FIRE INSURANCE COMPANY this 3 day of January 2011.

WESTCHESTER FIRE INSURANCE COMPANY



*Stephen M. Haney*  
Stephen M. Haney, Vice President

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF PHILADELPHIA ss.

On this 3 day of January, AD. 2011 before me, a Notary Public of the Commonwealth of Pennsylvania in and for the County of Philadelphia came Stephen M. Haney, Vice-President of the WESTCHESTER FIRE INSURANCE COMPANY to me personally known to be the individual and officer who executed the preceding instrument, and he acknowledged that he executed the same, and that the seal affixed to the preceding instrument is the corporate seal of said Company, that the said corporate seal and his signature were duly affixed by the authority and direction of the said corporation, and that Resolution, adopted by the Board of Directors of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Philadelphia the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
KAREN E. BRANDT, Notary Public  
City of Philadelphia, Phila. County  
My Commission Expires September 28, 2014

*Karen E. Brandt*  
Notary Public

I, the undersigned Assistant Secretary of the WESTCHESTER FIRE INSURANCE COMPANY, do hereby certify that the original POWER OF ATTORNEY, of which the foregoing is a substantially true and correct copy, is in full force and effect.

In witness whereof, I have hereunto subscribed my name as Assistant Secretary, and affixed the corporate seal of the Corporation, this 6th day of October, 2011



*William L. Kelly*  
William L. Kelly, Assistant Secretary

Item # 17

## IMPORTANT NOTICE

TO OBTAIN INFORMATION OR MAKE A COMPLAINT:

You may contract **Westchester Fire Insurance Company** for information or to make a complaint at:

**ACE USA  
Claims  
6600 E. Campus Circle East, Suite 200  
Irving, Texas 75063**

**(972) 465-7900  
(972) 465-7645 Fax**

You may contact the **Texas Department of Insurance** to obtain information on companies, coverage, rights or complaints at:

**Texas Department of Insurance  
P. O. Box 149104  
Austin, Texas 78714-9104**

**(800) 252-3439**

ATTACH THIS NOTICE TO YOUR BOND. This notice is for information only and does not become a part or a condition of the attached document and is given to comply with Section 2253-048, Government Code, and Section 53.202, Property Code, effective September 1, 2001.



# CITY OF KYLE, TEXAS

## Convene-Meet and Confer

**Meeting Date: 1/3/2012**

**Date time: 7:00 PM**

**Subject/Recommendation:**

Convene into Executive Session pursuant to Section 551.071, Tex. Gov't Code, and Section 1.05, Tex. Disciplinary Rules of Professional Conduct to Consult with Legal Counsel regarding the status of Meet and Confer negotiations with Kyle Police Association

**Other Information:**

**Budget Information:**

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Attachments / click to download

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# CITY OF KYLE, TEXAS

## Executive Session - Convene/Personnel

**Meeting Date: 1/3/2012**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Convene into Executive Session pursuant to Tex. Gov't. Code, § 551.074 to deliberate the evaluation, performance and employment of the City Manager

**Other Information:** Placed on the agenda at the request of Mayor Johnson; This agenda item is for general briefing, discussion, and/or update on the qualifying item(s) as described.

**Budget Information:** This agenda item has no direct budgetary impact.

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# CITY OF KYLE, TEXAS

## Reconvene-Meet and Confer

**Meeting Date: 1/3/2012**

**Date time: 7:00 PM**

**Subject/Recommendation:**

Reconvene into Open Session to take action as deemed appropriate in the City Council's discretion regarding the status of Meet and Confer negotiations with Kyle Police Association

**Other Information:**

**Budget Information:**

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# CITY OF KYLE, TEXAS

## Executive Session - Reconvene/Personnel

Meeting Date: 1/3/2012  
Date time: 7:00 PM

**Subject/Recommendation:** Reconvene into Public Session and take action as appropriate regarding the evaluation, performance and employment of the City Manager.

**Other Information:** This item is to allow for possible action as stated.

**Budget Information:** This agenda item has no direct budgetary impact.

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# CITY OF KYLE, TEXAS

Meeting Date: 1/3/2012

Date time: 7:00 PM

## Monarch Resolution

### Subject/Recommendation:

A RESOLUTION OF THE CITY OF KYLE, TEXAS, INDICATING SUPPORT OF THE KYLE CITY COUNCIL RESPONDING TO THE APPLICATION OF MONARCH UTILITIES I, LP A WHOLLY OWNED SUBSIDIARY OF SOUTHWEST WATER COMPANY, TO INCREASE WATER AND SEWER RATES AND TO CONSOLIDATE RATES OF SEVERAL DIFFERENT UTILITIES INTO ONE SET OF TARIFFS; PARTICIPATE IN A "COALITION OF CITIES"; AUTHORIZING THE HIRING OF COUNSEL AND EXPERTS THROUGH THE COALITION; REQUIRING THE REIMBURSEMENT OF COSTS; AUTHORIZING THE CITY'S INTERVENTION IN CONJUNCTION WITH THE COALITION OF CITIES AT THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND AT STATE OFFICE OF ADMINISTRATIVE HEARINGS WITH REGARD TO ANY APPLICATIONS FILED ON BEHALF OF MONARCH UTILITIES I, LP TO INCREASE RATES OR TO TRANSFER OR CANCEL CERTIFICATES OF CONVENIENCE AND NECESSITY; DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE ~  
*Jerry Hendrix, Director of Community Development*

### Other Information:

The council will have these three options in regard to the rate increase as outlined by Jim Boyle, our Attorney in this case:

Option 1- Deny or Amend the Rate Increase : this will mean that Monarch will have the right to immediately appeal the Council's decision to the TCEQ. I would expect Monarch to argue that any rate increase could go back to the date the Commission takes jurisdiction

Option 2-Approve the Rate Increase: this means that an approximate 60% rate increase, for a typical customer, could be put into effect within a couple weeks of the Council's decision.

Option 3-Suspend the Rate Increase for 90 days : The Council will retain jurisdiction in order to undertake discovery or other actions the Council may deem appropriate. Discovery has been abated at the TCEQ until a decision is made in the STM proceeding. The suspension will also delay any potential rate increase from going into effect for at least 90 days.

If SOAH should start up the rate case again after a decision in the STM case, the Commission will enter a final order. Assuming that the order raises rates, Monarch will argue the increase relates back to the date the Commission first acquired jurisdiction over the Council's final decision. The later that the decision is made by the Council the better it is for ratepayers.

Mr. Boyle will be in attendance at the council meeting to take your questions.

**Budget Information:**

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

 [Monarch Resolution](#)

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**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF KYLE, TEXAS, INDICATING SUPPORT OF THE KYLE CITY COUNCIL RESPONDING TO THE APPLICATION OF MONARCH UTILITIES I, LP A WHOLLY OWNED SUBSIDIARY OF SOUTHWEST WATER COMPANY, TO INCREASE WATER AND SEWER RATES AND TO CONSOLIDATE RATES OF SEVERAL DIFFERENT UTILITIES INTO ONE SET OF TARIFFS; PARTICIPATE IN A “COALITION OF CITIES”; AUTHORIZING THE HIRING OF COUNSEL AND EXPERTS THROUGH THE COALITION; REQUIREING THE REIMBURSEMENT OF COSTS; AUTHORIZING THE CITY’S INTERVENTION IN CONJUNCTION WITH THE COALITION OF CITIES AT THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND AT STATE OFFICE OF ADMINISTRATIVE HEARINGS WITH REGARD TO ANY APPLICATIONS FILED ON BEHALF OF MONARCH UTILITIES I, LP TO INCREASE RATES OR TO TRANSFER OR CANCEL CERTIFICATES OF CONVENIENCE AND NECESSITY; DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE**

**Whereas**, on or about August 8, 2011, Monarch Utilities, I, LP (“Monarch”), filed an application to increase rates on a system-wide basis in a Coalition City for water by 62.3% and for sewer by 33.6%; and

**Whereas**, Monarch requests raising the basic monthly water charge to \$59.82 in a Coalition City and Monarch requests raising the basic monthly charge a Coalition City, for area with sewer service, to \$46.59. For areas that receive water and sewer in a Coalition City would be charged \$106.41, even if the customer used on water, if the rates are approved by the Texas Commission on Environmental Quality (TCEQ); and,

**Whereas**, Decisions made by the TCEQ or by the State Office of Administrative Hearings (“SOAH”), if the rate request is referred to SOAH, on procedural and substantive issues could directly impact the decision-making of the City with regard to the rate increase request, and,

**Whereas**, Monarch has also filed at the TCEQ a request to transfer the service territories of seven water and (in some cases, sewer) utilities, with very different rates that operate in very different parts of the state of Texas, to Monarch. Each of the utilities is a subsidiary of Southwest Water Company, and:

**Whereas**, from a rate standpoint, the transfer of the service territories to Monarch may have very negative rate consequences for current Monarch customers and for some of the customers in the seven utilities and eventually to the citizens of Kyle who are currently served by Monarch; and

**Whereas**, the TCEQ is supposed to decide if the transfer of service territories is in the public interest. The term “public interest” should include an investigation of the likely impact of the transfers on the rates of customers located in and outside of Monarch’s current service territory; and

**Whereas**, the application of Monarch to transfer the service territories is part of a process undertaken at the TCEQ, which process is known as the “sale, transfer, merger” (“STM) process; and

**Whereas**, municipal participation in the STM process will help ensure that the public interest review is a meaningful one; and

**Whereas**, participating through a coalition helps foster efficiencies of process and cost; and

**Whereas**, given the complexity in analyzing the Monarch rate application, which is more than 1700 pages, it is appropriate to hire special counsel and experts for the purpose of assisting the City in its role as a regulatory authority under Chapter 13 of the Water Code and to participate in the rate proceedings at the TCEQ, SOAH, and related proceedings through special counsel; and

**Whereas**, Monarch filed an application to increase rates with the City and at the TCEQ. The City is entitled to have its reasonable rate case expenses reimbursed by the applicant utility for ratemaking proceedings of this sort; and

**Whereas**, an application was filed with the TCEQ by Monarch to transfer the service territories of sewer utilities. Given the complexity of the public interest determinations to be made in connection with the STM applications by Monarch and the fact that the outcome of the STM process could directly impact the outcome of the rate increase request, it is appropriate for the City to participate in the STM process through special counsel and, if later determined necessary, with the aid of expert consultants.

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

**Section 1.** That the statements and findings set out in the preamble to this resolution are hereby in all things approved and adopted.

**Section 2.** The City is authorized to join with other cities in a coalition of cities known as the “Coalition of Cities” or “Cities”. The City’s representative to the Coalition of Cities will be determined by the Kyle City Council at a latter day. The Coalition shall meet periodically during the rate case in person or by telephone. The Coalition shall act on behalf of the member cities in connection with the pending Monarch rate case and with regard to the pending STM applications filed by Monarch at the TCEQ.

**Section 3.** The City authorizes the law firm of Herrera & Boyle, PLLC, to file an intervention on behalf of the City and as a member of the Coalition of Cities at the TCEQ or at SOAH in connection with the rate application filed by Monarch subject to the direction of the Coalition of Cities.

**Section 4.** The City is authorized to hire the law firm of Herrera & Boyle, PLLC, as special counsel, to represent its interests as a regulatory authority and on behalf of ratepayers located within the City with regard to Monarch’s rate application and to retain such experts as are appropriate for such proceeding.

**Section 5.** Monarch is ordered to pay the City's reasonable rate case expenses incurred in response to Monarch's rate increase application with 30 days of receipt of invoices for such expenses.

**Section 6.** The City retains its right to withdraw from COC at any time without any financial obligation to the remaining coalition members or to the experts or lawyers hired by the coalition; provided that, written notice is given to the other members of the COC.

**Section 7.** The City is authorized individually and as a member of COC to participate actively at the TCEQ or at SOAH with regard to the STM applications filed by Monarch. Special counsel is authorized to represent the City in connection with such applications. Since the STM applications may not be regarded as ratemaking proceedings subject to reimbursement, the City is authorized to expend up to \$\_\_\_\_\_ for legal counsel in connection with the STM applications.

**Section 8.** The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 9.** This resolution shall be effective immediately upon passage.

**PASSED AND APPROVED** this 3rd day of January, 2012.

\_\_\_\_\_  
Lucy Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Amelia Sanchez, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Frank Garza, City Attorney





# CITY OF KYLE, TEXAS

## Authorize award and execution of a professional services agreement with BNY Mellon Trust for Arbitrage Rebate Services

Meeting Date: 1/3/2012

Date time: 7:00 PM

### Subject/Recommendation:

Authorize Award and Execution of a Professional Services agreement with the BANK OF NEW YORK MELLON TRUST COMPANY, Dallas, Texas, in an amount Not to Exceed \$7,500.00 to perform arbitrage rebate services for the City's Series 2002 and 2007 Bonds ~ *Perwez Moheet, CPA, Director of Finance*

### Other Information:

The purpose of this professional services agreement with the BANK OF NEW YORK MELLON TRUST COMPANY is to perform arbitrage rebate services for the City's Series 2002 and 2007 Bonds. This will assist the City of Kyle to be in compliance with federal regulatory requirements pertaining to investment earnings on tax-exempt bond proceeds.

The Internal Revenue Code and the U.S. Treasury Regulations require tax-exempt bond issuers such as the City of Kyle to perform arbitrage rebate analysis to determine if a rebate of investment "profit" is due to the Internal Revenue Service.

In general, an arbitrage rebate liability may exist if the investment earnings on all gross bonds proceeds are in excess of the amount that would have been earned if such gross bond proceeds were invested at a rate equal to the bond yield.

Even though the City of Kyle has issued bonds since Fiscal Year 2000, the City has not performed an arbitrage rebate analysis to determine if any rebate liability exists as required by the Internal Revenue Code and the U.S. Treasury Regulations. In future years, similar arbitrage rebate analysis will need to be completed on other tax-exempt bonds issued by the City.

This will be the first time that an arbitrage rebate analysis is performed by the City of Kyle. **It is important to note that should an arbitrage rebate amount is determined to be due to the Internal Revenue Service, a budget amendment will be necessary to increase appropriation from the Fund Balances of various City Funds including Bond Funds, General Fund, Utility Fund, etc.**

### Budget Information:

A Fiscal Note is attached for funding information.

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

### Attachments / click to download

[Fiscal Note - BNY Mellon Arbitrage Rebate Services](#)

[Draft Agreement - BNY Mellon Arbitrage Rebate Services](#)

Cover Memo

Item # 23



## BNY MELLON

December 23, 2011

Corporate Trust

Mr. Perwez A. Moheet  
 Director of Finance  
 City of Kyle  
 100 W. Center Street  
 Kyle, Texas 78640-0040

### **City of Kyle, Texas Arbitrage Compliance Agreement**

---

Dear Mr. Moheet:

This letter (this "Agreement") sets forth the terms and conditions on which The Bank of New York Mellon Trust Company, N.A. ("we" or "BNY Mellon") will perform the services outlined below (the "Services") for the City of Kyle, Texas ("you" or "Client") as they relate to arbitrage rebate calculations for the bond issues listed in Exhibit A (the "Bonds").

#### **Scope of Services**

1. BNY Mellon will prepare a computation to determine the arbitrage rebate amount (the "Rebate Amount") for the Bonds as described in §148(f)(2) of the Internal Revenue Code of 1986, as amended (the "Code") and Treasury Regulations Section 1.148 (the "Regulations"). The Rebate Amount is equal to the excess of the amount earned on the investment of all gross proceeds over the amount that would have been earned if such gross proceeds were invested at the bond yield.

#### **Fees and Expenses**

2. Our fees to compute the Rebate Amount for the Bonds are as detailed in Exhibit A. An invoice will be issued at the time the completed report is sent to you and is payable upon receipt.
3. These fees assume that the accounts that comprise the Debt Service Fund qualify as a Bona Fide Debt Service Fund and therefore can be excluded from the computation of the Rebate Amount. If the Debt Service Fund fails to qualify for this exception and must be included in the computation of the Rebate Amount, an additional fee, as stated below, will be charged to analyze and include in the determination of the Rebate Amount the investment activity in each of the accounts that comprise the Debt Service Fund for the Bonds.
4. The structure and complexity of certain bond issues may require or benefit from additional services for which additional fees will be charged, generally at a rate of \$500 per additional service per Bond Year. Examples of these services include, but are not limited to, the following:

Mr. Perwez A. Moheet  
City of Kyle, Texas

December 23, 2011  
Page 2 of 6

<b>Additional Charges for Special Services Related to:</b>	<b>Fees Per Issue Per Bond Year (*)</b>
Inclusion Debt Service Fund not meeting debt service fund exception	\$500 per fund
Allocations required for bond proceeds invested in a commingled fund	\$500 per fund
Transferred proceeds transactions due to refundings	\$500 per refunding
Yield Restriction Analysis and Yield Reduction Payment Computation	\$500
Preparation of an IRS Refund Request	\$5,000
(*) A "Bond Year" represents a one-year period from the delivery date of the bonds and each subsequent anniversary date of the delivery of the bonds, or shorter period if selected by the Issuer.	

#### **No Coordination with Private Activity Regulations**

5. The purpose of our engagement is to determine the Rebate Amount pursuant to §148(f)(2) of the Code. Sections 141-147 of the Code and the related Treasury Regulations set forth requirements with respect to the amount of bond proceeds that may be used for the benefit of a private person or entity. Treasury Regulations Section 1.141-6(a) requires that allocations of expenditures of bond proceeds for purposes of computing the Rebate Amount must be the same as the allocations of expenditures used to test the private use of projects financed with proceeds of the Bonds.
6. For purposes of calculating the Rebate Amount, our calculations assume that the allocation of the expenditures of Bond proceeds as provided to us are the same for both purposes of Sections 141-147 and Section 148 of the Code. The scope of this engagement does not include procedures to analyze the private use limitations associated with the Bonds.

#### **Term of the Agreement**

7. This Agreement will commence on the date hereof and shall terminate upon completion of the Services outlined above, unless earlier terminated as set forth below. Both the Client and BNY Mellon may cancel this Agreement with 30 days written notice with or without cause. The Client shall pay for work-in-progress, completed Services and expenses incurred by BNY Mellon through the effective date of any termination.

Mr. Perwez A. Moheet  
City of Kyle, Texas

December 23, 2011  
Page 3 of 6

### **Concerning BNY Mellon**

8. Notwithstanding any provision contained herein to the contrary, BNY Mellon, including its officers, directors, employees and agents, shall:
  - (a) have no responsibility to inquire into or determine the genuineness, authenticity, or sufficiency of any documents or instruments submitted to it in connection with its duties hereunder;
  - (b) be entitled to deem the signatories of any documents or instruments submitted to it hereunder as being those purported to be authorized to sign such documents or instruments on behalf of the parties hereto, and shall be entitled to rely upon the genuineness of the signatures of such signatories without inquiry and without requiring substantiating evidence of any kind; and
  - (c) be, and hereby is indemnified and saved harmless by Client from all losses, liabilities, costs and expenses, including attorney fees and expenses, which may be incurred by it arising from the performance of its duties hereunder, unless such losses, liabilities, costs and expenses shall have been finally adjudicated to have resulted from the willful misconduct or gross negligence of BNY Mellon, and such indemnification shall survive its resignation or removal, or the termination of this Agreement.

Any banking association or corporation into which BNY Mellon may be merged, converted or with which BNY Mellon may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which BNY Mellon shall be a party, or any banking association or corporation to which all or substantially all of the corporate trust business of BNY Mellon shall be transferred, shall succeed to all BNY Mellon's rights, obligations and immunities hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

### **Limitation of Liability**

9. The total aggregate liability of BNY Mellon under this Agreement shall be limited to any penalty and/or interest imposed on the Client by the United States Internal Revenue Service on any additional Rebate Amount which results from a proven error by BNY Mellon in rendering the Services outlined in this Agreement. The Client, and not BNY Mellon, shall be responsible for paying the correct Rebate Amount due.
10. Neither of us will, in any event, be liable to the other, for any reason, for any consequential, incidental, special, punitive or indirect damages, including loss of profits, revenue, data, use of money or business opportunities, regardless of whether notice has been given or there is an awareness that such damages have been or may be incurred.

### **Dispute Resolution**

11. Each party hereto hereby agrees not to elect a trial by jury of any issue triable of right by jury, and waives any right to trial by jury fully to the extent that any such right shall now or hereafter exist with regard to this Agreement, or any claim, counterclaim or other action arising in connection herewith. This waiver of right to trial by jury is given knowingly and voluntarily by

Mr. Perwez A. Moheet  
City of Kyle, Texas

December 23, 2011  
Page 4 of 6

each party, and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue.

### **Other Terms**

12. The Client will timely notify BNY Mellon of any refunding or defeasance transactions involving any bond subject to this Agreement. Such notification is critical as a refunding or defeasance transaction may accelerate the required calculation of the Rebate Amount. Failure to notify BNY Mellon of refunding or defeasance transactions could cause a filing with the United States Treasury to be late, which could result in penalties and interest.
13. None of the work that we will perform under this engagement will constitute an attest engagement in accordance with generally accepted auditing standards. The advice and Services provided hereunder are solely for the calculation of the Rebate Amount, and are to be used for no other purpose. We assume no responsibility to keep you apprised of developments in the tax law relative to this engagement after it has been completed. We will not audit the information provided to us and will express no opinion as to the completeness, accuracy, or sufficiency of such information for purposes of calculating the Rebate Amount.
14. BNY Mellon shall own all work papers prepared by it to document, in accordance with professional obligations, performance of the Services, and it may retain, in confidence, copies of reports and other documents prepared by it.

### **Agreement**

15. This Agreement constitutes the entire agreement between the Client and BNY Mellon, and merges all prior and contemporaneous communications, with respect to the Services and the other matters contemplated by this Agreement; BNY Mellon shall have only those duties as are specifically provided herein and no additional obligations of BNY Mellon shall be inferred from the terms of this Agreement or any other agreement. This Agreement may not be modified except in writing signed by both parties. If any provision of this Agreement is held to be void, invalid or otherwise unenforceable, in whole or part, the other provisions shall remain in full force and effect.
16. Unless this Agreement is accepted below, the fees for the Services detailed in this Agreement are valid for only ninety days from the date hereof.

Mr. Perwez A. Moheet  
City of Kyle, Texas

December 23, 2011  
Page 5 of 6

**Report Format (Select One)**

17. In an effort to minimize paper usage, our standard practice is to provide our report in an electronic format upon completion of the work. Please select the report format you prefer:

**Electronic Version.** Report is provided via e-mail in a portable document format (PDF), which can be read using Acrobat Adobe Reader.

**Paper Version.** A single copy of our report is provided in a spiral bound format. If additional copies are needed, please contact us.

If the terms of this Agreement are satisfactory, please sign one copy of this Agreement acknowledging our agreement and return it to BNY Mellon.

We very much appreciate the opportunity to serve you. If you have any questions, please contact Brian Helming at (214) 580-1234 or Terry Burke at (214) 580-1230.

Very truly yours,

The Bank of New York Mellon Trust Company, N.A.

By Terence P. Burke  
Name: Terence P. Burke  
Title: Managing Director

Accepted and Agreed:

*City of Kyle, Texas*

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Mr. Perwez A. Moheet  
City of Kyle, Texas

December 23, 2011  
Page 6 of 6

**Exhibit A**  
**Bond Issues for this Agreement**

<b>Bond Issue Description</b>	<b>Computation Period</b>	<b>Fees</b>
\$5,135,000 Certificates of Obligation, Series 2002	11/12/02 – 9/30/11	\$2,750
\$9,910,000 Certificates of Obligation, Series 2007	4/17/07 – 9/30/11	\$2,750

City of Kyle, Texas  
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION:	January 3, 2012
CONTACT CITY DEPARTMENT:	Financial Services
CONTACT CITY STAFF:	Perwez Moheet, CPA Director of Finance

**SUBJECT:** Authorize award and execution of a professional services agreement with the BANK OF NEW YORK MELLON TRUST COMPANY, Dallas, Texas, in an amount not to exceed \$7,500.00 to perform arbitrage rebate services for the City's Series 2002 and 2007 Bonds. ~ Perwez Moheet, CPA, Director of Finance

CURRENT YEAR FISCAL IMPACT:

This professional services agreement with the BANK OF NEW YORK MELLON TRUST COMPANY to perform arbitrage rebate services for the City's Series 2002 and 2007 will require expenditure of the approved Operating Budget and accumulated interest earnings funds from the Series 2007 Bond Fund.

- |                               |                                       |
|-------------------------------|---------------------------------------|
| 1. City Department:           | Financial Services                    |
| 2. Project Name:              | Arbitrage Rebate Analysis Service     |
| 3. Budget/Accounting Code(s): | 110-121-55324                         |
| 4. Funding Source:            | General Fund                          |
| 5. Amount Available:          | \$ 2,750.00                           |
| 6. Budget/Accounting Code(s): | 182-121-55324                         |
| 7. Funding Source:            | 2007 Contractual Obligation Bond Fund |
| 8. Amount Available:          | \$ 4,750.00                           |

FUNDING SOURCE OF THIS ACTION:

The funding source for this professional services agreement in an amount not to exceed \$7,500.00 is provided from two sources; \$2,750.00 from the City's approved Operating Budget and up to \$4,750.00 from accumulated interest earnings in the 2007 Bond Fund. The City Council's approval of this item will also authorize staff to appropriate and apply accumulated funds in the amount of \$4,750.00 from the 2007 Bond Fund.

ADDITIONAL INFORMATION/COUNCIL ACTION:

N/A.





# CITY OF KYLE, TEXAS

## Plum Creek Ordinance Revision

Meeting Date: 1/3/2012

Date time: 7:00 PM

### Subject/Recommendation:

*(Public Hearing and First Reading)* AN ORDINANCE AMENDING ORDINANCE NO. 311 (PLUM CREEK PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT ZONING ORDINANCE) OF THE CITY OF KYLE, TEXAS FOR THE PURPOSE OF AMENDING THE FOLLOWING SECTIONS: ARTICLE 1/SECTION 4-DEFINITIONS OF TERMS AND USES WITHIN THE PLUM CREEK PUD DISTRICT: TO AMEND THE DEFINITION OF CORNER LOT, ADD A DEFINITION FOR COURTYARD, AMEND THE DEFINITION FOR SETBACK LINE, AMEND THE DEFINITION OF YARD, FRONT, AMEND THE DEFINITION OF YARD, SIDE; ARTICLE 2-PLANNED UNIT DEVELOPMENT ZONING DISTRICT PART A/SECTION 4 (7)(D)- ADMINISTRATIVE SITE PLAN REVIEW PROCESS: AMENDED TO ALLOW ADMINISTRATIVE APPROVAL OF SITE PLANS FOR R-1 AND R-2 USES WITHIN THE MXD DISTRICTS; ARTICLE 2-PLANNED UNIT DEVELOPMENT ZONING DISTRICT PART A/SECTION 4 (7)(E)- MXD SITE PLAN REVIEW PROCESS: EXEMPTED R-1 AND R-2 USES FROM SUBMITTING A SITE PLAN TO THE PLANNING AND ZONING COMMISSION AND CITY COUNCIL ; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4: R-2 RESIDENTIAL PUD DISTRICT- ADDED COURTYARDS AS A PERMITTED USE TO THE R-2 DISTRICT; ARTICLE 2-PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4 (f) MINIMUM SETBACKS (i)FRONT YARD-AMENDED THE MINIMUM FRONT YARD SETBACK FROM 15 FEET TO 8 FEET; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4 (f) MINIMUM SETBACKS (iii) REAR YARD-AMENDED THE MINIMUM REAR YARD SETBACK FROM 10 FEET TO 5 FEET; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4(6): ADDED A SECTION ESTABLISHING SITE DEVELOPMENT REGULATIONS FOR COURTYARD RESIDENTIAL DEVELOPMENT; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 5- R-3 MULTI-FAMILY RESIDENTIAL PUD DISTRICT/ (B) PERMITTED USES-AMENDED TO ALLOW SINGLE FAMILY RESIDENTIAL USES AS DESCRIBED IN ARTICLE 2, PART C, SECTION 3 TO BE PERMITTED; AN ORDINANCE AMENDING ORDINANCE NO. 308/CHAPTER 41 SUBDIVISION EXHIBIT A/SCHEDULE A/TWO-WAY ALLEY [RESIDENTIAL/COMMERCIAL]: TO AMEND THE REQUIRED ROW WIDTH FROM 25 FEET TO 20 FEET; AUTHORIZING THE CITY SECRETARY TO AMEND THE ORDINANCE 311 AND 308 OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION DATE; PROVIDING FOR SEVERABILITY; AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Sofia Nelson, Director of Planning*

- *Public Hearing*
- *P&Z Recommendation to City Council*

### Other Information:

The Planning and Zoning Commission voted 5-1 to approve the changes and postpone action on any amendments that would increase the maximum allowed height

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in a zoning district.

**Budget Information:** N/A

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

 [Exhibit A- proposed revisions](#)

 [summary of changes](#)

 [ordinance](#)

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## Summary of Changes

### Chapter 53 – Zoning

#### Exhibit A. Plum Creek Planned Unit Development

##### Changes in 311 Muni Code – December 1, 2011

- Definitions:
  - Pg. 5- clarified definition of *Corner Lot*.
  - Pg. 5- added *Courtyard* definition.
  - Pg. 9- clarified to the definition of *Setback Line*.
  - Pg. 10- clarified on the definition of *Yard, front*.
  - Pg. 11- contributed *Yard, side* definition.
- Section 4. Additional development and amendment guidelines for Plum Creek PUD:
  - Pg. 16- clarified to the *Administrative site plan review process*.
  - Pg. 17 Expanded on the MXD site plan review process.
- Section 4. “R-2” residential PUD district:
  - Pg. 25 & 26- added Courtyard.
  - Pg. 27- adjusted the Front yard setback.
  - Pg. 27- adjusted the Rear yard setback
  - Pg. 28- contributed to “R-2” residential to include Courtyard Residential.
- Section 5. “R-3” multifamily residential PUD district:
  - Pg. 29- clarified 1(a) of permitted uses.

### Chapter 41 – Subdivision

#### Exhibit A. Regulations for planning and subdividing land with in the Plum Creek PUD

##### Changes in Ordinance 308 – December 1, 2011

- Pg. 39- adjusted table.

## Summary of Changes

### Chapter 53 – Zoning

#### Exhibit A. Plum Creek Planned Unit Development

##### Changes in 311 Muni Code – December 1, 2011

- Definitions:
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  - Pg. 11- contributed *Yard, side* definition.
- Section 4. Additional development and amendment guidelines for Plum Creek PUD:
  - Pg. 16- clarified to the *Administrative site plan review process*.
  - Pg. 17 Expanded on the MXD site plan review process.
- Section 4. “R-2” residential PUD district:
  - Pg. 25 & 26- added Courtyard.
  - Pg. 27- adjusted the Front yard setback.
  - Pg. 27- adjusted the Rear yard setback
  - Pg. 28- contributed to “R-2” residential to include Courtyard Residential.
- Section 5. “R-3” multifamily residential PUD district:
  - Pg. 29- clarified 1(a) of permitted uses.
  - Pg. 29- modified the maximum height.
- Section 6. “NC” neighborhood commercial PUD district:
  - Pg. 31- adjusted the maximum height
- Section 8. “MXD” mixed use development PUD district:
  - Pg. 36- adjusted maximum height.

### Chapter 41 – Subdivision

#### Exhibit A. Regulations for planning and subdividing land with in the Plum Creek PUD

##### Changes in Ordinance 308 – December 1, 2011

- Pg. 39- adjusted table.

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**ORDINANCE NO. 308**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ESTABLISHING THE REQUIREMENTS, REGULATIONS AND PROCEDURES FOR PLATTING AND SUBDIVIDING LAND WITHIN THE PLUM CREEK PLANNED UNIT DEVELOPMENT; STATING THE PUBLIC PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR FEES AND FILING AND PROCESSING PLATS; ESTABLISHING STANDARDS AND SPECIFICATIONS; PROVIDING FOR REMEDIES AND VARIANCES; PROVIDING A SEVERABILITY, EFFECTIVE DATE AND OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.**

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

**Section 1. Authority.** This Ordinance is adopted under the authority of the Constitution and laws of the State of Texas, including, but not limited to, Chapter 212, Chapter 42, Chapter 380, and Chapter 481, Texas Local Government Code; and Chapter 26 of the Texas Water Code.

**Section 2. Purpose.** The purpose of the ordinance is to provide for the orderly, safe, healthy, and economic and commercial development of the area within that area of the City and the City's extraterritorial jurisdiction hereinafter specified and defined as the "Plum Creek Planned Unit Development" to promote the health, safety, and general welfare of the community, and for the good government, order, trade and commerce of the City; and to accomplish such public purposes by requiring that all land within the Plum Creek Planned Unit Development shall be subdivided and platted in compliance with this Ordinance.

**Section 3. Definitions.** For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this section:

**Administrator:** The City Engineer and/or Director of Public Works, or other person(s) designated by the City to administer the regulations and provisions of this ordinance.

**Alley:** A minor public or private right-of-way, either two-way or one-way, located through the interior of blocks and providing vehicular and service access to the side or rear of properties.

**Building Official or Building Inspector:** Any person, employee or agent designated and authorized by the City to issue permits for the construction or improvement of buildings and structures; and in the appropriate context, any such person authorized to inspect work and improvements to buildings and structures for compliance with the building codes and ordinances of the City.

**Building scale:** The relationship between the mass of a building, the individual elements of the building and its surroundings, including the width of the street, open space, and mass of surrounding buildings.

**Building Setback Line:** The line within a property defining the minimum horizontal distance between a building and the adjacent street line.

**Build-to Line:** A line parallel to the street right-of-way which dictates the minimum and maximum front yard setback from a street or public right-of-way, to be followed by buildings or structures fronting thereon. The build-to line does not apply to building projections or recesses.

**Buffer:** An area within a property or site, generally adjacent to and parallel with the property line,

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either consisting of existing natural vegetation or created by the use of trees, shrubs, berms and/or fences, and designed to limit views and sound from the site to adjacent properties and vice versa.

**City:** The City of Kyle, Texas.

**Commission:** The Planning and Zoning Commission of the City.

**Common open space:** A parcel or parcels of land or an area of water, or a combination of land and water, which may include floodplain and wetland areas, within a development site and intended for the use and enjoyment of residents of the development and, where designated, the community at large.

**Crosswalk Way:** A public right-of-way, six (6) feet or more in width between property lines, which provides pedestrian circulation.

**Cul-de-sac:** A street having but one outlet to another street, and terminated on the opposite end by a vehicular turnaround.

**Dead-end street:** A street, other than a cul-de-sac, with only one outlet.

**Developer:** See "PUD Subdivider."

**Development:** Buildings, utilities, roads, and other structures; construction; and excavation, dredging, grading, filling, and clearing or removing vegetation.

**Engineer:** A person duly authorized, under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

**Extraterritorial jurisdiction:** That territory outside the corporate limits of the City of Kyle which is within the jurisdiction of the City by virtue of, Chapter 42, Local Government Code.

**Flood:** A temporary rise in stream level that results in inundation of areas not ordinarily covered by water.

**Flood way:** The channel of a watercourse and portions of the adjoining flood plain which are reasonably required to carry and discharge the regulatory flood.

**Formal Application:** The filing with the City of the required number of copies of an application that meets all of the requirements of this and other applicable ordinances, including requisite documentation, and accompanied by the filing fee as set forth in Ordinance No. 293, as amended, or otherwise required by City ordinance.

**Front porch:** An unairconditioned roofed structure attached to the front of a house. The front porch will have a minimum depth of six (6) feet and minimum width of eight (8) feet. Side and rear porches are not subject to these requirements. A front porch may include ramps for handicapped access.

**Front yard:** That portion of a lot extending from the front face of a building towards and to the front lot line.

**Human scale:** The relationship between the dimensions of a building, structure, street, open space, or streetscape element and the average dimensions of the human body.

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**Impervious cover:** Roads, parking areas, buildings, and other impermeable construction covering the natural land surface; this shall include, but not be limited to, all streets, driveways and buildings within a subdivision.

**Lot:** A parcel of land which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol on a subdivision plat approved in the manner required by Chapter 212, Local Government Code, and this ordinance, which has been properly filed of record; and which is, or in the future may be, offered for sale, conveyance, transfer or improvement.

**Modified grid street pattern:** An interconnected system of streets which is primarily a rectilinear grid in pattern; however, it can be modified in street layout and block shape so as to avoid a monotonous repetition of the basic street/block grid pattern.

**Multifamily:** Any use of lots or tracts on which are built three or more dwelling units, within one building.

**Neighborhood:** A subdivision comprised primarily of residential lots with boundaries which are defined on a plat, parcel map, or subdivision map recorded in the office of the County Clerk.

**Off-Street Parking:** Vehicular parking outside the street right-of-way. Each parking space shall have adequate drives, aisles, and turning and maneuvering areas for access and usability.

**On-Street Parking:** Vehicular parking contained on the street pavement (public and private streets) located outside the travel lanes. Parking spaces shall be designated and be located parallel or at an angle to the street center line.

**Owner:** A person, corporation, partnership or other legal entity which is the legal or equitable owner of land.

**Phase I Property:** That part of the property located south of county Road 171, which consists of approximately 1247.5 acres as set forth in Exhibit "A" to this ordinance.

**Plum Creek Planned Unit Development:** Phase I as planned and shown on the Plum Creek Planned Unit Development Master Plan (the "Plum Creek PUD").

**Planned Unit Development District/PUD District:** A zoning designation for an area within the Plum Creek PUD which must comply with the site development standards for such designated area.

**Planned Unit Development Subdivision, PUD Subdivision or Subdivision:** A division of any tract of land situated within a Planned Unit Development within the corporate limits, or within the City's Extraterritorial jurisdiction, into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition of any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parts or other portions, intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. "Subdivision" includes re-subdivision. A PUD Subdivision may, but is not required to, include a mix or combination of land uses within its boundaries (e.g. industrial, commercial, residential).

**Plat:** A map representing a tract of land, showing the boundaries and location of individual properties and streets.

**Plat drawing;** A drawing or drawings depicting the proposed subdivision layout itself, along with associated certifications, dedications and related notations.

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**Plat, final:** The final map of all or a portion of a subdivision which is presented to the proper review authority for final approval; and which map or plat as approved by the Commission and the City Council, with or without amendments, shall be required for the development of land within the Plum Creek PUD.

**Plat, preliminary:** A preliminary map indicating the proposed layout of a subdivision which is submitted to the review authority for consideration and preliminary approval.

**Plum Creek PUD Master Plan:** A graphic representation or map of the proposed plan for development of Phase I Property which includes the use of several PUD Districts and subdivisions in stages, depicting the proposed land uses, major street layout, parks and open space, and other features as may be deemed necessary or appropriate by the Administrator.

**Property Owners Association:** An organization made up of the property owners in the area, which is responsible for maintenance of private streets, alleys, and the open spaces not conveyed to the City, and which shall have the authority to make and collect assessments sufficient to operate and maintain private streets, alleys and open spaces.

**PUD Subdivider:** Any person or any agent thereof, dividing or proposing to divide land so as to constitute a PUD subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land sought to be subdivided.

**Person:** Any individual, association, firm, organization, company, corporation, proprietorship, partnership, trust, governmental agency, or political subdivision.

**Rear yard:** That portion of a lot extending from the rear face of a building towards and to the rear lot line.

**Regulatory Flood:** A flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur in a particular stream. The regulatory flood generally has a flood frequency of approximately 100 years as determined from an analysis of floods on a particular stream and other streams in the same general region.

**Regulatory Flood Protection Elevation:** The elevation of the regulatory plus one foot of freeboard to provide a safety factor.

**Right-of-way:** Land dedicated or reserved for streets, utilities, or other public facilities.

**Setback distance:** The distance beyond which a building must be set back from any property line, another building or structure, setback lines or other lines) or location as established by this ordinance.

**"Shall," "must," "will," "should," and "may":** The words "shall," "must," and "will," are always mandatory. The words "should," and "may" are discretionary.

**Street:** The entire width included in any public right-of-way which is open for the use of the public, however designated, and which serves one or more of the following purposes:

- (1) An "arterial street" primarily provides vehicular circulation to various sections of the City.



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- (2) A "collector street" provides circulation within neighborhoods, to carry traffic from local streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.
- (3) A "marginal access street" is a street which is parallel and adjacent to an arterial street, which primarily provides access to abutting properties and protection from through traffic.
- (4) A "minor or local street" is a street designed primarily for access to abutting residential property.
- (5) A "boulevard" is a short to long distance, medium speed circulation corridor, that traverses a residential or commercial urban area and segregates the slower traffic and parking activity from through traffic.
- (6) An "avenue" is a short to long distance, medium speed connector that traverses a residential or commercial urban area or neighborhood.
- (7) A "residential street" is a small-scale, low speed local connector providing frontage to low to medium density residential and neighborhood commercial buildings and properties.

**Streetscape:** The built and planted elements of a street which define its character.

**Street width:** The portion of a street available for vehicular traffic and which is the portion between the faces of curbs.

**Subdivision:** The subdivision of any tract, lot, piece, or parcel of land, or any portion in two or more parts for the purpose of laying out suburban and/or urban lots or building lots. Subdivision also includes vacation and resubdivision of any tract, lot, piece, or parcel of land.

**Surveyor:** A licensed State Land Surveyor or a Registered Public Surveyor as authorized by state law to practice the profession of surveying.

**Traffic calming measures:** Road design elements intended to slow the speed of vehicular traffic. The following traffic calming measures shall be permitted:

- (1) "Chicane" means a staggered roadway around tree groupings, at the end of a parking lane, or other feature, intended to slow traffic speed.
- (2) "Gateway" means a narrowed threshold at a road intersection, with an optional median, intended to slow traffic speed.
- (3) "Throttle" means a road narrowed at a tree grouping, at the end of a parking lane, or other feature intended to slow traffic speed.
- (4) "Roundabout" is a one way circular traffic rotary intersection, which reduces the need for traffic lights, allowing up to four streets to converge at a single point and at acute angles, and which are intended to move traffic through an intersection in a smooth and orderly fashion while lessening traffic delays.
- (5) "Speed Plateau" means a slightly elevated section of road pavement over short duration, intended to slow traffic speed.

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- (6) "Neckdown" means a staggered roadway at an intersection or other point intended to slow traffic speed.

**Shared driveway:** A paved vehicular access designed to residential driveway standards, which extends to and branches off of several homes; which is privately owned and maintained and does not require a turn around area at the end of the driveway.

**Utility Easement:** An interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

**Zero-lot-line lot:** A long and narrow single family lot that has a side wall along or near one of the lot lines so that a ten foot (10') minimum yard is created on the other side of the lot.

Any office referred to in this Ordinance by title means the person employed or appointed by the City in that position, or his duly authorized representative, and includes any person designated to perform the duties of such office. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

**Section 4. Special Provisions.** (A) No permit shall be issued by the City for the installation of septic tanks upon any lot in a subdivision for which a final plat has not been approved and filed of record, or upon any lot in a subdivision in which the standards contained in this ordinance or referred to herein have not been complied with in full.

- (B) No building, repair, plumbing or electrical permit shall be issued by the City for any structure on a lot in a subdivision for which a final plat has not been approved and filed of record, nor for any structure on a lot within a subdivision in which the standards contained herein have not been complied with in full.
- (C) The City shall not repair, maintain, install or provide, or permit such repair, maintenance or installation herein have not been complied with in full.
- (D) The City shall not sell or supply any water, or sewage service within a subdivision for which a final plat has not been approved or filed of record, nor in which the standards contained herein or referred to herein have not been complied with in full.
- (E) If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, and the City Council shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and reciting the fact that the provisions of paragraphs A, B, C, and D of this Section will apply to the subdivision and the lots therein, the City Secretary shall, when directed by the City Council of the City, cause a certified copy of such resolution under the corporate seal of the City to be filed in the Deed Records of the County or counties in which the subdivision or part thereof lies. If full compliance and final plat approval are secured after the filing of such resolution, the City Secretary shall forthwith file an instrument in the Deed Records of such county or counties which declares paragraphs A, B, C, and D no longer apply, and releases the subdivision and the lots therein from the provisions as set forth in the resolution reciting the facts of such noncompliance.
- (F) The provisions of this Section shall not be construed to prohibit the issuance of permits for any lots upon which a residence building exists and was in existence prior to passage of this Plum Creek

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PUD Subdivision Ordinance, nor to prohibit the repair, maintenance, or installation of any street or public utility service for, to or abutting any lot, the last recorded conveyance of which prior to passage of this Ordinance was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to passage of this Ordinance and pursuant to the City's Subdivision Ordinance No. 296, or the predecessor ordinance. Furthermore, the provisions of this section shall not apply to the issuance of permits for the construction or maintenance of structures which are located in an area which has not been subdivided or for which a final plat has not been approved and filed of record, if said structures are required to provide functional service to a lot(s) located in a subdivision in which the final plat has been approved and filed of record pursuant to the City's Subdivision Ordinance No. 296, or the predecessor ordinance.

- (G) Any right, privilege, or remedy granted by this ordinance to the person obtaining or holding an approved permit shall run in favor of such person's successors in interest and assigns. Any duty or obligation of or remedy against such person arising from this ordinance shall inure to such person's successors in interest and assigns.
- (H) The subdivision of land within Phase I, pursuant to this Ordinance and the Plum Creek Planned Unit Development Master Plan approved by the City Council, shall be required only to meet the requirements and development standards approved by the City Council.

**Section 5. Variances.** The City Council may authorize a variance from these regulations or the requirements and development standards approved by the City Council for the Plum Creek PUD when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the City Council shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings herein below required, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance shall be granted unless the City Council finds that:

- (A) There are special circumstance or conditions affecting mixed use planning practices affecting land involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and
- (B) A substantial and irrevocable commitment of resources uniquely suited and pursuant to the approved Plum Creek PUD cannot be substantially recovered except by developing the property substantially as proposed; and
- (C) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- (D) The granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area; and,
- (E) The granting of the variance will not have the effect of preventing or adversely impacting the orderly subdivision of other land in the Plum Creek PUD area in accordance with the provisions of this Ordinance.

An application for a variance shall be submitted to the Planning Commission, who shall forward a recommendation to grant, grant with conditions, or deny, to the City Council. The findings of the City Council, together with the specific facts upon which such finding are based, shall be incorporated into the official minutes of the City Council meeting at which such variance is granted. Variances may be granted

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only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety, and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

**Section 6. Preliminary Conference for Subdivision of the Plum Creek PUD.** The owner of a large area known as the Plum Creek Property proposes to stage development of the property in two phases, with Phase I being the Plum Creek Planned Unit Development which will be comprised of several subdivisions. Prior to the filing of a preliminary plan for any subdivision, the owner/subdivider of the proposed Plum Creek PUD area shall consult with and present the Plum Creek PUD Master Plan to the Administrator for comment and advice on the procedures, specifications, and standards required by the City for the development of a subdivision within the Plum Creek PUD within the City or its extraterritorial jurisdiction. The purpose of this preliminary conference is to review:

- (A) The owner's Plum Creek PUD Master Plan for the proposed property.
- (B) The zoning status of the property to be subdivided.
- (C) The availability of utilities for the property to be subdivided.
- (D) The City's plans or policies that might affect the property to be subdivided.
- (E) Processing of Plum Creek **PUD** subdivisions.
  - (1) The Administrator shall check the Plum Creek PUD Master Plan as to its conformity with the City's master plan, major street plan, land use plan, Plum Creek PUD Zoning Ordinance and the standards and specifications set forth in this Ordinance.
  - (2) Pertinent copies of the Plum Creek PUD Master Plan shall be submitted to the Building Inspector and Administrator who shall check the same for conformity with the standards and specifications set forth by this Ordinance.
  - (3) The Administrator shall return the Plum Creek PUD Master Plan data to the Commission with his suggestions as to modifications, additions or alterations of such data.
  - (4) Within thirty (30) days after the request for consideration of the Plum Creek PUD Subdivision Ordinance is filed, the Commission shall approve or disapprove such ordinance, or approve it with modifications, and forward it to the City Council for its consideration. Formal filing of the Plum Creek PUD Subdivision Ordinance shall not be effective until all supporting documentation is provided to the City.
  - (5) Approval of a Plum Creek PUD Subdivision Ordinance by the City Council shall be deemed an expression of approval of the general layout submitted on the Plum Creek PUD Master Plan as a guide to the installation of major streets, water, sewer and other required improvements, to the proposed location categories of land uses (e.g. residential, commercial, industrial) and to the preparation of applications for preliminary plans for Plum Creek PUD subdivisions.
  - (6) Approval of the Plum Creek PUD Master Plan shall be effective for 15 years; provided that such Master Plan shall expire unless at least ten percent of Phase I has been platted and fully developed within five (5) years from the date such Master Plan is approved by the City Council.
  - (7) If the development of Phase I has not been completed pursuant to the Plum Creek PUD Master Plan, after 15 years of effective approval of the Plum Creek PUD Master Plan, the City Council

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with the recommendation of the Commission may, upon the application of the owner, extend the approval for an additional five (5) year period. Provided, however, that the owner/developer shall make a good faith effort to develop twenty percent (20%) of the property within the first five (5) years; fifty percent (50%) of the Property within the first ten (10) years; and seventy five percent (75%) of the Property within the fifteen (15) year period. If the owner/developer has demonstrated a good faith effort to meet the development schedule but has been unable to, he may request and be granted an extension by the City for the additional five (5) years.

- (8) If the Plum Creek PUD Subdivision Ordinance is disapproved by the Commission, the applicant may appeal the Commission's decision to the City Council in writing within fifteen (15) days. The City Council shall consider the appeal within thirty (30) days of the applicant's appeal. Reversal of the Commission's decision shall require the approval by a simple majority of the Council.

**Section 7. Preliminary Conference for Preliminary Plat.** The platting process described in Sections 7 through 9 is described sequentially. However, if a developer has a relatively simple plat, in which all or most of the subdivision requirements are in place, the process can be simplified by combining various phases of the process upon agreement by the Administrator. The Preliminary Conference can be used to explore ways to shorten the platting process upon agreement by the Administrator. Prior to the official filing of a preliminary plat, the subdivider should consult with and present a proposed plan of subdivision to the Administrator for comments and advice on the procedures, specifications, and standards required by the City for the subdivision of land.

**Section 8. Preliminary Plat and Accompanying Data.** (A) General. The subdivider shall cause a preliminary plat for a subdivision within the Plum Creek PUD to be prepared by a surveyor or engineer in accordance with this Ordinance and with the Plum Creek PUD Master Plan.

- (B) Time For Filing and Copies Required. The subdivider shall file twenty (20) copies of the plat together with the original, with the Commission at least 10 days prior to the date at which formal application for the preliminary plat approval is made to the Commission.
- (C) Filing Fees. Such plat shall be accompanied by a filing fee as required by City ordinance. No action by the Commission shall be valid until the filing fee has been paid. This fee shall not be refunded should the subdivider fail to make formal application for preliminary plat approval or should the plat be disapproved.
- (D) Formal Application. Formal application for preliminary plat approval shall be made by the subdivider in writing to the Commission at an official meeting.
- (E) Form and Content. The plat shall be drawn on sheets twenty-four (24) inches wide and thirty-six (36) inches long with a binding margin of not less than one (1) inch on the left side of the sheet and margins of the other three sides of not less than one-half (1/2) inch, or suitable equal approved by the City Engineer. The plat shall be drawn to a scale of 100 feet to one (1) inch. When more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:
- (1) Names and address of the subdivider, record owner, engineer and/or surveyor.
  - (2) Proposed name of the subdivision, which shall not have the same spelling as or be pronounced similar to the name of any other subdivision located within the City or within 5 miles of the City.
  - (3) Names of contiguous subdivisions and the owners of contiguous parcels of unsplit land, and an indication of whether or not contiguous properties are platted.

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- (4) Description, by metes and bounds, of the subdivision.
- (5) Primary control points or descriptions, and ties to such control points to which all dimensions, angles, bearings, block numbers and similar data shall be referred.
- (6) Subdivision boundary lines, indicated by heavy lines, and the computed acreage of the subdivision.
- (7) Existing sites as follows:
  - (a) The exact locations, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries.
  - (b) The exact locations, dimensions, descriptions and names of existing or recorded residential lots, parks, public areas, permanent structures and other sites within or contiguous with the subdivision.
  - (c) The exact locations, dimensions, descriptions, and flow lines of existing water courses and drainage structures within the subdivision or on contiguous tracts.
  - (d) Regulatory flood elevations and boundaries of flood prone areas, including flood ways, if known.
- (8) The proposed locations, dimensions, descriptions and names of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements or other rights-of-way, block lots and other sites within the subdivision.
- (9) A Preliminary Plan for a water system, including all major lines and system elements.
- (10) A preliminary plan for on-site sewage disposal systems, including disposal site for land subject to flooding or sanitary sewers with grade, pipe size and points of discharge.
- (11) A preliminary plan of the drainage system with grade, pipe size, and location of outlet.
- (12) A preliminary plan for proposed fills or other structure elevating techniques, levels, channel modifications and other methods to overcome floor or erosion related hazards.
- (13) Date of preparation, scale of plat and north arrow.
- (14) Topographical information shall include contour lines on a basis of 5 vertical feet in terrain with a slope of 2 percent or more and on a basis of 2 vertical feet in terrain with a slope of 3 percent.
- (15) A number or letter to identify each lot or site and each block.
- (16) Front building setback lines on all lots and sites. Side yard building setback lines at street intersections and crosswalk ways.
- (17) Location of city limits lines, the outer border of the City's extraterritorial jurisdiction, and zoning district boundaries, if they traverse the subdivision, form part of the boundary of the

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subdivision, or are contiguous to such boundary.

(18) Vicinity sketch or map at a scale of not more than 100 feet to an inch which shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities in the vicinity, the general drainage plan and ultimate destination of water and possible storm sewer, water, gas, electric, and sanitary sewer connections by arrows.

(F) Processing of Preliminary Plat. (1) The Administrator shall check the preliminary plat as to its conformity with the Plum Creek PUD Master Plan, major street plan, land use plan, and the standards and specifications set forth by the Plum Creek PUD Zoning Ordinance (after it is approved by the City) and other applicable code requirements.

(2) Pertinent copies of the preliminary plat data shall be submitted to the Building Inspector, City Engineer, and Director of Public Works and they shall check the same for conformity with the standards and specifications set forth by ordinance and code.

(3) The Administrator shall return the preliminary plat data to the Commission with their suggestions as to modifications, additions or alterations of such plat data.

(4) Within thirty (30) days after the preliminary plat is formally filed, the Commission shall approve or disapprove such plan or approve it with modifications, and forward its comments and recommendations to the City Council. Formal filing of the preliminary plat shall not be effective until all supporting documentation is provided to the City.

(5) The City Council shall consider the preliminary plat that has been reviewed by the Planning Commission and its recommendation for approval or conditional approval, or lack thereof. Within thirty (30) days of the City Council's initial consideration of a preliminary plat package that has been approved, conditionally approved or disapproved by the Commission, the City Council shall either approve or disapprove such preliminary plat or conditionally approve it with modifications as provided for in this ordinance. In the event the City Council disapproves a plat previously approved by the Commission, or approves a plat previously disapproved by the Commission, or adds or deleted conditions for approval, the plat shall be promptly reconsidered by the Commission in light of the City Council's action.

(6) Approval of a preliminary plat by the City Council shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the installation of streets, water, sewer and other required improvements and utilities, and to the preparation of the final or record plat. Conditional approval of a preliminary plat shall not constitute automatic approval of the final plat.

(9) Approval of a preliminary plat shall be effective for two (2) years unless reviewed by the Commission and the City Council in the light of new or significant information which would necessitate a revision of the preliminary plat. If the Commission and the City Council should deem changes in a preliminary plat as necessary, it shall so inform, in writing, the subdivider.

(10) If no development has occurred which would affect the proposed plat, after two (2) years of effective approval the Commission and the City Council may, upon the application of the subdivider, extend the approval an additional year.

**Section 9.Final Plat.** (A) Form and Content. (1) The final plat and accompanying data shall conform to the preliminary plat as approved by the Commission and City Council, incorporating airy and all changes,  
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modifications, alterations, corrections and conditions as imposed by the Commission and City Council. No final plat shall be considered by the Commission or City Council unless a preliminary plat has first been approved by the Commission and City Council. Very simple plats, identified at the Preliminary Conference, may be submitted in final form without going through the preliminary plan process. However, the final plat shall be accompanied by all information required at submission of the preliminary plat.

- (2) The final plat shall be drawn on sheets twenty-four (24) inches wide and thirty-six (36) inches long with a binding margin on the left side of the sheet of not less than one (1) inch and margins of not less than one-half ("h) inch on the other three sides, or suitable equal approved by the City Engineer. The plat shall be drawn to scale of 100 feet to one (1) inch. When more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. When requested by the Administrator, the subdivider shall provide a complete copy of all such plats, plans and design specifications on CAD disks or in other such electronic format as then customarily in use by civil engineers within Travis and Hays counties.
- (3) The final plat shall be submitted in such manner as is required by the Commission, and shall contain all of the features required for preliminary plats in Section 7 above, and it shall be accompanied by site improvement data bearing the seal of an engineer and detailed cost estimates.
- (4) The final plat and accompanying site improvement data and detailed cost estimates shall be approved by the Administrator.
- (5) In addition to the various requirements for the preliminary plat, the final plat shall also include the following:
  - (a) The exact locations, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within the subdivision, intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, area, and central angle, degree or curvature, tangent distance and length of all curves where appropriate.
  - (b) The exact locations, dimensions, descriptions and name of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements, or other rights-of-way, blocks, lots, other sites within the subdivision with accurate dimensions, bearings or deflecting angles and radii, area, and central angle, degree or curvature, tangent distance and length of all curves where appropriate.
  - (c) (i) Approval of the Planning Commission of the City:

This plat of \_\_\_\_\_ has been submitted to and considered by the Planning Commission of the City of Kyle, Texas and is hereby approved by the Commission.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

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(ii) Approval of the City Council of the City:

This plat of \_\_\_\_\_ has been submitted to and considered by the City Council of the City of Kyle, Texas and is hereby approved by the Commission.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

(d) Certification of the surveyor responsible for surveying the subdivision area, attesting to its accuracy:

State of Texas §  
County of Hays §

I, the undersigned, a (Registered professional engineer/public surveyor) in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey of the property made under my supervision on the ground.

[Engineer of Surveyor's Seal] By: \_\_\_\_\_  
Registered Professional Engineer /or/ Registered Public Surveyor

(e) A certificate by the engineer responsible for the preparation of the final plan and supporting data, attesting to its accuracy:

State of Texas §  
County of Hays §

I, the undersigned, a registered professional engineer in the State of Texas, hereby certify that proper engineering consideration has been given this plat.

[Engineer's Seal] By: \_\_\_\_\_  
Registered Professional Engineer

(6) When submitted, the final plat shall be accompanied by the following site improvement data. All plans and engineering calculations shall bear the seal and signature of an engineer.

(a) Streets, Alleys, Sidewalks, Crosswalk Ways & Monuments. Three copies or plans and profiles of all streets, alleys, sidewalks, crosswalk ways, and monuments, and three copies of detained cost estimates.

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(b) Sanitary Sewers.

- (i) three copies of the proposed plat, showing 5 foot contours and the proposed location and dimensions of existing sanitary sewer lines.
- (ii) three copies of plans and profiles of proposed sanitary sewer lines, indicating depths and grades of lines.
- (iii) three copies of detailed cost estimates.

(c) Water Lines.

- (i) three copies of the proposed plat, showing 5 foot contours and location and size of existing water lines and fire hydrants.
- (ii) three copies of plans and profiles of all proposed water lines and fire hydrants, showing depths and grades of lines.
- (iii) three copies of detailed cost estimates.

(d) Storm Drainage.

- (i) three copies of the proposed plat, indicating 5 foot contours. All street widths and grades shall be indicated on the plat, and runoff figures shall be indicated on the outlet and inlet side of all drainage ditches and storm sewers, and at all points in the street at changes of grade or where the water enters another street or storm sewer or drainage ditch. Drainage easements shall be indicated.
- (ii) A general location map of the subdivision showing the entire watershed (a U. S. G. S. quadrangle is satisfactory).
- (iii) Calculations showing the anticipated storm water flow, including watershed area, percent runoff, and time of concentration. When a drainage ditch or storm sewer is proposed, calculations shall be submitted showing basis for design.
- (iv) When a drainage channel or storm sewer is proposed, complete plans, profiles, and specifications shall be submitted, showing complete construction details
- (v) When conditions upstream or downstream from a proposed channel or storm sewer do not permit maximum design flow, high water marks based on a twenty-five (25) year frequency, shall be indicated based on existing conditions.
- (vi) Three copies of detailed cost estimates.
- (vii) The final plat shall also include the following:
  - (A) Owners acknowledgment

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State of Texas §  
County of Hays §

I [we], the undersigned, owner(s) of the land shown on this plat, and designated herein as the \_\_\_\_\_ subdivision to the City of Kyle, Texas, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, water courses, drains, easements, and public places thereon shown for the purpose and consideration therein expressed.

By: \_\_\_\_\_  
Owner

State of Texas §  
County of Hays §

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein stated.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

By: \_\_\_\_\_  
Notary Public

(B) Certification of the Planning Commission

I, the undersigned, Chairman of the Planning Commission of the City of Kyle hereby certify that this subdivision plat conforms to all requirements of the subdivision regulations of the City as to which the Commission's approval is required.

By: \_\_\_\_\_  
Chairman

(B) Processing of Final Plat.

(1) If desired by the subdivider and approved by the Commission and City Council, the final plat may constitute only that portion of the approved preliminary plat which the developer proposes to record and develop. However, such portions shall conform to all the requirements of this Ordinance.

(2) After the subdivider is notified of the approval of the preliminary plat and at least fifteen (15) business days prior to the Planning Commission meeting, the subdivider's engineer shall submit to the Commission twenty (20) copies of the final plat of the subdivision or portion thereof.

(3) No final plat will be considered unless a preliminary plat has been submitted. However, if an approved plat has been duly recorded and the subdivider wishes to increase the size of the lots by combining two or more lots or by combining one lot with a portion of the adjacent lot in such manner that no portion of a lot remains smaller than the original lots, no preliminary plat will be necessary.

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- (4) A final plat of an approved preliminary plat or a portion thereof (that is consistent with the requirements of the preliminary plat or a portion thereof) shall be submitted to the Commission within two (2) years of the date of approval of preliminary plat, otherwise the approval of the Commission and City Council shall become null and void, unless an extension of time is applied for and granted by the Commission and City Council.
- (5) When the final plat is submitted to the Commission for approval, it shall be accompanied by the fees required in the ordinances of the City. That portion of the fees required for recording fees can be paid by means of a check or checks payable to the County Clerk in the amount of the recordation fee for filing the final plat.
- (6) Within thirty (30) days after the final plat is formally filed, the Commission shall approve or disapprove such plat and forward its recommendation to the City Council.
- (7) The City Council shall act on the final plat within thirty (30) days after the approval by the Commission, or after the approval by reason of nonaction of the Commission. If the plat is not disapproved by the Council within thirty (30) days, it shall be deemed to have been approved by the Council. A certificate showing the filing dates hereunder and the failure to take action thereon within the period prescribed shall, on demand, be issued by the Commission or the Council, as the case may be, and such certificate shall be sufficient in lieu of the written endorsement or other evidence of approval herein required.
- (8) After the final plat has been finally approved and the subdivider has constructed all the required improvements and such improvements have been approved, and a maintenance bond filed as hereinafter provided; or after the plat has been finally approved and the subdivider has filed the security and maintenance bond hereinafter provided, the Commission shall cause the final plat to be recorded with the County Clerk or clerks in the county or counties in which the subdivision lies. The Commission shall also cause the check or checks for the recordation fee or fees deposited at the time the final plat was filed for approval to be delivered with the final plat to the County Clerk. No plat shall be filed for record without written consent of the subdivider. If subdivider fails to provide such written consent within 30 days of the date of final approval of the plat, the Commission may at any time thereafter cancel such approval.
- (C) Plat Amendments. The City Council may, upon recommendation of the Commission, approve an amended plat provided said plat is signed by all affected parties, and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:
- (1) To correct an error in any course or distance or property description shown on the prior plat or add any course or distance omitted on the prior plat,
  - (2) To indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;
  - (3) To show the proper location or character of any monument which has been added or changed in location or character or which originally was shown at the wrong location on the prior plat;
  - (4) To correct any other types of scrivener or clerical error or omission as previously approved by the

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Commission or Council;

- (5) To correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat; or
- (6) To relocate a lot line in order to cure an inadvertent encroachment on a lot line or easement. In no event shall a plat amendment be allowed which amends, adds, or deletes restrictive covenants, unless approved by all of the lot owners in the subdivision.

**Section 10. Where Subdivision is Unit of a Larger Tract.** Preliminary and final plats of land within the Plum Creek PUD shall reasonably conform with the Plum Creek PUD Master Plan, show the proposed layout of streets, blocks, drainage, water, sewerage, and other improvements for the area being platted in compliance with this Ordinance. The Plum Creek PUD Master Plan and the approved subdivision plats shall be filed in the permanent files of the City. All subdivisions platted within the Plum Creek PUD shall reasonably conform to the approved overall layout as provided in the Plum Creek PUD Master Plan, unless such Master Plan is modified by the subdivider/developer with the approval of the Commission and City Council.

**Section 11. Guarantee of Performance.** (A) If under Section 9, Paragraph (B) (8) of this Ordinance the subdivider chooses to construct the required improvements prior to recordation of the final plat, all such construction shall be inspected while in progress by the appropriate City department, and shall be subject to approval by the City Engineer. A certificate by such officer and the developer/subdivider stating that the construction conforms to the specifications and standards contained in or referred to herein must be submitted to the Administrator prior to acceptance of the required improvements by the City as built. After construction of the improvements is completed and prior to the acceptance of such improvements by the City for maintenance, the subdivider or its contractor shall file with the City a maintenance bond, executed by a surety company holding a license to do business in the State of Texas, and acceptable to the City, in an amount equal to thirty five 35% percent of the cost of the improvements required, as estimated by the Administrator, and on the condition that the subdivider will maintain such improvements in good condition for a period of 1 year after final acceptance of the completed construction by the City. Such bond shall be approved as to form and legality by the City Attorney.

(B) If under Section 9, Paragraph (B) (8), of this Ordinance the subdivider chooses to file security and a maintenance bond in lieu of completing construction prior to final plat approval, he may utilize any of the following methods of posting security. If the subdivider chooses to file security, the plat shall not be approved unless the subdivider has done one of the following:

(1) Has filed with the City a bond executed by surety company holding a license to do business in the State of Texas, and acceptable to the City, as approved as to form and legality by the City Attorney, in an amount equal to the cost of the improvements required by this Ordinance, as estimated by the Director of Public Works, conditioned that the subdivider will begin to construct such improvements within 1 year after approval of such plat, and pursue the work in a timely manner excluding acts of God, with a completion date for such improvements within two (2) years from the date of final plat approval; or

(2) Has placed on deposit in a bank or trust company selected by the subdivider and approved by the City, in a trust account a sum of money equal to the estimated cost of all site improvements required by this Ordinance. The estimated cost of improvements shall be the cost as estimated by the Director of Public Works. Selection of the trustee shall be subject to approval by the City, and the trust agreement shall be

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approved as to form and legality by the City Attorney.

(3) Has furnished fiscal security in the form of a letter of credit obtained by the subdivider in an amount equal to the estimated cost of all site improvements required by this Ordinance. The Administrator shall provide an estimate of the cost of improvements. The subdivider shall obtain the letter of credit from a financial institution approved by the City and subject to approval as to form and legality by the City Attorney.

- (C) If either type of security is filed by the subdivider under Paragraph B of this Section, the filing of such security shall be accompanied by a maintenance bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the City, and issued upon completion and the acceptance of the improvements by the City, in an amount equal to thirty five percent (35%) of the cost of the improvements required, as estimated by the Director of Public Works, under the condition that the subdivider will maintain such improvements in good condition for a period of I year after final acceptance of the completed construction by the City, as provided in Paragraph D of this Section. Such bond shall be approved as to form and legality by the City Attorney.
- (D) If either type of security is filed by the subdivider under Paragraph B of this Section, the Director of Public Works shall inspect the construction of improvements while in progress, and he shall inspect such improvements upon completion of construction. After final inspection, he shall notify the subdivider and the City Attorney in writing as to his acceptance or rejection of the construction. He shall reject such construction only if it fails to comply with the standards and specifications contained or referred to herein, or otherwise in effect pursuant to applicable resolution or ordinance of the City. If he rejects such construction, the City Attorney shall on direction of the City Council proceed to enforce the guarantees provided in this Ordinance.
- (E) Where good cause exists, the Director of Public works may extend the period of time for completion under Paragraph B of this section for an additional period of time not to exceed twelve (12) months if the subdivider has not completed the required site improvements or completed such improvements in compliance with this Ordinance. No such extension shall be granted unless security as provided in such Paragraph B has been provided by the subdivider covering the extended period of time.
- (F) Security but not maintenance guarantees shall be released by the City when all requirements for approval have been met and the improvements have been accepted. Maintenance guarantees shall expire one year after the date of final acceptance provided that no corrective work and/or repairs are in progress and no claim by the City is pending.

**Section 12. Standards And Specifications.** No preliminary or final plat shall be approved by the Commission, and no completed improvements shall be accepted by the Director of Public Works, unless they conform to the following standards and specifications:

- (A) General.
- (1) Conformity with City's comprehensive plan and Plum Creek PUD Zoning Ordinance. The subdivision and its improvements shall conform to any relevant comprehensive plans, codes and the Plum Creek PUD Zoning Ordinance of the City of Kyle.
  - (2) Provision for future subdivisions. If a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged to allow for the opening of future streets.
  - (3) Reserve strips prohibited. There shall be no reserve strips controlling access to land

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dedicated or intended to be dedicated to public use.

(B) Streets.

(1) Street layout. Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade, and location of each shall conform with Plum Creek PUD Master Plan, and shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire Plum Creek PUD development.

(a) Generally: The street system should generally consist of a rectilinear pattern of blocks with a hierarchy of public streets and service alleys, common greens, and landscaped rights-of-way accommodating automobiles, public transit, bicycles and pedestrians. Except as approved by the Commission and the City Council, the street layout should form an interconnected system of streets. The use of cul-de-sacs and other roadways with a single point of access are discouraged. Blocks shall be designed to have a maximum length of 1,200 feet, from intersection to intersection. Rear service alleys are a preferred element in the design of the neighborhood. Industrial and commercial subdivisions should be designed to have a maximum length of 1,000 feet.

(b) Local streets: Local streets approved in the Plum Creek PUD subdivision may be public or private. If private streets are proposed, the street shall:

(i) ensure that public access is not restricted except as agreed to by the City;

(ii) provide adequate access for emergency vehicles and for school buses as necessary;

(iii) provide that construction standards and specifications are satisfactory to the City;

(iv) ownership and maintenance shall be the responsibility of the private owner or deeded to and maintained by the Property Owners Association.

(c) Private streets and alleys: All streets and alleys shall be dedicated to public use unless they are designated as private. All private streets and alleys shall be shown on all plans, but they will be allowed where they are found to be more appropriate due to the type and density of development or other applicable factors. All private streets and alleys shall be conveyed to and maintained by the Property Owners Association.

(2) Relation to adjoining street system. Where practical to the Plum Creek PUD neighborhood street pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.

(3) Projection of streets. Where adjoining areas are not subdivided, the arrangements of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided area, where practical for the Plum Creek PUD.



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- (4) Street jogs. Whenever practically possible, street jogs with center line offsets of less than 125 feet should be avoided.
- (5) Half-streets or adjacent streets. In case of collector, minor, or marginal access streets, no new half-street shall be platted.
- (6) Street intersections. Street intersections shall be constructed at an angle of no less than 60 degrees. When necessary, a safety measure, such as a landscaped island, shall be introduced which safely channels left-turn movements into a nearly perpendicular pattern. No more than two (2) streets intersecting at one point shall be permitted, except as approved by the City Engineer and based on sound transportation planning principals.
- (7) Dead-end streets. Dead-end streets shall be prohibited except as short stubs to permit future expansion.
- (8) Cul-de-sacs. In general, cul-de-sacs shall not exceed 600 feet in length, and shall have a turnaround of not less than 45 feet of right-of-way radius in residential areas, and not less than 45 feet of right-of-way radius in diameter in commercial areas and 60 feet of right-of-way radius in industrial areas. Medians with a maximum width of 13 feet of right-of-way radius may be landscaped, where practical and reasonable.
- (9) Marginal access streets. Where a subdivision has frontage on an arterial street, there shall be provided a marginal access street on both sides or on the subdivision side of the arterial street, if the arterial street borders the subdivision, unless the adjacent lot backs up to the arterial streets, or unless the Commission determines that such marginal access streets are not desirable under the facts of a particular case for adequate protection of the lots and separation of through and local traffic.
- (10) Streets on comprehensive plan. Where a subdivision embraces a street as shown on the comprehensive plan of the City, such street shall be platted in the location and of the width indicated by the comprehensive plan. Modification to street platting indicated by the comprehensive plan may be administratively approved by the Director of Public Works if the owner or subdivider provides sufficient information related to the need for the revision in order to preserve the integrity of the Plum Creek PUD.
- (11) Minor street. Minor or local streets shall be laid out so as to discourage their use by through traffic.
- (12) Pavement width and right-of-way. Pavement widths and rights-of-way shall be as follows:
- (a) Arterial streets shall have a right-of-way width of at least 80 feet, with a pavement width of at least 44 feet, and a minimum curve radius of 725 feet.
  - (b) Collector streets shall have a right-of-way width of at least 60 feet, and a pavement width of at least 36 feet, and a minimum curve radius of 375 feet.
  - (c) Local streets shall have a right-of-way width of at least 60 feet, and a pavement width of at least 36 feet, and a minimum curve radius of 275 feet.
  - (d) Nonresidential marginal access streets shall have a right-of-way width of at least 60 feet, and a pavement width of at least 36 feet.

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- (e) Residential marginal access streets shall have a right-of-way width of at least 60 feet, and a pavement width of at least 36 feet.
- (f) Pavement width and rights-of-ways, and minimum design criteria for boulevards, avenues, and residential streets, shall be as set forth in the Schedule A located at the end of this Section 12.
- (13) Pavements widths and rights-of-way of streets forming part of the adjacent subdivision shall be as follows:
- (a) Where the PUD design warrants such requirements, the subdivider shall dedicate a right-of-way of 80 feet in width for new adjacent arterial streets, and 36 feet of such right-of-way shall be paved.
- (b) New adjacent collector, minor, or marginal access streets shall conform to Paragraph B (12) of this Section.
- (c) Where the proposed subdivision abuts upon an existing street or half-street that does not conform to Paragraph B (12) of this section, the subdivision shall dedicate right-of-way sufficient to make the full right-of-way width conform to Paragraph B (12), and there shall be paved so much of such right-of-way as to make the full pavement width comply with Paragraph B (12). Before any pavement is laid to widen existing pavement, the existing pavement shall be cut back 2 feet to assure an adequate sub-base and pavement joint.
- (14) Curbs. Curbs shall be installed by the subdivider on both sides of all interior streets, and on the subdivision side of all streets forming part of the boundary of the subdivision. Horizontal ribbon curbs and four inch roll curbs shall be permitted where the Plum Creek PUD design and drainage conditions warrant such use. The use of ribbon curbs and four inch roll gutters shall be subject to the review and approval of the Administrator.
- (15) Street names. Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.
- (16) Traffic calming measures. The use of traffic calming measures intended to moderate the speed of vehicular traffic within the subdivision will, generally, be permitted throughout the Plum Creek PUD. Traffic calming measures at roadway intersections include gateways, roundabouts and neckdowns. Traffic calming measures designed along roadway sections include chicanes, throttles and speed plateaus.
- (17) Street lights.
- (a) Street Classification. Street lights shall be placed in accordance with the following placement criteria. Street lights shall be located:
- (i) At the intersection of two (2) arterial streets, an arterial and a collector street, and at the intersection of 2 collector streets;
- (ii) At any intersection where traffic count is projected to reach seven thousand (7,000) vehicles per day;

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(iii) In the turnaround of cul-de-sacs where cul-de-sac length is longer than three hundred feet (300'); and

(iv) Pursuant to a street lighting plan submitted and approved in conjunction with application for subdivision plat approval pursuant to this ordinance; which plan shall, generally, provide not less than one street light for each 500' linear feet of streets in or abutting the subdivision.

(b) Safety Considerations. Street lights shall, additionally, be placed to illuminate street curves, significant topographic conditions, and other safety hazards.

(c) Spacing. Street lights shall be placed in accordance with the following spacing requirements.

(i) Typical spacing of lights shall be one per intersection at the intersections described in subsection (a)(i) above;

(ii) Lights shall be provided along arterial and collector streets, with a maximum spacing between lights of three hundred feet (300');

(iii) If block length is over 600' but less than increments of 300', the light shall be placed in mid-block to the degree practical.

(iv) **In** a cul-de-sac turnaround, if the cul-de-sac length is longer than three hundred (300) feet.

(v) Street lights shall be placed in the subdivision in compliance with the finally approved lighting plan.

(d) Light Size and Type.

<b>Street Type</b>	<b>Light Size/Lumens</b>	<b>Light Type</b>
Thoroughfare (heavy traffic)	400w/50,000	sv
Arterial (medium traffic)	250w/27,000	sv
Collector	175w/7,000	MV or
(Residential and low traffic)	100w/9,500	sv

(e) Subdivision Lighting Plan.

(i) The developer shall submit a street light plan as a part of the final subdivision plat package in conjunction with the utility plans and in conformance with these standards.

(ii) The staff shall review, coordinate with the electric utility, and recommend street lighting plans to the Commission and Council.

(iii) Metal poles shall be required for all street lighting and the developer shall pay all additional utility company charges for street lighting, e.g. underground, metal poles, special fixtures, charges for electricity, etc. at the final plat phase.

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(iv) Installation will be completed during the construction of the other infrastructure and public improvements, or, with City approval, coordinated with building permits issued in the area. Priority shall be given to arterial and collector streets in the subdivision to facilitate circulation; within each block face, when fifty percent (50%) of lots have been permitted, lights shall be installed. The developer shall give security as necessary to assure installation of lighting required but scheduled for future installation. This light installation schedule may be accelerated in accordance with an agreement made with the developer whereby the developer pays the City the full cost of power during the time period necessary to reach this level of permitting.

(v) The Commission and the Council may disapprove any subdivision where the developer fails to comply with the standards set forth in this Section.

(f) Private Street Lighting. In those instances when the above criteria do not warrant street light placement in a particular location where a property owners association, commercial or industrial property desire additional lighting, the City encourages privately funded and privately maintained lights by neighborhood residents and property owners. All privately funded lights shall be totally owned and maintained by the private property owners or residents. All utilities for privately funded lights shall be entirely paid for by the private property owner or residents. The City shall never be obligated to pay for the maintenance or utilities of any privately funded light. Such lighting may be placed within easements where not inconsistent with the easement use, but shall not be placed within dedicated public right-of-way.

(18) Street signs and markers. Street signs shall be installed by the subdivider at all street intersections within or abutting the subdivision. Such signs shall be of a type approved by the City, and shall be installed in accordance with standards of the City. Provided, however, that upon written request from the subdivider/developer, the City Engineer may approve design modifications to City requirements for signs and markers, if such change comports with sound engineering practices and judgment, and is consistent with the public health, safety and welfare.

(19) Paving surfaces. Streets shall be paved with a minimum of one and one-half (1 ½) inches of compressed hot mix with a minimum of 8" of base over a proper subbase or a suitable alternative. Alternative paving material such as concrete pavers, brick, and stone shall be permitted when acceptable under sound engineering practices and approved by the Director of Public Works; provided that all such street improvements and infrastructure installed and constructed within the Plum Creek PUD shall, when constructed and/or installed, meet or exceed the applicable specifications and construction standards then in effect within the City.

(C) Alleys.

(1) Width and paving. Alleys may be installed if approved by the Administrator. Alleys of not less than 20 feet in right-of-way width and pavement width shall be installed by the subdivider in all business and industrial areas where practical. In residential areas, alleys not less than 20 feet in right-of-way width, with a paved surface of not less than 12 feet in width, shall be optional. All alley paving shall be done in accordance with City standards. Alleys shall be approximately parallel to the frontage of the street. All alleys, if constructed, must be paved as outlined in Section (5) below. All alleys shall be maintained by the

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Property Owners Association for the area.

(2) Intersecting alleys or utility easements. Where two alleys or utility easements intersect or turn at a right angle, a cutoff of not less than 10 feet from the normal intersection of the property or easement line shall be provided along each property or easement line where practical.

(3) Dead-end alleys. Dead-end alleys shall not be permitted except if future development provides for the extension of the alleys, in which case temporary turnarounds will be provided.

(4) In all alleys, underground easements for electric and telephone lines shall be provided by subdivider.

(5) Alley design criteria shall be as set forth in the Schedule A located at the end of this Section 12.

(6) All alleys in the Plum Creek PUD shall be private alleys and shall be maintained by the Property Owners Association.

(7) The typical alley section in the Plum Creek PCJD shall be based upon projected traffic volume, existing soil conditions, drainage conditions and requirements. The design shall be in conformance with generally accepted engineering practices. The alley section shall be based on criteria which meet or exceed the loading criteria of 20,000 18 KIP Axle Repetitions.

(D) Utilities Easements.

(1) Each block that does not abut an alley as provided for in Paragraph C of this Section shall have utility easements platted on each lot adjacent to the right-of-way of each street abutting the block. Such easements shall be reserved for the use of all public utility lines, conduits, and equipment. These utility easements shall be 7½ feet in width, shall be continuous for the entire length of the block and shall parallel the street line frontage of the block. Such easements shall be considered a part of the lot area for purposes of minimum lot-size requirements of this Ordinance. Normal curb exposure shall be required where utility easements intersect streets.

(2) Electrical distribution lines within Phase I that serve but that are outside of platted -subdivisions, may temporarily remain as overhead lines. "Temporarily" means for the duration of time when the area outside the subdivision remains unplatted. Three-phase electric transmission lines within the subdivision are permitted to be overhead but all utilities constructed and installed within any subdivision must be underground. Excluded from this provision are facilities typically sited above ground, such as meter boxes, lift station, transformers, and other similar items.

(E) Sidewalks. Sidewalks shall be installed as follows:

(1) Sidewalks are required in residential subdivisions and will be required as appropriate to the area in commercial and industrial areas. Sidewalks shall be not less than four (4) feet in width and may adjoin the curb or may be separated from the curb by a landscape planting strip. Such sidewalks shall be installed and constructed on both sides of each residential street. Sidewalk shall be situated wholly within the dedicated right-of-way.

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- (2) Utility assignments shall be arranged so that utilities are not located underneath sidewalks except to cross perpendicularly for distribution.
- (3) Parkways and landing ways shall be excavated, or filled, as required to result in not more than a three (3) to one (1) grade, or as detailed on approved construction plans. Landing walks of width not less than eighteen (18) inches may be installed at the rear of the curb.
- (4) Americans with Disabilities. Sidewalks shall conform to the city construction standards and meet all requirements of the Americans with Disabilities Act.

(F) Watershed and Flood Prevention

(1) Watershed Protection. The watershed provisions contained herein are deemed necessary for the following reasons:

- (a) The watersheds within the City's jurisdiction contribute significantly to the City's drinking water supply.
- (b) Waterways and their associated watersheds within the City's jurisdiction represent significant recreational and aesthetic resources and contribute to the City's public health.
- (c) The future of the City is dependent on an adequate quality and quantity of water, a pleasing natural environment, recreational opportunities in close proximity to the City as well as the protection of people and property from hazards of flooding.
- (d) All watersheds within the City's jurisdiction are vulnerable to non-point source pollution and sedimentation resulting from development activities.
- (e) All watersheds within the City's jurisdiction are undergoing development or facing development pressure.
- (f) If watersheds within the City's jurisdiction are not developed in a sensitive and innovative manner, water resources, natural environment, and recreational characteristics may be irreparably damaged.
- (g) Protection of critical environmental features is necessary to protect water quality in those areas most susceptible to pollution.
- (h) It is important to protect the water supply and the natural environment of all watersheds for existing and future generations of citizens of the City.
- (i) The City may adopt additional appropriate development rules and regulations for the purpose of protection of the watersheds and aquifers within its jurisdiction as a facet of its overall program for the control and abatement of pollution resulting from generalized discharges of pollution which are not traceable to a specific source, such as urban runoff from rainwater; and for the abatement of the risks related to flooding within the watersheds.

(2) Stormwater Management. In order to achieve the purposes in the foregoing section, the following sections provide for storm water management systems. All development plans and subdivision plats submitted to the City shall comply with the provisions of this Article and section and any other applicable regulations; specifically, the City's Construction Standards and Specifications for Roads, Streets, Structures and Utilities and the applicable Texas Natural Resources Conservation Commission Rules. Plats of developed property on which no new structures or additional impervious coverage is planned shall be exempt from the provisions of this section.

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(a) Stormwater Management System Requirements. The Commission shall not recommend approval for any plat, plan or subdivision which does not meet the minimum requirements of this ordinance in making adequate provision for control of the quantity of stormwater and/or ground water run-off to the benefit of both future owners of property within the subdivision and other lands within the watershed. It shall be the responsibility of the subdivider to design and construct a system for the collection and transport of all stormwater run-off flowing onto and generated within the subdivision in accordance with:

- (i) The requirements of these regulations.
- (ii) The Flood Drainage Prevention Ordinance.
- (iii) Good engineering practices.
- (iv) Approved plans.
- (v) The principles of stormwater law established by the Texas Water Code.

(b) Basic Design Objectives. In general the stormwater management system shall be designed and constructed in a manner which promotes the development of a network of both natural and built drainage ways throughout the community and so as to:

- (i) Retain natural flood plains in a condition that minimizes interference with flood water conveyance, flood water storage, aquatic and terrestrial ecosystems and ground and surface water.
- (ii) Reduce exposure of people and property to the flood hazard and nuisance associated with inadequate control of run-off.
- (iii) Systematically reduce the existing level of flood damages.
- (iv) Ensure that corrective works are consistent with overall City goals.
- (v) Minimize erosion and sedimentation problems and enhance water quality.
- (vi) Protect environmental quality, social well being and economic stability.
- (vii) Plan for both the large flooding events and the smaller, more frequent flooding by providing both major and minor drainage systems.
- (viii) Minimize future operational and maintenance expenses.
- (ix) Reduce exposure of public investment in utilities, streets and other public facilities (infrastructure).
- (x) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public.
- (xi) Acquire and maintain a combination of recreational and open space systems utilizing flood plain lands.
- (xii) Preserve natural drainage patterns and limit the amount of impervious cover so as to prevent erosion, maintain infiltration and recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by stormwater. Overland sheet flow shall be maintained

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whenever possible and the dispersion of run-off back to sheet flow shall be a considered in the drainage design for the subdivision as opposed to concentration of flows in storm sewers and drainage ditches.

(c) General Design Requirements.

(i) The storm drainage system shall be separate and independent of any sanitary sewer system and its use shall not interfere with the operation and maintenance of road networks or utility systems.

(ii) Each lot, site and block within the subdivision shall be adequately drained as prescribed in the City's construction standards.

(iii) No subdivision shall be approved which would permit building within a regulatory floodway of any stream or water course. The Commission may, when it deems necessary for the protection of the health, safety or welfare of the present and future population, prohibit the subdivision and/or development of any property which lies within a designated regulatory floodway of any stream or water course.

(iv) No lot or building site within a subdivision shall derive sole access to a public street across a waterway unless such access shall be constructed to remain open under design storm conditions as prescribed in the City's construction standards.

(v) Areas subject to inundation under design storm conditions shall be indicated with the minimum floor elevation of each lot so affected on a certified copy of the preliminary plat submitted for filing. The Commission may, when it deems necessary for the protection of the health, safety or welfare of the present and future populations, place restrictions on the subdivision, regarding the design and use of areas within a drainageway. The Commission shall not approve any subdivision of land within the floodplain of any stream or water course unless the applicant demonstrates that the subdivision and all development anticipated therein will comply with the requirements of this ordinance.

(vi) Design of all drainage facilities, including streets, inlets, storm sewers, outfall, culverts and ditches, shall conform with the City's Construction Standards and Specification for Roads, Streets, Structures, and Utilities.

(vii) All facilities shall be designed to intercept, detain and transport the projected run-off from the twenty-five (25) year frequency storm. Overflow and/or transport provisions shall be provided for one hundred (100) year storms.

(viii) Projected runoff rates for the design of drainage facilities shall be based on the expected ultimate developed state of the upstream contributing area. Said ultimate developed state shall be based on the maximum intensity allowable under existing zoning as applicable, the City's comprehensive plans, and approved plans within the contributing area.

(ix) All development establishing impervious cover or otherwise modifying an existing site shall incorporate facilities to prevent any increase in the peak rate of runoff from a twenty-five (25) year frequency storm. The City Engineer may waive this requirement under one or more of the following circumstances:

(A) Approved off-site storage is provided for the required regulation of peak flows and adequate conveyance of storm water flows from the site to the off-site storage facility is



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demonstrated.

(B) Development of a one (1), two (2) or three (3) family residential structure on any legally platted lot creates no more impervious ground cover than thirty percent (30%) of the gross lot surface area exclusive of any area within the one hundred (100) year flood plain.

(C) Certified engineering data and calculations are presented which demonstrate the absence of adverse impact on all downstream conveyances and property between the downstream property line and the receiving major waterway.

(D) Certified engineering data and calculations are presented which fully describe, explain and justify recommended alternatives to detention.

(E) The increase in run-off does not exceed ten percent (10%) of the existing conditions runoff up to a maximum increase of five (5) cubic feet per second, and said run-off does not affect adjoining property.

(F) The property is adjacent to a major waterway and in the judgment of the City Engineer, waiver of detention requirements will not result in an increase in the peak flood flow of the major waterway. Waiver of this requirement for any reason shall not relieve the owner of responsibility.

(G) Design of major drainage ways through a subdivision and major structures such as box culverts or bridges across a major drainage channel shall be coordinated with the requirements of Hays County when any portion of the subdivision lies outside the city limits.

(d) Drainage Channels.

(i) The limits of the twenty-five (25) year and one hundred (100) year storm event shall be determined for water courses draining fifty (50) or more acres. Calculations for storm events shall utilize generally recognized backwater computational methods and actual field channel and overbank configuration.

(ii) No importation of fill material or channel modifications shall be undertaken within the area of the one hundred (100) year flood plain without written approval of the Administrator. Such approval shall be based upon certified engineering data and calculations furnished by the applicant.

(iii) All constructed or modified earthen channels shall be designed utilizing a side slope of thirty-three percent (33 %), or flatter, to allow for future maintenance and promote adequate slope stability. As a minimum, all slopes shall be hydromulched, sodded or seeded.

(e) Streets and Storm Sewer.

(i) All street sections shall be in accordance with City standards. The allowable design drainage capacity for stormwater now at the gutter shall be no deeper than three inches (3") above the top of the curb.

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(ii) Depth of flow in streets is to be controlled to allowable levels by modification of crossfall, gradient changes, or the use of curb inlets and/or curb drains, and storm sewers.

(f) Bridges and Culverts.

(i) All bridge and culvert structures shall be designed to carry and/or contain the upstream runoff from a twenty-five (25) year storm.

(ii) Run-off from a one hundred (100) year storm shall not top the road surface at bridge or culvert crossings for an arterial or thoroughfare crossing and shall not exceed a depth of six (6) inches on a local street crossing.

(iii) All bridge and culvert structures shall be designed such that the structural integrity of the roadway shall not be diminished by a twenty-five (25) or one hundred (100) year storm event.

(g) Computations, Plans and Construction.

(i) Plans and computations for proposed drainage facilities shall be certified with the seal of the design engineer, and submitted to the City Engineer for acceptance prior to approval of construction plans.

(ii) Computations for all drainage related design shall be submitted with the plans for review. Data submitted shall include a drainage area map, a summary of methodology employed and resulting data, land use and run-off coefficient assumptions, and other pertinent hydrologic and hydraulic data.

(iii) Plans and design calculations for all drainage facilities shall be submitted to the City Engineer for acceptance prior to issuance of any permit within the development or subdivision.

(h) Building Permits and Utility Connections.

(i) Plans submitted for building permits and/or utility connections, other than single family residential or duplex construction and those projects already in compliance with this ordinance, shall include the necessary drainage related facilities designed and provided for in compliance with this ordinance and the City's construction standards.

(i) Drainage Easements.

(i) General Requirements. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, or where a detention/filtration facility is required, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse or facility, and of such width and construction to contain the design storm and required freeboard. When parking lots or other approved use areas serve a dual function, including detention, those areas shall be designated on the plat as detention areas. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks having adequate width to contain the volume of flow generated by the design storm under ultimate development conditions.

(ii) Design Requirements.

(A) Where topography or other conditions are such as to make impractical the inclusion

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of drainage facilities within road rights-of-way, perpetual unobstructed easements at least twenty (20) feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

(B) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and filed of record, documented on the plat, and drawn on the construction plans.

(C) Low-lying lands along watercourses subject to flooding or overflowing during storm periods shall be preserved and retained in their natural state as drainage ways except where modification can be shown to benefit the community and such modification is as approved by the Commission. All development activity within the regulatory floodplain must comply with city, state and federal regulations.

(D) All sedimentation, filtration, detention and/or retention basins and related appurtenances shall be situated within a drainage easement. The owners of the tracts upon which are located such easements appurtenances, and detention facilities shall maintain same and be responsible for their upkeep. Notice of such duty to maintain shall be shown on the plats.

(E) Drainage facilities shall be designed to serve the entire subdivision. For all subdivisions, design of drainage facilities shall be completed with other required construction plans in order to ensure adequate drainage easements and other reservations on the plat.

(F) The requirements set forth herein are not intended to be exhaustive and wherever it is necessary to make additional requirements in order to maximize the effectiveness of the drainage plan in question, such requirements shall be made by the Commission. Variances to these requirements may be allowed pursuant to this ordinance only when said variance will not result in drainage related problems sought to be prevented by these regulations.

(3) Industrial Uses.

(a) An applicant proposing any industrial use, as defined in the City Comprehensive Plan or Plum Creek PUD Zoning Ordinance, and which is not completely enclosed within a building or buildings, must provide a pollutant attenuation plan which:

(i) Proposes methods to capture all surface water run-off from developed areas to contain and filter pollutants generated on-site.

(ii) Controls dust and other particulate matter generated on-site, to meet the Texas Natural Resource Conservation Commission Standards for Urban Areas.

(b) The design of storage facilities for hydrocarbon or hazardous substances, including leak detection systems, spill containment areas or other control measures shall meet the following requirements:

(i) Underground Storage Facilities. Facilities for the underground storage of static hydro-

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carbon or hazardous substances shall be of double walled construction or of an equivalent method approved by the City Engineer. Methods for detecting leaks in the wall of the storage facility shall be included in the facility's design and review prior to issuance of appropriate permits for construction.

(ii) Above Ground Storage Facilities. Facilities for the above ground storage of static hydrocarbon or hazardous substances shall be constructed within controlled drainage areas that are sized to capture one and one-half (1 1/2) times the storage capacity of the facility and that direct any spillage to a point convenient for collection and recovery. The controlled drainage area shall be constructed of a material suitably impervious to the material being stored.

(c) All transport facilities for hydrocarbons and hazardous substances shall be approved by the City Engineer.

(4) Minimum Criteria for Issuance of Flood Plain Development Permit. Pursuant to the Flood Damage Prevention Ordinance, as amended from time to time, and similar provisions enforced by Hays County, a Flood Plain Development Permit shall be required such that:

(a) Development or alteration of the flood plain shall result in no increase in water surface elevation of the design storm of the waterway.

(b) Development or alteration of the flood plain shall not create an erosive water velocity on or off the site. The mean velocity of stream flow at the downstream end of the site after development or alteration shall be no greater than the mean velocity of the stream flow under existing conditions as defined in the City's Construction Standards and Specifications for Roads, Streets, Structures, and Utilities.

(c) Development or alteration of the flood plain shall be permitted by equal conveyance on both sides of the natural channel.

(d) Relocation or alteration of the natural channel shall not be permitted without an environmental assessment, including a stream rehabilitation proposal.

(e) The toe of any fill shall parallel the natural channel to prevent an unbalancing of stream flow in the altered flood plain.

(f) To insure maximum accessibility to the flood plain for maintenance and other purposes, and to lessen the probability of slope erosion during periods of high water, maximum slopes of filled area shall not exceed three to one (3: 1) for fifty percent (50 %) of the length of the fill and six to one (6: 1) for the remaining length of the fill. The slope of any excavated area not in rock shall not exceed four to one (4: 1). Vertical walls, terracing and other slope treatments will be considered if no unbalancing of stream flow results.

(g) Whenever feasible, the integrity of the natural waterway channel will be protected.

(h) A landscape plan shall be required, and shall include plans for erosion control of cut and fill slopes, restoration of excavated areas and tree protection where possible, both in and below the fill area. Landscaping should incorporate natural materials (earth, stone, or wood) on cut or fill slopes whenever possible.

(i) The effects of existing or proposed public and private improvements shall be used in determining water surface elevations and velocities.

(j) Any alteration of the flood plain shall not cause any additional expense in current or

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projected capital improvements, nor should said alteration cause additional maintenance costs to be incurred by the City.

(G) Minimum Requirements. The following establish further general and minimum standards. In the event of any conflict between any of the following and any other requirement of this section, the higher standard shall govern and control.

(1) Drainage Structures. Drainage structures shall be constructed in compliance with this ordinance and in such locations and of such size and dimensions to adequately serve the subdivision and associated drainage area. The developer shall be responsible for all costs for the installation of the drainage system required to accommodate the needs of the subdivision being developed, to include the carrying of existing water entering or leaving the subdivision.

(2) Right-of-Way. In new subdivisions, the developer shall provide all the necessary easements and rights-of-way required for drainage structures, including storm sewer and open, paved or rip-rapped channels.

(3) Storm Sewers and Curb Inlets. Storm sewers shall be provided and curb inlets located so as to properly drain all streets and intersections.

(4) Standards. The design, size, type and location of all storm drainage facilities shall equal or exceed the City's minimum construction standards and be approved by the City Engineer and the Director of Public Works.

(a) Drainage Ditches. Open, paved or improved drainage ditches, as required by the Commission or the Council, shall be constructed across the entire subdivision being developed.

(b) Storm Sewer. Water entering into the streets in excess of what gutters will carry at maximum flow, shall be diverted into storm sewers. Capacity of storm sewers and channels shall be calculated by Manning's Formula or other methods approved by the Administrator.

(H) Detention. Except for existing single family residences on legally platted lots, all subdivisions and development establishing impervious cover or otherwise modifying an existing site shall incorporate facilities to prevent any increase in the peak of runoff from a twenty-five (25) year frequency storm.

(I) Water Installation.

(1) Water supply and distribution. All subdivisions shall be provided with water supply and water distribution systems approved by the Kyle Water Department. In no event shall a water well be dug without the permission of the City.

(2) Fire hydrants. Six inch fire hydrants shall be installed as part of the water distribution system per specifications of the Fire Chief of the City and of the State Board of Insurance.

(J) Sewers

(1) All subdivisions shall be provided with an approved sewage disposal system.

(2) Connection with the sanitary sewer system shall be required except where the City Council determines that such connection will require unreasonable expenditure when compared with other methods of sewage disposal. Where septic tanks are installed, the subdivider shall conduct percolation tests under the supervision of the Director of Public Works and County

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Health Department in order to determine the adequacy of proposed lot sizes. If a sanitary sewer disposal system is to be installed, the plans for such system must be approved by die Texas State Health Department, prior to approval of the final plat by the Planning Commission.

- (K) Utility lines. All utility lines that pass under a street or alley shall be installed before the street or alley is paved, whenever practical. When it is necessary that utility lines pass under the street pavement, they shall be installed to a point at least 3 feet beyond the edge of the pavement. Buried utilities may be located within the alley service drive and under public street pavement, three feet inside the face of the curb. Electric distribution shall be provided by means of underground service within the subdivision: Overhead service to individual lots shall not be permitted. Transformer pads and enclosures shall be located behind the front face or to the rear of the building.
- (L) Monuments.
- (1) Monuments shall be located at the intersection of a line 3 feet north from and parallel to the north line of each block with a line 3 feet east from and parallel to the east line of the block, unless such point of intersection occurs within the limits of street paving. In such case, alternate monument locations shall be approved by the Director of Public Works.
- (2) Where, due to topographic conditions, permanent structures, or other conditions, the view is obstructed between any two adjacent monuments, intermediate monuments shall be so set as to assure a clear view between adjacent monuments.
- (M) Park Land Dedication or Designation.
- (1) Definitions. For the purposes of this Section, the following terms, phrases and words shall have the meaning ascribed to them in this subsection.
- (a) "Park" means any public park, playground, recreation or open space area, golf course, lake, together with parking lots, which is operated, maintained and controlled by the City, and heretofore platted, dedicated, or designated as a public park within the City. Land dedicated for public school land which contains a park or parkland as defined herein shall be considered a park for the purposes of this section but only to the extent of the actual land dedicated for such a park. Private golf course areas, recreation areas and open space land within a residential area and neighborhood commercial area shall be considered to be designated as park for purposes of this section but only to the extent of the actual land designated for such golf course, recreation and open space purposes and provided, that no more than fifty (50) acres of private golf course, recreation or open space areas shall be credited by the City as parkland that complies with the parkland dedication/designation requirements set forth in this section (M).
- (b) "Neighborhood Park" means a park designated for a variety of outdoor recreational opportunities located within a residential subdivision or within a close proximity or convenient distance of the majority of residences to be served thereby so that the residential subdivision or subdivisions so located shall be the primary beneficiaries of these facilities.
- (c) "Residential Area" means any area within a subdivision plat which in whole or in part is platted for the development of dwelling units or residences, whether same be single-family, multifamily, owner occupied or rental dwelling units and including townhouses, condominiums and apartments.
- (d) "Neighborhood Commercial Area" means any area as described in the Plum Creek PUD Zoning

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Ordinance.

(2) General

(a) Whenever a final plat is filed of record with the County Clerk of Hays County for development of a residential area in accordance with this ordinance, or the comprehensive planning and zoning ordinance of the city, such plat shall contain a clear fee simple dedication of an area of land to the City for park purposes, which area shall equal one (1) acre for each one hundred thirty-three (133) proposed dwelling units. As far as practical, all dedications or designations of land shall be in a single parcel. Provided, however, that the Council and the Commission deem that such dedication or designation is required in accordance with the regulations set forth herein. Any proposed plat submitted to the City for approval shall show the area proposed to be dedicated or designated under this section. Upon the approval of the Council, the dedication or designation required by this section may be met by the payment of money instead of land when permitted or required by the provisions of this section or by the platting of a private golf course, recreation area, or open space area pursuant to subsection (M)(l)(a) herein.

(b) The Council declares the development of an area smaller than three (3) acres for public park purposes, as described in subsection M(1)(a) herein, as impractical. Therefore, if fewer than three hundred ninety-nine (399) units are proposed by a plat filed for approval resulting in a dedication or designation of less than three (3) acres, the developer shall be required to pay the applicable cash instead of being required to dedicate or designate any of the land area as provided by subsection (d). No plat showing dedication or designation of less than three (3) acres shall be approved unless the Council, upon recommendation of the Commission, approves a variance to this requirement by resolution.

(c) In an instance where an area of less than five (5) acres is required to be dedicated or designated, the City shall have the right to accept the dedication or designation for approval on the final plat, or to refuse same, after consideration of the recommendation of the Commission, and to require payment of cash instead of land in the amount provided by subsection 12(M)(4) hereafter if the City determines that sufficient park area as described in subsection 12(M)(l)(a) is already in the public domain in the area of the proposed development, or if the parkland recreational needs of the area would be better served by expanding or improving existing parks. Such recommendations shall be given after submittal and review of the preliminary plat.

(d) The dedication or designation required by this section shall be made by the filing of the final plat clearly showing such parkland dedication or designation or contemporaneously by separate instrument unless additional dedication or designation is required subsequent to the filing of the final plat. If the actual number of completed dwelling units exceeds the figure upon which the original dedication or designation is based, such additional dedication or designation shall be required, and shall be made by payment of cash instead of the land amount provided by subsection (d), or by the conveyance of entire numbered lot(s) to the City.

(e) Before any dedication or designation of parkland or payment of cash instead of dedication or designation may be required, the Commission and the Council must find at the public hearing at which the subdivision is considered for final approval, that the dedication or designation of park land or payment of money instead of park dedication or designation for future development of parks bears a substantial relation to the health, safety, general welfare and morals of the community and that there is a need for the park improvement caused by the subdivision development. In order to determine whether or not the need or benefit is sufficient to require the dedication or designation, such factors as the size of lots in the subdivision, the economic impact of the subdivision, density of population, the amount of private parkland contained in the subdivision, and the amount of open land consumed by

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the development shall be considered. The director of parks and recreation shall be informed of all new subdivisions which are submitted for approval and of all existing subdivisions which are submitted for replatting, expansion, or redevelopment.

(f) Whenever payment of money instead of park dedication or designation is determined to be appropriate, the location of the park where the funds will be spent shall be determined within ninety (90) days of the final acceptance of the completed subdivision.

(3) Prior or Excess Dedication or Designation

(a) Credit shall be given for dedication or designation of land or money paid instead of land for park or recreational purposes which was dedicated or given pursuant to the existing zoning ordinance or subdivision of the City. Credit shall also be given for the dedication or designation of land in excess of the requirements herein, subject to the provisions of subsection (M)(1)(a). Such credit may be used by the owner or developer who dedicated the parkland in excess of the dedication or designation requirements, provided that the credit is used within the Plum Creek PUD, as amended.

(b) If a dedication requirement arose prior to the passage of this section, that dedication requirement shall be controlled by the ordinance in effect at the time such obligation arose, except that additional dedication or designation shall be required if the actual density of the dwelling units constructed on the property is greater than the former assumed density. Additional dedication or designation shall be required only for the increase in density and shall be based on the ratio set forth in subsection (a) of this section.

(c) At the discretion of the City, acting through its Council, any former gift of parkland to the City, which was not required by any provision of the City Code, the zoning ordinance or other applicable laws, may be credited on a per acre basis toward eventual parkland dedication requirements imposed on the donor of such land. The Council shall consider the recommendation of the Commission in exercising its discretion under this section.

(4) Money Instead of Land. Subject to the approval of the Council

(a) An owner responsible for dedication or designation under this section may elect to meet the requirements of subsection 12(M)(2)(a) above in whole or in part by cash payment instead of land in the amount set forth in subsection 12(M)(4)(b) hereunder. Payments instead of land shall be made prior to the time the subdivision improvements are accepted.

(b) The dedication or designation requirement shall be met by a payment instead of land at a per-unit price set by resolution of the Council, sufficient to acquire land and provide for adjacent streets and utilities for a neighborhood park to serve the area in which such development is located. Unless changed by the Council, such per-unit price shall be computed on the basis of two hundred dollars (\$200.00) per dwelling unit. Cash payment may be used only for acquisition or improvement of a neighborhood or regional park located within the same area as the development, or in close proximity thereto. This location shall be determined by the City within ninety (90) days of the final acceptance of the completed subdivision.

(5) Comprehensive Plan Considerations. Land shown on the comprehensive plan or any neighborhood plan, if same is designated as being suitable for development by the City for a major recreational center, school site, park, or other public use, shall be reserved for a period of one year after the preliminary plat is approved by the Council if, within two (2) months after such approval, the Council advises the



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subdivider of its desire to acquire the land or of the interest of another governmental unit to acquire the land, for purchase by the interested governmental authority, at the appraisal value of the land at the time of purchase. A failure by the Council to so notify the subdivider shall constitute a waiver of the right to reserve the land. Any waiver of the right to reserve the land shall no longer be effective if the preliminary plat shall expire without adoption of a final plat.

(6) Special Fund.

(a) There is hereby established a special fund for the deposit of all sums paid in lieu of land dedication under this section, which fund shall be known as the "Parkland Dedication Fund". All monies set aside in said Parkland Dedication Fund shall be used exclusively for park and recreational improvements in new or existing parks within the area of the subdivision which contributes the money, or as close to the subdivision as practical to ensure that the subdivision's residents gain the benefit of the improvements.

(b) The City shall account for all sums paid instead of land dedication under this ordinance with reference to the individual plats involved and the contributing developer. Any funds paid for such purposes must be expended by the City within five (5) years from the date received by the City for acquisition or development of a neighborhood park. Provided, however, if the funds paid for parkland dedication are being accumulated to acquire and develop a larger neighborhood park (a park in excess of five (5) acres or more which will provide multiple recreational facilities and will serve several adjacent subdivisions) the fund must be expended within seven (7) years from the date received by the City. When funds from several different subdivisions are being accumulated to develop a larger neighborhood park serving several different subdivisions they shall be segregated in an account earmarked for that particular project within the Parkland Dedication Fund. Such funds shall be considered to be spent on a first in, first out basis. If not so expended, the contributing developer(s) on the last day of such period shall be entitled to a pro rata refund of such sum, computed on a square footage of area basis. The contributing developer shall be notified of such refund. Registered mail to three (3) addresses provided by the contributing developer(s) will constitute diligent effort to locate and if unanswered in writing, requesting refund within three hundred sixty-five (365) days of such mailing, such right to refund shall be barred.

(c) Provided, however, the placing of the Parkland Dedication Fund in a "treasury fund" established by the City, so long as accounting procedures established maintain a separate account for these proceeds for the purposes set forth herein and assure that funds will not be disbursed for any purposes not set forth in this ordinance, shall not be considered a violation of this section.

(7) Additional Requirements.

(a) Any land dedicated to the City under this section must be suitable for recreational purposes, such as for parks, playgrounds and usable open space. The following characteristics of proposed area are generally unsuitable:

(i) Any area of which more than twenty percent (20%) is located within the hundred year floodplain.

(ii) Any areas of unusable topography or slope which render more than twenty-five percent (25%) of the area unusable for organized recreational activities, or due to unusual circumstances relating to subsoil, slope or topography, the development of the property for park or recreational purposes would be unusually difficult or expensive as determined by the Director of Public Works.

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(iii) The above characteristics of a park land dedication area may be grounds for refusal of any preliminary or final plat.

(b) Drainage areas may be accepted as a part of a park if the channel is constructed in accordance with the city engineering standards, and if no significant area of the park is cut off from the access by such channel; provided, however, that the developer may provide vehicular access by a bridge or similar structure approved by the Director of Public Works. The percentage or portion of park land dedication hereunder may include fifty feet (50') on each side of any well-defined creek or waterway subject to the approval of the City.

(c) Each park must have ready access to an improved public street so as to provide visual access to a majority of the park area.

(d) Unless provided otherwise herein, an action by the City shall be by the Council, after consideration of the recommendation of the Commission.

(N) Drainage.

(1) Easements. Where a subdivision is traversed by a water course, drainage way, natural channel or stream, there shall be provided an easement or right-of-way conforming substantially to the limit of such water course, plus additional width to accommodate future needs. An alternate path for drainage shall be permitted, based on approved engineering principles prepared by a registered professional engineer. The City shall review and approve proposed drainage methods.

(2) Drainage facilities. Drainage facilities shall be proposed and constructed by the subdivider in a manner which shall be reasonably reviewed and approved by the Planning Commission.

(O) Blocks.

(1) In general, intersection streets determining block lengths shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets or contemporary and accepted subdivision practices.

(2) Blocks shall be not more than one thousand (1,000) feet in length, and shall be, at minimum, bounded on either end of the long axis by a local street. Block length, up to twelve hundred (1,200) feet, may be approved by the administrator for good and sufficient reasons (example: curvilinear streets or paved alleys).

(P) Crosswalk ways. Crosswalk ways six feet in width shall be dedicated where deemed necessary by the Planning Commission to provide circulation or access to schools, playgrounds, shopping centers, and transportation and other community facilities, or to provide pedestrian circulation within the subdivision. Crosswalk ways shall be provided with a sidewalk constructed of concrete, concrete pavers, brick, or other suitable paving surface a minimum of six feet wide.

(Q) Lots.

(1) Sewered lots. Where off-lot sewerage is provided, each residential lot shall have an area of at least

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2,500 square feet.

- (2) Unsewered lots. Where off-lot sewerage is not required, and is not provided, residential lots shall have an area of at least 20,000 square feet. Where, as the result of the percolation test prescribed in Paragraph G of this Section, the Director of Public Works and County Health Department deems the minimum lot area insufficient, the Planning Commission shall require additional area sufficient to accommodate the sanitary facilities deemed necessary by the Director of Public Works.
- (3) Extra depth and width in certain cases. Where a lot in a residential area backs up to a railroad right-of-way, a high pressure gasoline, oil or gas line, an arterial street, an industrial area, or other land use which has a depreciating effect on the residential use of property, and where no marginal access street or other street is provided at the rear of such lot, additional depth may be required by the Director of Public Works. In no case shall additional depth in excess of 50 feet be required. Where a lot sides to any of the above, additional width in excess of 50 feet may be required by the Director of Public Works.
- (R) Buildings, other. Mechanical apparatus, trash containers, utility meters, conduit, A/C units and other utility elements should be located to the rear of the lot; plumbing and mechanical vents should be located to the rear of roofs, away from view of public streets.
- (S) Common open space. Common open space and structures thereon must be either:
- (1) conveyed to a public body, if said public body agrees to accept conveyance and to maintain the common open space and buildings, structures, or improvements which have been placed on it; or,
  - (2) conveyed to a Property Owners Association or some other party responsible for maintaining common buildings, areas and land within the subdivision. The common open space shall be restricted to the uses specified on the final plat and which provide for the maintenance of the common open space in a manner which assures its maintenance for its intended purpose.
- (I) Accessibility of site. All proposed streets, alleys, and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic of the planned residential development, but may be designed so as to discourage outside through traffic from traversing the subdivision.
- (U) The City may make such inspections as are deemed necessary to require proper installation. The subdivider and the subdivider's engineers and contractors, respectively, shall be responsible for proper design and installation of all required improvements and neither the review nor approval of such plans nor the inspection of the work in progress or the completed work will create any liability on the part of the City. Following construction, but not prior to acceptance of improvements or issuance of a building permit, the design engineer shall furnish one (1) set of reproducible "AS BUILT" plans for each project, bearing certification by a registered professional engineer.

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<b>SCHEDULE A</b>	
<b>BOULEVARD [RESIDENTIAL/COMMERCIAL AREAS]</b>	
<b>STANDARDS</b>	<b>CRITERIA</b>
DESIGN SPEED	25 MPH/ 180 FOOT MINIMUM CURVE RADIUS
ROW WIDTH	80 FT.
PAVEMENT WIDTH	2 (20) FT,
MEDIAN	15 FT.
INTERSECTION CURB RADIUS	15 FT.
PERMITTED ON-STREET PARKING	NONE
AVERAGE DAILY TRIPS	LESS THAN 4,000 DAILY TRIPS
<b>AVENUE [RESIDENTIAL/NEIGHBORHOOD COMMERCIAL/COMMERCIAL /MIXED USE AREAS]</b>	
<b>STANDARDS</b>	<b>CRITERIA</b>
DESIGN SPEED	25 MPH/180 FOOT MINIMUM CURVE RADIUS
ROW WIDTH	60 FT.
PAVEMENT WIDTH	36 FT.
MEDIAN	NONE
INTERSECTION CURB RADIUS	15 FT.
PERMITTED ON-STREET PARKING	2 LANES
AVERAGE DAILY TRIPS	LESS THAN 3,500 AVERAGE DAILY TRIPS

<b>RESIDENTIAL STREET [RESIDENTIAL/NEIGHBORHOOD COMMERCIAL AREAS]</b>	
<b>STANDARDS</b>	<b>CRITERIA</b>
DESIGN SPEED	25 MPH/180 FOOT MINIMUM CURVE RADIUS
ROW WIDTH	50 FT.
PAVEMENT WIDTH	27 FT.
INTERSECTION <b>CURB</b> RADIUS	15 FT.
PERMITTED ON-STREET PARKING	2 LANE
AVERAGE DAILY TRIPS	LESS THAN 1,500 AVERAGE DAILY TRIPS

<b>ONE-WAY AILEY [RESIDENTIAL/COMMERCIAL]</b>	
<b>STANDARDS</b>	<b>CRITERIA</b>
DESIGN SPEED	5 MPH
ROW WIDTH	20 FT.
PAVEMENT WIDTH	12 FT.
INTERSECTION CURB RADIUS	5 FT.
PERMITTED ALLEY PARKING	NONE
<b>TWO-WAY ALLEY [RESIDENTIAL/COMMERCIAL]</b>	
<b>STANDARDS</b>	<b>CRITERIA</b>
DESIGN SPEED	5 MPH
ROW WIDTH	<del>25</del> 20 FT.
PAVEMENT WIDTH	15 FT.
INTERSECTION CURB RADIUS	5 FT.
PERMITTED ALLEY PARKING	NONE

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**Section 13. Standards and Criteria for Neighborhood Commercial, Mixed Use, Employment, or Industrial Area Development.** A permit for a commercial or industrial development within the Plum Creek PUD may be issued by the governing body for buildings or premises to be used for the retail sale of merchandise and services, parking areas, office buildings, hotel and motels, and similar facilities ordinarily accepted as commercial uses and those industrial uses which can reasonably be expected to function in a compatible manner with the other permitted uses in the area and in accordance with the Plum Creek PUD. In addition to the general standards and criteria set forth in Section 14 in this ordinance, criteria set forth in this section shall prevail for commercial or industrial developments of the Plum Creek PUD if there is a conflict with criteria in other sections of this ordinance. Commercial or industrial development shall comply with the following standards unless otherwise determined by the City Council:

- (A) Accessibility. The site shall be accessible from the proposed street network in the vicinity which will be adequate to carry the anticipated traffic of the proposed commercial or industrial development. The streets and driveways on the site of the proposed development shall be adequate to serve the enterprises located in the proposed development and may be designed to discourage outside through traffic from traversing the development. The Commission shall review and approve such street and driveway design.
- (B) Landscaping. Landscaping shall be required to provide screening of objectionable views and uses and to provide for the reduction of noise. Multi-story buildings shall be located within the development in a manner which will minimize any adverse impact on adjoining low rise buildings.
- (C) Building relationship to a street. Buildings should be designed to emphasize the front face and entrance of the building facing a public street. Front porches, eaves, or other solar protection devices shall be included on the front face of buildings.

**Section 14. Responsibility for Payment of Installation Costs.** (A) Two complete sets of final construction plans and specifications will be submitted to the Administrator at least fifteen (15) working days prior to anticipated commencement of any construction, accompanied by fees in accordance with Ordinance No. 293, as amended, or other applicable City fee ordinances. Review will be based on conformance with this ordinance and design specifications and the use of sound engineering practices.

- (B) An inspection schedule will be determined by the Administrator. Inspections will be charged to the subdivider at the rate set forth in Ordinance No. 293, as amended, or other applicable City fee ordinances. Final approval will not be given until all inspection fees have been paid.
- (C) The subdivider shall pay all design, engineering, material and installation costs of all improvements required by this ordinance.
- (D) In the event a subdivider desires the extension of water or sewer lines to serve his subdivision, he shall bear the entire design, engineering, material, construction and installation costs of all onsite and off-site lines unless otherwise agreed to between the City and subdivider in a development agreement. The City Council of Kyle or their authorized representative shall specify the size of all such lines, taking into consideration the requirements of adjacent areas of future growth which must be served by such lines, unless otherwise agreed to between the City and subdivider in a development agreement. The decision of the City Council or their authorized representative concerning the sizing of the line shall be final.
- (E) The construction of water and sewer lines to serve lots within a subdivision will be performed by a contractor of the subdivider's choice in accordance with plans and specifications approved by the City of Kyle. The subdivider and City can agree however, that the City shall construct such lines.

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- (F) If requested by the Developer, oversized lines and lines serving areas other than the development proposed will be paid by the developer. The City will enter into a contract with the developer to provide that pro rata charges for additional connections or developments served by such lines will be collected by the City and reimbursed to the developer making the installation. Lines become City property upon installation and acceptance by the City of Kyle, after the contract period, pro rata charges will be collected from users, and deposited to the appropriate city account, unless otherwise agreed to between the City and developer in a development agreement.
- (G) Where an existing water or sewer line lies within or abuts the subdivision, the subdivider shall make no connections to or extensions of such existing line without first paying to the City the cost of the size line of equal length to that portion of such existing line which lies within or abuts the subdivision which would be required to serve the subdivision. This cost shall be determined by the City Administrator and his decision shall be final.
- (H) All sewer and water lines constructed and installed pursuant to the provisions of this Ordinance shall, when completed and accepted by the Director of Public Works, become the property of the City, free and clear of all encumbrances, unless otherwise agreed to between the City and developer in a development agreement. Each and every contract entered into between a subdivider and a contractor for the installation of sewer or water lines pursuant to the provisions of this Ordinance shall recite therein the provisions of this subsection.
- (I) No sewer or water line shall be installed or constructed except within a public street or alley or within an easement granted to the City by appropriate written instrument filed of record with the County Clerk of Hays County at the expense of the person requesting the extension of the existing line.
- (J) No lift station, sanitary sewer siphon, or force main shall be constructed as a part of the sewer line extension unless the subdivider agrees that he will, at his own expense, construct such elements in accordance with the design standards provided by the Director of Public Works or in the case of lift stations, a design using a dry and wet well installation prepared by the subdivider's engineer and approved by the Director of Public Works, or a prefabricated installation of similar design and considered equal by the Director of Public Works.
- (K) All street, curb and gutter, and sidewalks shall be installed at subdivider's expense. In those instances where an exterior street abuts unsubdivided or undeveloped land, the developer will be required to curb and gutter his side and pave a minimum of thirty feet (30) in width. If adjoining property develops within five (5) years, the adjoining property owner will be required to reimburse a pro rata share to the subdivider with said pro rata share to be determined by the City of Kyle.

**Section 15. Withholding Services and Permits.** The City shall withhold all city utility services and permits of whatsoever nature including the furnishing of sewage facilities and water services from all subdivisions which have not been approved as provided by law, and no permit shall be issued by the Building Official/Inspector of the City on any lot, tract or parcel of land other than an original or re-subdivided lot in a duly approved and recorded subdivision.

**Section 16. Flood Hazard Areas.** (A) General. (1) The flood hazard areas of the City of Kyle are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare. These flood losses are caused by: (a) The cumulative effect of obstructions in flood plains causing increases in flood hazard areas by uses vulnerable to floods, or hazardous to other land, which are inadequately elevated or otherwise unprotected from flood damages.

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- (2) This section is based upon a reasonable method of analyzing flood hazards, to wit: Hays County Flood Control Data.
- (B) Purpose. It is the purpose of this section to promote the public health, safety and welfare, and to minimize the losses described in Section 17 by provisions designed to:
- (1) Restrict or prohibit subdivision of land for uses which are dangerous to health, safety or property in time of flood or which, with reasonably anticipated improvements, will cause excessive increases in flood heights or velocities.
  - (2) Require that each subdivision lot in an area vulnerable to floods be provided with a safe building site with adequate access and that public facilities which serve such uses be installed with protection against flood damage at the time of initial construction.
  - (3) Protect individuals from buying lands which are unsuited for the intended purposes because of flood hazards by prohibiting the subdivision of unprotected flood hazard lands, requiring that the flood hazard areas be delineated on the final plat, and reserving through deed restrictions areas not suitable for development.
- (C) Application. This section shall apply to all land within the Plum Creek Planned Unit Development delineated as flood hazard areas on City of Kyle maps.
- (D) Warning and Disclaimer of Liability. The degree of flood protection required under this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that area outside the delineated flood hazard areas or land uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Kyle or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- (E) Land Suitability. No land shall be subdivided which is held unsuitable for its intended use by the Planning Commission for reasons of flooding, inadequate drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earthslides, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature harmful to the health, safety or welfare of the future residents or property owners of the proposed subdivision or the neighboring community at large. However, the Planning Commission may approve the preliminary and final plats if subdividers improve lands consistent with the standards of this and other applicable ordinances to make subdivision areas, in the opinion of the Planning Commission, suitable for their intended uses. The Planning Commission may also approve the preliminary and final plats if subdividers agree to make suitable improvements and place a sum in escrow pursuant to this ordinance to guarantee performance. In determining the appropriateness of land subdivision at a site, the Planning Commission shall consider the objectives of this section and:
- (1) The danger of life and property due to the increased flood heights or velocities caused by subdivision fill, road, and intended uses.
  - (2) The danger that intended uses may be swept onto other lands or downstream to the injury of others.
  - (3) The adequacy of proposed water supply and sanitation systems and the ability of these systems to

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prevent disease, contamination and unsanitary conditions under flood conditions.

- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The availability of alternative locations not subject to flooding for the proposed subdivision and land uses.
- (7) The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future.
- (8) The relationship of the proposed subdivision to the City's comprehensive plan and flood plain management program for the area.
- (9) The safety of access to the property for emergency vehicles in times of flood.
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(F) Building Site Improvements

- (1) No subdivision or part thereof shall be approved if proposed subdivision levees, fills, structures or other features will individually or collectively significantly increase flood flows, heights, or damages.
- (2) Building sites for residences, motels, resorts, or other dwelling accommodation uses shall not be permitted in flood way areas. Sites for these uses may be permitted outside the flood way if the sites are elevated or filled to a height at least 1 foot above the elevation of the regulatory flood or if other provisions are made for elevating or adapting structures to achieve the same result. Required fill areas must extend 5, feet beyond the limits of intended structures and, if the subdivision is not to be sewer, must include areas for onsite waste disposal.
- (3) Building sites for structures not included in F(2) shall similarly not be permitted in flood way areas. Such sites located outside the flood way shall ordinarily be protected as herein provided. However, the Planning Commission may allow subdivision of areas for commercial and industrial use at a lower elevation if the subdivider protects the areas to a height of 1 foot above the regulatory flood protection elevation by levees, seawalls, channel modifications, or other protective techniques; or if the subdivider assures that uses will be protected through structural flood proofing, flood warning systems or other techniques specified in Section 12, Subsection (F).
- (4) If the Planning Commission determines that only part of a proposed plat can be safely developed, it shall limit development to that part and shall require that the development proceed consistent with this determination.

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- (5) When the subdivider does not intend to develop the plat himself and the Planning Commission determines that additional use controls are required to ensure safe development, it may require the subdivider to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on the face of the final recorded plat.
- (G) Drainage Facilities. Storm drainage facilities shall be designed to store and convey the flow of surface waters from a 100 year frequency storm without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from buildings and on site waste disposal sites. The Planning Commission may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate less frequent floods. Drainage plans shall be consistent with local and regional drainage plans.
- (H) Roads. Except as approved by the Planning Commission and City Council on the recommendation of the City Engineer, the finished elevation of proposed streets shall be no more than 0 feet below the regulatory flood protection elevation. The Planning Commission may require, where necessary, profiles and elevation of streets to determine compliance with this requirement. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights.
- (I) Sanitary Sewer Facilities.
- (1) The Planning Commission may prohibit installation of sewage disposal facilities requiring soil absorption systems where such systems will not function due to high ground water, flooding, or unsuitable soil characteristics. The Planning Commission may require that the subdivider note on the face of the plat and in any deed of conveyance that soil absorption fields are prohibited in designated areas.
  - (2) The Planning Commission may prescribe adequate methods for waste disposal. If a sanitary sewer system is located on or near the proposed subdivision, the Planning Commission shall require the subdivider to provide sewage facilities to connect to this system where practical, and shall prescribe the procedures to be followed by the subdivider in connecting to the system.
- (J) Water Facilities. All water systems including individual wells located in flood prone areas, whether public or private, shall be flood-proofed to a point at or above the flood protection elevation. If there is an existing public water supply on or near the subdivision, the Planning Commission shall require the subdivider to convert to this system.
- (K) Erosion-and Sediment Control Measures. The Planning Commission may require the subdivider to utilize grading techniques, subdivision design, landscaping, sedimentation basin, special vegetation cover, and other measures to reduce erosion and sediment.
- (L) Flood proofing. The following techniques, designs, practices shall be used, as appropriate, to sufficiently address flood proofing requirements:
- (1) Anchorage to resist flotation and lateral movement.
  - (2) Installation of watertight doors, bulkheads, and shutters, or similar methods of closure.
  - (3) Reinforcement of walls to resist water pressures.
  - (4) Use of paints, membranes, or mortars to reduce seepage of water through walls.

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- (5) Addition of mass or weight to structures to resist flotation.
- (6) Installation of pumps to lower water levels in structures.
- (7) Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.
- (8) Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures.
- (9) Building design and construction to resist rupture or collapse caused by water pressure or floating debris.
- (10) Installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent back-up of sewage and storm waters into buildings or structures.
- (11) Location and installation of electrical equipment, circuits and electrical appliances so that they are protected from inundation by the regulatory flood.
- (12) Location and storage facilities for chemical, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare at elevations above the height associated with the regulatory protection elevation; or design of such facilities to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters.

**Section 17. Authority of Director of Public Works.** The Director of Public Works is hereby authorized and directed to promulgate rules, regulations, standards and specifications for the construction, installation, design, location and arrangement of streets, curbs, street lights, street signs, alleys, utility layouts, utility easements, gates for utility easements, sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, septic tanks, water wells, monuments, criteria for drainage easement requirements, drainage facilities, and crosswalk ways. He shall file same with the City Secretary at least 15 days before they become effective. He may amend the same from time to time, provided that an amendment must be filed with the City Secretary at least 15 days before it becomes effective. No such rules, regulations, standards and specifications shall conflict with this or any other ordinances of the City of Kyle, Texas. All such improvements shall be constructed, installed, designed, located and arranged by the subdivider in accordance with such rules, regulations, standards and specifications.

**Section 18. Approval Procedure.** (A) When an application for a subdivision is filed, the Planning Commission shall act on the plat within 30 days after the date the complete application is filed. The City Council shall act on such plat within 30 days after the date of final action by the Planning Commission. The plat shall be considered approved by the Planning Commission and/or the City Council, respectively, unless it is disapproved within that period of time.

(B) In all instances where a plat is considered approved by the inaction of the Planning Commission, the City Council shall act on such plat within 30 days after the effective date of such approval by inaction. A plat is considered approved by the City Council unless it is disapproved within that period; provided that an approval by the City Council with conditions shall be deemed a disapproval absent such conditions being satisfied.

(C) A plat that complies with the requirements of Chapter 212 of the Local Government Code and that satisfies all the requirements of this ordinance and any written agreements with the Landowner, the PUD Subdivider, or their predecessors, shall be approved by the Planning Commission and the City Council.

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**Section 19. Applicability and Conflicting or Inconsistent Ordinances.** (A) This ordinance shall be applicable only to the Plum Creek Planned Unit Development.

(B) Whenever the standards and specifications in this Ordinance conflict with or are inconsistent with those contained in another ordinance regulating the development and subdivision of land into legal lots, the provisions of this ordinance shall govern and control. This ordinance supersedes and replaces the applicability of all inconsistent and conflicting Ordinances with respect to the subdivision and platting of land within the Plum Creek Planned Unit Development.

**Section 20. Severability Clause.** Should any portion or part of this Ordinance be held for any reason invalid or unenforceable, the same shall not be construed to affect any other valid portion hereof, but all valid portions hereof shall remain in full force and effect.

**Section 21. Effective Date.** This ordinance shall be effective on the date of adoption by the City Council as shown herein below.

**Section 22. Open Meetings.** That 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, Chap. 551, Loc. Government Code.

**Approved and Adopted this** \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

City of Kyle

\_\_\_\_\_  
By: \_\_\_\_\_, Mayor

Attest:

\_\_\_\_\_  
By: \_\_\_\_\_, City Secretary

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EXHIBIT A. PLUM CREEK PLANNED UNIT DEVELOPMENT\*

\* Note: Ordinance 311- Proposed addition of courtyard use, clarifications and building height adjustments.

**\*Editor's note:** Printed herein is the Plum Creek Planned Unit Development Ordinance, as adopted by the city council on July 22, 1997. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

ORDINANCE NO. 311

An ordinance of the City of Kyle, Texas, establishing a planned unit development zoning district; declaring intent and public purpose; providing definitions; approving the Plum Creek Planned Unit Development; providing zoning and use districts; providing regulations, standards and procedures; providing for amendment and variances; providing for administration and enforcement; providing for fees; repealing conflicting ordinances; providing severability, effective date and open meeting clauses; and providing for related matters.

Be it ordained by the city council of the City of Kyle, Texas, that:

ARTICLE I. GENERAL TERMS, PROVISIONS, AND DEFINITIONS

Sec. 1. Authority.

This ordinance is adopted under the authority of the Constitution and laws of the State of Texas, including particularly V.T.C.A., Local Government Code chs. 43 and 211.

Sec. 2. Title.

This ordinance shall be known, and may be cited, as the Plum Creek Planned Unit Development ("PUD") Zoning Ordinance of the City of Kyle ("City").

Sec. 3. General purpose and intent.

(A) *Purpose.* This ordinance is adopted to promote the health, safety, and the general welfare of the city, the owners and future residents of the Plum Creek planned unit development project ("Plum Creek PUD") to protect, preserve, improve, and provide for public the health, safety and general welfare of the present and future citizens of the city and to establish a framework of zoning guidelines and criteria which support the development of the Plum Creek PUD. The Plum Creek PUD is intended to allow mixed development which incorporates compatible residential, commercial, and/or industrial uses within the Plum Creek PUD boundaries. The Plum Creek PUD cannot be implemented under the standard Kyle zoning categories methodology and requires greater design flexibility for a successful development. The requirements established for

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PUD districts herein shall not supersede or amend the city's present zoning requirements pursuant to Ordinance No. 92 as they apply to the city's jurisdiction outside of the proposed Plum Creek PUD. The Plum Creek PUD shall be a master planned development which utilizes a mix of uses and standards approved by the city council. The application of this ordinance should result in development superior to that which would occur using conventional zoning and subdivision regulations, and will promote the following purposes:

- (1) To ensure the safe, orderly, and healthful development and expansion of the city, in accordance with and pursuant to the master plan for [the] Plum Creek PUD;
- (2) To conserve, develop, protect, and utilize natural resources, as appropriate and consistent with the public interest and to enhance the preservation of the natural environment;
- (3) To prevent the overcrowding of land and avoid undue concentration of population or land uses, and thereby encourage high quality development and innovative design;
- (4) To protect and preserve places and areas of historical and cultural importance and significance to the community;
- (5) To lessen congestion in the streets and provide convenient, safe, and efficient circulation of vehicular and pedestrian traffic;
- (6) To facilitate the adequate and efficient provision of transportation, water, wastewater, schools, parks, emergency and recreational facilities, and other public requirements;
- (7) To promote economic development through an efficient and practical means by which development will ensure the protection of the Edwards Aquifer and the city's drinking water supply; and
- (8) To allow for the flexible planning and development of mixed uses throughout the Plum Creek PUD boundaries which promote compatible and different levels of residential, commercial and/or industrial uses.

(B) *Intent.* The requirements of the Plum Creek Planned Unit Development Zoning Ordinance ("Plum Creek PUD zoning ordinance") [chapter 53, exhibit A] are intended and shall apply to the property described as phase I of the Plum Creek PUD. The Plum Creek PUD is further comprised of phase I-A, phase I-B, and phase I-C, as reflected in the Plum Creek Phase I PUD master plan to the "Agreement Between the City of Kyle, Plum Creek Development Partners, Ltd., and William Negley, Trustee, For Development and Annexation of Phase I of the Plum Creek Property," which master plan is attached to this zoning ordinance as exhibit "A." Through the adoption of this ordinance, the city council of the City of Kyle is providing for the implementation of the site development regulations for the Plum Creek PUD and expresses its intent that this zoning ordinance shall be construed in a manner to give effect to the Plum Creek PUD master plan.

Sec. 4. Definitions of terms and uses within the Plum Creek PUD districts.

For purposes of this Plum Creek PUD zoning ordinance, the use definitions contained herein are established as the use definitions for the Plum Creek PUD as follows:

*Accessory building* [means] a building which is incidental to and customarily associated with a specific principal use or principal building on the same site.

*Accessory dwelling unit* [means] a secondary dwelling unit built on a legal lot in addition to a principal dwelling unit or primary residence.

*Accessory use structure, or dwelling* [means] an accessory use or structure is one customarily a part thereof, which is clearly secondary to a permitted use and which does not change the

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character thereof, including, but not limited to independent living quarters equipped for garages, bathhouses, greenhouses, or tool sheds.

*Administrative and business offices* [means] the use of a building or a portion of a building for the provision of executive, management, or administrative services. Typical uses may include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, photocopy and reproduction, and business offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.

*Alley* [means] a minor public or private right-of-way, either two-way or one-way, located through the interior of blocks and providing vehicular and service access to the side or rear of properties.

*Antique shop* [means] a business which sells items whose value is greater than the original purchase price because of age or intrinsic value.

*Apartment building* [means] a building or portion thereof used or intended to be used as a home for three or more families or households living independently of each other and equipped for preparation of food.

*Apartment hotel* [means] a building used or intended to be used as a home of 12 or more families, who are permanent residents, living independently of each other, in which building shall be located on the first floor living units for transient guests, and/or retail sales and service.

*Apartment* [means] an apartment is a room or group of rooms used as a dwelling for one family unit which does its cooking therein.

*Art studio and gallery* [means] a use involving the production of works of art, including photographic studios, and the incidental sale to consumers of those works produced on site.

*Art studio or gallery* [means] a building where objects of art are created or displayed for the public enrichment or where said art objects are displayed for sale, including the teaching of painting and/or sculpting.

*Assisted/retirement living* [means] a use providing 24 hour supervision and assisted living for more than 15 residents not requiring regular medical attention. This classification includes personal care homes for the physically impaired, and persons 60 years of age or older.

*Attendant building* [means] a building used to house the manager or attendant of a public or private parking lot.

*Automobile repair shop* [means] any premises and structures used primarily for the servicing and/or repair of motor vehicles, including paint and body work, engine rebuilding and minor maintenance activities.

*Bed and breakfast services* [means] an establishment engaged in providing rooms or groups of rooms in a dwelling unit for temporary lodging for overnight guests on a paying basis.

*Bed and breakfast* [means] an establishment engaged in providing rooms or groups of rooms in a dwelling unit for temporary lodging for overnight guests on a paying basis.

*Board of adjustment* [means] the city's zoning board of adjustment.

*Boarding house* [means] a building, built and/or used for residential purposes, where meals for five or more persons are served for compensation.

*Buffer* [means] an area within a property or site, generally adjacent to and parallel with the property line, either consisting of existing natural vegetation or created by the use of trees,

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shrubs, berms and/or fences, and designed to limit views and sound from the site to adjacent properties and vice versa.

*Building area* [means] the building area of the lot is the gross area covered by the structure when placed on the lot.

*Building line* [means] a line parallel or approximately parallel to the street line and beyond which buildings may not be erected.

*Building official* [means] the designated building official for the city.

*Building ordinance* [means] the building codes and related ordinances of the city providing standards, requirements and regulations for site development and the construction and erection of buildings and structures within the city, including, but not limited to, the electrical code, plumbing code, building code, and minimum housing code, adopted by the city council from time to time.

*Building plot* [means] the land, lot, lots or tract of land upon which a building or buildings are located, or upon which they are to be constructed, including yards and bounded by the property line.

*Building* [means] a building is any structure built for the support, shelter, or enclosure of persons, chattels or movable property of any kind and which is affixed to the land.

*Build-to-line* [means] a line parallel to the street right-of-way which dictates the minimum and maximum front yard setback from a street or public right-of-way, to be followed by buildings or structures fronting thereon. The build-to-line does not apply to building projections or recesses.

*Cafe, restaurant, or cafeteria* [means] a commercial eating establishment where snacks or meals are vended for consumption indoors or on the premises.

*Carport* [means] a structure with one or more sides, covered with a roof and constructed specifically for the storage of one or more motor vehicles.

*Child care or child development facilities* [means] any children's home, orphanage, institution, private home, residence or other place, whether public, parochial or private, operated for profit or not, which keeps, cares for, has custody of or is attended by four or more children under 16 years of age at any one time, who are not members of the immediate family of any natural person operating any such place, during any part or all of the 24 hours in a day. Also, any institution, home or other place, whether public, parochial or private, conducted for profit or not, which keeps, cares for, has custody of or is attended by any number of children, under 16 years of age, who are not members of the immediate family of any natural person operating such a place, who are mentally or physically handicapped, under medical or social supervision, and not within a hospital, 24 hours a day.

*Clinic* [means] a public or private station for the examination and treatment of out-patients by an individual or group of doctors, dentists, opticians, veterinarians, or other similar medical professionals.

*Cold storage plant* [means] a commercial establishment where food or other commodities are stored either in lockers, rented or leased, or in vaults in bulk for distribution to the home or other commercial businesses. No slaughtering of animals or fowl is allowed on the premises.

*Commercial amusement* [means] any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gates for the activity. Commercial amusements include zoos, carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions, athletic contests, rodeos, tent shows,

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ferris wheels, children's rides, roller coasters, skating rinks, ice rinks, traveling shows, bowling alleys, pool parlors, and similar enterprises.

*Commission* [means] the city's planning and zoning commission.

*Common property* [means] a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in a planned unit development.

*Communication services* [means] an establishment engaged in providing broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, and photocopy and reproduction mechanisms.

*Community recreation centers* [means] a recreational facility, including both indoor and outdoor facilities, for use by residents and guests of a particular residential community development and/or a planned unit development.

*Conditional use* [means] an additional use which may be permitted in a district, subject to meeting certain conditions or procedures established by the city council.

*Convalescent home* [means] any structure used or occupied by three or more persons recovering from illness or being provided geriatric care for compensation.

*Corner lot* [means] a lot abutting upon two or more streets at their intersections; or lot abutting a crosswalk way. ~~Corner lots shall be at least 40 feet wide and a minimum of 4,000 square feet.~~

*Corporate campus* [means] a planned industrial, research and development and/or office use in a campus-like setting.

Courtyard [means] an arrangement of single family attached and/or detached residential units in which the front of units (except for the end groups of units) generally face each other with one or two sidewalks between them that are more or less perpendicular to a public or private street.

*Cultural services* [means] a library, museum, or similar registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

*Day care services* [means] a facility, or use of a building or portion thereof, for daytime care for children, providing for the supervision and instructional development of preschool children, including nursery schools, preschools, and day care centers for children.

*District* [means] a zoned section or sections of the city for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

*Dormitory* [means] any structure specifically designed to house student tenants associated with a university, college or school.

*Drive-in eating establishment* [means] any structure and premises specifically designed for the preparation and dispensing of food and meals for consumption either indoors or in a vehicle parked on the premises or taken away for consumption at other places.

*Dwelling* [means] a dwelling is any building or portion thereof which is designed or used exclusively for residential purposes.

*Exterior side yard* [means] a yard which faces and is parallel to a side street.

*Family* [means] a family is any number of related persons living as a single housekeeping unit.

*Filling, retail service station* [means] an establishment where gasoline, oil and grease, or automobile accessories are sold, supplied, or dispensed to the motor vehicle trade or where motor vehicles receive limited repair, are equipped for use, or where electric storage batteries are



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charged and cared for, or a place where any two or more such activities are carried on or conducted as the principal use of the establishment.

*Financial services* [means] services provided by an establishment primarily engaged in financial and banking activities. Typical uses may include banks, savings and loan institutions, stock and bond brokers, loan and lending activities, and similar services.

*Flood plain, intermediate* [means] that land which lies within a stream channel or adjacent to a stream channel within which flooding frequently occurs, the elevation above sea level of which shall be as established by the city and made of record. It is land which is required to be kept open and non-urbanized in order to maintain upstream floodplain characteristics and insure continued adequate drainage of adjacent land.

*Flood plain, standard* [means] that land which includes the intermediate flood plain and that land which lies immediately outside of and adjacent to the intermediate flood plain in which flooding only occasionally occurs, the elevation above sea level of which shall be as established by the city and made of record.

*Floor area ratio (FAR)* [means] the maximum square footage of total floor area permitted for each square foot of land area.

*Food sales* [means] an establishment primarily engaged in the retail sale of food or household products for home consumption. Typical uses include grocery stores, delicatessens, meat markets, retail bakeries, and candy shops.

*Fraternity, sorority or group student housing* [means] a building occupied by and maintained exclusively for students affiliated with an academic or vocational institution.

*Garage, commercial* [means] a commercial garage is any premises and structure used for housing more than five motor vehicles or where any vehicles are repaired for operation or kept for remuneration, hire or sale, and where a retail service station may be maintained as a secondary use.

*Home occupation* [means] a home occupation is a commercial use customarily carried on in the home by members of the occupant family without structural alterations in the principal building or any of its rooms, without the installation of machinery or additional equipment other than that customary to normal household operations, without the employment of additional persons, and which does not cause the generation of other than normal noise, pedestrian and vehicular traffic. It is an accessory to a residential use subject to the following limitations: (a) the home occupation shall be conducted entirely within a dwelling unit which is the bona fide residence of the practitioner(s) or within an accessory building (not to include a carport); (b) the residential character of the lot and dwelling shall be maintained; the exterior of the dwelling shall not be structurally altered; and no additional buildings shall be added on the property to accommodate the home occupation; (c) the occupation shall not produce external noise, vibration, smoke, odor, fumes, electrical interference or waste run-off outside the dwelling unit or on the property surrounding the dwelling unit; and (d) no vehicle used in connection with the home occupation which requires a commercial driver's license to operate shall be parked on any street adjacent to the property.

*Hospital services* [means] a facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an in-patient basis and including ancillary facilities for out-patient and emergency treatment, diagnostics services, training, administration, research, and services to patients, employees or visitors.

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*Hospital, sanitarium, nursing home, hospice* [means] a building or portion thereof used or designated for the housing or treatment of the sick, aged, mentally ill, injured, convalescent or infirm persons; provided that this definition shall not include rooms in any residential dwelling, hotel or apartment hotel not ordinarily intended to be occupied by said persons.

*Hotel* [means] a building used or intended to be used as living quarters for transient guests, but not excluding permanent guests, and may include a cafe, drugstore, clothes, pressing shop, barbershop or other service facilities for guests for compensation.

*Kindergarten* [means] any school, private or parochial, operated for profit or not, attended by four or more children at any one time during part of a 24 hour day, which provides a program of instruction for children below the first grade level in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

*Laundry services* [means] an establishment engaged in providing laundering, dry cleaning, or dyeing services. Typical uses shall include bulk laundry and cleaning pants, and linen supply services.

*Light manufacturing* [means] an establishment engaged in the manufacture of finished products or parts, including packaging of such products, and incidental storage, sales and distribution of such products, but excluding uses that are not traditionally classified as light industrial or manufacturing. Uses defined as traditional light industrial and manufacturing are set forth in article II, part C, section 10 herein.

*Lot lines* [means] the lines bounding a lot as defined herein.

*Lot* [means] a parcel of land described and recorded as a lot in the records of Hays County, Texas; or, in the event any other parcel of land is used for one or more buildings, each such parcel of land shall become a separate lot for the purpose of this ordinance, and the boundaries of each such lot shall contain sufficient area to include the buildings and the open spaces required under this ordinance.

*Manufactured home* [means] a complete living unit manufactured at a location away from the lot on which it will be located as defined in art. 5221f Tex. Rev. Civ. Stat. [V.T.C.A., Occupations Code § 1201.001 et seq.].

*Motel* [means] a building or group of two or more detached, semi-detached or attached buildings containing guest rooms or apartments with automobile storage space provided in connection therewith, which building or group is designed, intended or used primarily for the accommodation of automobile travelers, including groups designated as auto cabins, motor courts, motels and similar designations.

*Multi-family residential* [means] the use of a site for three or more dwelling units, within one or more buildings, including condominium residential.

*Multiple building complex* [means] more than one principal building on a building plot.

*Neighborhood automobile service station* [means] an establishment primarily engaged in automotive-related service. The following are permitted automotive-related services within such definition; automobile washing, automotive repair services, service stations, the sale of fuel, lubricants (including oil change facilities), parts and accessories, or any incidental minor repair services to motor vehicles.

*Non-conforming use* [means] any building or land lawfully occupied by a use at the time of passage of this ordinance or amendment thereto which does not conform after the passage of this ordinance or amendment thereto with the use regulations of the PUD district in which it is situated.

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*Occupant car ratio (OCR)* [means] the minimum number of parking spaces without parking time limits required for each living unit.

*Parking lot* [means] a parking area to accommodate the vehicles which utilize or are located in any PUD district, except the "R-1" residential PUD district and "R-2" residential PUD district unless approved by the city council.

*Parking space* [means] an area used or designed to be used for motor vehicle parking, containing not less than 160 square feet, exclusive of the driveways connecting said space with a street or alley. Said parking space and connecting driveway shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile. Compact parking spaces shall be 128 square feet, exclusive of the driveways connecting said space with the street or alley.

*Pasturage* [means] land used primarily for the grazing of animal stock.

*Permit issuing authority* [means] the building official or other city officer, employee or agent designated by lawful authority to issue the applicable permit.

*Permitted use* [means] a use specifically allowed in one or more of the various districts without the necessity of obtaining a conditional use permit.

*Personal and community services* [means] an establishment primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barbershops, seamstress, tailor, shoe repair shops, and dry cleaning pick-up station services.

*Personal service shop* [means] an establishment for the purpose of supplying limited personal services such as, but not limited to, barber, shoe, boot, or beauty shops.

*Personal services* [means] an establishment engaged in providing services of a personal nature. Typical uses shall include beauty and barbershops, tailor, and shoe repair services.

*Pharmacy* [means] a use where medicines are compounded or dispensed.

*Planned unit development* [means] a zoning district which permits development of larger tracts of land under single or multiple ownership which master planned area requires specific approval by the city council for a development that may not fit standard area and use zoning categories. It is a development of land under unified control, planned and developed as a whole in a single development operation or a programmed phasing of developments, including streets, utilities, lots or building sites, structures, open spaces and other improvements. This district may permit mixed uses of land (e.g., industrial, commercial, residential) within a single or multiple subdivisions as part of or pursuant to a master plan which seeks to minimize adverse impacts when development occurs to protect the environment and nearby neighborhoods.

*Planned unit development district or PUD district* [means] a zoning designation for an area within the PUD which must comply with the site development criteria for said PUD district.

*Postal facilities* [means] postal services, including post office, bulk mail processing, or sorting centers operated by the United States Postal Service or a private postal service.

*Product assembly services* [means] an establishment engaged in the on-site assembly of products.

*Product development services* [means] development and testing of products related to research services.

*Professional office* [means] a use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions.

*Property owners association* [means] an incorporated, non-profit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a planned unit

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development or PUD district is automatically a member, (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining common property, and (c) the charge, if unpaid, becomes a lien against the property.

*Religious assembly* [means] a use (located in a permanent or temporary building) providing regular organized religious worship and religious education incidental thereto.

*Research services* [means] establishments engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, and development and testing of computer software packages.

*Restaurant (general)* [means] an establishment engaged in the preparation and retail sale of food and beverages for on-premises consumption, including the on-premise sale, service, and consumption of alcoholic beverages as an accessory and secondary use. Typical uses include diners, dinner-houses, but not a drive-in or fast-food restaurant.

*Retail food store* [means] a retail establishment selling meats, fruits, vegetables, bakery products, dairy products, light hardware and other similar items which are purchased for use and/or consumption off the premises (may be a drive-in or supermarket type).

*Retail sales* [means] the sale or rental of commonly used goods and merchandise for personal or household use. Typical uses may include department stores, furniture stores, or establishments providing the following products or services; home furnishings and appliances, household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, or specialty items; apparel, jewelry, fabrics, and like items; cameras or photography services; household electronic equipment, records, sporting equipment, kitchen utensils, small home appliances, art supplies and framing, arts and antiques, paint, interior decorating services, or office supplies; bicycles, wallpaper, carpeting and floor-covering, or automotive parts and accessories (excluding service and installation).

*Rooming or boarding house* [means] a group of rooms provided for compensation either in a converted single-family home or in a structure specifically designed for such purposes. Both rooms and meals are provided for compensation for more than five persons. No cooking facilities are provided in individual living units.

*Safety services* [means] facilities to conduct public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

*Setback line* [means] a line which marks the setback distance from the property line, and measured from the lot line to the face of the foundation that establishes the minimum required front, side or rear yard space of a building plot.

*Shopping center* [means] a composite arrangement of shops and stores which provides a variety of goods and services to the general public, when developed as an integral unit.

*Signs* [means] any device or surface on which letters, illustrations, designs, figures, or symbols are painted, printed, stamped, raised, projected or in any manner outlined or attached and used for advertising purposes.

*Single-family attached residential* [means] two or more dwelling units constructed on separate legal lots with a common or abutting wall located on the property line. This includes single-family dwelling units with detached garages where only the garages have a common or abutting wall located on the property line.

*Single-family detached residential* [means] the use of a site for only one dwelling unit.

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*Site plan* [means] a plan showing the use of the land, to include locations of buildings, drives, sidewalks, parking facilities and other structures to be constructed.

*Square foot dimensions* [means] the square footage computed from the outside dimensions of the dwelling, excluding attached garages, attics, basements, open or screened porches.

*Storage and distribution* [means] an establishment offering wholesaling, storage, and warehousing services in enclosed structures.

*Storage garage* [means] a storage garage is any premises and structure used exclusively for the storage of more than five automobiles.

*Street* [means] a public or private thoroughfare which affords the principal means of access to abutting property.

*Structural alterations* [means] any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

*Structure principal* [means] the principal structure which fulfills the purpose for which the building plot is intended.

*Structure* [means] anything constructed, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground.

*Total car ratio (TCR)* [means] the minimum number of parking spaces required for each living unit.

*Townhouse residential* [means] the use of a series of sites for two or more dwelling units, constructed with common or abutting walls and each located on a separate ground parcel within the total development site, together with common area serving all dwelling units within the townhouse group.

*Transportation services* [means] a facility for loading, unloading, and interchange of passengers and baggage, between modes of transportation, including bus terminals, railroad stations and public transit facilities utilizing park and ride stations.

*Variance* [means] a legal modification of the district yard, lot width and yard depth, signs, street parking and loading regulations provisions such as yard, lot width and yard depth, signs, set back and street parking and loading regulations granted due to particular conditions existing within a single piece of property.

*Variety store* [means] a retail commercial establishment which supplies a variety of household goods, toys, limited light hardware items, candy, some clothing and other general merchandise.

*Veterinary services* [means] an establishment offering veterinary services and hospitals for animals. Typical uses include pet clinics, and veterinary hospitals for livestock and large animals.

*Video rental store* [means] an establishment engaged in the sale or rental of motion pictures or games.

*Warehouse* [means] an establishment engaged in the storage of merchandise or commodities in an enclosed structure.

*Yard, front* [means] a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street easement line and the main building or any projections thereof other than the projections of the usual steps, balconies or bays, or unair-conditioned porch. On corner lots, the front yard shall be considered as parallel to the street upon which the yard has its least dimension. For the purpose of determining Minimum Setbacks on corner Lots and alleys, the lot lines shall be deemed to terminate with straight lines, not arcs.

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*Yard, rear* [means] a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of steps, balconies or bays, or unair-conditioned porches, accessory dwellings or detached garages.

*Yard, side* [means] a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of any building on the lot, ~~or any projections thereof.~~

Driveways and sidewalks may be constructed within the side yard. Roofs may extend up to eighteen (18) inches into the side yard. A room, bay window or fire place may project two (2) feet into the side yard setback.

*Yard* [means] an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

*Zero-lot-line lot* [means] a single-family lot that has a side wall along or near one of the lot lines so that a usable yard of a minimum of 7 1/2 feet from the side lot line to the building line is created on the other side of the lot.

Any definition not expressly prescribed herein shall, until such time as defined by ordinance, be construed in accordance with customary usage in municipal planning and engineering practices. (Ord. No. 311-3, § 2, 4-19-2008)

ARTICLE II. PLANNED UNIT DEVELOPMENT ZONING DISTRICT  
PART A

Sec. 1. Plum Creek planned unit development district general provisions.

(A) *Purpose and objectives.* The purpose and intent of the Plum Creek planned unit development district ("Plum Creek PUD") is to provide a flexible, alternative procedure to encourage imaginative and innovative designs for the unified development of property in the city consistent with accepted urban planning, with overall mixed-use regulations as set forth below and in accordance with the city's comprehensive plan. A planned unit development or "PUD" is a planned unit development district. The Plum Creek PUD rules are designed: (i) to allow development which is harmonious with nearby areas; (ii) to enhance and preserve areas which are unique or have outstanding scenic, environmental, cultural or historic significance; (iii) to provide an alternative for more efficient use of land, resulting in smaller utility networks, safer streets, more open space, and lower construction and maintenance costs; (iv) to encourage harmonious and coordinated development, considering natural features, community facilities, circulation patterns and surrounding properties and neighborhoods; (v) to facilitate the analysis of the effect of development upon the tax base, the local economy, population, public facilities and the environment; (vi) to provide and result in an enhanced residential and/or work environment for those persons living and/or working within the district; and (vii) to require the application of professional planning and design techniques to achieve overall coordinated mixed-use developments and avoid the negative effects of piecemeal, segregated, or unplanned development. Toward these ends, rezoning of and development under this district will be permitted only in accordance with the city's comprehensive plan and the Plum Creek PUD master plan, set forth as "exhibit A" attached hereto, prepared and approved in accordance with the provisions of this ordinance.

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(B) *Mixed use development.* The Plum Creek PUD district shall include and allow for compatible mixed uses such as compatible residential, commercial and/or industrial, within a project within the boundaries of a mixed use district, in order to provide the flexibility required for a well-designed and innovative development that will conserve, develop, protect and utilize to their best use the natural resources of the area in a manner that ensures the safe, orderly and healthy development and expansion of the city. In order to promote such development, the PUD may be comprised of a combination of the following PUD districts: (a) residential, (b) neighborhood commercial, (c) commercial, (d) mixed-use development, (e) employment, (f) light industrial, and (g) open space. The outer boundary of the Plum Creek PUD zoning district and the varied PUD districts shall be shown on a map designated as the "Plum Creek PUD official zoning map." Said district map which will include a descriptive legend and percentage of the area for each PUD district which will comprise the Plum Creek PUD, and all notations, references, and other information shown thereon, shall be adopted by ordinance.

(C) *Flexible planning.* When considering a PUD, the unique nature of each proposal for a PUD may require, under proper circumstances, the departure from the strict enforcement of certain present codes and ordinances, e.g., without limitation, the width and surfacing of streets and highways, lot size, parking standards, set backs, alleyways for public utilities, signage requirements, curbs, gutters, sidewalks and street lights, public parks and playgrounds, drainage, school sites, storm drainage, water supply and distribution, sanitary sewers, sewage collection and treatment, single use districts, etc. Final approval of a PUD by the city council shall constitute authority and approval for such flexible planning to the extent that the PUD, as approved, departs from existing codes and ordinances.

Sec. 2. Zoning application for Plum Creek PUD development.

(A) Submittal, review and approval of application for Plum Creek PUD zoning.

(1) Application for zoning. The owner or applicant shall submit an application for establishing the Plum Creek PUD which shall consist of the following:

- (a) A development agreement for the Plum Creek PUD approved by the city Council;
- (b) A capital improvements plan for the Plum Creek PUD approved by the city council for the Plum Creek PUD, if appropriate;
- (c) A master plan for the Plum Creek PUD approved by the city council for the Plum Creek PUD;
- (d) A legal description of all the property within the boundaries of the property identified as the Plum Creek PUD;
- (e) Topographical information showing the contour lines within the PUD; and
- (f) Vicinity sketches or maps of the PUD which reflect the locations of infrastructure and other requested information not included in items (a) through (e) herein.

(2) The application for zoning of the Plum Creek PUD may not be approved until the city council has approved the development agreement, capital improvements plan, if appropriate, and master plan for the Plum Creek PUD.

(3) Procedures. The application for a PUD shall be submitted to the city secretary who shall file the same with the chairman of the planning and zoning commission. The city council and the commission shall conduct a joint public hearing to consider such application. Notice of the public hearing before the planning commission and city council shall be given in the manner the notice is required to be given under state law. The decision of the planning commission on an

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application for a PUD shall be forwarded to the city council as a recommendation to grant, with or without conditions, or to deny. The city council's approval of the Plum Creek PUD shall designate and define the boundaries of the PUD and include such conditions as the city council finds are necessary to secure and protect the public health, safety, and general welfare of the PUD and the city.

(4) Approval of a Plum Creek PUD master plan by the city council shall be deemed an expression of approval of the general layout submitted on the Plum Creek PUD master plan as a guide to the installation of major streets, and to the proposed location and categories of land uses (e.g., residential, commercial, industrial).

(B) Criteria for review of PUD zoning application.

(1) Names and address of the developer, record owner, engineer and/or land planner.

(2) Proposed name of the PUD which shall not have the same spelling as or be pronounced similar to the name of any other PUD or subdivision located within the city or within five miles of the city.

(3) Names of the owners of contiguous parcels of land.

(4) Description, by field notes, of the proposed PUD.

(5) Approximate location of proposed land use boundary lines, indicated by heavy lines, and the approximate acreage of the land uses (if such information is available).

(6) Existing sites as follows:

(a) The location, names and description of any and all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the PUD, or intersecting, or contiguous with its boundaries or forming such boundaries.

(b) The location, description and names of existing or recorded residential lots, parks, public areas, permanent structures and other sites within or contiguous with the PUD.

(c) The approximate location, and description, and flow line of existing watercourses and drainage structures within the PUD.

(d) Regulatory flood elevations and boundaries of floodprone areas, including flood ways, if known, within or contiguous with the PUD.

(e) The approximate location of proposed major streets, parks, other public areas, reservations, easements or other rights-of-way, and other sites within the PUD (to the extent such information is available).

(f) A general plan for sewage disposal within the PUD (to the extent such information is available).

(g) Date of preparation, scale of plan and north arrow, for the PUD.

(h) Topographical information for the PUD shall include contour lines on a basis of 20 vertical feet in terrain with a slope of two percent or more.

(i) Location of city limits lines, the outer border of the city's extraterritorial jurisdiction and the PUD boundaries.

(j) Vicinity sketches or maps of the PUD at a scale of not more than 600 feet to an inch which shall show approximate location of proposed major streets, the ultimate destination of water main and possible storm sewer, and sanitary sewer systems.

(k) Any applicable fee established by city ordinance.

(l) The capital improvements plan which demonstrates projected dwelling intensity for uses within the PUD.



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(m) Identify intended uses of land within the Plum Creek PUD boundary, in accordance with the PUD districts described herein. Exact building locations, and heights need not be shown on the land use plan for the Plum Creek PUD so long as all areas within which buildings may be constructed or maintained are specifically within required setback lines and height limitations. Provided, however, that the development of each such district shall require the approval of a subdivision plat and an MXD PUD district shall also require the submittal, review and approval, by the city council of a specific site plan for the MXD PUD district setting forth the specific uses of the tracts within the district, in accordance with the process set forth herein in article II, part A, section 4(D).

(n) Within the Plum Creek PUD, the applicable site development regulations for each PUD district shall be described in the appropriate PUD district subsection in this ordinance.

(o) The Plum Creek PUD master plan shall identify the boundaries and location of each PUD district.

Sec. 3. Application process for amendment to the Plum Creek PUD master plan.

The following information shall be submitted by the applicant for an amendment to the Plum Creek PUD master plan or for a change in use within the Plum Creek PUD.

(A) Name and address of the owner and applicant.

(B) Address and legal description of the property.

(C) If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner of the property.

(D) Proposed amendment for development. The proposed changes to the Plum Creek PUD master plan for the Plum Creek PUD amendment shall consist of (i) a proposed land use map for the area to be amended, and (ii) any requested waivers from requirements of city ordinances applicable to development.

(E) The amendment to the Plum Creek PUD master plan showing the following information:

(1) The date, scale, north point, title, name of owner, and name of person preparing the amendment application for the Plum Creek PUD master plan.

(2) The location and dimensions of boundary lines, with distances and bearings, easements, and required yards and setbacks, watercourses, and location and size of existing 100-year floodplains.

(3) The location, height, and intended use of existing and proposed land uses on the site, and the approximate location of existing buildings on abutting sites within 50 feet.

(4) The number of existing and proposed on-street and off-street parking and loading spaces, and a calculation of applicable minimum requirements.

(5) Areas with an average slope greater than 15 percent.

(6) The relationship of the site and the proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made.

(F) Any applicable fee established by the city council in Ordinance No. 293, as amended.

(G) The dwelling intensity and lot sizes of any residential areas being amended; and the lot sizes and locations of commercial and industrial uses within the amended Plum Creek PUD master plan, which may be mixed uses or a combination of uses if and as permitted within the regulations for such district.

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- (H) Areas proposed to be used for parks, parkways, playgrounds, school sites, public buildings and similar public and semipublic uses.
- (I) A copy of all agreements, provisions or covenants which govern the use, maintenance and continued protection of the amended Plum Creek PUD and any of its common open space.
- (J) A representation of the general use character of land adjacent to the amended Plum Creek PUD and within 200 feet.
- (K) Identify intended uses of land within the boundary of the amended Plum Creek PUD to a depth of 100 horizontal feet.
- (L) An analysis of traffic patterns, street areas, drainage, utilities, and maintenance of public spaces. Exact building locations need not be shown on the amended Plum Creek PUD master plan so long as all areas within which buildings may be constructed or maintained are specifically within required building setback lines.
- (M) Development designed and intended to be constructed in phases or stages shall be identified by the applicant by plans that clearly identify the particular phases or stages of the proposed development. The applicant shall include the proposed dates for the amended phased development.
- (N) If the amendment includes area or land previously subdivided, then in such event the proposed use of each lot shall be shown on such plat.

Sec. 4. Additional development and amendment guidelines for Plum Creek PUD.

- (A) *General development requirements.* The following requirements of this subsection apply to development of any use within the Plum Creek PUD district.
  - (1) Environmental features: The natural topography, soils, environmental features, waterways and vegetation should be conserved and used where possible, through careful location and design of circulation ways, buildings and other structures, parking areas, recreation areas, open space, utilities and drainage facilities. To enhance the living and working environment, buffer zones, greenbelt parks and open space areas should be provided within each phase of the Plum Creek PUD where practical.
  - (2) Street facilities: All streets shall provide free movement for safety and efficient use within the development. Local streets shall provide access within the PUD in a manner that discourages through traffic and provides for convenient accessibility to parking areas serving each use. Collector streets shall be designed and located so that future urban development will not require conversion of the collector street to an arterial street.
  - (3) Non-vehicular facilities: Bicycle, vehicular and pedestrian passageways shall be provided where appropriate. A system of walkways and bicycle paths connecting buildings, common open spaces, recreation areas, community facilities, and parking areas should be provided and appropriately lighted for night use, where practical.
  - (4) The uses of churches; facilities owned and operated by the federal government, the state and political subdivisions thereof; schools and educational institutions; fire stations; public utilities; athletic fields, sports facilities, playgrounds, recreational center and swimming pools; home occupations; and greenbelt, certain open space, and recreational areas shall be allowable uses in each PUD district. An appropriate site should contain adequate space for required off-street parking and buffering.
- (B) *General regulations.* Within the Plum Creek PUD, the applicable regulations for each PUD district shall be described in the corresponding PUD district list of uses and site development

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regulations. A PUD district list of uses may also include any other lawful land use as determined by the city council.

(C) *Substantial amendment to Plum Creek PUD.* A substantial amendment to the Plum Creek PUD master plan shall be effective only if approved by the planning commission and the city council. An application for a substantial amendment to the adopted Plum Creek PUD master plan shall be made to the planning commission and the city council for consideration. For purposes of this subsection, the following are substantial amendments to the adopted Plum Creek PUD master plan:

- (1) Adding land area to, or otherwise including more land, in the Plum Creek PUD;
- (2) Including a more intense land use not previously permitted in the Plum Creek PUD, or including a more intense use permitted in the Plum Creek PUD in an area for which such use is not shown on the Plum Creek PUD master plan;
- (3) Amending any site development regulation established by the adopted Plum Creek PUD master plan;
- (4) Altering a land use adjacent to a platted single-family residential tract to a more intense land use than was previously approved;
- (5) Amending any condition of approval of or approved variance to the Plum Creek PUD;
- (6) Increasing the land use intensity within any phase of the Plum Creek PUD without a corresponding and equivalent decrease in some other portion of the Plum Creek PUD; or
- (7) Providing for an incompatible use to abut any other planned use, except as set forth on any zoning map or plat applicable to the Plum Creek PUD and approved by the city council.

If the city engineer determines a proposed amendment to the adopted Plum Creek PUD master plan is not a substantial amendment, the city engineer may approve the amendment within 30 days of its submittal without planning commission or city council action; provided that a subdivision plat for such area has been approved by the commission and city council and such proposed amendment is not inconsistent with the approved master plan, or such approved plat or plats and is a "plat amendment" pursuant to section 9(c) of the Plum Creek PUD subdivision ordinance. An application to amend the adopted Plum Creek PUD master plan pursuant to this subsection shall include all applicable requirements established by article II, part C.

(D) *Administrative site plan review process.* The applicant shall submit a proposed site plan for the proposed development of any property within and in compliance with the requirements of ~~any MXD~~ PUD district, except ~~the MXD PUD district R-1 and R-2 uses within MXD districts~~, to the city engineer for his review and approval.

- (1) The proposed site plan shall show the proposed development of the property on tracing paper or tracing lined paper, 24 [inches] by 36 inches in size, or suitable equal approved by the city engineer.
- (2) The site plan shall include the following information:
  - (a) Date, scale, north point, title, name of person preparing the plan;
  - (b) Location of existing boundary lines and dimensions of the tract;
  - (c) Center line of existing watercourses, drainage features, and location and size of existing and proposed streets, roads, and alleys;
  - (d) Location and size, to the nearest one-half foot, of all proposed buildings and land improvements; and
  - (e) Clear designation of area to be reserved for off-street parking, the location and size of points of ingress and egress, and the ratio of parking space to floor space.

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- (3) In reviewing the proposal site plan, the city engineer shall consider the following factors:
- (a) Safety of the motoring public and of pedestrians using the facility and the area immediately surrounding the site;
  - (b) Safety from fire hazard and measures for fire control;
  - (c) Protection of adjacent property from flood or water damage;
  - (d) Noise-producing elements, glare of vehicular and stationary lights, and effect of such lights on the established character of the neighborhood;
  - (e) Location, lighting, types of signs, relation of signs to traffic control, and adverse effect on adjacent properties;
  - (f) Street size and adequacy of pavement width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhoods;
  - (g) Adequacy of parking, as determined by requirements of this ordinance for off-street parking facilities in the use district in which the site is located, location of ingress and egress points for parking and off-street loading spaces, and protection of the public health by surfacing of all parking areas to control dust;
  - (h) Compliance with permitted uses in the PUD district, the proposed uses and their compatibility with, and similarity to, the uses permitted in the PUD district in which the site is located; and
  - (i) Such other measures as will secure and protect the public health, safety, morals and general welfare.

The city engineer shall approve the proposed site plan within 30 days of submittal if it complies with this ordinance, all PUD district requirements and the subdivision plat approved by the commission and city council. The applicant may appeal the decision of the city engineer to the planning commission within ten days of his determination. The planning commission shall review and consider the applicant's appeal within 30 days of the filing of the appeal. The applicant may, within ten days of the commission's determination, appeal the commission's decision to the city council. The city council shall review and consider the applicant's appeal within 30 days of the filing of the appeal.

(E) *MXD site plan review process.* The applicant shall submit a proposed site plan for an MXD PUD district to the planning commission and to the city council for their review and approval, except for R-1 and R-2 development within a MXD district. The proposed site plan shall show the following information:

- (1) The location and dimensions of boundary lines, with distances and bearings, easements, and required yards and setbacks and watercourses.
- (2) The location, height, and intended use of existing and proposed land uses and the ratios thereof on the site, and the approximate location of existing buildings on abutting sites within 50 feet.
- (3) The number of proposed off-street and on-street parking and loading spaces, and a calculation of applicable minimum requirements for parking and loading spaces.
- (4) The relationship of the site and the proposed use to surrounding areas including pedestrian and vehicular circulation.
- (5) The dwelling intensity of any residential areas, and the lot sizes and locations of any other uses within the MXD PUD district.
- (6) A representation of the general use and character of land adjacent to the MXD PUD district within 200 feet.

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- (7) Areas proposed to be used, conveyed, dedicated or reserved for parks, parkways, playgrounds, school sites, public buildings and similar public and semipublic uses.
- (8) A copy of all agreements, provisions or covenants which govern the use, maintenance and continued protection of the MXD PUD district and any of its common open space.
- (9) Identify intended uses of all land within the MXD PUD district.
- (10) A general description of the proposed development within the MXD PUD district and an analysis of traffic patterns, street areas, drainages, utilities, and maintenance of public spaces. Exact building locations need not be shown on the site plan so long as all areas within which buildings may be constructed or maintained are specifically within required building setback lines.
- The planning commission and the city council shall review the proposed site plan and approve it if it complies with all the site development regulations set forth in this ordinance for an MXD PUD district.

**ARTICLE II. ZONING DISTRICTS AND BOUNDARIES**  
**PART B**

Sec. 1. Establishment of districts and boundaries.

(A) The following PUD districts are established for use, directly or by reference, within the Plum Creek PUD, as appropriate. The City of Kyle, Texas hereby establishes the following PUD districts for the purpose of regulating and restricting the height and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, and which shall be known as:

- (1) "OS" open space PUD district
- (2) "R-1" residential PUD district
- (3) "R-2" residential PUD district
- (4) "R-3" multi-family residential PUD district
- (5) "NC" neighborhood commercial PUD district
- (6) "C" commercial PUD district
- (7) "MXD" mixed use development PUD district
- (8) "EMP" employment PUD district
- (9) "LI" light industrial PUD district

(B) The boundaries of any PUD districts described above, if established within the boundaries of the Plum Creek PUD shall be shown on a map designated as the Plum Creek PUD official zoning map, of the City of Kyle, Texas.

(1) Said district map and all notations, references, and other information shown thereon shall be adopted by ordinance. Said map shall, on its face, be identified and verified in the following manner: It shall bear the title "Plum Creek PUD Official Zoning Map, City of Kyle, Texas;" it shall bear the date of passage of the Plum Creek PUD zoning ordinance adopting same; it shall bear the names of the city council and all members of the zoning commission; and it shall be attested by the signatures of the mayor and the city secretary. The original of said map, properly attested, shall be kept on file in the office of the city secretary, and a replica thereof shall be produced upon paper in such reduced scale as will permit such replica copy being attached to the ordinance immediately following transcription of the ordinance establishing such district.

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(2) Approved zoning changes shall be entered on the Plum Creek PUD official zoning map by the city secretary and each change shall be identified on the map with the date and number of the ordinance making the change.

(3) No change of any nature shall be made on the Plum Creek PUD official zoning map, or matter shown thereon, except in conformity with the procedures set forth in this ordinance. Any unauthorized change by any person or persons shall be considered a violation of this ordinance and punishable under Ordinance No. 301.

(4) This ordinance, which shall be located in the office of the city secretary, shall be the final authority as to the current zoning status of land, buildings and other structures in the Plum Creek PUD of the city. The Plum Creek PUD zoning ordinance and Plum Creek PUD official zoning map shall be available to the public at all hours when the city office is open to the public.

(5) Replacement of Plum Creek PUD official zoning map. In the event that the Plum Creek PUD official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature and/or number of changes and additions, the city council may, by resolution, adopt a new Plum Creek PUD official zoning map, which shall supersede the prior official Plum Creek PUD zoning map. The new official Plum Creek PUD zoning map may correct drafting or other omissions in the prior official Plum Creek PUD zoning map, but no such corrections shall have the effect of amending the original Plum Creek PUD official zoning map or any subsequent amendment thereof. The new Plum Creek PUD official zoning map shall be identified by the city secretary, and shall bear the seal of the city and date under the following words:

"This is to certify that this official Plum Creek PUD zoning map supersedes and replaces the Plum Creek PUD official zoning map adopted (date of adoption of map being replaced) as part of ordinance of the city."

(6) The following shall be appended at the end of the official map:

ADOPTED BY THE CITY COUNCIL of the City of Kyle, Texas by Ordinance No. \_\_\_\_\_ passed finally and approved on \_\_\_\_\_ 19[20]\_\_\_\_\_.

\_\_\_\_\_  
City Secretary Mayor

(C) The districts and district boundaries shown on the Plum Creek PUD official zoning map may only be amended in the manner provided by Chapt. 211, Loc. Gov't. Code [V.T.C.A., Local Government Code § 211.001 et seq.], and such process shall be applicable to all MXD districts.

#### Sec. 2. Interpretation of district boundaries.

(A) Where uncertainty exists with respect to the boundaries of any of the aforesaid PUD districts as shown on the Plum Creek PUD official zoning map, the following rules shall apply in the determination of the boundaries of any district:

(1) Whenever any street, alley, or other public way is lawfully vacated by the city council of the city, the PUD district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacated area and thereafter all land included in said vacated area shall be subject to all applicable regulations of the extended PUD districts.

(2) Where PUD district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines shall be construed to extend to said boundaries.

(3) Where PUD district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

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- (4) Boundaries indicated as approximately following city limits shall be construed as following such city limits lines as they existed on the date such map boundaries were adopted.
- (5) Boundaries indicated as following shorelines shall be construed to follow such shorelines. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed as following such centerlines as existed as of the date of the map approval.
- (6) Boundaries indicated as following railroad lines shall be construed to be midway between the rails of the main line.
- (7) Where PUD district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines of right-of-way lines of highways, such PUD district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Plum Creek PUD official zoning map. If no distance is given, such dimension shall be determined by the use of the scale on said Plum Creek PUD zoning map.
- (8) On property where the above methods cannot be applied, the PUD district boundary lines on the Plum Creek PUD zoning map shall be determined by use of the scale appearing on the map.
- (9) Where the streets or alleys on the ground differ from the streets or alleys as shown on the Plum Creek PUD district map, the streets or alleys on the ground shall control.
- (10) Where physical or cultural features existing on the ground are at variance with those shown on the Plum Creek PUD official zoning map, or in other circumstances not covered by (1) through (9) above, the board of adjustment shall interpret the PUD district boundaries.

Sec. 3. Compliance with the regulations.

Except as hereinafter specifically provided or otherwise authorized in this ordinance:

- (A) Any use of the land not specifically authorized by the terms of this ordinance is prohibited, unless otherwise approved by the city council.
- (B) No building shall be erected, converted, enlarged, reconstructed, moved into, structurally altered, or used, except for a use permitted in the PUD district in which such building is located and as set forth on the approved site plan if applicable, unless otherwise approved by the city council.
- (C) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height limit herein established for the PUD district in which such building is located, or is proposed to be located.
- (D) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered except in conformity with the site development and performance standards of the PUD district in which such building is located, or is proposed to be located, unless otherwise approved by the city council in a PUD district.
- (E) The minimum yards, parking spaces and open spaces, including lot areas required by this ordinance for each and every building existing at the time of passage of this ordinance, or for any building hereafter erected, shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building, nor shall any lot area be reduced below the requirements of this ordinance for the district in which such lot is located, unless otherwise approved by the city council.
- (F) Every building hereafter erected or structurally altered shall be on a lot as herein defined, and in no case shall there be more than one main building on one lot except as otherwise provided in this ordinance.

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(G) No person shall erect, excavate, construct, or proceed or continue with the erection or construction of any building or structure or add to, enlarge, move, improve, alter, repair, convert, or demolish any building or structure or cause the same to be done in any area of the city except as permitted by city ordinance or approved by the city council.

(H) No building or structure shall be erected, installed or moved on to or used which was previously built, erected or installed at a different location, except as permitted by ordinances of this city.

(I) The uses of churches; facilities owned and operated by the federal government, the state and political subdivisions thereof; schools and educational institutions; fire stations; public utilities; athletic fields, sports facilities, playgrounds, recreational center and swimming pools; greenbelt, certain open space and recreational areas; and parking lots associated with all of these uses shall be allowable uses in each PUD district set forth in this ordinance. An appropriate site should contain adequate space for required off-street parking and buffering.

ARTICLE II. PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS  
PART C

Sec. 1. PUD district regulations and performance standards.

The PUD district regulations and performance standards set forth herein shall apply within the boundaries of the Plum Creek PUD; provided, however, that the following uses shall be permitted in all PUD districts:

- (a) Churches;
- (b) Facilities owned and operated by the federal government, the state and political subdivisions thereof;
- (c) Schools and educational institutions;
- (d) Fire stations;
- (e) Public utilities;
- (f) Athletic fields, sports facilities, playgrounds, recreational center and swimming pools;
- (g) Greenbelt and recreational areas; and
- (h) Parking lots associated with the PUD district uses, provided that parking lots in the "R-1" and "R-2" residential PUD districts are subject to city council approval.

Sec. 2. "OS" open space PUD district.

(A) *Purpose.* An open space PUD district is a tract of land provided as a general benefit for the community. Common open space may be usable for recreational purposes or may provide visual, aesthetic and environmental amenities. The uses authorized for the common open space should be appropriate to the scale and character of the surrounding development considering its size, density, expected population, topography, and the number and type of dwellings to be provided. Common open space should be improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved. Any buildings, structures and improvements to be located in the common open space must be appropriate to the uses which are intended and, therefore, must conserve and enhance the amenities of the common open space having regard to its topography and the intended function of the common open space, and must be secondary to open space component.



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(B) *Permitted uses.* The following uses shall be permitted uses in "OS" open space PUD district:

- (1) Cemeteries (with conditional use permit issued by the city council);
- (2) Conservation areas;
- (3) Golf courses;
- (4) Outdoor recreational and athletic facilities;
- (5) Outdoor swimming pools;
- (6) Parks, playgrounds and playfields;
- (7) Wildlife sanctuaries;
- (8) Outdoor performance stages and amphitheaters;
- (9) Streams, lakes, impounded waterways, or their drainageways; and
- (10) Wetlands.

(C) *[Secondary uses.]* The following uses shall be permitted as secondary uses in this "OS" open space PUD district:

- (1) Club houses and community centers.
- (2) Retail-oriented uses which are clearly secondary and customarily or necessarily incidental to the permitted use, including but not necessarily limited to the following:
  - (a) Retail sales and services operated as part of a golf course, recreational or athletic facility.
  - (b) Retail sales and services sponsored by service clubs, non-profit societies or organizations and concessions contracted with the city, property owners association or other community-related organization.
  - (c) Food and beverage sales, including alcoholic beverages.
  - (d) Restaurants including alcoholic beverage sales which are operated as part of or in conjunction with a golf course, club house, or other community related facility.
  - (e) Caretaker residence.
  - (f) Maintenance buildings required to house equipment and material to maintain the site.
- (D) *Site development regulations.* Use regulations in the "OS" open space PUD district.
  - (1) Maximum height of buildings: 35 feet.
  - (2) Density - maximum floor area shall not exceed 0.1.
  - (3) Lot size - minimum lot area for any building: 3,500 square feet.
  - (4) Lot width - minimum lot width: 35 feet.
  - (5) Front yard - minimum required building setback: 15 feet.
  - (6) Side yard - minimum required building setback: 10 feet.
  - (7) Rear yard - minimum required building setback: 10 feet.
  - (8) Garages shall either be attached or detached and accessible from a public or private street or alley.

Sec. 3. "R-1" residential PUD district.

(A) *Purpose.* This district is an area for low density single-family residential use, with a minimum lot size of 6,000 square feet. This district is appropriate for single-family neighborhoods.

(B) *Permitted uses.* The following uses shall be permitted in the "R-1" residential PUD district:

- (1) The following uses that are permitted uses in the "OS" open space PUD district:
  - (a) Wetlands;

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- (b) Conservation areas;
- (c) Golf courses;
- (d) Outdoor recreational and athletic facilities;
- (e) Outdoor swimming pools;
- (f) Parks, playgrounds and playfields;
- (g) Wildlife sanctuaries;
- (h) Streams, lakes, impounded waterways, or their drainageways; and
- (2) Single family dwellings for residential use.
- (3) Public or private parks, playgrounds, or recreation buildings, municipal buildings, non-profit libraries or museums, police or fire stations.
- (4) Temporary building(s) used as a sales office for the development of a new subdivision or for construction purposes may be established and operated within the subdivision on a construction site for a period not exceeding two years; provided that extensions of time may be granted by the building official on application duly made for special exception.
- (5) Public buildings for water supply reservoir, filter bed, surface or below surface tank, artesian well, pumping plant, water tower, or for other city owned or sanctioned public utilities.
- (6) Accessory buildings, which shall be located only in rear yards, and accessory uses customarily incident to the use set out in subsection (B)(2) above and located on the same lot therewith, not involving the conduct of a retail business. The term accessory use shall also include:
  - (a) A home occupation such as the office of a physician, surgeon, dentist, accountant or bookkeeper, dressmaker, beauty shop, or artist, provided that such uses are located in the dwelling used by such a person as his or her private residence and no outside employees are present on the premises.
  - (b) An unilluminated "For Sale" or "For Rent" sign not more than four square feet in area may be permitted as an accessory use; provided however, that churches may display signs, symbols, and emblems similar in kind and nature as is customary and normal for such churches, and provided further, that during construction of a building, one unilluminated sign advertising contractors and/or architects on such premises shall be permitted, provided that such sign shall not be more than four square feet in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.
- (7) Residential accessory dwelling units, subject to the following site development requirements:
  - (a) A lot intended for use for a single-family detached dwelling unit may contain both a principal dwelling unit and an accessory dwelling unit under the following restrictions and conditions:
    - (i) Maximum floor area of an accessory dwelling unit shall be 1,000 square feet in size.
    - (ii) Maximum height of an accessory dwelling unit shall be two stories or 25 feet; provided, however, that an accessory dwelling unit shall not be constructed to a height greater than the principal residence.
    - (iii) No more than one accessory dwelling unit per lot is allowed.
    - (iv) Parking for an accessory dwelling unit shall not be less than one parking space per accessory dwelling unit.

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- (v) The LUE requirement (whether a whole LUE or any fraction thereof) for an accessory dwelling unit shall be counted toward the maximum number of LUEs available to be issued in the Plum Creek PUD, and in the subdivision within which the lot is platted.
- (vi) In addition to compliance with all applicable city codes and regulations including, but not limited to, those dealing with building, plumbing, electrical, fire, safety, health and sanitation, property maintenance and rental housing licensing, the construction, occupancy and use of an accessory dwelling unit shall be controlled by the following restrictions:
- (A) At least one of the dwelling units on a lot containing an accessory dwelling unit shall be occupied by an owner of the lot.
- (B) Maximum occupancy of an accessory dwelling unit shall be in accordance with the table identified as schedule B as set forth herein below.
- (C) An accessory dwelling unit must be constructed concurrently with but not before a principal residence.
- (D) A separate water and sewer tap shall be obtained for each accessory dwelling unit. The cost of each such separate tap for accessory units shall be the same cost as a water or sewer tap for the primary single-family dwelling unit. Impact fees for both water and wastewater shall be paid and LUEs issued for each such accessory unit as required by ordinance. Not less than one-half of a water LUE and one-half of a wastewater LUE shall be required for each accessory unit; and the number, or fraction thereof, of an LUE required shall be as provided in schedule A. LUEs shall be counted and credited as they are allocated, whether in whole numbers or in fractions thereof.
- (E) Each lot eligible for a residential accessory dwelling unit shall be identified on the subdivision plat and to the commission and city council during the subdivision approval process, and each such residential accessory dwelling unit shall be identified on the site development plan submitted by the owner.
- (F) The subdivider/developer of a single-family residential subdivision that includes lots for which an accessory dwelling unit is permitted, shall clearly identify all such lots in restrictive covenants filed of record in the real property records of Hays County, Texas.
- (C) *Site development regulations.* The following regulations shall be the requirements for buildings within the "R-1" residential PUD district:
- (1) *Minimum lot size, lot area.* No building shall be constructed on any lot of less than 6,000 square feet.
  - (2) *Minimum lot width.* The lot shall have a minimum of 50 feet of width along the front property line, except when a lot is on a cul-de-sac, where it may be a minimum width of 30 feet along the front property line.
  - (3) *Maximum dwelling units per lot.* One principal dwelling unit and one accessory dwelling unit.
  - (4) *Maximum height.* No building shall exceed 35 feet in height.
  - (5) *Area.* No building or structure, nor any enlargement of any building or structure, shall hereafter be erected or maintained unless the lot and yard areas designated herein are provided and maintained in connection with such building, structure or enlargement.
  - (6) *Minimum setbacks.*
    - (a) *Front yard.* There shall be a front yard having a depth of not less than 15 feet from the property line to the front line of the building, not including a covered porch, covered terrace, balcony or bay.

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(b) *Side yard.* A yard between the main building and side line of the lot, and extending from the required front yard to the required rear yard, which shall be sized based on the following formula: the side yard setback shall be no less than five feet in width and no more than 7.5 feet in width, with the width of the side yard being equal to ten percent of the width of the entire lot.

(c) *[Between dwellings.]* The minimum distance between dwellings on adjoining lots shall be ten feet.

(d) *Rear yard.* There shall be a rear yard setback of not less than 25 feet from the rear most wall of the principal dwelling unit to the back property line. There shall be a rear yard setback of not less than five feet from the rear most wall of any accessory building and garage to the back property line.

(7) *[Garages.]* Garages shall either be attached or detached and accessible from a public or private street, or alley.

SCHEDULE A

TABLE INSET:

Unit Size	LUE Count
0 to 699 square feet	Minimum 0.50 LUE
700 to 849 square feet	0.50/LUE
850 to 1,000 square feet	0.75/LUE

SCHEDULE B

TABLE INSET:

Unit Size	Maximum Number Of Occupants
0 to 699 square feet	2
700 to 849 square feet	3
850 to 1,000 square feet	4

Sec. 4. "R-2" residential PUD district.

(A) *Purpose.* This district is intended as an area for medium density, single-family residential use. In appropriate locations, this district shall accommodate single-family detached, duplex, and single-family attached residential and courtyard uses permitted under residential standards.

(B) *Permitted uses.*

(1) The following uses shall [be] permitted uses in the "R-2" residential PUD district:

(a) The following uses that are permitted uses in the "OS" open space PUD district:

- (i) Wetlands;
- (ii) Conservation areas;
- (iii) Golf courses;
- (iv) Outdoor recreational and athletic facilities;

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- (v) Outdoor swimming pools;
- (vi) Parks, playgrounds and playfields;
- (vii) Wildlife sanctuaries;
- (viii) Streams, lakes, impounded waterways, or their drainageways; and
- (b) Any uses permitted in "R-1" residential PUD district.
- (c) Duplexes.
- (d) Medium density single-family detached residential.
- (e) Single family attached residential.

(g) Courtyard

(2) No building or land shall be used, and no building hereafter shall be erected, maintained, or structurally altered, except for one or more of the uses set forth in this section.

(C) *Site development regulations.* The following regulations shall be the site development regulations for development within the "R-2" residential PUD district:

- (1) Development of any use permitted in the "OS" open space PUD district shall conform with the site development regulations established in the "OS" open space PUD district.
- (2) Development of any use permitted in the "R-1" residential PUD district shall conform with the site development regulations established in the "R-1" residential PUD district.
- (3) The following alternative site development regulations shall be exclusively applicable to duplexes within the "R-2" residential PUD district:

(a) Alternative No. 1:

- (i) Minimum lot size. Duplexes shall not be constructed on any lot with less than 6,000 square feet.
- (ii) Minimum lot width: 50 feet along the front property line.
- (iii) Maximum dwelling units per lot: Two dwelling units.
- (iv) Maximum height. No building shall exceed 35 feet.
- (v) Area. No building or structure, nor enlargement of any building or structure, shall hereafter be erected or maintained unless the lot and yard areas designated herein are provided and maintained in connection with such building, structure or enlargement.

or,

(b) Alternative No. 2:

- (i) Minimum lot size. Duplexes shall not be constructed on any lot with less than 7,200 square feet.
- (ii) Minimum lot width: 60 feet along the front property line.
- (iii) Maximum dwelling units per lot: Two dwelling units.
- (iv) Maximum height. No building shall exceed 35 feet.
- (v) Area. No building or structure, nor enlargement of any building or structure, shall hereafter be erected or maintained unless the lot and yard areas designated herein are provided and maintained in connection with such building, structure or enlargement.

Provided, however, that alternative No. 1 may be utilized only if open space is provided within the "R-2" development so as to result in the same level of density that would result from the application of alternative No. 2 criteria in this subsection 4.(C)(3).

(c) Minimum setbacks:

- (i) Front yard. There shall be a front yard setback having a depth of not less than 15 feet from the property line to the front line of the building, not including a covered porch, or covered terrace, balcony, or bay.

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- (ii) Side yard. There shall be a side yard between the main building and side line of the lot, and extending from the required front yard to the required rear yard, which shall be sized based on the following formula: the side yard setback shall be no less than five feet in width and no more than 7.5 feet in width, with the width of the side yard being equal to ten percent of the width of the entire lot.
- (iii) Rear yard. There shall be a rear yard setback having a depth of not less than ten feet from the rear most wall of the dwelling unit to the back property line and five feet from the rear most wall of the garage to the back of the property line.
- (d) Garages shall be permitted in the "R-2" development pursuant to the following requirements:
- (i) Garages shall be either attached or detached and accessible from a public or private street, or alley.
- (ii) A minimum of two parking spaces is required for each unit. The driveway may be included in the counting of the required minimum as one of the two spaces required for each unit. Provided, however, that these requirements do not apply to any "R-1" development located within a primarily "R-2" development area.
- (4) The following site development regulations shall be exclusively applicable to medium density single-family detached residential within the "R-2" residential PUD district:
- (a) Minimum lot size: 3,600 square feet.
- (b) Minimum lot width: 35 feet. (c) Maximum dwelling units per lot: No more than one dwelling unit per lot.
- (d) Maximum height. No building shall exceed 35 feet.
- (e) Area. No building or structure, nor enlargement of any building or structure, shall hereafter be erected or maintained unless the following lot and yard areas are provided and maintained in connection with such building, structure or enlargement.
- (f) Minimum setbacks:
- (i) Front yard. There shall be a front yard setback having a depth of not less than ~~15~~8 feet from the property line to the front line of the building, including a covered porch, covered terrace, balconies, or bays.
- (ii) Side yard. There shall be a side yard of not less than five feet from the walls of the building or accessory building to the side property line.
- (iii) Rear yard. There shall be a rear yard setback having a depth of not less than ~~ten-five~~ (5) feet from the rear most wall of the dwelling unit to the back property line and five feet from the rear most wall of the garage to the back of the property line.
- (g) Garages shall be either attached or detached and accessible from a public or private street, or alley.
- (5) The site development regulations set forth below shall be exclusively applicable to single-family attached residential.
- (a) Minimum lot size: 2,500 square feet.
- (b) Minimum lot width: 25 feet.
- (c) Maximum dwelling units per lot: No more than one dwelling unit per lot.
- (d) Maximum height: 35 feet.
- (e) Minimum setbacks:

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- (i) Front yard. There shall be a front yard setback having a depth of not less than 15 feet from the property line to the front line of the building, not including a covered porch, or covered terrace, balcony, or bay.
- (ii) Side yard. No setback required.
- (iii) Rear yard. There shall be a rear yard setback having a depth of not less than 25 feet from the rear most wall of the dwelling unit to the back property line and five feet from the rear most wall of the garage to the back of the property line.
- (f) Garages or carports shall either be attached or detached and accessible from a public or private street or alley.

(6) The site development regulations set forth below shall be exclusively applicable to Courtyard Residential.

- a. Minimum Lot size: 2,000 sq. ft.
- b. Minimum Lot Width: None
- c. Maximum dwelling units per lot: One (1) principle dwelling unit and (1) accessory dwelling unit.
- d. Maximum Height: 35'
- e. Area: No building or structure, nor enlargement of any building or structure, shall hereafter be erected or maintained unless the following lot and yard areas are provided and maintained in connection with such building, structure or enlargements.
- f. Minimum Setbacks:
  - i. Front yard: there shall be a front yard setback having the depth of not less than 4' from the courtyard walk to the front line of the building.
  - ii. Side yard: there shall be no side yard set back required. Except that there shall be a side yard ser back having a depth of not less than 8' from the property at public or private streets to the side line pf the building.
  - iii. Rear yard: there shall be no rear yard setback required
- g. Garages and Carports: may either be attached or detached and accessible from private street or alley.
- h. Each Courtyard shall have a "gateway" (examples: trellis, fencing, and/or landscaping).
- i. I. Each Courtyard shall have a gathering place with a minimum of 4 chairs or 2 benches.
- j. j. The Courtyard sidewalk(s) shall be the following minimum width for at least 70% of the length;
  - k. i. Single sidewalk: 5'
  - l. ii Double sidewalk: 4'-6"
- k. Each dwelling unit shall have a front porch or front patio having an area with a minimum depth of 5' and a minimum length of 7'.

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Sec. 5. "R-3" multi-family residential PUD district.

(A) *Purpose.* This district is intended as an area for medium density single-family, duplex, and condominium uses. In appropriate locations, this district shall accommodate a variety of housing types, primarily multiple family dwellings and shall be designed to provide the widest range of housing types, as well as highest density in the community. Mobile homes and manufactured homes are excluded from this district.

(B) *Permitted uses.* The following uses shall be permitted in the "R-3" multi-family residential PUD district:

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- (1) The following uses that are uses permitted in the "OS" open space PUD district:
- (a) Wetlands;
  - (b) Conservation areas;
  - (c) Golf courses;
  - (d) Outdoor recreational and athletic facilities;
  - (e) Outdoor swimming pools;
  - (f) Parks, playgrounds and playfields;
  - (g) Wildlife sanctuaries;
  - (h) Streams, lakes, impounded waterways, or their drainageways; and
- (2) Any use permitted in "R-2" residential PUD district, excluding the following "R-1" uses.
- (a) Single family dwelling for residential use, as described in Article II, Part C, Section 3 of this ordinance.
  - (b) Residential accessory dwelling units.
  - (c) Apartment buildings.
  - (d) Convalescent and hospice homes, assisted living, and retirement housing.
  - (e) Condominiums.
- (C) *Site development regulations.*
- (1) Development of any use permitted in the "OS" open space PUD district shall conform with the site development regulations established in the "OS" open space PUD district.
- (2) Development of any use permitted in the "R-2" residential PUD district shall conform with the site development regulations established in the "R-2" residential PUD district.
- (3) The following site development regulations shall be exclusively applicable to apartment buildings, convalescent and hospice homes, assisted living, and retirement housing, and condominiums.
- (a) Minimum lot size: 6,000 square feet.
  - (b) Minimum lot width: 50 feet.
  - (c) Maximum dwelling units per lot: 36 units per acre.
  - (d) Maximum height: ~~40 60~~ feet. A twenty-five (25) foot compatibility setback shall be required adjacent to and R-2 development within the R-3 use which limits maximum building height to forty (40) feet.
  - (e) Minimum setbacks:
    - (i) Front yard. There shall be a front yard setback having a depth of not less than 15 feet from the property line to the front line of the building, not including a covered porch, or covered terrace, balcony, or bay.
    - (ii) Side yard. There shall be a side yard setback of not less than 15 feet from the walls of the building or accessory building to the side property line.
    - (iii) Rear yard. There shall be a rear yard setback having a depth of not less than ten feet from the rear most wall of the dwelling unit to the back property line and five feet from the rear most wall of the garage to the back of the property line.
  - (f) Garages shall either be attached or detached and accessible from a public or private street, or alley.
- (4) The site development regulations set forth below shall be exclusively applicable to condominium residential.
- (a) A note shall be included on the preliminary and final plat stating that no certificate of occupancy may be issued for the proposed residential condominium project until the owner or



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owners of the property have complied with chapter 82 of the Property Code of the State of Texas [V.T.C.A., Property Code § 82.001 et seq.] or any other statutes enacted by the state concerning condominiums. The building official shall not issue a certificate of occupancy until the owner or owners of the property have complied with chapter 82 of the Property Code of the State of Texas [V.T.C.A., Property Code § 82.001 et seq.] or any other statutes enacted by the state concerning condominiums.

Sec. 6. "NC" neighborhood commercial PUD district.

(A) *Purpose.* This area is intended to provide for the location of offices and small businesses serving neighborhood community needs, which may be located within or adjacent to a residential district of the PUD for the convenience of nearby residents. The businesses shall be conducive to and fit into the residential pattern of development, and not create land use, architectural or traffic conflicts. The following standards for the neighborhood commercial district are intended to preserve the residential atmosphere and be consistent with the Plum Creek PUD master plan.

(B) *Permitted uses.* The following uses shall be permitted in "NC" neighborhood commercial district:

(1) The following uses that are uses permitted in the "OS" open space PUD district:

- (a) Wetlands;
  - (b) Conservation areas;
  - (c) Golf courses;
  - (d) Outdoor recreational and athletic facilities;
  - (e) Outdoor swimming pools;
  - (f) Parks, playgrounds and playfields;
  - (g) Wildlife sanctuaries;
  - (h) Streams, lakes, impounded waterways, or their drainageways; and
- (2) Any use permitted in "R-1" residential PUD district, except the following:
- (a) Single family dwelling for residential use.
  - (b) Residential accessory dwelling units.
- (3) Any use permitted in the "R-2" residential PUD district, except the "R-1" uses listed in subsection (B)(2) above.
- (4) Any use permitted in the "R-3" multi-family residential PUD district, except the "R-1" uses listed in subsection (B)(2) above.
- (5) Grocery stores or specialty food store.
  - (6) Barber and/or beauty shop.
  - (7) Daycare services and child development centers.
  - (8) Clothes cleaning agency.
  - (9) Laundromat.
  - (10) Video rental store.
  - (11) Coffee shop, cafe or, delicatessen not exceeding 2,500 square feet of gross floor area.
  - (12) Pharmacy.
  - (13) Electronic service center providing photocopying, faxing, and computer service.
  - (14) Computer or communications network access.
  - (15) Mail box rental and package shipping/receiving store.
  - (16) Accessory buildings customarily appurtenant to a permitted use.

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- (17) Dwelling units that are located above or behind a permitted commercial use and secondary to that commercial use.
- (18) Neighborhood automobile service stations.
- (19) Bed and breakfast establishment, subject to the following requirements:
- (a) A maximum of four guest bedrooms shall be provided.
  - (b) Paying guests shall not stay more than seven consecutive days.
  - (c) Only overnight guests may be served meals at the establishment, except that luncheons and receptions may be held for attendees of organized social functions and tours.
  - (d) Only one sign is permitted, and it shall be non-illuminated, no greater than two square feet, and affixed flush with the wall of the dwelling.
  - (e) Each bed and breakfast establishment shall provide a minimum of two off-street parking spaces, plus one additional parking space for each guest room. This requirement may be waived when the owner can show that adequate off-street parking is available at an adjacent commercial site under common ownership or lease. Any parking area located adjacent to a residential zoned property shall provide a privacy fence at least six feet in height and buffer between the parking area and the adjacent residential property.
  - (f) The bed and breakfast establishment shall comply with all licensing requirements of the county health department for storage, preparation, and serving of food and beverages.
- (20) Rooming and boarding houses.
- (C) *Site development regulations.*
- (1) Development of any use permitted in the "OS" open space PUD district shall conform with the site development regulations established in the "OS" open space PUD district.
  - (2) Development of any use permitted in the "R-1" residential PUD district shall conform with the site development regulations established in the "R-1" residential PUD district.
  - (3) Development of any use permitted in the "R-2" residential PUD district shall conform with the site development regulations established in the "R-2" residential PUD district.
  - (4) Development of any use permitted in the "R-3" multi-family residential PUD district shall conform with the site development regulations established in the "R-3" multi-family residential PUD district.
  - (5) The following site development regulations shall be applicable to the "NC" neighborhood commercial district.
    - (a) Minimum lot size: 5,000 square feet.
    - (b) Minimum lot width: 50 feet.
    - (c) Minimum lot depth: 100 feet.
    - (d) Maximum height: No building or structure shall be erected, enlarged or structurally altered to exceed ~~35~~ 50 feet in height. A twenty-five (25) foot compatibility setback shall be required adjacent to and R-2 development within the neighborhood commercial (NC) use which limits maximum building height to thirty-five (35) feet.
    - (e) Minimum setbacks:
      - (i) Front yard. The building setback for the front yard shall be the same as adjacent residential area, but not less than 15 feet.
      - (ii) Side yard. Five feet, except when a side lot line is abutting a residential lot and then the side yard shall be a minimum of ten feet. The required side yard shall be increased by one-half foot

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for each foot by which the building height exceeds 20 feet, when the building abuts a residential lot.

(iii) Rear yard. Ten feet, except when a rear lot line is abutting a residential lot and then the rear yard shall be a minimum of 15 feet.

(D) *Off-street parking and loading.* Off-street parking and loading space shall be provided as required in article II, part D, section 2 herein, except that if nine or more spaces are required, up to two designated parking spaces on the street may be counted toward the required spaces.

(E) *Additional site development requirements.*

(1) Items produced or wares and merchandise handled shall be limited to those sold at retail on the premises.

(2) In any "NC" neighborhood commercial PUD district directly across the street or alley from residential district, the parking and loading area shall be set back at least ten feet from the street or alley right-of-way and said set back area shall be appropriately landscaped to be consistent with the character of adjoining and adjacent residential property. Such landscaping shall be maintained regularly by the property owner.

(3) The front of buildings should be sited at the front yard build-to line (consistent with the adjacent residential areas) with a pedestrian walkway connecting the sidewalk and an entrance to the building. The building and any eaves, overhangs, or awnings shall not interfere with the required clear vision area at corners or driveways.

(4) Buildings within the neighborhood commercial area should have external architectural features such as roofline, exterior materials, window size and location, doors, porches, and entrances that are similar to the predominant residential pattern in the area.

(5) Landscaped areas shall be planted with live ground cover, shrubs, lawn, flowers and trees that are typical adjacent residential areas.

(6) Lighting fixtures shall be designed to direct light down onto the site and away from residential property. No pole light shall exceed 12 feet in height.

(7) Operating hours for neighborhood commercial uses shall be limited to the period from 6:00 a.m. to 10:00 p.m.

Sec. 7. "C" commercial PUD district.

(A) *Purpose.* This area is intended to provide for the location of offices and commercial uses serving neighborhood and community needs. No building or land shall be used and no building hereafter shall be erected, maintained, or structurally altered, except for one or more of the uses hereinafter enumerated. The "C" commercial PUD district is designed for commercial, wholesale, retail and office classification.

(B) *Permitted uses.* The following uses shall be permitted in the "C" commercial PUD district:

(1) The following uses that are uses permitted in the "OS" open space PUD district:

- (a) Wetlands;
- (b) Conservation areas;
- (c) Golf courses;
- (d) Outdoor recreational and athletic facilities;
- (e) Outdoor swimming pools;
- (f) Parks, playgrounds and playfields;
- (g) Wildlife sanctuaries;
- (h) Streams, lakes, impounded waterways, or their drainageways; and

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- (2) The following uses that are uses permitted in the "R-1" residential PUD district:
- (a) Public or private parks, playgrounds, or recreation buildings, municipal buildings, non-profit libraries or museums, police or fire stations.
  - (b) Temporary building(s) used as a sales office for the development of a new subdivision or for construction purposes may be established and operated within the subdivision on a construction site for a period not exceeding two years; provided that extensions of time may be granted by the building official on application duly made for special exception.
  - (c) Public buildings for water supply reservoir, filter bed, surface or below surface tank, artesian well, pumping plant, water tower, or for other city owned or sanctioned public utilities.
- (3) Antique shops.
  - (4) Art gallery.
  - (5) Auction sales.
  - (6) Automobile repair shops without outside garages, with work conducted wholly within the enclosed building.
  - (7) Bakeries.
  - (8) Banks and savings and loan institutions.
  - (9) Barber shops, beauty shops, and any other personal service shops business, music, dance schools.
  - (10) Billiard and pool rooms.
  - (11) Books or stationery stores.
  - (12) Bowling alleys.
  - (13) Business, music, dance or commercial schools.
  - (14) Cafes, cafeterias, and restaurants.
  - (15) Camera shops and photographic supplies.
  - (16) Carpet and rug cleaners.
  - (17) Catering establishments.
  - (18) Cleaning and dry cleaning establishments.
  - (19) Clinics.
  - (20) Clothing stores.
  - (21) Craft and hobby shop, but without outside garage.
  - (22) Dance halls.
  - (23) Department, furniture, and home appliance stores.
  - (24) Drug stores, soda fountains, soft drink stands, candy, and tobacco shops.
  - (25) Dry cleaners.
  - (26) Electrical appliance shops and repairs.
  - (27) Employment agencies.
  - (28) Florist shop, nursery, or greenhouses.
  - (29) Furniture, appliance stores, (sales and service).
  - (30) Gasoline service stations.
  - (31) Grocery stores.
  - (32) Hardware, paint, and wallpaper stores.
  - (33) Hospitals, sanitariums, nursing homes, hospices, or convalescent homes.
  - (34) Hotels.
  - (35) Household and office furniture, furnishings, and appliance stores.
  - (36) Ice cream or ice sales.

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- (37) Laundries, laundrettes and Laundromats.
- (38) Jewelry and optical goods stores.
- (39) Meat markets.
- (40) Mortuaries.
- (41) Nursery or horticulture businesses.
- (42) Painting and decorating shops.
- (43) Pet shops or animal hospitals when conducted wholly within the enclosed building.
- (44) Photographers, or artists' studios.
- (45) Plumbing, heating, and roofing supply and workshops.
- (46) Printing shops.
- (47) Offices.
- (48) Radio and television stations (no towers).
- (49) Radio, television or electronic sales and service.
- (50) Recreation establishments.
- (51) Restaurants.
- (52) Retail stores and services.
- (53) Shoe sales and repair shops.
- (54) Sporting goods, novelty, or toy shops.
- (55) Tailor and dressmaking shops.
- (56) Taverns or retail sale of alcoholic liquors, subject to the regulations of other adopted ordinances of the city.
- (57) Telegraph and telephone service stations.
- (58) Temporary building incidental only to construction of a permitted use.
- (59) Theater, indoor.
- (60) Tire shop (no vulcanizing or retreading).
- (61) Variety stores.
- (C) *Site development regulations.*
- (1) Development of any use permitted in the "OS" open space PUD district shall conform with the site development regulations established in the "OS" open space PUD district.
- (2) The following site development regulations shall be exclusively applicable to the "C" neighborhood commercial PUD district.
  - (a) Minimum lot size: 4,000 square feet.
  - (b) Minimum lot width: 35 feet.
  - (c) Minimum lot depth: 100 feet.
  - (d) Maximum height: No building or structure shall be erected, enlarged or structurally altered to exceed 3 1/2 stories or 50 feet.
  - (e) Minimum setbacks.
    - (i) Front yard: none.
    - (ii) Side yard: none.
    - (iii) Rear yard: none.
  - (f) Maximum floor area ratio: 1.5 FAR of the lot area.

Sec. 8. "MXD" mixed use development PUD district.

(A) *Purpose.* This area is intended to provide locations for a relatively wide range of small businesses and services which complement the residential development pattern as a convenience

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to residents in the PUD. Mixed use development areas of this type are intended to be located and developed in a manner consistent with the Plum Creek PUD master plan and a site development plan. It is intended to allow for a mix of uses that:

- (1) Provide a variety of employment opportunities and housing types;
- (2) Foster pedestrian and other non-motor vehicle activity;
- (3) Ensure functionally coordinated, aesthetically pleasing and cohesive site planning and design; and
- (4) Ensure compatibility of uses within mixed use developments with other uses within such development and with the surrounding area and minimize off-site impacts associated with the development.

A site development plan shall be reviewed and approved by the planning commission and the city council prior to the actual development and construction in an MXD PUD district.

(B) *Permitted uses.* Uses permitted in the "R-1" residential PUD district are specifically prohibited and the following uses are permitted in the mixed use development district:

- (1) The following uses that are uses permitted in the "OS" open space PUD district:
  - (a) Wetlands;
  - (b) Conservation areas;
  - (c) Golf courses;
  - (d) Outdoor recreational and athletic facilities;
  - (e) Outdoor swimming pools;
  - (f) Parks, playgrounds and playfields;
  - (g) Wildlife sanctuaries;
  - (h) Streams, lakes, impounded waterways, or their drainageways; and

(2) Any use permitted in the "R-2" residential PUD district, except the following "R-1" residential PUD district uses:

- (a) Single family dwelling for residential use.
- (b) Residential accessory dwelling units.
- (3) Any use permitted in the "R-3" multi-family residential PUD district.
- (4) Any use permitted in the "NC" neighborhood commercial areas.
- (5) Any use permitted in the "C" commercial PUD district.

(C) *Additional permitted uses.* In addition to uses permitted in (B) above, the following uses are specifically allowed:

- (1) Branch banks and other financial institutions designed to serve the area businesses and adjacent neighborhoods.
- (2) Business support service including copying, blueprinting, film developing and processing, photo reproduction, accounting, computer services, building and grounds maintenance, security services, and temporary help.
- (3) Studio for manufacturing of pottery items, metal sculpture, and other artistic products.
- (4) Hotel or similar lodging facilities.
- (5) Conference center and meeting facilities when associated with a motel, hotel or similar lodging facility.
- (6) Commercial recreational facilities such as indoor theaters and athletic clubs, but excluding intensive outdoor facilities such as go-cart tracks, bumper cars and boats, BMX courses, and target ranges.
- (7) Offices.

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- (8) Restaurants, delicatessens, cafes, and similar food service establishments.
- (9) Dwelling units that are located above or behind a permitted commercial or neighborhood commercial use and secondary to that commercial use.
- (D) *Site development regulations.* Because of the mixed-use character of this district, the commission's review of site development plans and amendments to the Plum Creek PUD master plan, and recommendation to the city council are required. The city council's approval of site development plans and amendments to the Plum Creek PUD master plan are required prior to construction for each development submitted. The plan, pursuant to the applicable requirements of this ordinance must ensure that each development satisfies parking and compatibility requirements.
- (1) Development of any use permitted in the "OS" open space PUD district shall conform with the site development regulations established in the "OS" open space PUD district.
- (2) Development of any use permitted in the "R-2" residential PUD district shall conform with the site development regulations established in the "R-2" residential PUD district.
- (3) Development of any use permitted in the "R-3" multi-family residential PUD district shall conform with the site development regulations established in the "R-3" multi-family residential PUD district.
- (4) Development of any use permitted in the "NC" neighborhood commercial PUD district shall conform with the site development regulations established in the "NC" neighborhood commercial PUD district.
- (5) Development of any use permitted in the "C" commercial PUD district shall conform with the site development regulations established in the "C" commercial PUD district.
- (6) The following site development regulations shall be applicable to nonresidential development within the MXD area:
- (a) Minimum lot size: 4,000 square feet.
  - (b) Minimum lot width: 35 feet.
  - (c) Minimum lot depth: 100 feet.
  - (d) Maximum height: No building or structure shall be erected, enlarged or structurally altered to exceed ~~3 1/2 stories~~ 5 stories or ~~50~~ 65 feet. A twenty-five (25) foot compatibility setback shall be required adjacent to and R-2 development within the commercial use which limits maximum building height to 3 1/2 stories or fifty (50) feet.
  - (e) Minimum setbacks:
    - (i) Front yard: none.
    - (ii) Side yard: none.
    - (iii) Rear yard: none.
  - (f) Maximum floor area ratio: 1.5 FAR of the lot area.
- (7) Site development standards for residential development. Residential development within the MXD area shall conform to the applicable site development standards established for the "R-2" residential PUD district, "R-3" multi-family residential PUD district and "NC" neighborhood commercial PUD district as set forth in this ordinance.
- (8) Additional site development requirements.
- (a) Lighting: Parking lot lights, security lights, and other lights on a mixed-use site shall be designed to direct light down onto the site and away from adjacent residential property.

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- (b) Air emissions: There shall be no emission of odorous, toxic, noxious matter, or dust in such quantities from operations as to be readily detectable along or outside the MXD area so as to produce a public nuisance or hazard.
  - (c) Landscaping and open space. The design and development of landscaping and open space within the MXD area shall:
    - (i) Include street trees and parking area trees which are in scale with the development.
    - (ii) Provide a cohesive open space and pedestrian network within the development, with appropriate connections to surrounding properties and uses.
  - (d) Include open spaces and plazas which are in scale with the development and invite activity appropriate to adjoining uses.
  - (e) Refuse collection and recycling areas for business shall be enclosed with a fence, wall or structure high enough to screen all collection bins.
  - (f) Outside mechanical equipment, industrial or commercial heating, ventilation air conditioning, or other mechanical equipment on rooftops or ground, shall be screened with a material and design that is visually compatible with the building.
- (Ord. No. 490, § 2, 2-20-2007)

Sec. 9. "EMP" employment PUD district

- (A) *Purpose.* This area is intended to provide a place to locate commercial businesses, services, and industries compatible with adjacent residential areas for the convenience of nearby residents and the greater community at large. The use of an EMP area within a proposed mixed use development is intended to be compatible with the residential pattern of the development and not create unreasonable traffic or land use conflicts.
- (B) *Permitted uses.* The following uses shall be permitted in an "EMP" employment PUD district:
  - (1) The following uses that are uses permitted in the "OS" open space PUD district:
    - (a) Wetlands;
    - (b) Conservation areas;
    - (c) Golf courses;
    - (d) Outdoor recreational and athletic facilities;
    - (e) Outdoor swimming pools;
    - (f) Parks, playgrounds and playfields;
    - (g) Wildlife sanctuaries;
    - (h) Streams, lakes, impounded waterways, or their drainageways; and
  - (21) Drapery and bedding manufacturers;
  - (22) Expressing, baggage, and transfer delivery services;
  - (23) Farm implement sales or repair;
  - (24) Food processing and dehydrating operations;
  - (25) Frozen food lockers;
  - (26) Furniture manufacturers and upholsterers;
  - (27) Garages;
  - (28) Ice cream and ice manufacturers and sales;
  - (29) Instrument and electronic component manufacturing;
  - (30) Lumber and building sales and storage;
  - (31) Machine shops;



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- (32) Machine and metal products shops;
  - (33) Pet shops or animal hospitals when conducted other than only in enclosed buildings;
  - (34) Printing, publishing, and issuing of newspapers, periodicals, books and other reading matter;
  - (35) Public utility substations and distributing centers, regulations centers, and underground holder stations;
  - (36) Rail-served industries consistent with uses indicated above;
  - (37) Sheet metal fabrication shop;
  - (38) Sign shops;
  - (39) Stone, marble, and granite grinding and cutting operations;
  - (40) Storage and warehouses;
  - (41) Storage of household goods;
  - (42) Taxi service stations;
  - (43) Temporary building incidental only to construction of a permitted use;
  - (44) Tire shops (retreading only);
  - (45) Tool and die shops;
  - (46) Warehouses; and
  - (47) Welding shops.
- (C) *Site development regulations.*
- (1) Development of any use permitted in the "OS" open space PUD district shall conform with the site development regulations established in the "OS" open space PUD district.
  - (2) Development of any use permitted in the "C" commercial PUD district shall conform with the site development regulations established in the "C" commercial PUD district.
  - (3) Development of any use permitted in the "EMP" employment PUD district shall conform with the site development regulations established in the "EMP" employment PUD district.
  - (4) The following regulations shall be applicable to the "LI" light industrial PUD district:
    - (a) Minimum lot size: 5,750 square feet.
    - (b) Minimum lot width: 50 feet.
    - (c) Minimum lot depth: 100 feet.
    - (d) Maximum height: No building or structure shall be erected, enlarged or structurally altered to exceed 60 feet.
    - (e) Minimum setbacks.
      - (i) Front yard: none.
      - (ii) Side yard: none.
      - (iii) Rear yard: none.
    - (f) Maximum floor area ratio: 1.5 FAR of the lot area.

Sec. 10. - "LI" Light industrial PUD district

(A)*Purpose.* This district is designed to provide locations for outlets offering goods and services to a targeted segment of the general public as well as industrial users. The uses included primarily serve other commercial and industrial enterprises. No building or land shall be used, and no building hereafter shall be erected, maintained, or structurally altered, except for one (1) or more of the uses hereinafter enumerated. The "LI" light industrial PUD district is designated for selected sales, manufacturing and industrial classifications.

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**(B) Permitted uses.** The following uses shall be permitted uses in the "LI" light industrial PUD district:

- (1) Any use permitted in the "EMP" employment PUD district;
- (2) Agricultural implement sales and services;
- (3) Air conditioning and heating sales and services;
- (4) Automobile repair shops without outside garages and when conducted wholly within the enclosed building;
- (5) Artificial limb manufacturers;
- (6) Battery and tire service stations without outside garages and when conducted wholly within the enclosed building;
- (7) Beverage bottling and distributing stations;
- (8) Blacksmith shops;
- (9) Book binding shops;
- (10) Box manufacturers;
- (11) Broom manufacturers;
- (12) Bus lines shops and garages;
- (13) Car wash;
- (14) Canvas goods fabrication;
- (15) Crating express storage;
- (16) Computer and computer parts manufacturers;
- (17) Hatcheries;
- (18) Clothing and dress manufacturers;
- (19) Craft and hobby shop with outside garage;
- (20) Creameries;
- (21) Drapery and bedding manufacturers;
- (22) Expressing, baggage, and transfer delivery services;
- (23) Farm implement sales or repair;
- (24) Food processing and dehydrating operations;
- (25) Frozen food lockers;
- (26) Furniture manufacturers and upholsterers;
- (27) Garages;
- (28) Ice cream and ice manufacturers and sales;
- (29) Instrument and electronic component manufacturing;
- (30) Lumber and building sales and storage;
- (31) Machine shops;
- (32) Machine and metal products shops;
- (33) Pet shops or animal hospitals when conducted other than only in enclosed buildings;
- (34) Printing, publishing, and issuing of newspapers, periodicals, books and other reading matter;
- (35) Public utility substations and distributing centers, regulations centers, and underground holder stations;
- (36) Rail-served industries consistent with uses indicated above;
- (37) Sheet metal fabrication shop;
- (38) Sign shops;
- (39) Stone, marble, and granite grinding and cutting operations;

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- (40) Storage and warehouses;
- (41) Storage of household goods;
- (42) Taxi service stations;
- (43) Temporary building incidental only to construction of a permitted use;
- (44) Tire shops (retreading only);
- (45) Tool and die shops;
- (46) Warehouses; and
- (47) Welding shops.

(C) *Site development regulations.*

- (1) Development of any use permitted in the "OS" open space PUD district shall conform with the site development regulations established in the "OS" open space PUD district.
- (2) Development of any use permitted in the "C" commercial PUD district shall conform with the site development regulations established in the "C" commercial PUD district.
- (3) Development of any use permitted in the "EMP" employment PUD district shall conform with the site development regulations established in the "EMP" employment PUD district.
- (4) The following regulations shall be applicable to the "LI" light industrial PUD district:
  - (a) Minimum lot size: 5,750 square feet.
  - (b) Minimum lot width: 50 feet.
  - (c) Minimum lot depth: 100 feet.
  - (d) Maximum height: No building or structure shall be erected, enlarged or structurally altered to exceed 60 feet.
  - (e) Minimum setbacks.
    - (i) Front yard: none.
    - (ii) Side yard: none.
    - (iii) Rear yard: none.
  - (f) Maximum floor area ratio: 1.5 FAR of the lot area.

ARTICLE II. ADDITIONAL USE REGULATIONS  
PART D

Sec. 1. Additional use, height and area regulations and exceptions applicable to PUD districts unless otherwise approved by the city council.

(A) *Accessory buildings.* No accessory building shall be constructed upon a lot until the construction of the main use building has been actually commenced. No accessory building shall be used unless the main use building on the lot is also being used.

(B) *Permits.* No building shall be erected, enlarged, moved onto a tract of land, structurally altered, or maintained unless and until there has been issued therefor a building permit in compliance with the applicable building ordinance of the city.

(C) *Visibility at intersections in all districts.* On a corner lot in any PUD district, no improvements shall be erected, placed, planted, or allowed to grow in such a manner as to impair or obstruct the view, from any of the intersecting streets, of such intersection within a triangle defined by the property lines and a line joining two points located 20 feet back from the property lines intersection; except that fences, walls, and hedges may be permitted provided that such

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fences, walls and/or hedges do not impair vision from two feet to seven feet above the curblin elevation.

(D) *Minimum building plot.* No building plot shall have less stringent standards or dimensions than those prescribed for the respective PUD district in which such lot is located.

(E) *Erection of more than one principle structure on a lot.* More than one structure housing a permitted principal use may be erected on a single lot or building lot only as specifically permitted by this ordinance, and yard and other requirements of this ordinance must be met for each structure as set forth for the PUD district in which such lot is located and the applicable site development regulations.

(F) *Exceptions to height regulations.* The height limitations set forth in the ordinance do not apply to spires, belfries, cupolas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(G) *Structures to have access.* Unless otherwise approved by the city council, every building hereafter erected or moved shall be on a lot or building plot with direct access on a public street or alley, or with access to an approved private street. All structures shall be so located on lots or building plots as to provide safe and convenient access for servicing, fire protection, and the required on-site parking.

(H) *Required yards.* Yards as required in this ordinance are open spaces on the lot or building plot on which a building is situated and which are open and unobstructed to the sky by any structure except as herein provided in this subsection 1(H). Notwithstanding any other provision of this ordinance: (i) normal yard structures may be located in a yard, including, for example, fences or walls, gateways, sidewalks, driveways, patios, flower beds, planters, water hydrants and irrigation structures, eaves, cornices, window sills, bay windows, architectural details, utility meters and structures, electrical boxes, heating and cooling equipment, flagpoles, lighting structures, swing sets and other play equipment, fountains, swimming pools, mail boxes, signs, moveable structures and similar items, and (ii) where specifically permitted by this ordinance on the rear half of the lot, accessory dwelling buildings, garage space and storage space may be located in the rear yard; provided that no building or structure shall be located within the area of any lot between a property line of such lot and the respective rear yard or side yard set back line.

(I) *Rear yard required.* A yard which extends across the rear of the lot or building plot between the side property lines and having a minimum depth measured from the rear property line as specified for the district in which the building plot is located, is required unless otherwise prescribed in the appropriate PUD district.

(J) *Side yard required.* A yard located on a lot or building plot which extends from the required rear yard to the required front yard having minimum width measured from the side property line as specified for the district in which the building plot is located, is required unless otherwise prescribed in the appropriate PUD district.

(K) *Major recreational equipment.* For the purpose of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No such equipment shall be used for living, home occupation, or household purposes when parked or stored on a residential lot, or in any location not approved for such use.

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(L) *Screening fences required.* Where there is a common side or rear lot line or lot lines between business, commercial or industrial land and developed residential areas, the owner of said business, commercial or industrial land shall construct a fence to screen residential lots from adverse influences as part of the normal construction of buildings dedicated to said nonresidential usage. Where there is a common side or rear lot line or lot lines between multifamily land and developed single-family residential land, the owner of the apartment land shall erect a fence that will properly screen adjacent residential land from adverse influences such as noise, vehicular lights, trespass, and other adverse influence as part of the normal construction of the apartment project. Such screening fences may be made of any material compatible with the surrounding area, but shall form a solid continuous screen between the residential and nonresidential land uses. In the case of rear lot lines such screening fence shall be continued from one side lot line along the rear lot line to the other side lot line. In the case of side lot lines such screening fence shall be continued from the rear lot line along the side lot line to the front setback line but no farther than a point 15 feet from the street right-of-way line. Each screen fence shall be maintained in good condition by the owner of said business, commercial or industrial project, for as long a time period as may be needed to protect adjacent residential land uses during the construction of said business, commercial, industrial or multifamily area. In the event that a permanent screen fence is erected, it shall be maintained by the property owner who constructs the fence.

(M) *Commercial use areas.* Site plans of all commercial and mixed use complexes and site plans of other large scale projects which would cause a considerable impact on the city's facilities shall be reviewed and approved by the city technical staff prior to the issuance of a building permit by the director of public works. Such review under this subsection shall be restricted to the review of such projects for compliance with this ordinance and the Plum Creek PUD subdivision ordinance and the impact of such projects on: the neighboring land and environment, the adequacy of the water and sewer facilities installed or to be installed to serve the site, flood control and drainage, traffic generation, proposed circulation patterns and implications to safety in the project area and the resultant impact of generation and circulation upon adjacent such traffic street systems. The building official or the developer of the project may refer the site plans to the city council prior to the issuance of a building permit for final resolution. No building permit application showing compliance with the applicable ordinances and regulations will be delayed more than 30 days pending resolution of such building permit request unless the building permit, when and if issued, shall require construction according to the approved site plan, construction plans and specifications.

(N) *Environmental regulations.* The following regulations are to control contamination of air, water, or the environment, and to safeguard the health, safety and welfare of the people.

(1) No machine, process or procedure shall be employed on any property within the Plum Creek planned unit development which result in, or if:

(a) Emission of smoke, dust, noxious, toxic or lethal gases are detectable beyond the perimeter of the property; materials are stored or accumulated in such a way that such materials may be carried by rainwater in natural drainage channels beyond the limits of the property; or materials which have discernible amounts of noxious, toxic, radioactive, oil or grease, wood or cellulose fibers, hair, feathers or plastic, or that have a pH factor above ten or below five, are stored on the property in a manner not authorized by law or to pose a nuisance or hazard to neighboring property or the public;

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- (b) Vibration is discernible beyond the property line; or
- (c) Noise above the ambient noise level is discernible beyond the property line.
- (2) Drainage into the sanitary sewerage system shall conform to the city's requirements.
- (3) No stormwater drain, roof drain, or outside area drain shall empty into a sanitary sewer.
- (4) Flood plain. No dwelling, commercial or industrial building shall be permitted in the "intermediate flood plain" channel, as determined by the city. Buildings in the area between the delineated "intermediate flood plain" and the "standard flood plain" will be permitted only after such land is built up to an elevation of one foot above the "standard flood plain" elevation, and such land as so built up, when verified by the city engineer, will change the "standard flood plain" delineation accordingly.
- (O) *Temporary building and equipment.* Temporary buildings and equipment for uses incidental to construction work on premises are allowed in any zone but shall be removed upon the completion or abandonment of construction work.
- (P) *Sewage disposal systems.* Sewage disposal systems shall be in accordance with all applicable state, county and city codes and regulations.

Sec. 2. Parking regulations applicable to PUD districts unless otherwise approved by the city council.

(A) *Parking and storage of certain vehicles.* Automotive vehicles or trailers not bearing current license plates and state motor vehicle inspection stickers, excluding racing cars, antique cars, and cars belonging to members of armed forces who are on active duty, shall be parked or stored on any residential area only in completely enclosed buildings. No vehicle, trailer or major recreational equipment shall be parked or stored on any lot except that it shall be enclosed in a building or parked on a driveway or a concrete, paved or stone pad installed for such purpose and subject to the requirements herein.

(B) *Parking regulations.* Where any structure is erected, reconstructed or converted for any of the business or commercial uses permitted in this ordinance, designated on-street and off-street parking spaces shall be provided in a number not less than as provided in schedule C set forth hereinafter.

(C) *[Non-residential handicap parking.]* Non-residential handicap parking requirements are a minimum of one space for under 50 parking spaces, then one additional space for over 50 parking spaces up to 100 spaces, and then one space per 100 spaces up to 500. Over 500 it is one percent of total parking spaces. Dimensional requirements are 12-foot width and 18-foot depth per handicap space.

(D) *Handicapped parking.* The number, location, and design of handicapped parking spaces shall be as required by the building ordinance.

(E) *Commercial use parking.* The motor vehicle parking areas shall be located and designed to facilitate safe and convenient pedestrian and bicycle movement to and from public sidewalks, streets, or transit stops. Ways to achieve this standard may include, but are not limited to:

- (1) Location and orientation of buildings closer to the street to minimize pedestrian and bicycle travel through a parking area;
- (2) Providing one or more raised walkways through the parking areas;
- (3) Providing one or more raised walkways protected by landscaping and parking bumpers, with area across vehicle aisles delineated by non-asphaltic material in a different color or texture than the parking areas;

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- (4) Connecting on-site pedestrian walkways and bikeways to other existing pedestrian and bicycle circulation systems that serve adjacent commercial uses or residential areas.
- (F) *Maximum parking.* The maximum number of parking spaces for a commercial use area shall not exceed 150 percent of the required parking.
- (G) *Reduction in required parking.* The total number of required motor vehicle parking spaces for a nonresidential use may be reduced by five percent for each of the activities listed below provided by the owners or operators, up to a maximum ten percent reduction in the total number of motor vehicle spaces.
- (1) Participate in an area wide carpool/vanpool ride matching program for employees; designating at least ten percent of the employee motor vehicle parking spaces as carpool/vanpool parking and placing such spaces closer to the building than other employee parking;
- (2) Providing showers and lockers for employees who commute by bicycle;
- (3) Providing covered, secured bicycle parking racks or facilities;
- (4) Providing a transit facility that is approved by the local transit authority, and related amenities. Related amenities include, but are not limited to, a public plaza, pedestrian sitting areas, and additional landscaping.
- (H) *Development and maintenance standards for off-street and on-street parking areas.* Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:
- (1) An off-street parking area for more than five vehicles shall be effectively screened by a sight-obscuring fence, hedge or planting, on each side which adjoins a residential use or property situated in a residential area or the premises of any school or like institution.
- (2) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.
- (3) Access aisles shall be of sufficient width for vehicular turning and maneuvering.
- (I) *[Off-street and on-street parking.]* Off-street and on-street parking for all uses not within the categories above shall be adequate to meet the anticipated needs and shall be determined by the city council using standards outlined for special exception and with a view towards providing adequate parking and carrying out the general scheme of the parking requirements herein set out.
- (J) *[Special exception.]* The city council may grant a special exception to allow two or more uses to share parking spaces upon a showing that the particular uses in question will require parking at different times. Any spaces the council allows to be shared count toward the number of spaces each use must provide.

TABLE INSET:

Schedule C	
Use	Number of Parking Spaces
Residential dwelling designed and used as single-family and two family residences and up	Two spaces for one bedroom and one-half for each additional bedroom
Efficiency	One space for each efficiency
Multifamily dwelling	1.5 spaces for one bedroom and 0.5

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	for each additional bedroom
Warehouses, manufacturing plants and other similar commercial establishments not catering to the general public	One space per 1,000 feet of gross floor area
Hotels, motels and similar transient accommodations	One space per bedroom and 1 space for each two employees, 1.1 spaces per bedroom, whichever is greater
Rest homes, hospitals, nursing homes, convalescent homes, sanitariums and similar uses	One space for each two employees, and 1 space for each four patients beds
Bars, cafes, restaurants, taverns, night clubs and similar uses	One spaces for every four seats provided for customers services, 1 space for each 100 feet of gross floor area whichever is greater
Banks, offices, financial lending institutions, gasoline stations, personal service shops, retail establishments, shopping centers and similar uses catering to the general public	Three and a half spaces for each 1,000 feet of gross floor area

(Ord. No. 541, § 1, 3-6-2008)

Sec. 3. Conditional use permits.

Any use not specifically enumerated in this ordinance may be allowed in any PUD district by conditional use permit under the following procedures:

(A) *Application.* Application for a conditional use permit shall be filed with the city secretary and shall be accompanied by:

- (1) A site plan showing the intended development of the property for which such conditional use permit is being requested;
- (2) Payment of a fee equal to that as may be required for rezoning of the subject property under regulations then current; and
- (3) A detailed written description of the proposed use, which written description shall include all relevant factors, including, but not limited to, utility requirements, projected employment, and nature of the proposed activity and products.

(B) *Public hearing before planning and zoning commission.*



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(1) Within a reasonable time from such filing, the planning and zoning commission shall, after giving written notice in the same manner required for a planning and zoning commission hearing under section 211.006 through section 211.007, Local Government Code [V.T.C.A., Local Government Code §§ 211.006--211.007], hold a public hearing and forward a recommendation to the city council as to whether the conditional use permit should be granted or denied; and

(2) The planning and zoning commission, at its hearing on a conditional use permit, shall consider the application, the accompanying site plan and the written description, and may recommend approval or denial of the request, or recommend approval with such conditions as it may deem necessary to secure and protect the public health, safety, morals, and general welfare.

(C) *Public hearing before city council.* Upon receipt of a recommendation from the planning and zoning commission regarding a conditional use permit application, the city council shall, after giving written notice in the same manner required for a city council hearing for a zoning change under sections 211.006 and 211.007, Local Government Code, [V.T.C.A., Local Government Code §§ 211.006 and 211.007] hold a public hearing and grant or deny the application for such conditional use permit, or it may grant said special conditional use permit subject to such conditions as it may deem necessary to secure and protect the public health, safety, morals, and general welfare and to be compatible with, and/or similar to, the uses permitted in the PUD district in which the site is located.

(D) *Site plan.* The site plan accompanying the application for a conditional use permit shall show the proposed development of the property on tracing paper or tracing lined paper, 24 [inches] by 36 inches in size. The site plan shall give the following information:

- (1) Date, scale, north point, title, name of person preparing the plan;
- (2) Location of existing boundary lines and dimensions of the tract;
- (3) Center line of existing watercourses, drainage features, and location and size of existing and proposed streets, roads, and alleys;
- (4) Location and size, to the nearest one-half foot, of all proposed buildings and land improvements; and
- (5) Clear designation of area to be improved for off-street parking, the location and size of points of ingress and egress, and the ratio of parking space to floor space.

(E) *Factors to be considered.* In considering an application for conditional use permit, the planning and zoning commission and the city council, shall take the following factors into account:

- (1) Safety of the motoring public and of pedestrians using the facility and the area immediately surrounding the site;

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- (2) Safety from fire hazard and measures for fire control;
  - (3) Protection of adjacent property from flood or water damage;
  - (4) Noise-producing elements, glare of vehicular and stationary lights, and effect of such lights on the established character of the neighborhood;
  - (5) Location, lighting, types of signs, relation of signs to traffic control, and adverse effect on adjacent properties;
  - (6) Street size and adequacy of pavement width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhoods;
  - (7) Adequacy of parking, as determined by requirements of this ordinance for off-street parking facilities in the use district in which the site is located, location of ingress and egress points for parking and off-street loading spaces, and protection of the public health by surfacing of all parking areas to control dust;
  - (8) Compatibility with, and similarity to, the uses permitted in the PUD district in which the site is located;
  - (9) The adequacy and availability of utility services for such proposed use; and
  - (10) Such other measures as will secure and protect the public health, safety, morals and general welfare.
- (D) A PUD district shall comply with all statutory requirements and such other requirements as may be reasonably determined by the city council.

Sec. 4. Non-conforming uses.

(A) *Use non-conforming on adoption of this ordinance.* The lawful use of land or buildings existing upon the effective date of this ordinance, although such use does not conform to the provisions hereof, shall be deemed a nonconforming use. Only nonconforming uses in existence on the effective date of this ordinance shall be subject to the terms and provisions of this subsection A.

- (1) Such uses may be extended throughout such portions of the building as are arranged or designed for such use, provided no structural alterations, except those required by law or ordinance, are made therein. A nonconforming use of a building may be changed to a more restricted and limiting nonconforming use; provided such change is properly documented with the city. If such nonconforming use of building is voluntarily removed, the future use of such premises shall be in conformity with the provisions of this ordinance.

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(2) In the event a nonconforming use of any building or premises is discontinued for a period of 270 days, the use of the same shall thereafter conform to the provisions of the district in which it is located. It shall not be construed to be a discontinuance of the nonconforming use if such use is discontinued for the purpose of making repairs or alterations to the building, or for offering the property for sale or lease, even if the premises are not so used for a period of longer than 270 days.

(3) A nonconforming use if changed to a conforming use or a more restricted nonconforming use, may not thereafter be changed back to a less restricted use than to which it was changed.

(4) The board of adjustment may issue a special use exception to extend the time when a nonconforming use may be allowed to continue, and may also allow it to be re-built, expanded or altered, upon a showing that the exception is necessary to allow a reasonable return on the investment in the affected property.

(B) *No new non-conforming use.* No building or structure shall be constructed or installed, and no use of property shall begin, within the Plum Creek planned unit development after the effective date of this ordinance, except that such building, structure and use shall be in conformity with this ordinance.

(C) *Uses becoming non-conforming on amendment.* If, by reason of amendment to this ordinance, the use of any property or building that began after the date of and in compliance with this ordinance, is hereafter transferred to a more restricted district by a change in the district boundaries, or the regulations and restrictions in any district are made more restrictive, the following provisions of this ordinance relating to the nonconforming use of buildings or premises shall apply to such building or premises first occupied or used after the effective date of this ordinance:

(1) Repairs and alterations may be made to such nonconforming building, provided that no structural alterations or extensions shall be made except those required by law or ordinance, unless the building is to be changed to a conforming use.

(2) Such nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other cause. (i) In the case of partial destruction by fire or other causes not exceeding 50 percent of its value, the building permit authority shall issue a permit for reconstruction. (ii) If destruction is greater than 50 percent of its value, a building permit may be issued only to reconstruct the building for a use as a conforming use.

(3) In the event a nonconforming use of any building or premises is discontinued for a period of 270 days, the use of the same shall thereafter conform to the provisions of the district in which it is located. It shall not be construed to be a discontinuance of the nonconforming use if such use is discontinued for the purpose of making repairs pursuant to (C)(2)(i) herein.

### ARTICLE III. ENFORCEMENT AND ADMINISTRATION

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Sec. 1. Enforcement and administration--Administrative official.

(A) Except as otherwise provided in this ordinance or as approved by the city council, the permit issuing authority designated in the building ordinance shall administer and enforce this ordinance, including the receiving of applications, the inspection of premises and the issuing of building permits and no permit or certificate of occupancy shall be issued by him except where the provisions of this ordinance have been complied with.

(B) The permit authority or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.

(C) Whenever any construction work is being done contrary to the provisions of this ordinance or the building ordinance, the permit authority shall serve notice in writing upon the owner or the contractor doing or causing such work to be done, or the agent of either, ordering such person to show cause why the work should not be ordered stopped. Any such person served with notice shall, within five days after service, show cause to the building inspector why such stop work order should not issue, and if such person shall fail to show good cause, then the building inspector may order the work stopped by notice in writing served upon such person, or agent, and any such person and all persons in privity with him shall forthwith stop and cause to be stopped such work until authorized by the building inspector to proceed with such work. Any stop work order shall be posted upon the work being done in violation of this ordinance. Provided, however, that the hearing provided for by this subsection may be dispensed with when, in the opinion of the building inspector, the work being done contrary to the provisions of this ordinance could cause imminent peril to life or property.

(D) Whenever any building or portion thereof is being used or occupied contrary to the provisions of this ordinance, the permit authority shall serve notice in writing upon any person using or causing such use or occupancy, or the agent of any such person, ordering such person to show cause why such use or occupancy should not be ordered discontinued. Any such person served with notice shall proceed within five days to show cause to the permit authority, why such order should not issue and if such person shall fail to show good cause, then the permit authority may order such use or occupancy discontinued by notice in writing served upon such person, or agent and such person shall vacate or cause to be vacated such building or portion thereof within ten days after receipt of such notice or make the building or portion thereof comply with the requirements of this ordinance. Any discontinuance order shall be posted upon the building or portion thereof being used or occupied in violation of this ordinance. Provided however, that the hearing provided for by this subsection may be dispensed with when, in the opinion of the permit authority, the use or occupancy which is contrary to the provisions of this ordinance could cause imminent peril to life or property.

(E) Preserving rights in pending litigation and violations under existing ordinances. By the passage of this ordinance, no presently illegal use shall be deemed to have been legalized. Uses not permitted by this ordinance shall be nonconforming uses when so recognized, or illegal uses,

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as the case may be. It is further the intent and declared purpose of this ordinance that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, shall be discharged or affected by the adoption of this ordinance, but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending be proceeded with in all respects as if such prior ordinance has not been repealed.

(F) This ordinance shall not be applicable to any area of the City of Kyle that is not located within the Plum Creek Planned Unit Development.

(G) Completion of authorized buildings. Nothing in these regulations nor in any amendments hereto which change district boundaries shall require any change in the plans, construction or designated use of a building which shall be completed in its entirety within two years from the date of the passage of this ordinance, provided such building was authorized by building permit issued before the passage of this ordinance, and construction of such building shall be started within 90 days of the passage of this ordinance.

Sec. 2. Certificate of occupancy.

(A) No land shall be occupied or used and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the permit authority stating that the building or proposed use thereof complies with the provisions of this ordinance.

(B) No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the building inspector.

(C) Application for a certificate of occupancy shall be made with the application for a building permit or may be directly applied for where no building permit is necessary and shall be issued or refused in writing within ten days after the permit authority has been notified in writing that the building or premises is ready for occupancy. The permit authority shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.

(D) No permit for excavation for, or the erection or alteration of, or repairs to, any building shall be issued until an application has been made for a building permit.

(E) No permanent water, electrical or gas utility connections shall be made to the lot or tract, or any building or structure until and after a building permit has been issued by the building inspector.

Sec. 3. Procedure for changing zoning classification of a particular parcel.

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(A) A request to change the zoning classification of a particular parcel of land may be initiated by the owner of such parcel, the planning and zoning commission or the city council.

(B) Application by property owner. A property owner may file an application with the city secretary requesting the city council to consider changing the zoning classification of his or her property. Such application shall be accompanied by a fee set by the city council and shall contain the following information:

- (1) Legal description and address of the parcel affected;
- (2) Present zoning classification of the parcel and of all contiguous parcels around it;
- (3) Present use of the parcel and of all contiguous parcels around it;
- (4) Type and location of any structures on applicant's parcel and on adjoining land;
- (5) A traffic impact analysis shall be submitted where development is proposed which would generate 1,000 or more trips per day. Submission shall occur simultaneously with the applications for zoning, special use permits or building permit site plan approval; and any other relevant information requested by the planning and zoning commission. The planning and zoning commission shall review each application for a zoning change and prepare a brief report on whether the requested change conforms to the classification specified in the land use map of the Plum Creek PUD and the comprehensive plan of the city for such parcel. Where an application for a zoning change is made by the owner, the owner shall provide appropriate evidence of any significant and unanticipated changes that have occurred in the area affected which make it unlikely that such parcel can be developed or used for any use permitted under the zoning classification indicated for such parcel in the Plum Creek PUD master plan. If the requested change does not conform to the Plum Creek PUD master plan, the commission's report may indicate whether any significant and unanticipated changes have occurred in the area of the affected parcel since the classification on the land use map was adopted which make it unlikely that such parcel can be developed or used for any use permitted under the zoning classification indicated for such parcel in the Plum Creek PUD master plan. The report shall also indicate whether the requested zoning classification is the most appropriate classification for the area affected.

(C) Resolution from planning and zoning commission. The planning and zoning commission, by resolution directed to the city council, may request a change in the zoning classification of particular parcels of land in order that such parcels will conform to the classification specified on the land use map of the comprehensive plan of the city. No site plan shall be necessary for such a zoning classification application.

(D) The city council, by motion, may initiate a proposal to change the zoning classification of particular parcels of land in order that such parcels will conform to the classification specified on the land use map of the comprehensive plan of the city. Such action by the city council will be

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initiated by requesting the recommendation of the planning and zoning commission. No site plan shall be necessary for such a zoning classification application.

Sec. 4. Issuance of permits and suspending of plans pending approval of site plan.

No application for site plan approval shall be accepted for filing nor be processed, and no building, site clearance, or grading permit shall be issued for any work other than in connection with a single-family residential use, on land which is being considered for a change in zoning classification on the request of the owner. Except when waived by the city council, no such approval or permit shall be issued during any period, not to exceed 60 days in duration, for any land for which a zoning change is being considered at the request of the city council or the commission. The 60 day period shall begin on the date the city secretary submits the proposed zoning change to the planning and zoning commission for a report and recommendation.

Sec. 5. Joint hearing on multiple applications.

Applications for permits, change of zoning classification, site plan and subdivision approvals which involve the same development and contiguous land may be considered together, before either the planning and zoning commission, the city council, or both, at a single hearing, rather than at a separate hearing for each related application. The mayor of the city, with city council approval or ratification, shall make the determination of whether to have a joint hearing.

Sec. 6. Use permits.

(A) *Purpose.* A use permit is a document authorizing the existence of a nonconforming use, a conditional use, or a variance as these terms are herein defined. The issuance of a use permit may be prerequisite to the issuance of a building permit or certificate of occupancy but shall not alleviate the requirement of such. A use permit may have a specified time limitation attached and may impose conditions other than those which are specifically set forth in this ordinance.

(B) *Approval--Responsibility.*

(1) The building official shall issue use permits for all nonconforming uses in existence at the time of enactment of this ordinance and the building official may rescind a use permit for a nonconforming use upon cessation of the use of the building or land as set out in article II.D.4.

(2) The commission shall have the responsibility for the consideration of use permits for conditional uses.

(3) The board of adjustment may issue use permits for variances and may direct the issuance or revocation of nonconforming use permits on appeal, from a decision of the building official, as otherwise authorized by law.

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(4) The commission may impose additional reasonable restrictions or conditions to carry out the spirit and intent of this ordinance and to mitigate adverse effects of the proposed use. These requirements may include, but are not limited to, increased open space, loading and parking requirements, suitable landscaping and additional improvements such as fencing, curbing and sidewalks.

(C) *Issue procedure.*

(1) *Non-conforming uses.* With respect to nonconforming uses in any district at the time of enactment of this ordinance, it shall be the duty of the building official to investigate and document the existing use, the size and type of structure or land use, and to issue a use permit in accordance with the conditions of this ordinance. No application or filing fee is required; provided that nonconforming uses shall not be presumed and a subsequently claimed nonconforming use which is not known to the building official on the effective date of this ordinance, or for which no written request for a use permit is made by the landowner within 60 days after the effective date of this ordinance, will be conclusively deemed not to have existed on the effective date of this ordinance.

(2) *Conditional use.* A conditional use permit may be applied for and issued after an application has been filed, notices given and the holding of public hearings as set forth in article II.D.3.

(D) *Procedure for application for a use permit.*

(1) Applications for use permits shall be made on a form provided by the building official accompanied by all required fees filed with the building official. Such application must be accompanied by a site plan showing the proposed use of the land and buildings and must show the surrounding land uses in such detail as necessary to clarify the claims made in the application. The building official shall forward such information regarding conditional use permit applications to the commission with his recommendation. No such conditional use permit shall be final until approved by the city council after public hearing.

(2) Applications for conditional use permits shall be considered and acted upon, approved or denied, in compliance with this ordinance and Chapt. 211, Loc. Gov't. Code [V.T.C.A., Local Government Code § 211.001 et seq.].

(3) Applications for a use permit documenting a legally existing nonconforming use shall be made on a prescribed form, accompanied by all required fees, filed with the building official.

(4) Applications for a variance use permit, or appeal of the grant or denial of a use permit by the building official (acting under [D](3) above) shall be addressed to the board of adjustment and made on the required form, accompanied by all required fees. Such applications shall be filed with the building official and the notices shall be given and the procedures followed as otherwise prescribed by law.



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(E) *Appeal.* Any person or persons, jointly or severally aggrieved by a decision of the building official, commission, or the board of adjustment with respect to any matter that is not a variance or special exception to this ordinance and subject to the board's sole jurisdiction pursuant to § 211.008 et. seq., Loc. Gov't. Code [V.T.C.A., Local Government Code § 211.008 et seq.], may present to the city council a petition, duly verified, setting forth that such decision is unjust, in whole or in part, specifying the ground of injustice. Such petition shall be presented to the city council within ten days after the final decision of the commission, and not thereafter.

(F) *Recording.* One copy of an approved use permit shall be delivered to the owner of the property, one copy shall be filed in the office of the building official.

(G) *Development.* Following the issuance of a use permit the building official shall make inspections to determine that, if the development is undertaken, such development is completed in compliance with said permit. However, if a use permit has not been used within six months after the date granted, the permit is automatically canceled which fact shall be noted over the signature of the building official on the file copies of the permit and the owner shall be so notified in writing.

Sec. 7. Sign regulations.

(A) *General.* All signs shall conform to the requirement of the building code and this section 7 unless otherwise approved by the Plum Creek Architectural Review Committee (PCARC). Proof of PCARC approval is required with application for city permit. For detailed information on the classifications shown in quotation marks, refer to the building code.

(B) *Existing signs.* All existing signs in use within the Plum Creek PUD on the effective date of the ordinance from which this section derives shall carry the "identification of signs" as required in the building code and are approved.

(C) *Temporary signs.* A temporary sign pertaining to lease, rental or sale of premises or structure located thereon is permitted in all districts when located on such premises or structure. Such signs shall not be lighted, and shall not exceed 64 square feet in area. No permit is required.

(D) *Plum Creek monument/development signs.* "Ground signs," announcing or describing the Plum Creek Development, may be lighted. A sign with the proper name of a legally recorded subdivision may be permanently erected and does not require a city permit.

(E) Signs having flashing or moving parts, or "spectacular signs" are not permitted.

(F) *Special district sign requirements.*

(1) *Residential PUD districts.* A person having a legal home occupation may display a nameplate on the face of the building or porch. The nameplate may contain only the name and

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the occupation of the resident. It shall be attached directly to the building or porch and shall not be illuminated in any way. No permit is required.

(2) *Neighborhood commercial PUD districts.* Signs when attached to buildings shall advertise only services or products which are offered within the building to which the sign is attached, and such signs shall not extend above the roofline of such buildings or more than one foot from the face of the building. No flashing or moving signs are permitted and no "spectacular signs" are permitted. No detached signs or billboards are permitted. See building code for permit requirements.

(3) *Other PUD districts.* No sign shall have flashing lights or moving parts if within 50 feet of a public street. "Spectacular signs" are not permitted. No sign or any part thereof shall be located within five feet of any public easement without approval by PCARC or city council. No more than one attached sign per user shall be allowed on any one building lot.

(4) *PUD districts.* Temporary signs, not to exceed 120 square feet, are permitted in a PUD district.

(5) *[Deed restrictions.]* Any and all signs which are allowed or prohibited shall be agreed to between the PUD developer and the city, and said requirements shall be included as deed restrictions within each subdivision.

(G) *Billboards.* No billboards or signs shall be erected advertising products or services not available on the site.

(H) *Street number.* A street address number, as designated by the building official, is required for all residences and establishments it must be readable from the street and may be on the building or in the yard and include the name of the occupant. No permit is required.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-1. - Purpose and goals.**

(A) The purpose of this section is to provide uniform sign standards that perform the following:

- (1) Promote a positive image of the city and uniform signage program within the Plum Creek PUD boundaries;
- (2) Protect an important aspect of the economic base;
- (3) Reduce the confusion and hazards that result from excessive and prolific use of sign displays;

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(4) Ensure that no hazard is created due to collapse wind, fire, collision, decay or abandonment, that no obstruction is created to fire fighting and police surveillance, and no traffic hazard is created by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs;

(5) Promote efficient transfer of information in sign message by providing that businesses and services may identify themselves: customers and other persons may locate a business or service, and persons exposed to signs are not overwhelmed by the number of messages presented, and are able to exercise freedom of choice to observe or ignore said messages, according to the observer's purpose; and

(6) Protect the public welfare and enhance the appearance and economic value of the landscape by providing signs that do not interfere with scenic views; do not create a nuisance to persons using the public rights-of-way; do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement; are not detrimental to land or property value; and contribute to the special character of particular areas or districts within the city, helping the observer to understand the city and orient oneself within it.

(7) Signage should be compatible with the proposed architectural style and be scaled appropriately. Signage height and size should consider sight distance from adjacent streets and visibility within the community. The design and location of signage must be approved by the PCARC or assigns.

(B) By recognizing this purpose this section shall serve to strengthen the economic stability of business, cultural, and residential areas in the city; recognizing that visual clutter leads to decline in the community's appearance, in property values, and in the effectiveness of the signs.

(C) The goals of this section are to preserve the integrity of our community, promote pride in our neighborhoods promote safe egress/ingress on public roadways, and encourage the effectiveness of signs.

(D) In the event of conflicts, actual or perceived in the terms or requirements of this section, the PCARC or assigns shall issue final determination.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-2. - First Amendment rights.**

This section shall not be construed, applied, interpreted, nor enforced in a manner to violate the First Amendment rights of any person, and the building official shall seek the advice and recommendation of the city attorney prior to taking any action to enforce any provision of this ordinance with respect to any noncommercial sign or speech by any person.

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(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-3. - Enforcement.**

(A) *Authority.* The building official and the code enforcement officer is hereby authorized and directed to enforce all the provisions of this chapter. For such purposes the building official has the powers of a code enforcement officer.

(B) *Right of entry.* Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition which violates the provisions of this chapter, the building official may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this chapter. If such building or premises is occupied, the building official shall first present proper credentials and request entry; and if such building or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-4. - Definitions.**

As used in this chapter, all words shall have the common meaning of such word and the following terms shall have the meaning indicated below unless context clearly indicates otherwise:

*Actively being built.* The project or subdivision has continuous construction efforts underway to complete the project.

*Activities and events sign.* An enclosed, marquee-type sign to provide public buildings, churches (limited to places of worship only), and neighborhood associations, herein referred to as "the entity(ies)" the opportunity to post notices of meetings, activities, and other notices of interest to the entity or group it serves. The purpose of this sign is to facilitate communication within the community served by the public buildings and the churches, and within the larger neighborhoods of 50 homes or more represented by their neighborhood association.

*Arcade signs.* Is a panel erected parallel to a building façade and within the opening of an arcade. Arcade signs must be supported their entire length by metal brackets, grillage or supports. An arcade sign may be non-illuminated or internally illuminated. An arcade sign may include neon tubing when forming a border for the subject matter or when forming letters, logos, or pictorial

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designs. The bottom edge of an arcade sign must be at least nine feet above the finished grade. The location of an arcade sign must be centered on the arcade entrance. The signage panel must be made of wood, sign foam, made to look like wood or metal. The support for the sign must be decorative and made of metal. Sign lighting must be affixed to the building or to the sign and must be shielded to prevent the light from shining directly into traffic, upper floor windows and pedestrian's eyes. Individual letters or graphics may be internally illuminated and glow either with a halo illumination effect or glow through their front faces. The use of neon is permitted. Exposed raceways, conduits and transformers are prohibited. The height of the arcade sign cannot exceed four feet.

*Awning Sign.* A sign that is applied to, attached to or painted on an awning, which is intended for protection of weather or as a decorative embellishment. Awnings project from a wall or roof of a structure and are located over a door or window. Awnings must be professionally constructed and cannot be made of vinyl. All internal support structures must be made of metal. Awnings are allowed to project over a sidewalk to a maximum of eight feet and must have a minimum clearance of nine feet. Awnings may have lettering and graphics on the front or side vertical panels only except that awnings located over the primary entrance of a building may have one store logo or the store name applied within a 16 square foot area on the sloped portion of the awning. Awnings may be lighted from above with lighting affixed to the building. All lighting must be shielded to prevent the light from shining directly into traffic, upper floor windows or pedestrian's eyes, in no case can the supporting structure of an awning sign extend into or over the street curb. Awnings must end a minimum of three feet from the curb edge. In instances where an awning encroaches into areas where street lights, trees or other obstacles in the streetscape conflict, the awning must be reduced in size (overhang) so as to eliminate the conflict. Awning support structures must be designed to meet local wind loads. Portions of the awning can be internally illuminated, provided that the entire awning can be internally illuminated. Awnings that do not include lettering or graphics are not considered signs.

*Banner.* A sign made of fabric or any nonrigid material.

*Bay windows.* A sign erected parallel to the façade of any building to which it is attached and supported throughout its entire length at its base by the top edge of a bay window. A bay window sign may have no-illuminated or internally illuminated lettering and graphics. Neon is permitted. Lettering and graphics may be raised up on pins to prevent the graphics from being obscured by the window trim from the sidewalk. Signage lettering and graphics must be made of wood, sign foam that simulates wood or metal. Faces of internally illuminated graphics may be made of acrylic, lexan or similar material. Signage lighting must be affixed to the building or to the sign and must be shielded to prevent the light from shining directly into traffic, upper floor windows or pedestrian's eyes. Individual letters or graphics may be internally illuminated and glow through the front faces. Exposed raceways, conduits and transformers are prohibited. The length of the bay window sign cannot exceed the width of the bay window. The height of the sign cannot exceed four feet and the depth of the sign cannot exceed 12 inches.

*Berm (monument) sign.* A sign where the frame of the sign face is set at grade with the ground as a monument or in an earthen berm. There is no clearance between the ground and the sign face.

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*Billboard.* A sign advertising products not made, sold, used or served on the premises displaying such sign, or a sign having a height greater than 12 feet and a surface area greater than four hundred square feet.

*Building identification.* Identifies commercial buildings at a scale appropriate to both vehicular and pedestrian traffic; in any case, the size of a building identification sign shall only contain the building name and street address. The street address may be applied to a canopy, awning or directly to a building. The building identification sign must be constructed as a single-sided, no-illuminated painted metal sign attached directly to the building. The color of the sign must be compatible to the building and must be approved by PCARC. This sign may be indirectly lot. Each building is allowed one building identification sign per face of building.

*Building official.* Any officer or employee, or person, designated by the city manager to perform the duties set forth in this ordinance to be performed by the building official.

*"Burma Shave" signs.* A sign intended to provide information and direction to potential home buyers within a recorded subdivision in which new homes are actively being built.

*Canopy.* A sign that is applied to, attached to or painted on an architectural canopy. The canopy must be intended for protection from the weather or used as an architectural embellishment and project from a wall over a door window. Canopies may be made out of wood, metal or glass, but all support structures must be made of metal. Canopies are allowed to project over a sidewalk to a maximum of six feet and must have a minimum clearance of nine feet. Canopies may have side panels, and may have a panel enclosing the underside of the canopy. Canopies may have lettering and graphics on or above the front or side vertical panels. Canopies may be lighted from above with lighting affixed to the building. All lighting must be shielded to prevent the light from shining directly into traffic, upper floor windows or pedestrian's eyes. Individual letters or graphics may be internally illuminated and glow either with a halo-illumination effect or glow through their front faces. The use of neon is permitted. No exposed raceways, conduits or transformers are permitted. In no case can the supporting structure of a canopy extend into or over the street curb. Canopies must end a minimum of three feet from the curb edge. In instances where canopies encroach into areas where street lights, trees or other obstacles in the streetscape conflict, the canopy must be reduced in size (overhang) so as to eliminate the conflict. Canopy support structures must be designed to meet local wind loads. Canopies that do not include lettering or graphics are not considered signs.

*Changeable electronic variable message sign.* A sign which permits alteration of the sign's message or images by electronic means. This includes a sign using light-emitting diodes (LEDs) or other means of digital display to resent a message or images.

*Clearance (of a sign).* The smallest vertical distance between the grade of the adjacent street curb and the lowest point of any sign, including framework and embellishments, but excluding sign supports.

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*Commercial.* Locations where the principle use of the property is not classified as residential or multifamily.

*Construction trade sign.* A sign that identifies the architect, engineer, financial institution, builder, or other building trades contractor involved in a construction project at the site where the sign is located.

*Curbline.* An imaginary line drawn along the outermost part of back of the curb and gutter on either side of a public street, or, if there is no curb and gutter, along the outermost portion of the paved roadway, or if there is no paved roadway, along the edge of the traveled portion of the roadway.

*Directional signs, traffic.* An on-premises sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment and no advertising copy, e.g., parking or exit and entrance signs.

*Electrical sign.* A sign containing electrical wiring, connections, or fixtures, or utilizing electric current, but not including a sign illuminated by an exterior light source.

*Electronic message sign.* A sign that includes provisions for programmable electronic message changes.

*Facade.* All building wall elevations, including any vertical extension of the building wall (parapet), but not including any part of the building roof.

*Face or surface.* The surface of the sign upon, against, or through which the message is displayed or illustrated on the sign. Flashing signs are not permitted.

*Flashing.* To light intermittently. To change colors intermittently in order to achieve a flashing, fluttering, scrolling, undulating, or rolling affect (i.e. LED displays). Scrolling of text in a single color is not considered to be flashing.

*Freestanding sign.* A sign that is not attached to a building but is permanently attached to the ground.

*Frontage.* A boundary line separating the public right-of-way from the lot.

*Future development signs (temporary construction, real estate, or development sign).* A freestanding or wall sign advertising the construction, remodeling, development, sale, or lease of a building or the land on which the sign is located.

*Government sign.* A sign installed, maintained, or used:

(1) By a city, county, state or the federal government, required or specifically authorized for the public purpose pursuant to regulations promulgated by the state or federal government;

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(2) By the City of Kyle.

*Gross surface area.* The entire area within a single continuous perimeter enclosing the extreme limits of each sign. A sign having two surfaces shall be considered a single sign if both the surfaces are located back to back. In the event two or more signs share a single structure, i.e., directory signs, or signs on v-shaped structures, each sign or panel shall be considered separately for square footage purposes, provided that the combined area of such signs cannot exceed the total square footage allowed on a single sign.

*Height (of a sign).* The vertical distance between the finished grade before the sign or grade of the adjacent street curb, whichever is greater, measured to the highest point of the sign.

*Human sign.* A sign held by or attached to a human for the purpose of advertising or providing information about a business, commodity, service, product, or other commercial activity. A person dressed in a costume for the purpose of advertising or providing information about a business, commodity, service, product, or other commercial activity shall constitute a human sign. Human signs do not include T-shirts, hats, or other similar clothing.

*Incidental sign.* A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises (e.g. a credit card sign or a sign indicating hours of business).

*Inflatable sign.* Any balloon or other device which is inflated by air or other gas and displayed outdoors. Inflatable structures primarily designed for recreational use shall not be considered to be a sign as, for example: slides, swimming pools or space walks.

*Information signs.* Includes bulletin boards, changeable copy directories, or signs relating solely to publicly owned institutions (city, county, state, school district) intended for use by the institution on which the sign is located.

*Intersection.* A place where two roads meet or form a junction. For purposes of this ordinance, sign setback distance is measured from the intersections of the curblines of two streets.

*Kiosk sign or kiosk.* A free-standing sign structure located in or adjacent to public right-of-way authorized by written agreement approved by the city council that features a City of Kyle identification panel at the top of each structure, and displays directional information to new homes, independent school district facilities, and municipal or community events or facilities.

*Lamppost banners.* A fabric banner applied to lampposts with standard banner arms. The lamppost banners must be made of canvas, vinyl or other suitable banner fabric. Lamppost banners must be double-sided with similar imagery on both faces. Lamppost banners must include pictorial elements. The maximum size for lamppost banners is two feet, six inches wide by five feet tall. No more than two lamppost banners may be erected on a single lamppost. The minimum clearance from the pavement to the lower banner arm is nine feet and the lamppost banner and banner arm cannot extend over the street pavement. Lamppost Banners are limited to



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holiday messages, community events or festivals. No retail advertising shall be permitted on lamppost banners.

*Marquee.* A permanent roof-like structure or awning or rigid materials attached from, supported by, and extending from the façade of a building, including a false "mansard roof."

*Memorial signs or tablets.* Includes freestanding historical markers in accordance with state historical standards, and/or cornerstones with names and dates of construction of a building when cut into a building surface or inlaid upon it to become part of the building.

*Menu boards.* Freestanding or wall signs used for the purpose of informing patrons of food, which may be purchased on the premises.

*Model homes sign.* A temporary real estate sign placed in front of a group of model homes that is removed from the premises upon sale of the last model.

*Monument sign:* Are define by details located in section 7-16

*Multifamily.* Locations that contain three or more attached units designed for residential use including town homes and condominiums.

*Multitenant center sign.* A sign advertising two or more retail, wholesale, business, industrial, or professional uses (not necessarily under single ownership) utilizing common facilities including off-street parking, access, or landscaping.

*Multitenant center identification sign.* The portion of the sign that identifies the general name of the center or development as a whole. The sign shall include only the name and address of the development.

*Nameplates.* Nonelectrical, on-premises signs that communicate only the name of the occupant of the address of the premises.

*Nonconforming sign.* A sign that was lawfully installed at its current location prior to the adoption or amendment of the ordinance from which this section derives, but that does not comply with the present requirements of this section.

*Off-premises sign.* A sign referring to goods products or services provided at a location other than that which the sign occupies.

*On-premises sign.* A sign identifying or advertising the business, person, activity, goods, products, or services located on the site where the sign is installed, or that directs persons to a location on that site.

*Office tenant identification sign.* Each building that houses offices is allowed one primary tenant identification sign. The office tenant identification sign identifies the commercial tenants at the

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entrance to the building. Office tenant signs are encouraged to be attached to the face of the building. Where the sign is freestanding, it must be located parallel and as close as possible to the building façade, and provide a minimum four-foot clear area on the sidewalk to prevent obstruction of pedestrian circulation. The office tenant identification sign is a single-sided, internally illuminated or nonilluminated painted metal sign with changeable panels. The address of the building may also be included in the face of this sign. The maximum size for the office tenant identification sign is 64 feet.

*Parapet.* The extension of a false front or wall above a roofline.

*Point-of-sale sign.* A sign advertising a retail item accompanying its display (e.g., an advertisement on a product dispenser).

*Political sign.* A sign advertising a political candidate or party for elective office or that advertises primarily a political message.

*Portable signs.* Signs not permanently attached to the ground or other permanent structure, or a sign designed to be transported by wheels including, but not limited to signs which are mounted on skids, trailers, wheels; signs converted to A- or A-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising.

*Primary beneficiary.* Any person who benefits from the installation, placement, construction, or alteration of a sign, including the owner or tenant of the property upon which the sign is located and the owner or operator of the business, product, service, or activity that is the subject of the sign.

*Primary tenant.* The primary tenant sign is a wall sign used to identify the primary tenant in a multistory building. The size of the sign is appropriate to be visible from vehicular or pedestrian traffic. The maximum size for each primary tenant sign is 200 square feet and may not be placed on a wall below the third story. Each building may be allowed one primary tenant sign.

*Private traffic-control signs.* Small traffic directional signs indicating interior circulation of parking areas on site, warn of obstacles or overhead clearance, or designate permissible parking.

*Project directory sign.* Project directory signs contain a map of listing of key destinations within the mixed use districts of Plum Creek. The project directory sign is scaled to pedestrian use. A project directory sign may be single or double-sided and may be internally illuminated. The maximum size for a project directory sign is 12 square feet. Project directory signs may be placed on the sidewalk provided a four foot clear area is provided for pedestrians. No retail advertising is allowed on project directory signs.

*Projecting signs.* A sign used to identify the name of a business, profession, service, product or activity conducted, sold or offered on the premises where the sign is located by providing an advertising message that is perpendicular to the wall of the building to which it is attached.

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*Pylon signs.* Freestanding signs that are supported by a structure extending from and permanently attached to the ground by a foundation or footing, with a clearance between the ground and the sign face. Pylon signs are not considered monument signs.

*Real estate signs.* Temporary signs advertising the real estate upon which the sign is located as being for rent, lease, or sale.

*Rear of building signs.* Rear of building signs are signs that do not face a public street and are used to identify tenants in a building. One rear of building sign per tenant is allowed on the rear face of the building if there is a public entrance to the building from the rear of the building. Rear of building signs, may be wall signs or window signs and may be made of the same materials that are permitted for these signs. Rear of building signs cannot exceed 24 square feet in area. Rear of building signs can only identify tenants who are actually in the building to which the sign is attached.

*Residential.* Locations where the principal use of the property is for one and two-family dwelling units.

*Roof sign.* Any sign installed over or on the roof of a building.

*Sandwich board signs.* A sign constructed in such a manner as to form an "A" or tent-like shape. The sign can be hinged or not hinged at the top and each angular face help at an appropriate distance by a supporting member. Sandwich board signs are the only portable signs allowed in Plum Creek. Sandwich board signs may be placed on the sidewalk in front of a retail or restaurant premises during business hours only. Sandwich board signs must be located at least three feet from the curb of any adjacent street. Should a sandwich board sign be placed on or adjacent to a sidewalk, an unobstructed pedestrian clearance of at least four feet from the curb of any adjacent to the sign. A maximum of one sandwich board sign may be placed per business or tenant within storefront limits of the business the sign advertises. Sandwich board signs cannot be closer than 20 feet to another sandwich board sign. Dry-erase boards are prohibited on sandwich board signs. The maximum size of a sandwich board sign is 12 square feet per side. The maximum height of a sandwich board sign is four feet.

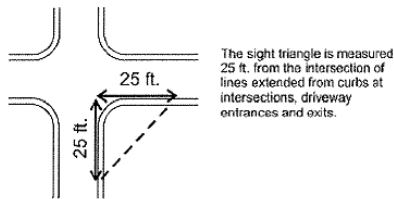
*Sign.* Any surface, display, design, light device, painting, drawing, message, plaque, poster, billboard or other device visible from the public right-of-way on which letters, illustrations, designs, figures, or symbols are painted, printed, stamped, raised, projected, outlined or attached in any manner whatsoever that are intended or used to advertise, inform, or attract the attention of persons both on and not on that premises, excluding those lights and landscape features which display words or symbols as holiday decorations. The term "sign" also includes the supporting structure of the sign.

*Sign area.* Includes all lettering, wording, logos, design, symbols, framing, roofing, and cabinets, or modules, calculated according to the provisions established in this section.

*Sign panel.* An individual sign placard displaying directional information on a sign kiosk.

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*Sight triangle.* The area of vehicle visibility at all street intersections, which shall be clear of all obstructions that may present a hazard to traffic. The visual triangle for a street shall be described as a 45-degree triangle where the right angle sides measure at the very minimum 25 feet. The visibility triangle shall be measured from a point at which the projected curb lines intersect.



*Small blade signs.* A sign is attached to and projects out from a building face or wall more than 12 inches and are generally set at a right angle to the building. Small blade signs may project over the sidewalk, but must be set back at least three feet from the back of curb and have at least nine feet of clearance from grade. Support structures for small blade signs must be decorative in nature and made of metal. Supports must be engineered to support local wind loads. The sign panel, lettering and graphics can be made of wood, synthetic wood or metal. A small blade sign's background panel may be internally illuminated or made of acrylic, Plexiglas or similar plastic sheeting. Individual letters or graphics may be internally illuminated and glow either with a halo-illumination effect or glow through their front face. The use of neon is permitted. Exposed conduits, raceways or transformers are prohibited. Indirect lighting must be attached to the building or sign and be shielded to prevent the light from shining directly into traffic, upper floor windows or pedestrian's eyes. The size of a small blade sign cannot exceed 12 square feet in area. The support structure is not included when calculating area. Small blade signs must be double sided and depth of the sign cannot exceed eight inches. Only one face of the sign will be used to calculate size.

*Subdivision.* For purposes of this section, the subdivision in its entirety, not a phase, section, village, unit, or product line.

*Subdivision development entrance signs.* Defined as:

- (1) Primary entrance signs;
- (2) Secondary entrance signs; and
- (3) Tertiary entrance signs;

and are used to define various entries of the subdivision.

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*Temporary Banner.* Signs advertising "Going Out of Business" events are prohibited. Temporary banner signs must be professionally constructed and may not be attached directly to windows with tape or adhesive.

*Temporary sign.* Any sign that is used temporarily and is not permanently mounted (i.e. on stakes or posts), and is constructed of cardboard, foam board, cloth, canvas, fabric, plywood, or similar lightweight material. A portable sign is not a temporary sign.

*Temporary wall signs.* An on-premises wall sign of a nonpermanent nature advertising a special event, sale, product, or service.

*Valet parking identification* A series of signs used to identify a valet parking station. Each station is allowed three components: 1) valet station with umbrella or awning; 2) a sandwich board sign; and 3) cones. Valet parking identification or valet parking operations shall not occur in the public right-of-way, except that a sandwich board sign complying with the limitations set forth for signage, maximum signage allowances; sandwich board signs of these development standards may be allowed in the sidewalk, provided that at least four feet of clearance is maintained for pedestrians.

*Vertical projecting signs.* A sign that is attached to and projecting out from a building face or wall more than 12 inches, generally set at a right angle to the building. A vertical projecting sign may overhang the sidewalk but must be located a minimum of three feet from the back of curb. At least nine feet of clearance must be provided between the bottom of the sign and the sidewalk. Vertical projecting signs can extend above a tenant's lease space with approval of the owner of the building. The support structure from which the projecting sign panel is suspended must be decorative in nature and made of wood, synthetic wood or metal. Signage lighting must be affixed to the building or to the sign and be shielded to prevent the light from shining directly into traffic, upper floor windows or pedestrian's eyes. A vertical projecting sign's background panel may be internally illuminated and made out of acrylic, Plexiglas or similar sheeting. Individual letters or graphics may be internally illuminated and glow with either a halo-illumination effect, or glow through their front face. The use of neon is permitted. Exposed raceways, conduits and transformers are prohibited. The height of a vertical projecting sign cannot exceed 75 percent of the overall wall length of the wall on which it is erected or a maximum of 25 feet, whichever is less. Vertical projecting signs must be double-sided. The depth of the sign panel may not exceed 15 inches, including the depth of the applied letters or graphics. The size of a vertical projecting sign cannot exceed 150 square feet in area. Only one face of the sign will be used to calculate size, graphics may be internally illuminated and glow either with a halo-illumination effect or glow through their front face. The use of neon is permitted. Exposed conduits, raceways or transformers are prohibited.

*Wall sign.* A sign attached to the façade of a building or a canopy. Wall signs include signs on or affixed to walls, windows, awnings, or other parts of the exterior of a building or canopy.

*Window or door surface signs.* Signs installed on or in a window or door.

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*Window signs.* A sign that is visible from a public street or sidewalk and that is posted, attached, painted or affixed in or on a window, or a sign that is located within three feet of a window. Window signs must be located on the inside of the window. The area of the window sign cannot exceed 25 percent of the square footage of the window in which the sign is located. Only one window sign is allowed per window. Window signs may be located on the upper floors of a building. Hours of operation, not to exceed two square feet per window, shall not be counted in the square footage allowance of a window sign. When the address of the business is displayed as a window sign, the address shall not be counted in the square footage allowance.

*Work of art.* Sculpture, fountain, or similar object, and containing no reference to or image of a business or its logo, is not considered as a sign.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-5. - Applicability.**

(A) All land within the city and its extraterritorial jurisdiction (ETJ) is subject to compliance with this section.

(B) The sections, provisions, and regulations set forth in this section 7 shall apply to the control, use, installation, regulation, licensing and permitting of signs within the Plum Creek PUD.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-6. - Permit required.**

(A) *Permit required.* It shall be unlawful for any person to erect, construct, enlarge, move or convert any sign within the Plum Creek PUD without first obtaining a PCARC approval and a city sign permit and paying a permit fee unless specifically provided otherwise in this chapter. A change of business requires a new sign permit.

(B) *Compliance required.* No person may install a sign or structurally alter an existing sign except in conformity with this ordinance and other applicable federal, state, and local regulations, including, but not limited to, the building code, electrical code, and other applicable ordinances of the city. In the event of a conflict between this chapter and other laws, the most restrictive standards applies.

(C) *Permit not required.* Permits shall not be required for the following signs, provided, however, that such signs shall otherwise comply with all applicable sections of this chapter.

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- (1) On-site real estate "for sale" signs, or for a model home sign and future development signs that is approved by the PCARC.
  - (2) Political signs located on private property with the consent of the property owner that do not exceed 36 square feet in area, are not more than eight feet in height are not illuminated, and do not have any moving elements.
  - (3) Government signs, including traffic signs, private traffic-control signs, regulation address numerals, and memorial signs.
  - (4) Construction trade signs.
  - (5) Garage sale signs.
  - (6) No sign permit is required for a change of copy on any sign, or for the repainting, cleaning and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified.
- (D) *Primary beneficiary.* The primary beneficiary of any sign installed, moved, structurally altered, structurally repaired, maintained, or used in violation of this section shall be deemed responsible for the violation of this section.
- (E) *Building official authority.* The building official shall enforce and implement the terms of this chapter, including without limitation:
- (1) Issuing permits and collecting the fees required by this chapter;
  - (2) Conducting appropriate inspections to insure compliance with this chapter;
  - (3) Instituting legal proceedings, including suits for injunctive relief when necessary, to insure compliance with this chapter; and
  - (4) Investigating complaints of alleged violations of this chapter.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-7. - Application for permit.**

- (A) An application for a sign permit must be accompanied by the permit fee and shall include such information as is necessary to assure compliance with all appropriate laws and regulations of the city, including:
- (1) The name and address of the owner of the sign.

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- (2) The name and address of the owner, and if different from the owner, the person in possession of the premises where the sign is located or to be located.
- (3) Clear and legible drawings with description definitely showing location of the sign which is the subject of the permit and all existing signs whose construction requires permits, when such signs are on the same premises.
- (4) Scale drawings showing the site plan location, dimensions, construction supports, sizes, foundation, electrical wiring, and components, materials of the sign and method of attachment and character of structure members to which attachment is to be made. The design, quality, materials and loading shall conform to the requirements of the building code. Projection, wall and temporary signs not over six square feet in area, constructed of metal or other noncombustible material, attached securely to a building or structure and not projecting more than 18 inches beyond the building wall, structure, building line or property line, shall not require an engineer certification as to its soundness. Wind pressure and dead loads shall be shown where deemed appropriate, and the building official may require structural drawings designed and sealed by a civil engineer registered by the State of Texas when it cannot otherwise be determined that the sign will be structurally sound if building official, engineering data certified by a licensed structural engineer shall be supplied on any submitted plans.
- (5) Any electrical permit required and issued for said sign if required.
- (6) For free-standing signs, documentation demonstrating that the applicant holds general liability insurance in the amount of one million dollars. No license or permit for the installation, erection and maintenance of a freestanding sign shall be issued to any person, firm or corporation until such person, firm or corporation has filed with the building official a certificate of insurance verifying general liability insurance in the amount of \$1,000,000.
- (7) A surety bond in the sum of \$5,000.00 for the installation and erection of the sign payable to the city and providing for the indemnification of the city and any and all damages or liability which may accrue against the city for a period of one year after installation, erection, demolition, repair, removal, or defects in or collapse of any sign.
- (8) The permit fee.
- (9) Written PCARC approval.
- (B) Fees for sign permits shall be as specified in appendix A, and calculations of the square footage shall include decorative trim and borders, but exclude supports, except when otherwise specified in this chapter.
- (C) Expiration of sign permits:
- (1) A sign permit shall expire and become void unless a request for final inspection of the sign is made no later than 180 days after the date the permit is issued.



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(2) A single extension 90-day extension of the permit may be granted by the building official if requested before the expiration of the permit. Final inspection must be requested before the end of the extension period or the permit becomes void.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-8. - Calculation of sign area.**

(A) *Sign area measurement.* Sign area for all sign types is measured as follows:

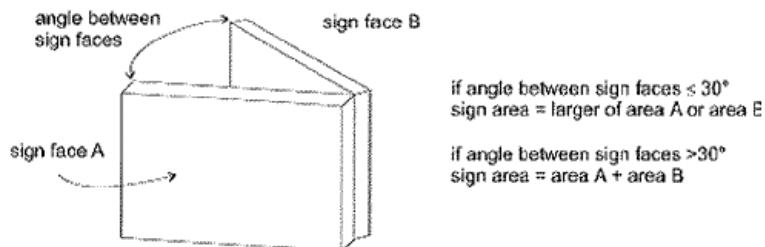
(1) Sign copy mounted, affixed, or painted on a background panel or area distinctively painted, textured, or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest rectangle(s) that will enclose both the sign copy and the background.

(2) Sign copy mounted as individual letters or graphics against a wall, fascia, mansard, or parapet of a building or surface of another structure that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as a sum of the smallest rectangle(s) that will enclose each word and each graphic in the total sign.

(3) Sign copy mounted, affixed, or painted on an illuminated surface or illuminated element of a building or structure, is measured as the entire illuminated surface or illuminated element which contains sign copy. Such elements may include, but are not limited to lit canopy fascia signs, cabinet signs, and/or interior lit awnings. Support structures and frames of a freestanding sign shall count toward the sign area.

(4) Multifaceted signs are measured as follows:

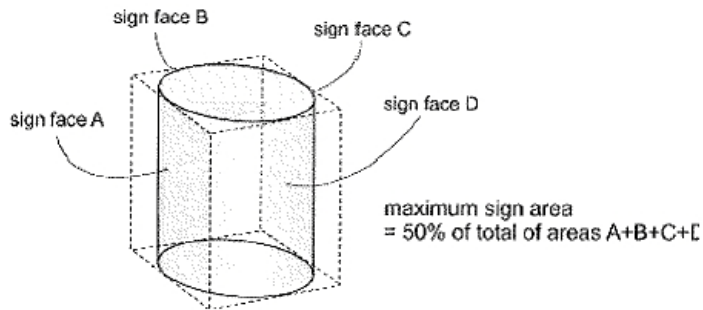
a. *Two-face signs.* If the interior angle between the two sign faces is 30 degrees or less, the sign area is of one sign face only. If the angle between the two sign faces is greater than 30 degrees, the sign area is the sum of the areas of the two sign faces.



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b. *Three or four face signs.* The sign area is 50 percent of the sum of the areas of all sign faces.

(5) Spherical, free-form, sculptural, or other nonplanar sign area is 50 percent of the sum of the areas using only the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. Signs with greater than four faces are prohibited.



(6) Freestanding sign area is the entire advertising area of a sign, including framing, trim or molding and the supporting frame for monument signs and including the air space between the supporting structures for freestanding signs.

(B) *Sign height measurement.* Sign height is measured as follows:

(1) *Freestanding signs.* The height of a freestanding sign shall be computed as the distance from the base of the sign at finished grade to the top of the highest attached component of the sign. The height of any monument sign base or other structure erected to support or adorn the sign is measured as part of the sign height. If a sign is located on a mound, berm, or other raised area for the sole purpose of increasing the height of the sign, the height of the mound, berm, or other raised area shall be included in the height of the sign.

(2) *Building mounted signs.* The height of wall, fascia, mansard, parapet or other building mounted signs is the vertical distance measured from the base of the wall on which the sign is located to the top of the sign or sign structure.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-9. - Prohibited signs.**

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The following signs are prohibited from installation, construction, repair, alteration, location or relocation within the city, except as otherwise permitted in this section.

- (1) Signs with flashing lights, revolving beacon lights, fluttering, undulating, swinging, or otherwise moving parts. For purposes of this section, an electronically controlled changeable-copy sign is not considered a flashing sign unless it directly falls under the definition of 'flashing' as defined in this section.
- (2) Billboards.
- (3) Off-premises signs, except for kiosks and any other sign specifically authorized in this ordinance that are compliant with this section.
- (4) Portable signs.



- (5) Temporary signs except as specified in section 29-20
- (6) Signs placed on a vehicle or trailer that is parked or located for the primary purpose of displaying a sign shall be permitted.
- (7) Roof signs.
- (8) Signs painted on fences or roofs.
- (9) Pylon signs, except as specifically provided for section 29-17
- (10) Inflatable signs larger than eight feet in any dimension.
- (11) Light emitting diode (LED) displays or signs, with the limited exception of LED message boards and static LED fuel price signs that comply with section 29-16 and section 29-17. Such signs, where authorized, shall fully comply with the requirements of this chapter. Electronic message signs are allowed only as part of the monument sign and can have a display size no larger than 12 inches by 72 inches. Messages shall be programmed to remain static for a period of not less than 60 seconds. Messages shall not be programmed to flash.

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(12) Changeable electronic variable message signs except as specifically provided in this chapter.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-10. - Signs exempt from these regulations.**

The following types of signs shall be exempt from the permitting provisions of this section. However, regulations regarding sign location in a public right-of-way or public access easement shall apply. It is further specifically provided that the building official may, based upon the size, materials used in construction and other relevant factors, require the owner of any sign to show evidence of structural soundness and compliance with the safety requirements of this section.

- (1) Any sign erected by or under the authority of the city on property owned by the city.
- (2) Street identification signs, public notices, and warning signs installed by any city, county, state or federal agency.
- (3) Historical markers placed by a city, county, state or national historical preservation organization.
- (4) Official vehicle inspection station signs, holiday lights and decorations, or works of art.
- (5) Signs located on-premises or inside a building and which are not displayed so as to be legible from a public street, including, but not limited to, such signs as credit card decals, hours of operation signs, emergency contact information, and barber poles.
- (6) On-site traffic control signs on commercial properties, such as stop, yield, and similar traffic control signs containing no commercial message.
- (7) "No parking" or "towing" signs authorized by city ordinance.
- (8) "No dumping allowed" signs posted to deter illegal dumping not exceeding four square feet.
- (9) Underground utility warning signs not exceeding one square foot in size and similar safety signs.
- (10) Signs on railway property, which references the operation of such railway.
- (11) Security warning, neighborhood watch or crime watch signs under two square feet.

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(12) Flags, emblems and insignia of any governmental body, including the official flag of a nation or of a state is not a sign subject to this chapter. Notwithstanding the preceding sentence, a national or state flag shall not be installed, maintained, or used in a manner that would make that flag a hazardous sign if it were a commercial flag.

(13) Corporate flags displayed on a freestanding pole, which do not exceed 35 feet in height. The flag shall not exceed 32 square feet in area. The flagpole shall be setback a minimum of 20 feet from the front property line and eight feet from the side property line.

(14) Hand held signs or signs, symbols or displays on persons or animals, except for signs that qualify as human signs.

(15) Signs located on mail boxes, newspaper vending machines and curbside residential newspaper holders which identify the owner and address of the premises or the name of the newspaper sold or subscribed to; provided that such devices are not placed so as to interfere with the safe movement of pedestrians or vehicular traffic.

(16) Signs located on outdoor machines, devices, or equipment which display the trademark, trade name, manufacturer, cost of operating or service instructions or similar information, but do not advertise the business where located. This exemption includes, but is not limited to signs on coin-operated vending machines, fuel dispensing pumps, telephone facilities, automatic teller machines, automatic vacuum cleaners, amusement rides and similar machines, devices or equipment.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-11. - Sign categories.**

For purposes of this section, property within the city's sign ordinance jurisdiction is classified into a sign category. Those properties within the city's limits are classified based upon their zoning district classification. Those properties located within the ETJ shall be classified into a sign category by the building official based upon the existing or proposed use and the zoning district most closely associated with that use. Classification into a sign category is for the purposes of signage only and does not establish vested use rights towards the assignment of zoning should the property be annexed into the city limits. In overlapping areas, the most restrictive sign regulations will apply.

(1) Single-family residential sign category includes any residential site in an agricultural (A), manufactured housing (M-1, M-2, M-3), or any single-family (SF, R-1A) townhouse (R-1-T) zoning districts or equivalent land use in the ETJ. Nonresidential uses permitted in the identified residential districts shall be included in the commercial sign category.

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(2) Multifamily residential sign category includes any site in a multifamily (R-2, R-1-C, R-3-1, R-3-2, R-3-3) zoning districts or equivalent use in the ETJ. Nonresidential uses permitted in the identified residential districts shall be included in the commercial sign category.

(3) Commercial sign category includes any site in retail services (RS), warehouse (W), construction manufacturing (CM), entertainment (E), and transportation utilities (TU) zoning districts or equivalent use in the ETJ and the permitted nonresidential uses identified in the city's residential and multifamily zoning districts.

(4) Central business district sign category includes any site that is located within the boundaries of the central business district (CBD) zoning district.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-12. - General provisions.**

(A) *Uniform signs in multi-tenant/multi-business developments.* Wall signs displayed by two or more businesses using common parking facilities shall be uniform in construction (i.e. cabinets, channel letters, plaques) and lighting (i.e. direct, indirect).

(B) *Street address.* All freestanding signs, either berm or monument signs, shall include the street address. The street address shall not be included in the calculation of the sign area, except in such case that the street address is also the name of the center, business, or development, or in such case that the street address exceeds six square feet in size.

(C) *Setback.* A minimum setback of at least five feet from any property line is required for all signs. A sign installed in compliance with this ordinance is not required to meet building setback requirements established in a separate city ordinance; however, no sign or sign support, other than a wall sign, may be installed less than 12 feet from the public right-of-way unless it is:

- (1) Less 30 inches in height above street pavement grade;
- (2) Has a clearance of more than nine feet above pavement grade, provided that the sign shall have a clearance of more than 12 feet when located over a driveway;
- (3) Does not extend into or over the public right-of-way unless specifically authorized under this chapter.

(D) *Visibility.* Signs shall not be constructed or installed in a manner that would interfere with visibility, create a traffic hazard, or be confused with any traffic control sign or signal.

(E) *Structural integrity.* Any sign as defined in this section, shall be designed and constructed to withstand wind pressures and receive dead loads as required in the building code adopted by

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the city. Any sign, other than a wall sign, shall be designed, installed, and maintained so that it will withstand a horizontal pressure of 30 pounds per square foot of exposed surface.

(F) *Maximum height.* No sign shall exceed the maximum height provided for in this chapter. In determining the maximum height of a sign, no sign shall be located on a mound where the surrounding grade has been altered by more than 18 inches for purposes of artificially increasing the overall height of a sign above that allowed by the height regulations in this chapter.

(G) *Historic district.* Signs on premises within a historic district designated by the city shall be subject to the issuance of a certificate of appropriateness by the state or local historic preservation commission.

(H) *Public utility facilities.* New signs and signs being structurally altered shall maintain clearance from public utility facilities, shall not substantially interfere with drainage, and shall not be located in a utility or drainage easement. The minimum clearance from electrical lines shall be as follows: for service lines, except those serving a sign, five feet horizontal and six feet vertical clearance; for distribution lines, 7½ feet horizontal and eight feet vertical clearance.

(I) *Parking, driveways, sidewalks.* Only signs required in the interest of public safety may occupy a required off street parking or loading space or obstruct any driveway or sidewalk, except as specifically authorized herein.

(J) *Public property.*

(1) No sign shall be located on or project over public property or a street right-of-way except governmental signs and temporary banner signs that comply with the approval by the city council of a license agreement. No portion of a freestanding sign shall be permitted to extend into the public right-of-way.

(2) No person shall, either directly or indirectly, cause or authorize a sign to be installed, used, or maintained on any utility pole, traffic signal pole, traffic signal controller box, tree, public bench, street light, or any other structure located on or over any public property or public right-of-way, located within the city's planning jurisdiction, except as authorized by this section.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-13. - Illumination.**

(A) *Lighting.* Sign lighting shall be installed to protect the driver of a vehicle from dangerous glare and to maintain visual clearance of all official traffic signs, signals and devices.

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- (B) *Glare.* Signs shall be designed, located, shielded, and directed to prevent the casting of glare or direct light from artificial illumination, upon adjacent public right-of-way and surrounding property.
- (C) *Bare bulb illumination.* Bare bulb illumination is prohibited within 150 feet of any premises containing a residential use, and in other cases is limited to 25-watt bulbs at night and 33-watt bulbs during daylight hours.
- (D) *Brightness limitations.* The lighting intensity of a sign, whether resulting from internal illumination or external illumination, shall not exceed 75 foot candles when measured with a standard light meter perpendicular to the face of the sign from a distance equal to the most narrow dimension of the sign.
- (E) *Electrical permit.* All signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of the city's electrical codes.
- (F) *Central business sign category.* In the central business sign category, neon or phosphorescent lighting shall not exceed ten percent of the total signage allowed and may only be located in a window.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-14. - Sign regulations relating to single-family residential sign category.**

- (A) *General.* No sign other than a temporary event directional sign (such as a garage sale sign, event sign, or a real estate sign) or a political sign that comply with subsection 29-6(c)(2) shall be erected on property used for single family or duplex dwellings.
- (B) *Burma shave signs.*
- (1) Not more than eight on-site subdivision burma shave signs may be permitted for each recorded subdivision not to exceed six per entry into the primary entrance of the subdivision.
- (2) A burma shave sign shall not exceed 16 square feet of total sign area on one side and both sides of the sign may contain signage. The sign shall not exceed six feet in height and be located out of the right-of-way in a manner that does not obstruct the visibility of vehicle ingress/egress from surrounding streets and/or properties. For burma shave signs along roads bearing speed limits of 40 MPH or more or having setback at or greater than 25-foot setback, signs shall not exceed 64 square feet.
- (C) *Model home signs.* Model home signs are limited to a 32 square foot sign face, a height of eight feet, and to one sign for each cluster of model homes. A nameplate sign that identifies



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the individual product name is exempt under this subsection if it does not exceed three square feet in sign area. Signs shall be placed by permit only, and no fee shall be required.

(D) *Subdivision development entrance sign.* A subdivision development entrance sign is a sign authorized for each major project entry into a legal recorded, multi-lot, multi-sectioned, master-planned subdivision, and contains only the name of the subdivision with no other information. Subdivision entrance signs must be berm or monument signs constructed of stone, brick or other maintenance free material. The design and construction must be compatible with surrounding development. Signage may appear on both sides of the entrance roadway within the recorded or master-planned subdivision and will be soldered as one sign. Lighting shall be ground lights or lights attached to the top of the sign focused downward directly on the sign.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-15. - Sign regulations relating to multifamily residential sign category.**

(A) Signs in multifamily locations shall be limited to signs allowed in this section and in all applicable restrictions of this section as well as other requirements of this Code, and any other applicable law.

(B) Except as provided in this subsection, a single freestanding sign is permitted only as berm or monument signs on the same lot as the development to identify the development and its entrance. Signs must be constructed of stone, brick or other maintenance free material.

(1) Lighting shall be ground lights or lights attached to the bottom of the sign focused upward directly on the sign.

(2) The maximum size of the sign shall be 0.09 square feet per linear foot of frontage, up to a maximum size of 24 square feet. A minimum size of 12 square feet is allowed for a berm sign.

(3) The maximum height of the sign shall be eight feet.

(4) In the event the development has a second entrance from a public street, a second entrance sign may be constructed, at one-half the size of the one main entry sign.

(C) Wall signs are permitted at a size to be calculated as one-half square foot per linear foot of frontage, not to exceed a total of 35 square feet.

(D) Window or door surface signs are allowed .The total sign area of all window and door signs shall be included in calculating the maximum wall sign area authorized at a particular location.

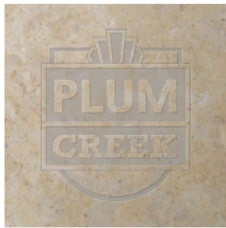
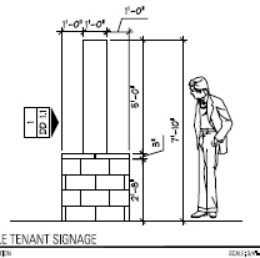
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(E) No LED displays, signs, or message boards are permitted in the multifamily residential sign category.

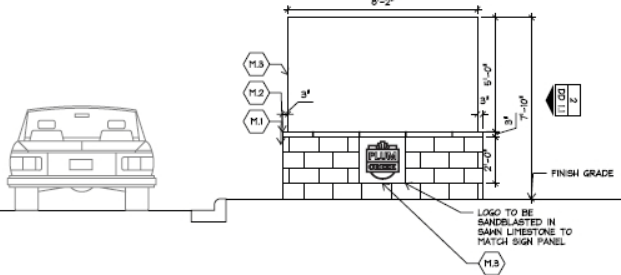
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**Sec. 7-16. - Attached sign regulations.**

MATERIALS SCHEDULE					
MASONRY					
CONTRACTOR TO SUBMIT SHOP DRAWINGS, PRODUCT DATA AND MATERIAL SAMPLES TO LANDSCAPE ARCHITECT FOR APPROVAL BY DECLARANT PRIOR TO CONSTRUCTION.					
KEY	DESCRIPTION / MODEL NUMBER	COLOR	FINISH	CONTACT	REMARKS
(M)	LIMESTONE VENEER USE 1/2" MORTAR JOINTS	CREAM	SAHN ALL SIDES	COMPANY: A.J. BRAHLER STONE, INC. PHONE: (800) 746-8762	- 3" THICK SIZE: 14 1/2" LENGTH X 7 1/2" WIDTH. CONTRACTOR TO PROVIDE MOCK UP FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL. - SUBMIT MORTAR COLOR FOR APPROVAL PRIOR TO MOCK UP.
(M)	LIMESTONE CAP	CREAM	SAHN ALL SIDES	COMPANY: A.J. BRAHLER STONE, INC. PHONE: (800) 746-8762	- CONTRACTOR TO PROVIDE MOCK UP FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL.
(M)	LIMESTONE SIGN PANEL/LIMESTONE LOGO PANEL	CREAM	SAHN ALL SIDES	COMPANY: A.J. BRAHLER STONE, INC. PHONE: (800) 746-8762	- ALL ALTERNATE DESIGN MATERIAL MAY BE SUBMITTED TO THE DECLARANT FOR THEIR APPROVAL.



Example of Sandblasted Sign

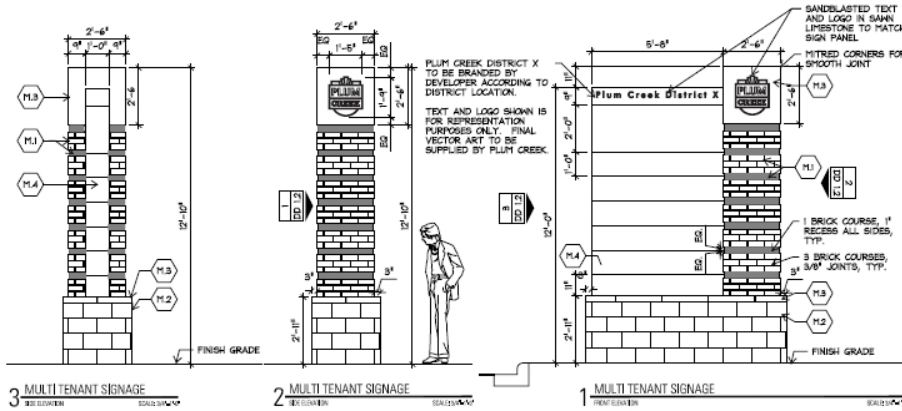


1 SINGLE TENANT SIGNAGE

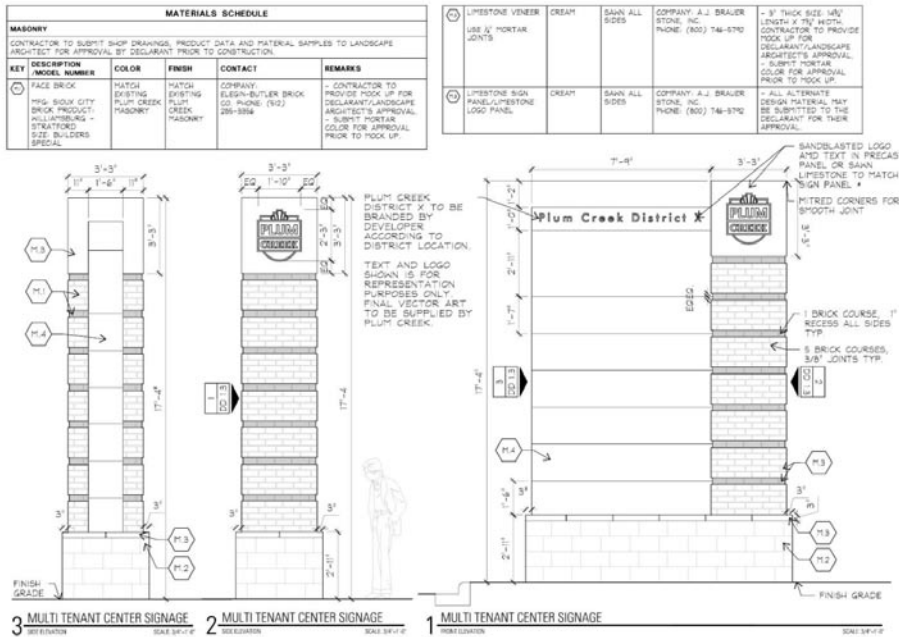
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MATERIALS SCHEDULE					
<b>MASONRY</b>					
CONTRACTOR TO SUBMIT SHOP DRAWINGS, PRODUCT DATA AND MATERIAL SAMPLES TO LANDSCAPE ARCHITECT FOR APPROVAL BY DECLARANT PRIOR TO CONSTRUCTION.					
KEY	DESCRIPTION (UNLESS NUMBERED)	COLOR	FINISH	CONTACT	REMARKS
(M)	FACE BRICK HFG. SIOUX CITY BRICK PRODUCT; MILLAPOLDS SIXTENTH SIZE BUILDERS SPECIAL	MATCH EXISTING PLUM CREEK MASONRY	MATCH EXISTING PLUM CREEK MASONRY	COMPANY: ELGIN-BUTLER BRICK CO. PHONE: (512) 386-3064	- CONTRACTOR TO PROVIDE PROOF UP FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL. - SUBMIT PORTAR COLOR FOR APPROVAL PRIOR TO TOOK UP.

(M)	LIMESTONE VENEER USE 3/4" PORTAR JOINTS	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-6792	- IF TRUCK SIZE 48" X LENGTH X 72" HEIGHT CONTRACTOR TO PROVIDE PROOF UP FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL. - SUBMIT PORTAR COLOR FOR APPROVAL PRIOR TO TOOK UP.
(M)	LIMESTONE SIGN PANEL	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-6792	- CONTRACTOR TO PROVIDE SAMPLE FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL.
(M)	LIMESTONE SIGN PANEL/LIMESTONE LOGO PANEL	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-6792	- ALL ALTERNATE DESIGN MATERIAL MAY BE SUBMITTED TO THE DECLARANT FOR THEIR APPROVAL.



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(A) *Awning signs.* The purpose of an awning sign is to provide an advertising message on the face of an awning. Awning signs shall only be allowed within commercial districts, industrial districts, the central business district.

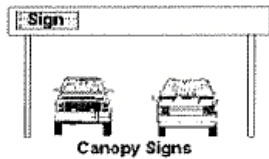
(1) An awning may extend across the entire width of a building or tenant space. An awning may extend above the apparent roof line of the building, provided the awning extends across 75 percent of the entire width of the building façade to which it is attached. An awning shall not exceed six feet in height.

(2) The sign area on an awning shall not exceed 20 percent of the area of the awning and shall extend for no more than 50 percent of the length of the awning. A permit shall be required for an awning sign. Awning signs may be illuminated.

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(B) *Canopy signs.* A canopy sign shall be no greater in size than 20 percent of the face of the canopy of which it is a part or to which it is attached and shall not extend beyond the face of the canopy either vertically or horizontally. An illuminated strip may be incorporated into the canopy. Canopy signs shall only be allowed within commercial districts, industrial districts, and the central business district.

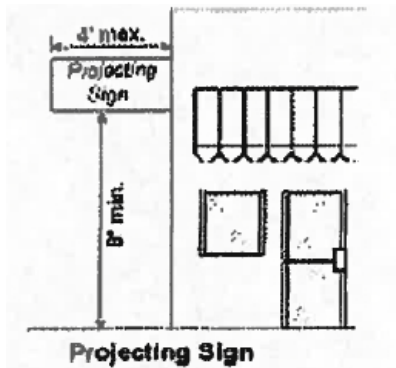


(C) *Projecting signs.* The purpose of a projecting sign is to identify the name of a business, profession, service, product or activity conducted, sold or offered on the premises where the sign is located by providing an advertising message that is perpendicular to the wall of the building to which it is attached. Projecting signs shall be allowed within commercial districts, industrial districts and within the central business district.

- (1) *Number of signs:* One projecting sign shall be allowed for each single tenant building or for each tenant in a multi-occupancy structure. However, no tenant storefront shall have a projecting sign in combination with a wall sign on the same building elevation.
- (2) *Maximum area:* A projecting sign shall not exceed 20 square feet. The plane of the message area shall not exceed 18 inches from the plane of the message area on the opposite side of the sign.
- (3) *Horizontal projection:* A projecting sign shall not project more than four feet from any wall facing and shall not be closer than two feet from a curb line. A projecting sign shall not extend above the apparent roof line of the building.
- (4) *Clearance:* Every projecting sign shall be a minimum of eight feet above the grade over a walking area or 14 feet over a vehicular maneuvering area. Projection signs shall not project over any property line or right-of-way line unless with an approved license agreement.

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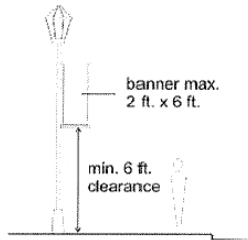
- (5) A projecting sign may be illuminated.



(D) *Light mounted banner signs.* Light mounted banner signs shall only be permitted in the central business district for the advertising of permitted community events, seasonal and historic themes, or other such civic purposes; on collector level and higher classification within a residential subdivision; within master planned commercial subdivision. Such banners are limited to subdivision identification, or seasonal decorations and works of art by local artists. Such banners must be approved by the appropriate electric utility company in addition to receiving a permit from the city manager's office. No permit shall be approved for a period exceeding 30 calendar days. Light mounted banner signs shall comply with the following regulations:

- (1) Banners shall be limited to not more than one banner on any light pole.
- (2) Banners shall be limited to no more than two feet by six feet in exterior dimension and 12 square feet in area per banner.
- (3) A minimum height of six feet as measured from adjacent grade to the bottom of the banner shall apply.
- (4) Banners shall be maintained in good repair. Should they become excessively faded, tattered or torn, they shall be replaced or removed.
- (5) Banners shall not be illuminated, except for indirect lighting associated with the main lamp of the light pole to which it is mounted.

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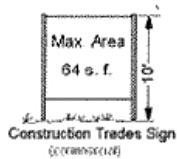


(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-17. - Temporary sign regulations.**

(A) *Construction trades signs.* The purpose of a construction trades sign is to denote the architect, engineer, financial institution or building trades contractor involved in a construction project. Construction trades signs shall be categorized as either commercial or residential.

(1) The maximum area, height, spacing and setbacks of a construction trades sign for commercial locations shall not exceed 64 square feet and shall not exceed ten feet in height.



(2) The maximum area, height, spacing and setbacks of a construction trades sign for residential locations shall not exceed eight square feet and shall not exceed four feet in height.



(3) Construction trades signs shall not be erected until a building permit has been submitted for building construction and shall be removed up on completion of the construction project or occupancy of the structure, whichever is applicable.

(4) No permit or fee shall be required for a construction trades sign.

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- (5) Signs shall not be located in the street right-of-way, shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curbline.
- (6) A construction trade sign shall not be illuminated.
- (b) *Future development signs.* Future development signs shall be regulated as either commercial or residential.
- (1) The maximum area, height, spacing and setbacks of a future development sign shall not exceed 64 square feet and shall not exceed ten feet in height.
- (2) A permit shall be required for a future development sign.
- (3) A future development sign shall not be illuminated.
- (4) A future development sign shall be removed when the project is 90 percent complete or within three years from start of construction, whichever is less. For the purpose of this provision, a subdivision shall be deemed 90 percent complete when 90 percent of the lots within the subdivision are sold.
- (5) Signs shall not be located in the street right-of-way, shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curbline.
- (6) One sign shall be permitted per lot; except that one sign per major access to the development shall be authorized if a lot is used together with one or more contiguous lots for a single use or a unified development (for example, a shopping center).



- (C) *Garage sale signs.* The purpose of a garage sale sign is to announce the sale of household possessions.
- (1) Garage sale signs shall not exceed four square feet. Signs shall be allowed for a maximum of 72 consecutive hours no more than two times per calendar year.
- (2) Single-family residential on-premises: One garage sale sign per street frontage shall be allowed, but only on the premises where the garage sale is being conducted and where there is an existing residential use.



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- (3) Neighborhood-wide garage sales: Two garage sale signs per subdivision entrance shall be allowed for a neighborhood-wide garage sale sponsored by a homeowner's association (HOA). The garage sale sign may be off premises from where the actual garage sale is conducted, but the sign shall be located on property, including a street right-of-way, that is within the limits of the homeowner's association. The HOA must be registered with the city.
- (4) Signs shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curblineline. Signs shall not be placed anywhere in the center median of a public or private street.
- (5) No permit or fee shall be required for any garage sale sign.
- (D) *Real estate signs (commercial, including subfamily)*. The purpose of a commercial real estate sign is to advertise the sale, rental or lease of the premises on which said sign is located.
- (1) A commercial real estate sign shall not be illuminated.
- (2) The maximum area and height of a commercial real estate sign shall not exceed 64 square feet and shall not exceed ten feet in height.
- (3) Commercial real estate signs shall be removed within seven days following the completion of the sale, rental or lease of the premises.
- (4) No more than one sign per 300 linear feet of street frontage may be placed on such property.
- (5) Signs shall be placed at least twenty-five feet from an intersection and a minimum of ten feet from the curblineline.
- (6) No permit or permit fee shall be required for a commercial real estate sign.



- (E) *Real estate signs (residential)*. The purpose of a residential real estate sign is to advertise the sale, rental or lease of the premises on which said sign is located.
- (1) A residential real estate sign shall not be illuminated.

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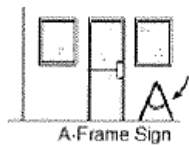
- (2) The maximum area and height of a residential real estate sign shall not exceed 12 square feet and shall not exceed six feet in height.
- (3) All signs shall be removed within seven days following the completion of the sale, rental or lease of the premises.
- (4) Signs shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curbline.
- (5) No permit or permit fee shall be required for a residential real estate sign.



(F) *A-frame signs.* The purpose of an A-frame sign is to provide temporary advertising during business hours of a commercial occupancy.

- (1) Maximum height and area shall conform to the following table:

Maximum Height and Areas of A-Frame Signs		
	Max. Area	Max. Height
Located on a sidewalk	8 s.f.	4 feet
Located in a yard	24 s.f.	8 feet



- (2) Time duration: Only displayed during business hours.
- (3) Placement: Only allowed on private property, but may be located on a public sidewalk, provided a width of four feet shall remain free from intrusion.
- (G) *Miscellaneous temporary sign regulations.*

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- (1) Temporary signs advertising the opening or relocation of a business shall only be permitted for a maximum period of 30 days before and 60 days after such opening or relocation. Signs shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curbline.
- (2) Except as specifically provided otherwise in this chapter, banners shall not exceed 32 square feet, must be attached and parallel to a wall of the structure, and shall only be permitted for a period not to exceed 30 calendar days and with a period of not less than 30 days between displays.
- (3) Human signs shall be allowed on private property and the untraveled public rights of way provided that no human sign, as defined by this section, shall be displayed within five feet of a vehicular traffic lane.
- (4) Except as specifically provided otherwise herein, temporary signs shall not exceed four square feet in size and shall be allowed for a maximum of 14 calendar days per event. Temporary signs shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curbline. Temporary signs shall not be placed anywhere in the center median of a public or private street.
- (5) Open house signs do not require a permit, shall not exceed four square feet, and shall be allowed for a maximum of four hours the day of the open house. Open house signs shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curbline. Open house signs shall not be placed anywhere in the center median of a public or private street.
- (6) Use of temporary decorations as signs, otherwise referred to as decorative festoons, meaning tinsel, strings of ribbon, small commercial flags, or streamers may be used as temporary enhancement of signage in a commercial sign category, providing these devices have no glare, no moving parts, are maintained, and comply with all codes and policy guidelines governing their safe use. No lettering is permitted on these items. Temporary decorations may be used for a period not to exceed 30 calendar days with a period not less than 30 days between displays.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-18. - Flagpoles and commercial flags.**

One flagpole is allowed per development at a maximum height of 50 feet. Commercial flags are allowed in multifamily and/or commercial developments. No text or logo is permitted on such flags as such would constitute a sign. The national or state flag and the flagpoles for the express purpose of displaying the national or state flag are exempt from this section.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

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**Sec. 7-19. - Advertising searchlight.**

- (A) For purposes of this section, an "advertising searchlight" means a searchlight used to direct beams of light upward for advertising purposes.
- (B) Use of an advertising searchlight at any location is authorized upon issuance of a permit by the building official.
- (C) The permit shall be effective for a maximum period of five days per calendar year to any business or group.
- (D) An advertising searchlight shall not be operated between the hours of 1:00 a.m. and 6:00 p.m.
- (Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-20. - Kiosk signs.**

- (A) Kiosk signs are intended to provide a uniform, coordinated method of providing homebuilders and developers a means of utilizing directional signs, while minimizing the negative impacts of weekend homebuilder's signs on the appearance of the city. Kiosk signs are also intended to provide service to the public on the directions to municipal facilities and parks, community events, and school district facilities.
- (B) The city council may, by duly executed license agreement, grant the exclusive right to design, erect and maintain kiosk signs within the city limits and extraterritorial jurisdiction of Kyle.
- (C) Kiosk signs shall be designed and constructed in accordance to the specifications contained in the aforementioned license agreement.
- (D) Prior to erecting any kiosk sign, the licensee shall submit a sign location map to the building official for approval.
- (E) Kiosk sign installation shall include break-away design features as required for traffic signs in the street right-of-way.
- (F) Advertisement of price information shall be prohibited on kiosk signs.
- (G) No additional or extraneous signs, pennants, flags or other devices for visual attention or other appurtenances shall be attached to kiosk signs.

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- (H) Kiosk signs shall not be illuminated.
- (I) Individual sign panels on kiosks shall have a uniform design and color.
- (J) Kiosk signs shall not interfere with the use of sidewalks, walkways, bike and hiking trails; shall not obstruct the visibility of motorists, pedestrians or traffic control signs; shall not be installed in the immediate vicinity of street intersections; and shall comply with the visibility triangle requirements contained in the Subdivision Regulations or other visibility easements provided by code or subdivision plat.
- (K) Kiosk sign may be located on private property, or other state-maintained roadways, provided written permission is obtained from the property owner.
- (L) Kiosk sign panels shall be available to all developers and homebuilders operating within the city on a first-come, first-served basis. Developers and homebuilders operating November 18, 2008 within the city limits shall have first priority to lease sign panels in the event extra panel space is available, residential developments, located outside the city limits may also lease panels.
- (M) In accordance to the specifications contained in the aforementioned license agreement, a percentage of the kiosk sign panels shall be reserved for the city to use as directional signage to municipal or community facilities or locations or community events.
- (N) No kiosk sign shall be placed, located, or installed on city-owned property or public right-of-way without a license agreement duly approved by the city council.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-21. - Other sign regulations.**

(A) *Activities and events sign.* An activities and events sign is a changeable copy directory allowed solely to public buildings, church buildings (places of worship only), and neighborhood associations, intended for use only by the entity where the sign is located. A maximum of one information sign shall be allowed for each neighborhood group, church, or public development complex, and it is not considered a freestanding sign in this section. Activities and events signs shall comply with the following criteria:

- (1) The sign shall be constructed of a non-oxidizing metal (e.g. aluminum, stainless steel) cabinet set on a pole or on the ground as a monument, with a clear, acrylic panel inset and a locking door. The door of the sign shall remain locked except while the message is being posted.
- (2) The maximum size of the cabinet shall be 12 square feet, and maximum height shall be five feet above grade.

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- (3) Only changeable letters shall be used and letters shall be no larger than four inches and no less than two inches in height.
- (4) Such sign may have direct lighting that is placed inside the cabinet (portrait lighting); however, no backlighting or external direct lighting is permitted.
- (5) Such sign shall be located at or near the entrance of the public building or church; for a neighborhood sign, such sign shall be located within the subdivision at a commonly traveled location, for example, near the neighborhood park or amenity center, the main mail station, or the main entrance to the neighborhood. Such a sign shall not be required to meet building setback requirements or setback requirements established in section 29-12 provided that it does not obscure the travel path or visibility of drivers, bicyclists, or pedestrians, as determined by the planning department. Such sign shall be located on property maintained by the neighborhood association or with a written agreement between the property owner and the neighborhood association. Such sign shall not be placed closer than 150 feet from the intersection of a collector street and a major or minor arterial street, as defined in the city roadway plan. Such signs shall be maintained by the neighborhood association in a "like-new" condition at all times.
- (B) *Government sign.* Government sign(s) are permitted in all categories, subject to all laws and regulations that apply.
- (C) *Memorial sign.* Memorial sign(s) may be installed in accordance with state historical standards, or as building cornerstones not to exceed eight square feet.
- (D) *Private traffic-control signs.* Private traffic control signs are not allowed for single-family residential or duplex uses, but are otherwise permitted. Signs shall not exceed four square feet in size, and may contain directions and the name or logo of the same site user.
- (E) *Window signs.* Window signs may be placed so as not to obscure more than 25 percent of the visible window area. Where multiple windows exist, fronting on the single elevation, the 75 percent visibility shall be maintained for the total window area on said elevation.
- (Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-22. - Nonconforming signs.**

- (A) By the passage of the ordinance from which this section derives and its amendments, no presently illegal sign shall be deemed to have been legalized unless such sign complies with all current standards under the terms of this ordinance and all other ordinances of the city. Any sign which does not conform to all provisions of this section but which existed on the effective date of this section and was lawfully constructed or installed shall be considered as a nonconforming sign. All nonconforming signs shall be permitted in the same manner as any other legally existing sign or proposed sign, provided that no sign that was constructed or installed in violation

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of any state or local law. or that was originally constructed or installed without a permit that was then required at such time, shall be or qualify as a nonconforming sign.

(B) A nonconforming sign shall be allowed to be continued and maintained at its existing location subject to the limitations of this section.

(C) No nonconforming sign may be enlarged or altered in a way which would increase its nonconformity: provided that the sign face may be changed in compliance with this chapter.

(D) A nonconforming sign shall be removed immediately if any of the following applies:

(1) The nonconforming sign is abandoned as defined in this subsection. Whenever any nonconforming sign no longer advertises a bona fide business or a business which has moved away or closed, a product sold, or service rendered, such sign shall be removed within 60 days. If the nonconforming sign is a wall sign, the wall sign shall be removed or painted over with a color that resembles or matches the rest of the wall of the building if the owner of, or person responsible for the sign, or if the tenant closing a business, fails to remove the abandoned sign or paint over the wall sign, the owner of the premises shall be held responsible and the work shall be done within 30 days following written notice to do so by the building official.

(2) The building official or his/her designee determines the sign to be obsolete or substandard under any applicable ordinances of the city to the extent that the sign becomes a hazard or dangerous.

(3) A nonconforming sign, or a substantial part of it is destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

(E) Reconstruction, repair, or replacement of a nonconforming sign shall be completed no later than 90 days following the date of the damage. For purposes of this subsection, a sign, or a substantial part of a sign, is considered destroyed if the cost of repairing the sign is more than 50 percent of the cost of installing a new sign of the same type at the same location.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-23. - Hazardous signs.**

Except as otherwise provided by aw or this chapter, no person may install, maintain, or use a sign that:

(1) Obstructs a fire escape, required exit, window, or door used as a means of escape.

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- (2) Interferes with a ventilation opening, except that a sign may cover a transom window if otherwise in compliance with the building code and fire code.
- (3) Substantially obstructs the lighting of public right-of-way or other public property, or interferes with a public utility or traffic control device.
- (4) Contains or utilizes a supporting device placed on public right-of-way or other public area within the city limits and the extraterritorial jurisdiction of the city, unless the use of the public rights of way or other public area has been approved by the city and a right-of-way joint use agreement has been filed.
- (5) Is illuminated in such a way as to create a hazard to pedestrian, bicycle, or vehicular traffic.
- (6) Creates a traffic hazard for pedestrians, bicyclists, or motorists, by restricting visibility at a curb cut or adjoining public street.
- (7) Has less than nine feet of clearance above street pavement grade or has less than 12 feet of clearance above a driveway, and/or is located outside the public right-of-way and within the visibility triangle at an intersection that results in impaired sight distance of users of the intersection.
- (8) Violates a requirement of the electrical code.
- (9) Is determined by the building inspector to be dangerous.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-24. - Abatement of sign violations and removal of unsafe signs.**

- (A) Any sign that is structurally unsafe or that constitutes a hazard to the health, safety, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage, abandonment or other cause is hereby declared to be a public nuisance and shall be abated by demolition or removal.
- (B) Should the building official or the code enforcement officer determine that any sign is not properly maintained, is unsafe or insecure or has otherwise been constructed, erected or maintained in violation of the provisions of this section, he shall take action as follows.
  - (1) Except as provided in the following paragraphs (2) and (3), the building official shall give the sign or property owner written notice to repair, remove or obtain a permit for such sign as applicable within ten days after such notice. If the sign or property owner fails to remove, repair, or obtain a permit for such sign so as to comply with all applicable standards and

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regulations, the building official shall cause the sign to be either removed or repaired and such cost shall be charged to and paid by the property owner if such demolition or repair expenses are not paid by the property owner within 30 days of such billing, then such expenses shall constitute a valid lien against the property. Such notice shall also provide the sign or property owner an opportunity to bring the sign into compliance or to request a hearing before the sign control board to determine whether the sign should be repaired or removed. Such appeal must be filed in writing with the city secretary within ten days of the notice. After consideration of all facts, the sign control board shall rule upon the appeal.

(2) The building official may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.

(3) Any sign located in public right-of-way may be immediately removed by the building official without notice to the owner.

(C) In addition to the above, the building official or the code enforcement officer may issue citations without giving prior notice of violation or pursue any other administrative or legal remedy in order to abate any sign which is in violation of this chapter or any other law.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-25. - Repairs and maintenance.**

All signs in the city and its ETJ shall be properly maintained in good and safe structural condition, shall be painted on all exterior parts, unless coated or made of rust resistant material, and shall be maintained in good condition and appearance at all times. Any owner or primary beneficiary falling to maintain, repair, or remove any such sign after due notices has been given shall upon conviction be guilty of a misdemeanor. The building official shall have the authority to order the painting, repair, or removal of a sign and accompanying landscaping which do not comply with this ordinance or the building codes or that constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-26. - Appeals; exceptions to sign regulations.**

(A) *Board of adjustment is established as sign control board; composition.* The board of adjustment is hereby established to serve in a dual capacity as the sign control board ("SCB").

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(B) *Powers; duties of the SCB.* The city council authorizes the board of adjustment in its capacity as the SCB to sit as a board of appeals and to exercise the powers set forth in this chapter.

(C) *Appeals.* Appeals to the SCB may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the building official. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building official and with the SCB a notice of appeal specifying the grounds thereof. The building official shall forthwith transmit to the SCB all the papers constituting the record upon which the action appealed from was taken.

(D) *Appeal stays proceeding.* An appeal stays all proceedings in furtherance of the action appealed from, unless the building official certifies to the SCB after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the SCB or by a court of record on application or notice to the building official and on due cause shown.

(E) *Hearing.* The SCB shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent.

(F) *SCB powers.*

(1) The SCB shall have the following powers:

- a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the building official in the enforcement of this section.
- b. To hear and decide special exceptions to the terms of this section upon which the SCB is required to pass.
- c. To authorize, upon appeal in specific cases, such exception from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this section will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

(2) In exercising the above-mentioned powers, the SCB may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the building official from whose action the appeal is taken.

(G) *Limitations on the authority of the SCB.*

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(1) The SCB may not grant an exception authorizing a sign where it is not otherwise allowed by this charter.

(2) The SCB shall have no power to grant an amendment to the sign ordinance. In the event that a request for an amendment is pending before the city council, the board shall neither hear nor grant any exceptions with respect to the subject property until final disposition of the sign ordinance amendment.

(3) The SCB shall not grant a request for any exception to any parcel of property or portion thereof upon which a zoning application, site plan, preliminary plan, or final plat, where required, has not been finally acted upon.

(H) *Exceptions.*

(1) The SCB may grant an exception from a requirement of the sign ordinance, if it makes written findings that:

- a. The requirement does not allow for a reasonable use of the property;
- b. The hardship for which the exception is requested is owing to a special condition inherent in the property itself, such as restricted area, shape, topography or physical features;
- c. The special condition is unique to this property and is not generally characteristic of other parcels of land in the area; and
- d. The development under the exception does not:
  1. Alter the character of the area adjacent to the property;
  2. Impair the use of adjacent property that is developed in compliance with the city requirements; or
  3. Impair the purposes of the regulations of the sign ordinance.

(2) An exception may not be granted to relieve a self-created or personal hardship, nor for financial reasons only.

(3) The applicant bears the burden of proof in establishing the facts justifying an exception.

(I) *Vote required.* The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the building officials, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in this chapter.

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(J) *Time limitation on order permitting erection of sign.* No order of the SCB permitting the erection or alteration of a sign shall be valid for a period longer than six months, unless a sign permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(K) *Appeals from action of the SCB.* Any person or persons, jointly or severally, aggrieved by any decision of the SCB, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to the city secretary, on behalf of the city council, a petition, duly verified, appealing the decision of the SCB. Such petition shall be presented to the city secretary within ten days after the meeting date of the decision by the SCB.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-27. - Penalty.**

(A) Any individual, association, corporation or legal entity violating any provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by the assessment of a fine not exceeding \$2,000.00 and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(B) The primary beneficiary of any sign installed in violation of this section shall be presumed to have authorized or caused, either directly or indirectly, the installation, use, or maintenance of the sign in violation of this section.

(C) Whenever any construction, installation, alteration, or repair of a sign is being done contrary to the provisions of this section, another controlling ordinance or statute governing the sign, the building official may order the work stopped by notice verbally or in writing served on any persons engaged in the doing or causing such work to be done and the city shall post a stop work order on the property adjacent to the posted building permit, and any such persons shall forthwith stop such work until authorized by the building official to proceed with the work. If no permit has been issued, all work shall stop until a permit has been properly issued and all errors corrected to the satisfaction of the building official. The building official or code enforcement authority may also issue a work correction order, which shall be served upon any persons who are working on a certain aspect of the sign.

(D) The city and/or the city manager shall enforce this section by appropriate administrative action including but not limited to, the rejection of plans, maps, plats and specifications not found to be in compliance with this section and good engineering practices, and the issuance of stop work orders.

(E) Upon the request of the city council, the city attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this ordinance, or to obtain declaratory judgment, and to seek and recover court costs and attorney

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fees, and/or recover damages in an amount sufficient for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this chapter.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

Sec. 8. Board of adjustment.

(A) *Creation of the board of adjustment.* The city council shall provide for the appointment of a board of adjustment and the regulations and restrictions adopted shall be pursuant to the provisions of applicable statutory requirements of the State of Texas. The board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of this Plum Creek PUD zoning ordinance consistent with state law and in harmony with its general purpose and intent and in accordance with general and specific rules herein contained.

(B) *Powers and duties.* The board of adjustment shall have the following powers:

(1) To hear and decide appeals from certain decisions of the building official where it is alleged there is error in any order, requirement, decision, interpretation, or determination made by the building official in the enforcement of this ordinance;

(2) To interpret the intent of the Plum Creek PUD official zoning map where uncertainty exists because of the physical features on the ground varying from those on the official zoning map and none of the rules set forth in this ordinance apply.

(3) To authorize, upon appeal variances of the yard, lot width, lot depth, signs, minimum setback, off-street parking or off-street loading regulations from the terms of this ordinance, if not contrary to the public interest, where owing to unique and special conditions of the land not normally found in a PUD district a strict enforcement of the provisions of the ordinance by the building official would result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

(C) *Organization of the board.* The board of adjustment shall be established and appointed as provided in Chapt. 211, Loc. Gov't. Code [V.T.C.A., Local Government Code § 211.001 et seq.] and the ordinances of the city.

(D) *Appeals.*

(1) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, commission or committee of the city affected by any decision of the building official made pursuant to this ordinance. Such appeal shall be made within 30 days by filing with the building official and with the board of adjustment a notice of appeal specifying the grounds

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thereof. The building official shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

(2) An appeal stays all proceedings in furtherance of the action appealed from, unless the building official certifies to the board of adjustment after the notice of appeal shall have been filed with him that by the reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(3) The board of adjustment shall hear the appeal within 30 days or such extension as requested by the applicant, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(E) *Revision of appealed decisions.* In exercising the above mentioned powers such board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the power of the building official from whom the appeal is taken.

(F) *Votes necessary.* The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the building official, to decide in favor of the applicant on any variation in this ordinance.

(G) *Appeals from the board of adjustment.* Any person or persons or any taxpayer or any officer, department, board, commission or committee of the city, jointly or severally, aggrieved by any decision of the board of adjustment, may present to a court of record a petition, verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board.

Sec. 9. Planning and zoning commission.

(A) *Creation of the planning and zoning commission.* The city council shall provide for the appointment of a planning and zoning commission and the regulations and restrictions adopted shall be pursuant to the provisions of applicable statutory requirements of the State of Texas.

(B) *Responsibilities.* It shall be the responsibility of the planning and zoning commission to hear all applications for zoning changes and changes in the Plum Creek PUD zoning ordinance, as prescribed by law and this ordinance, and to recommend action to the city council. The commission has no authority to approve variances from the requirements of this ordinance.

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(C) *Organization of the commission.* The organization, membership and qualifications of the planning and zoning commission shall be as otherwise provided in the ordinances of the city.

(D) *Rules and regulations.* The commission shall develop and adopt rules in accordance with the provisions of state law and the ordinances of the city. Meetings of the commission shall be held at the call of the chairman and at such other times as the commission may determine. Except as authorized by Chapt. 551, Tex. Gov't. Code [V.T.C.A., Government Code § 551.001 et seq.], on the advice of the city attorney, all meetings of the commission will be open to the public. The commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city secretary and except as authorized pursuant to Chapter. 552, Tex. Loc. Gov't. Code [V.T.C.A., Government Code § 552.001 et seq.], shall be available as a public record.

(E) *Plum Creek PUD public hearing.* The planning and zoning commission shall conduct a joint public hearing with the city council to consider the original zoning application for approval of the Plum Creek PUD. Notice of the public hearing shall be given in the manner in which the notice is required to be given under state law. The decision of the planning commission on such original zoning application for the Plum Creek PUD shall be made to the city council as a recommendation to grant, with or without conditions, or to deny.

(F) *Report and recommendation from the planning and zoning commission.*

(1) No amendment to this ordinance or to the Plum Creek PUD master plan or to the zoning designation of any area within the Plum Creek PUD shall be enacted by the city council without first receiving a report and recommendation from the planning and zoning commission.

(2) The planning and zoning commission shall hold a public hearing on all proposed zoning classification changes to the Plum Creek PUD or the Plum Creek PUD master plan and proposed general amendments to this ordinance.

(3) Written notice to property owners. When the public hearing is to consider a proposed zoning classification change to the Plum Creek PUD or master plan, written notice of such hearing shall be given to the owners of all real property located within 200 feet of the property on which the change in classification is proposed. Notice shall be given before the tenth day before the date set for the hearing before the commission either by personal service or by depositing a copy of the notice in the mail addressed to each owner at the address shown on the last approved city tax roll.

(4) The planning and zoning commission may recommend enactment of a proposed general amendment to this ordinance or a change of zoning classification to the Plum Creek PUD or master plan if it finds that such amendment or change is in the public interest and conforms to the comprehensive plan of the City of Kyle.

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(5) A change of zoning classification proposed by the owner of the parcel affected may be recommended for enactment, even though such proposed change does not conform to the Plum Creek PUD master plan, provided that the planning and zoning commission finds that significant and unanticipated changes have occurred in the area of the affected parcel since the classification on the land use map was adopted which make it unlikely that such parcel can be developed or used for any use permitted under the zoning classification indicated for such parcel in the said plan and, provided further, that the planning and zoning commission finds that the requested zoning classification is in the most appropriate classification for the area affected.

Sec. 10. Review and action of the city council.

(A) Hearing. The city council shall hold a public hearing on all proposed Plum Creek PUD or master plan zoning classification changes and general amendments to this ordinance before acting thereon.

(B) Notice.

(1) The city council shall not act upon an amendment of this ordinance or the zoning of any land included within the Plum Creek planned unit development prior to receiving the recommendation of the planning and zoning commission made after notice and public hearings as provided in section 9 [of this article].

(2) Before the city council shall consider a proposed zoning classification change to the Plum Creek PUD or master plan or a proposed general amendment to this ordinance, notice shall be published in an official newspaper or in a newspaper of general circulation in [the City of] Kyle before the 15th day before the date of the hearing. The notice shall state the time and place of the hearing and contain a description of the matter to be considered.

(C) The city council may enact a proposed general amendment or change of zoning classification by ordinance if it finds that such amendment or change is in the public interest and conforms to the comprehensive plan of the City of Kyle.

(D) A change of zoning classification proposed by the owner of a parcel affected may be enacted, even though such proposed change does not conform to the Plum Creek PUD master plan, provided the city council finds that significant and unanticipated changes have occurred in the area of the affected parcel since the classification on the Plum Creek PUD master plan was adopted, which changed conditions make it unlikely that such parcel can be developed or used for any use permitted under the zoning classification indicated for such parcel in the said plan, and provided further, that the city council finds that the requested zoning classification is the most appropriate classification for the area affected.

(E) If a written protest is submitted against a proposed change of zoning classification signed by all the owners of 20 percent or more either of the area of the lots or land included in such proposed change, or of the lots of land immediately adjoining the same and/or extending 200 feet



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therefrom, such proposed change of zoning classification shall not become effective except by the favorable vote of three-fourths of all the members of the city council, including the mayor. If the planning and zoning commission submits a negative report not recommending a general amendment to the zoning ordinance or a proposed change of a Plum Creek PUD zoning classification, such amendment or proposed change shall not be effective except by the favorable vote of three-fourths of the members of the city council, including the mayor.

(F) The city council may approve a site plan at such time as the zoning or zoning change is granted. All representations, whether oral or written, made by the applicant or his or her agent(s) on behalf of the zoning or zoning change becomes a condition(s) upon which the zoning change is granted. It shall be unlawful for the applicant to vary from any such representations unless the applicant first obtains the approval of the city council, except building lines may be moved ten feet with the written approval of the city administrator. The site plan shall be null and void unless the new owner certifies in writing that he will comply with the approved site plan and permit requirements; and such site improvements as constructed complies with such approved site plan.

(G) The city may initiate re-zoning procedures if the project is abandoned, vacated, sold or otherwise disposed of except:

- (1) As provided elsewhere in city ordinances; or
- (2) Unless the new owner agrees to develop the project in accordance with the original approved site plan.

Sec. 11. Fees.

The applicant for any permit set forth in this ordinance shall pay the fees indicated for such permit as set forth in the fee schedule ordinance (Ordinance No. 293) promulgated by the city council, as amended.

Sec. 12. Amendments to ordinance.

(A) *Statement of intent.* For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the city, this ordinance may be amended from time to time to correct errors in the ordinance, or because of changed or changing conditions in a particular area or in the city generally, or to rezone an area, extend the boundary of an existing zoning district or to change the regulations and restrictions thereof, all in accordance with the city's comprehensive plan.

(B) *Amendment limitation.* Subject to the limitations of the foregoing statement of intent, or amendment to this ordinance may be initiated by:

- (1) The city council on its own motion;

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- (2) The planning and zoning commission; or
- (3) Written request made by the owner(s) of land within the Plum Creek PUD.
- (C) *Responsibility for change.* The city council has sole responsibility for changes in the Plum Creek PUD official zoning map and changes in the Plum Creek PUD zoning ordinance.
- (D) *Referral of amendment petition to commission.* The council, upon receipt of an application to amend the ordinance, which has been examined and approved as to form by the city secretary, shall refer the request to the same planning and zoning commission for study, hearing, and report. The council may not enact the proposed amendment until the commission makes its report to the city council.
- (E) *Action by the commission.* The commission shall cause a study to be made, give public notice, hold a public hearing and recommend to the city council such action as the commission deems proper.
- (F) *Action by the council.* The city council shall give public notice and hold a public hearing before taking final action on a request to amend this ordinance, or on any proposed amendment initiated by the commission or the city council.
- (G) *Public hearing and notice.* Notice shall be given and hearings held in the same manner as provided in article III, section 9 of this ordinance for planning commission hearings and article III, section 10 of this ordinance for city council hearings for zoning changes.
- (H) *Protest to proposed amendments.* A written protest duly signed by the owners of 20 percent or more of the area of lots or of the lots or land immediately adjoining the same and extending 200 feet therefrom shall not become effective except by the favorable vote of three-fourths of all members of the council.
- (I) *Comprehensive review of ordinance.* The commission shall from time to time, at intervals of not more than three years, examine the provisions of this ordinance and the location of the Plum Creek PUD zoning district boundary lines and shall submit a report to the city council recommending changes and amendments if any, which are deemed desirable in the interest of the public health, safety and general welfare.

Sec. 13. Interpretation, purpose and conflict.

The requirements established by the provisions of this ordinance shall be the minimum standards and requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare, it being intended to lessen congestion of streets, to secure safety from fire, panic and other dangers; to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water and sewage, schools, parks, and other public requirements. It is not

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intended by this ordinance to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued and not in conflict with any of the provisions of this ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this ordinance.

Sec. 14. Repeal of conflicting ordinances or orders.

Ordinances and all orders, ordinances or parts of ordinances in conflict with this ordinance or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

Sec. 15. Severability clause.

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Sec. 16. Effective date.

This ordinance shall be effective on the date of adoption by the city council as shown herein below.

Sec. 17. Open meetings.

That 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. Chap. 551, Loc. Gov't Code [V.T.C.A., Government Code § 551.001 et seq.].

Approved and adopted this the 22nd day of July, 1997.

## ORDINANCE NO. \_\_\_\_\_

(Public Hearing/ First Reading). AN ORDINANCE AMENDING ORDINANCE NO. 311 (PLUM CREEK PLAN UNIT DEVELOPMENT OVERLAY DISTRICT ZONING ORDINANCE) OF THE CITY OF KYLE, TEXAS FOR THE PURPOSE OF AMENDING THE FOLLOWING SECTIONS: ARTICLE 1/SECTION 4-DEFINITIONS OF TERMS AND USES WITHIN THE PLUM CREEK PUD DISTRICT: TO AMEND THE DEFINITION OF CORNER LOT, ADD A DEFINITION FOR COURTYARD, AMEND THE DEFINITION FOR SETBACK LINE, AMEND THE DEFINITION OF YARD, FRONT, AMEND THE DEFINITION OF YARD, SIDE; ARTICLE 2-PLANNED UNIT DEVELOPMENT ZONING DISTRICT PART A/SECTION 4 (7)(D)- ADMINISTRATIVE SITE PLAN REVIEW PROCESS: AMENDED TO ALLOW ADMINISTRATIVE APPROVAL OF SITE PLANS FOR R-1 AND R-2 USES WITHIN THE MXD DISTRICTS; ARTICLE 2-PLANNED UNIT DEVELOPMENT ZONING DISTRICT PART A/SECTION 4 (7)(E)- MXD SITE PLAN REVIEW PROCESS: EXEMPTED R-1 AND R-2 USES FROM SUBMITTING A SITE PLAN TO THE PLANNING AND ZONING COMMISSION AND CITY COUNCIL; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4: R-2 RESIDENTIAL PUD DISTRICT- ADDED COURTYARDS AS A PERMITTED USE TO THE R-2 DISTRICT; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4 (f) MINIMUM SETBACKS (i)FRONT YARD-AMENDED THE MINIMUM FRONT YARD SETBACK FROM 15 FEET TO 8 FEET; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4 (f) MINIMUM SETBACKS (iii) REAR YARD-AMENDED THE MINIMUM REAR YARD SETBACK FROM 10 FEET TO 5 FEET; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 4(6): ADDED A SECTION ESTABLISHING SITE DEVELOPMENT REGULATIONS FOR COURTYARD RESIDENTIAL DEVELOPMENT; ARTICLE 2- PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS PART C/SECTION 5- R-3 MULTI-FAMILY RESIDENTIAL PUD DISTRICT/ (B) PERMITTED USES- AMENDED TO ALLOW SINGLE FAMILY RESIDENTIAL USES AS DESCRIBED IN ARTICLE 2, PART C, SECTION 3 TO BE PERMITTED; AN ORDINANCE AMENDING ORDINANCE NO. 308/ CHAPTER 41 SUBDIVISION EXHIBIT A/SCHEDULE A/ TWO-WAY ALLEY [RESIDENTIAL/COMMERCIAL]: TO AMEND THE REQUIRED ROW WIDTH FROM 25 FEET TO 20 FEET. AUTHORIZING THE CITY SECRETARY TO AMEND THE ORDINANCE 311 AND 308 OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION DATE; PROVIDING FOR SEVERABILITY; AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED AS OPEN TO THE PUBLIC AS REQUIRED BY LAW

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

SECTION 1. Ordinance 311 and 308 is amended as set forth in Exhibit A. Added text is indicated by underlining. Deleted text is indicated by strikethroughs. In codifying the changes

authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate and consistent with the existing numbering and formatting of the existing ordinance.

SECTION 2. That the City Secretary is hereby authorized and directed to update the City of Kyle code to reflect the changes made in Exhibit A and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_ day of \_\_\_\_\_, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Lucy Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Amelia Sanchez, City Secretary





# CITY OF KYLE, TEXAS

## PUE for Lake Kyle

Meeting Date: 1/3/2012

Date time: 7:00 PM

**Subject/Recommendation:**

A RESOLUTION OF THE CITY OF KYLE, TEXAS, GRANTING A UTILITY EASEMENT UNTO PEDERNALES ELECTRIC COOPERATIVE, INC. OF JOHNSON CITY, TEXAS AND CONVEYANCE OF CONDUIT TO PROVIDE ELECTRICAL SERVICES TO LAKE KYLE PARK AS FURTHER DESCRIBED IN ATTACHED EXHIBITS; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS ~ *Kerry Urbanowicz, Director of Parks and Recreation*

**Other Information:**

In order to provide electrical services to the new park and it's facilities, this easement and conveyance must be granted. Once granted, PEC can set a new pole and transformer and provide electrical power to the park. PEC Right of Way Agent met with City Engineer on site and both are in total agreement of the location of pole and easement across park.

**Budget Information:**

no request for funding with this resolution

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

[Public Utility Easement and Conveyance of Conduit](#)

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF KYLE, TEXAS, GRANTING A UTILITY EASEMENT UNTO PEDERNALES ELECTRIC COOPERATIVE, INC. OF JOHNSON CITY, TEXAS AND CONVEYANCE OF CONDUIT TO PROVIDE ELECTRICAL SERVICES TO LAKE KYLE PARK AS FURTHER DESCRIBED IN ATTACHED EXHIBITS; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the City of Kyle specifically desires to grant a public utility easement and convey conduit of approximately 450 feet long by 15 wide to provide electrical services to Lake Kyle Park facilities located at 700 Lehman Rd better described in Volume 3600, Page 719 of the Official Public Deed records of Hays County, Texas and attached Utility Easement, Exhibit "A" and Attachment A.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KYLE, HAYS COUNTY, TEXAS, THAT:**

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

**Section 2. Authorization.** The Kyle City Council, Kyle, Texas, hereby authorizes staff to sign and execute Utility Easement and Conveyance of Conduit, copies of which are attached, granting a Public Utility Easement and providing electrical services to Lake Kyle Park.

**Section 3. Effective Date.** This Resolution shall take effect from and after the date of its passage as authorized by the Charter of the City of Kyle.

**Section 4. Open Meetings.** That it is hereby officially found and determined that the meeting at which this Resolution 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 551, Local Government Code.

**FINALLY PASSED AND APPROVED on this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.**

**Attest:**

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor



CM#: 10000955  
FACET: 530789964  
NAME/DEV: City of Kyle  
Lake Kyle Park

**UTILITY EASEMENT**

**THE STATE OF TEXAS**           §  
  § **KNOW ALL MEN BY THESE PRESENTS:**  
**COUNTY OF HAYS**             §

That **The City of Kyle**, of Hays County, Texas for and in consideration of ONE DOLLAR (\$1.00) to us paid by PEDERNALES ELECTRIC COOPERATIVE, INC. of Johnson City, Texas, have granted, sold, and conveyed and by these presents do grant, sell, and convey unto Pedernales Electric Cooperative, Inc. an easement and right-of-way as hereinafter described for the purpose of an electric distribution line consisting of variable number of wires both overhead and underground, and all necessary or desirable appurtenances (including poles made of wood, metal or other materials, communication wire, props, guys, concrete pads, ground rods, ground clamps, transformers, cable terminators, cable riser shields, cutouts and lightning arrestors over ground along with conduits, primary cables, secondary conductors and ground rods underground), over, the following described lands located in Hays County, Texas, to-wit:

Being 118.832 acres of land, more or less in Hays County, Texas being more particularly described in Volume 3600, Page 719 of the Official Public Deed Records of Hays County, Texas.

Easement hereby conveyed shall consist of:

- A strip of land to follow the route of all electric utility facilities with seven and one half (7.5) feet easement on either side of the centerline, for a total easement width of fifteen (15) feet for the total project. Location of said easement is more particularly described in attached Exhibit "A".

Together with the right of ingress and egress over our adjacent lands to or from said right-of-way for the purpose of constructing, reconstructing, inspecting, patrolling, hanging new wire on, maintaining and removing said lines and appurtenances; the right to relocate within the limits of said right-of-way; the right to remove from said easement all trees and parts thereof, or other obstructions which endanger or may interfere with the efficiency of said lines or their appurtenances.

TO HAVE AND TO HOLD the above described easement and rights unto Pedernales Electric Cooperative, Inc. and their successors and assigns, until said line shall be abandoned.

And we do hereby bind ourselves, our heirs and legal representatives to warrant and forever defend all and singular the above described easement and rights unto Pedernales Electric Cooperative, Inc. their successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my hand this \_\_\_\_\_ day of December, 2011.

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: City Manager  
The City of Kyle

**(NOTARIZE ON BACK)**

**THE STATE OF TEXAS**

**COUNTY OF HAYS**

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, **City Manager**, of **The City of Kyle** known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and deed of **The City of Kyle**, as **City Manager**, thereof, and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of December, 2011.

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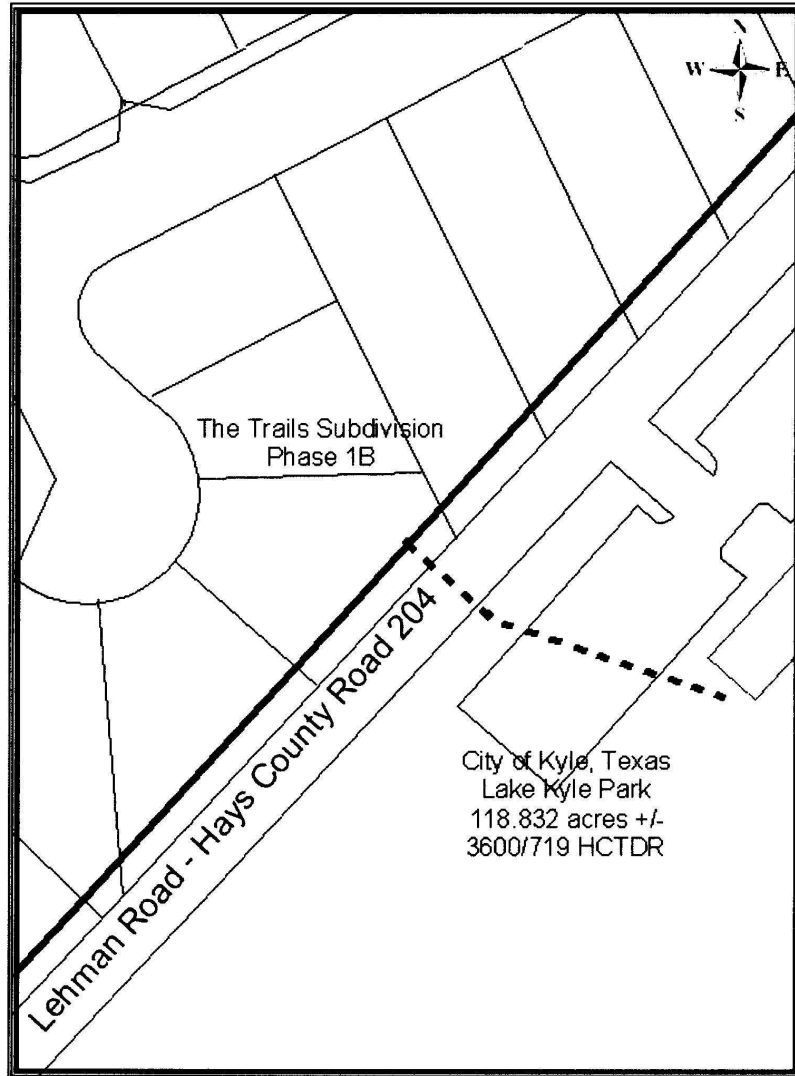
Notary Public in and for  
The State of Texas

Please Return to:  
Pedernales Electric Cooperative  
Attn: Mike Moore  
P. O. Box 100  
Kyle, Texas 78640

**PEDERNALES ELECTRIC COOPERATIVE  
JOHNSON CITY, TEXAS**

CM#: 10000955  
Facet #: 530789964  
NAME/DEV: City of Kyle  
Lake Kyle Park

**EXHIBIT "A"**



***Drawing is not to scale and is for descriptive purpose only.***

- Route of utilities covered by this easement.
- Existing overhead electric line.

Grantor has reviewed and accepted the above exhibit and all it entails.

Accepted: \_\_\_\_\_

**ATTACHMENT A – Conveyance of Conduit**

Pedernales Electric Cooperative, Inc.  
 P. O. Box 100  
 Kyle, Texas 78640-0100

Re: Conveyance of Conduit from City of Kyle, Texas  
 to Pedernales Electric Cooperative, Inc.

To Whom It May Concern:

*City of Kyle, Texas* with the principal place of business located at *100 West Center Street, Kyle, Texas 78640* ("Grantor"), owns certain conduit and related electrical equipment described on Exhibit A attached hereto and made a part for all purposes (the "Conduit").

Grantor wishes to irrevocably grant, give, and transfer, and does hereby irrevocably grant, give, and transfer to Pedernales Electric Cooperative, Inc., a Texas corporation ("Grantee"), and its successors and assigns all of Grantor's right, title, and interest in and to the Conduit, to have and to hold forever, and Grantor shall warrant and forever defend, all and singular, title to the Conduit unto Grantee and its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof. Possession of and title to the Conduit shall pass to Grantee on the date of this letter.

Grantor warrants to Grantee that Grantor is the legal and true owner of the Conduit and that Grantor has the right to convey the Conduit. Furthermore, Grantor warrants that Conduit is free from any lien, security interest or other encumbrance.

The conveyance of the Conduit shall be governed by, construed, and enforced in accordance with the laws of the State of Texas, exclusive of conflicts of law provisions. There are no other agreements, written or oral, between Grantor and Grantee regarding the conveyance of the Conduit from Grantor to Grantee.

Sincerely,

---

Name: *Kerry Urbanowicz*

Title: *Director, Parks and Recreation Department*

Inspected and accepted by Pedernales Electric Cooperative, Inc. on this \_\_\_\_ day  
 of \_\_\_\_\_, 2011.

---

Name: *Ben Williams*

Title: *PEC Line Inspector*

62055  
 Work Order Number \_\_\_\_\_

**Exhibit A - Conveyance of Conduit**

**DESCRIPTION AND LOCATION OF CONDUIT**

Section 1 (To be completed by PEC upon initial signing of Underground Agreement)

Include project name, property description, and location:

**City of Kyle, Texas; Lake Kyle Park; 700 Lehman Road; Kyle, Texas 78640**

---

Section 2 (To be completed by PEC upon inspection of conduit)

Actual Conduit Footage:

4" primary footage \_\_\_\_\_

3" primary footage 446 feet

3" secondary footage \_\_\_\_\_

Inspected by: \_\_\_\_\_

Title: PEC Line Inspector

Date: \_\_\_\_\_

---

Section 3 (To be completed by PEC when conduit is recorded on monthly Summary of Donated Conduit worksheet)

Month included on conduit worksheet: \_\_\_\_\_

Work Order Number 62055



## CITY OF KYLE, TEXAS

Meeting Date: 1/3/2012  
Date time: 7:00 PM

### Schmeltekopf Donation of 181.06 SF

**Subject/Recommendation:**

A RESOLUTION OF THE CITY OF KYLE, TEXAS, ACCEPTING A 0.0042 ACRE (181.06 S.F.) TRACT OF LAND DONATED BY LAWRENCE MARK SCHMELTEKOPF; AND PROVIDING FOR RELATED MATTERS ~ *Steven Widacki, P.E., City Engineer*

**Other Information:**

The subject parcel abuts Rebel Dr. (RM 150) to the west and Blanco Street to the north.

It is part of a larger 0.2929 acre (triangular) tract bordered by the mentioned streets and Barbee Street to the east.

City Council's adoption of the resolution and acceptance of the subject parcel will remedy an apparent irregularity in the typical ROW width for Blanco Street at the Rebel Drive intersection, along the north side of the larger tract to be retained by Mr. Schmeltekopf. This resolution will replace the resolution approved by the Council at the November 15, 2011 meeting, which conditioned "*accepting a 0.2929 Acre of Land donated by Lawrence Mark Schmeltekopf pending purchase of a title search by Mr. Schmeltekopf.*"

Staff (K. Urbanowicz) obtained clarification of the intent of the donation from Mr. Schmeltekopf's real estate agent; there is no intent on Mr. Schmeltekopf's part to donate the remainder of the tract.

A draft resolution is attached for Council's approval as well as the attendant attachments representing the overall tract and the intended 181.06 S.F. donation of land.

**Budget Information:**

N/A

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

- [Resolution\\_Schmeltekopf\\_donation\\_181.06\\_SF\\_2011\\_12\\_27](#)
- [Deed\\_and\\_plat\\_2011\\_09\\_29](#)
- [Schmeltekopf\\_Triangle\\_aerial](#)

**RESOLUTION NO. \_\_\_\_\_****A RESOLUTION OF THE CITY OF KYLE, TEXAS, ACCEPTING A 0.0042 ACRE (181.06 S.F.) TRACT OF LAND DONATED BY LAWRENCE MARK SCHMELTEKOPF; AND PROVIDING FOR RELATED MATTERS**

**Whereas**, the City of Kyle, Kyle, Texas, has received unsolicited Deed Without Warranty for a tract of land containing 0.0042 acres (181.06 square feet) out of a 0.2929 acre parcel as conveyed to Mark Schmeltkopf as recorded and described in Volume 1212, Page 258 of the Official Public Records of Hays County, Texas; and

**Whereas**, acceptance of the subject parcel will remedy an apparent irregularity in the typical right-of-way width for Blanco Street at the Rebel Drive intersection, along the north side of the larger tract to be retained by Mr. Schmeltkopf; and

**Whereas**, the tract of land comes out of the D.A. Harbee Addition to the City of Kyle, Hays County, Texas, according to the plat recorded in Volume S, Page 164 of the Hays County Deed Records; and

**Whereas**, the same 0.2929 acre parcel being the same parcel as conveyed to Mark Schmeltkopf as recorded and described in Volume 1212, Page 258 of the Official Public Records of Hays County, Texas;

**Whereas**, the City Council wishes to accept the property with reservations from and exceptions to conveyance and warranty as stated in the Deed Without Warranty attached and submitted with Resolution;

**NOW, THEREFORE, BE IT RESOLVED 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 a part hereof for all purposes as findings of fact.

**Section 2. Acceptance of Land.** The City Council hereby accepts that certain 181.06 sq. ft. tract out of a 0.2929 acre parcel as recorded and described in Volume 1212, Page 258 of the Official Public Records of Hays County, Texas, said 0.2929 acre parcel being more particularly described by metes and bounds on Exhibit "A" attached hereto and as shown on plat attached hereto as Exhibit "B" and incorporated by reference herein and said 181.06 sq. ft. tract conveyed herein being more particularly described by metes and bounds on Exhibit "C" attached hereto and as shown on plat attached hereto as Exhibit "D" and incorporated by reference herein. The City Council hereby accepts the conveyance including the Reservations from and Exceptions to Conveyance and Warranty and Without Warranty as further described in Deed Without Warranty.

**Section 3. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution 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, *Chapt. 551, Tex. Gov't. Code.*

**PASSED AND APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Attest:**

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Amelia Sanchez, City Secretary

\_\_\_\_\_  
Lucy Johnson, Mayor



**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**THE STATE OF TEXAS**

**KNOW ALL MEN BY THESE PRESENTS**

**COUNTY OF HAYS**

**DEED WITHOUT WARRANTY**

**Date:** September 29, 2011

**Grantor:** LAWRENCE MARK SCHMELTEKOPF, not joined by my spouse for the reason that the property hereby conveyed is my sole and separate estate and forms no part of my homestead

**Grantor's Mailing Address (including County):**

13106 Hunter Valley Street  
San Antonio, Bexar County, Texas 78230

**Grantee:** CITY OF KYLE, TEXAS

**Grantee's Mailing Address (including County):**

P. O. Box 40  
Kyle, Hays County, Texas 78640

**Consideration:** TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration

**Property (including any improvements):**

Being all of the right, title, and interest of Grantor in and to a tract of land containing 181.06 sq. ft., out of a called 0.2929 acre tract out of the D.A. Harbee Addition to the City of Kyle, Hays County, Texas, according to the plat recorded in Volume S, Page 164 of the Hays County Deed Records, said 0.2929 acre tract being that same tract as conveyed to Mark Schmeltkopf as recorded and described in Volume 1212, Page 258 of the Official Public Records of Hays County, Texas, said 0.2929 acre tract being more particularly described by metes and bounds on Exhibit "A" attached hereto and as shown on plat attached hereto as Exhibit "B" and incorporated by reference herein and said 181.06 sq. ft. tract conveyed herein being more particularly described by metes and bounds on Exhibit "C" attached hereto and as shown on plat attached hereto as Exhibit "D" and incorporated by reference herein

The preparer of this document has not been requested to, nor has he researched the title history of the subject property, therefore, no warranties by preparer, either expressed or implied, are intended.

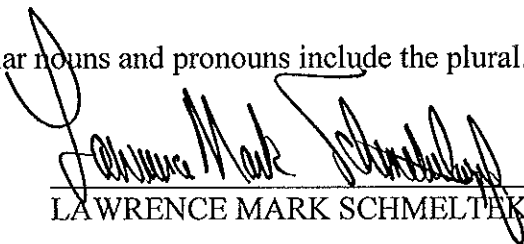
**Reservations from and Exceptions to Conveyance and Warranty:**

This conveyance is made and accepted subject to any and all restrictions, covenants, conditions, reservations, easements, outstanding mineral and royalty interests and maintenance charges and the liens securing said charges, if any, affecting the property, premises or improvements conveyed herein and now of record in the office of the County Clerk of said County, to the extent, but only to the extent, the same are now in force and effect and relate to said property, premises or improvements, any and all laws, ordinances and governmental regulations now applicable to and enforceable against said property, premises or improvements, ad valorem taxes, if any, for taxable years 2012 and subsequent years, which Grantee assumes and agrees to pay, and subsequent assessments for 2012 and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

**Without Warranty:**

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, GRANTS, SELLS, and CONVEYS to Grantee all of Grantor's right, title, and interest in the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever, without express or implied warranty. All warranties that might arise by common law as well as the warranties in section 5.023 of the Texas Property Code (or its successor) are excluded.

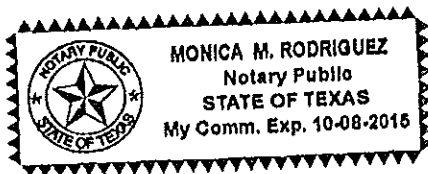
When the context requires, singular nouns and pronouns include the plural.

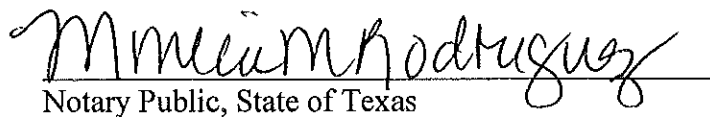
  
 LAWRENCE MARK SCHMELTEKOPF

THE STATE OF TEXAS

COUNTY OF BEXAR

This instrument was acknowledged before me on the 29 day of September, 2011 by LAWRENCE MARK SCHMELTEKOPF.



  
 Notary Public, State of Texas

After Recording Return To:

**HAYES SURVEYING**202 SUNFLOWER DRIVE  
KYLE, TEXAS 78640Phone 512/268-4813  
Cell 512/738-0511**EXHIBIT A****METES & BOUNDS DESCRIPTION FOR 0.2929 ACRES OF LAND**

A tract of land containing 0.2929 acres (12,758.3 sq. ft.), out of and part of the D. A. Barbee Addition to the City of Kyle, Hays County, Texas, according to the plat recorded in Volume S, Page 164 of the Hays County Deed Records, and being that same tract as conveyed to Mark Schmeltkopf as recorded and described in Volume 1212, Page 258 of the Official Public Records of Hays County, and being more particularly described by metes and bounds as follows:

**BEGINNING** at a PK nail set in asphalt at the intersection of the south right-of-way of Blanco Street and the northeast right-of-way of Rebel Drive, F. M. 150, for the northwest corner of the herein described tract, from which for reference and used for the bearing basis, a 1" iron pipe found for the southwest corner of Lot 7 the "H. Garland Stokes Subdivision No. 2" a subdivision recorded in Volume 1, Page 139 of the Hays County Plat Records, bears N 26° 01' 00" W, a distance of 99.18 feet;

**THENCE** along the south right-of-way of Blanco Street the following two (2) courses,

1. S 72° 56' 00" E, a distance of 41.70 feet to an iron rod with a plastic cap set for an angle point;
2. S 87° 26' 00" E, a distance of 78.00 feet to an iron rod with a plastic cap set at the intersection of the south right-of-way of Blanco Street with the west right-of-way of Barbee Street for the northeast corner of this tract, from which for reference an iron rod with a plastic cap found for the northwest corner of Lot Twenty-two (22) of the Woods and Young Addition to the City of Kyle, a subdivision recorded in Volume 117, Page 178 of the Hays County Deed Records, bears S 87° 55' 23" E, a distance of 45.38 feet;

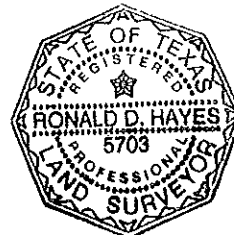
**THENCE** S 00° 45' 00" W, along the Barbee Street right-of-way, a distance of 234.20 feet to an iron rod with a plastic cap set at the intersection of the west right-of-way of Barbee Street with the curving northeast right-of-way of Rebel Drive for the south corner of this tract;

**THENCE** along the northeast right-of-way of Rebel Drive and a curve to the left with a radius of 995.37 feet, a chord bearing of N 22° 36' 58" W and a chord distance of 110.00 feet to the remains of a concrete right-of-way monument found for an angle point of this tract and also used for the bearing basis;

**THENCE** N 26° 01' 00" W (bearing basis), along the Rebel Drive right-of-way, a distance of 165.10 feet to the POINT OF BEGINNING, containing 0.2929 acres.

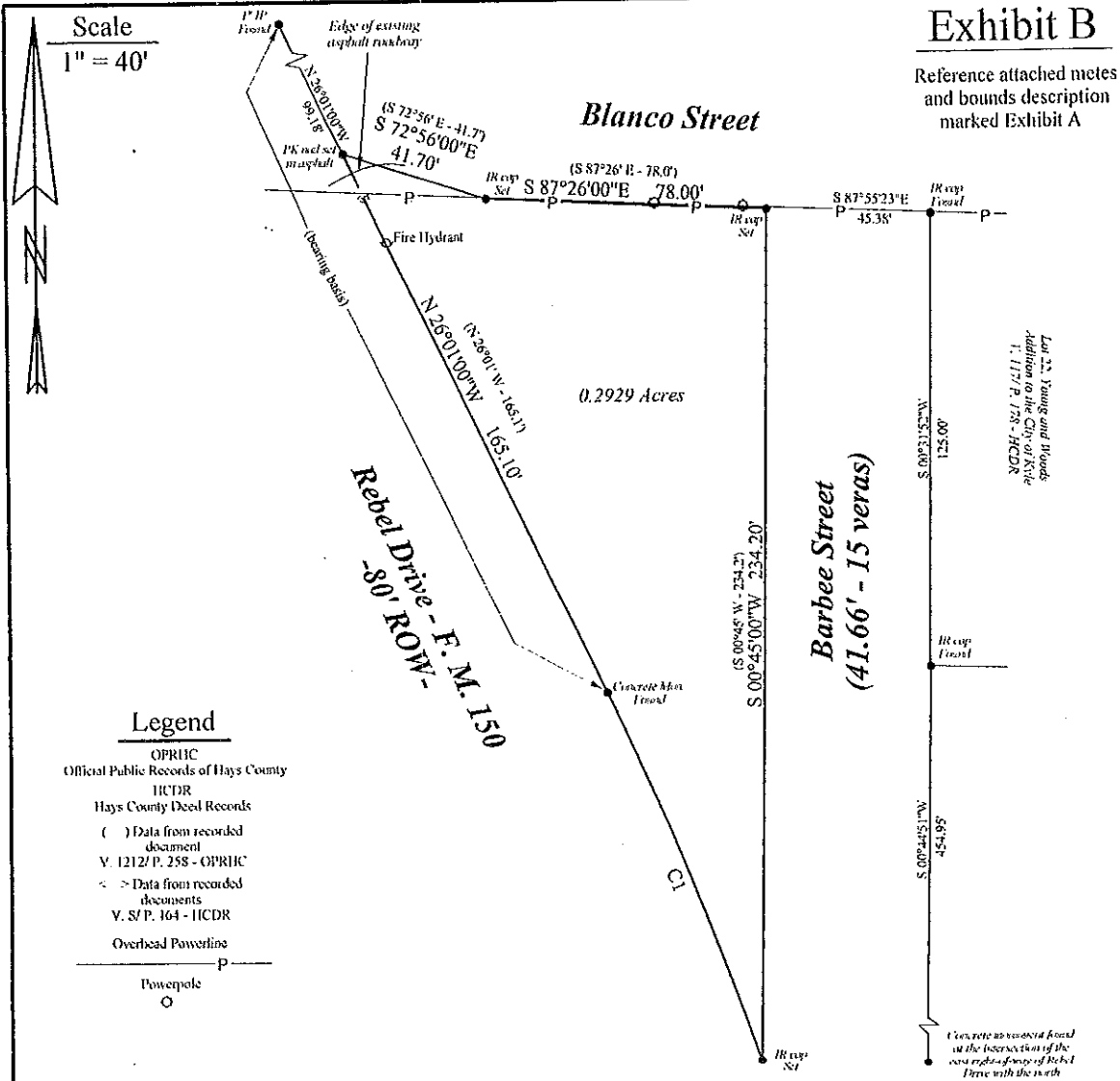
This is to certify that this description of land represents an actual survey made on the ground under my supervision in January of 2011. Only those documents with a red surveyor's signature and an accompanying red surveyor's seal shall be deemed reliable and authentic. Reference the attached sketch marked EXHIBIT B, File # RBLDRV03.

  
Ronald D. Hayes, Registered Professional Land Surveyor, No. 5703



# Exhibit B

Reference attached metes and bounds description marked Exhibit A



### Legend

- OPRHC  
Official Public Records of Hays County
- IICDR  
Hays County Deed Records
- ( ) Data from recorded document  
Y. 1212/P. 258 - OPRHC
- < > Data from recorded documents  
V. S/P. 164 - IICDR
- Overhead Powerline  
P
- Powerpole  
○

**PLAT SHOWING SURVEY OF 0.2929 ACRES, 12,758.3 SQ. FT., OUT OF AND PART OF THE D. A. BARBEE ADDITION TO THE TOWN OF KYLE, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME S, PAGE 164, DEED RECORDS OF HAYS COUNTY.**

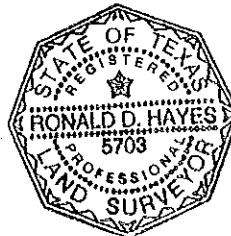
**FOR: Mark Schmeltkopf**

**DATE: January 20, 2011**

The undersigned does hereby certify that this survey was made on the ground of the property legally described hereon and is essentially correct and that there are no visible discrepancies, encroachments, overlapping of improvements, visible utility easements or roadways, except as shown and that said property has access to a public road. Only those plats with a red surveyors seal and red signature shall be deemed reliable and authentic.

Ronald D. Hayes, Registered Professional Land Surveyor, No. 5703

According to the scaling of Map Panel 0385F of the September 2, 2005 insurance rate map for the County of Hays, Texas, the property described hereon is in the Zone "X" of the flood hazard area and determined to be outside the 100 year flood zone.



**HAYES SURVEYING**  
202 SUNFLOWER DRIVE  
KYLE, TEXAS 78640  
512-268-4813

# HAYES SURVEYING

202 SUNFLOWER DRIVE  
KYLE, TEXAS 78640

Phone 512/268-4813  
Cell 512/738-0511

## EXHIBIT C

### METES & BOUNDS DESCRIPTION FOR 181.06 SQ. FT. OF LAND

A tract of land containing 181.06 sq. ft., out of a called 0.2929 acre tract out of the D. A. Barbee Addition to the City of Kyle, Hays County, Texas, according to the plat recorded in Volume S, Page 164 of the Hays County Deed Records, said 0.2929 acre tract being that same tract as conveyed to Mark Schmeltekopf as recorded and described in Volume 1212, Page 258 of the Official Public Records of Hays County, said 181.06 sq. ft. being more particularly described by metes and bounds as follows:

BEGINNING at a PK nail found set in asphalt at the intersection of the south right-of-way of Blanco Street and the northeast right-of-way of Rebel Drive; F. M. 150, for the northwest corner of the herein described tract, from which for reference and used for the bearing basis, a 1" iron pipe found for the southwest corner of Lot 7 the "H. Garland Stokes Subdivision No. 2" a subdivision recorded in Volume 1, Page 139 of the Hays County Plat Records, bears N 26° 01' 00" W, a distance of 99.18 feet;

THENCE along the south right-of-way of Blanco Street, S 72° 56' 00" E, a distance of 41.70 feet to an iron rod with a plastic cap found for the east corner of the herein described tract;

THENCE N 87° 26' 00" W, a distance of 34.68 feet to an iron rod with a plastic cap set in the northeast right-of-way of Rebel Drive for the southwest corner of the herein described tract;

THENCE N 26° 01' 00" W, along the Rebel Drive right-of-way, a distance of 11.89 feet to the POINT OF BEGINNING, containing 181.06 sq. ft..

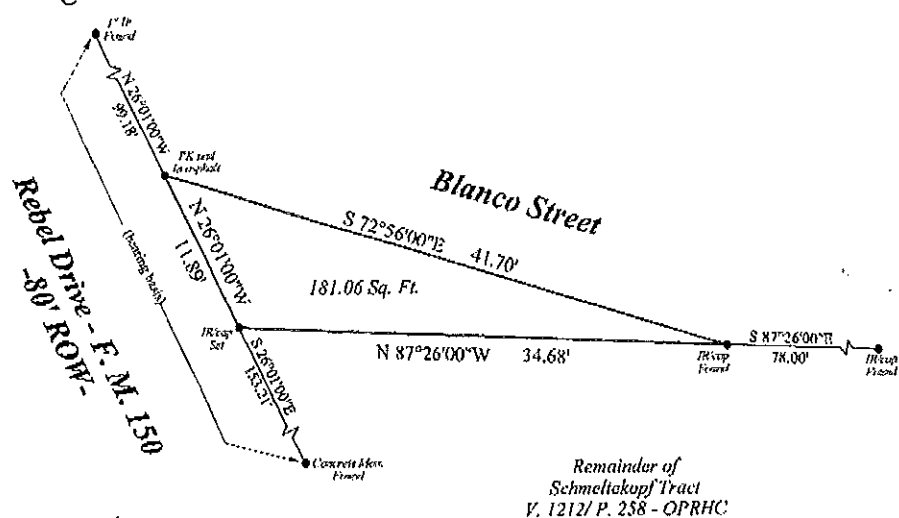
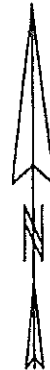
This is to certify that this description of land represents an actual survey made on the ground under my supervision in January of 2011. Only those documents with a red surveyor's signature and an accompanying red surveyor's seal shall be deemed reliable and authentic. Reference the attached sketch marked EXHIBIT B, File # RBLDRV04.

  
Ronald D. Hayes, Registered Professional Land Surveyor, No. 5703

**Exhibit D**

Reference attached metes and bounds description marked Exhibit C

Scale  
1" = 10'



Remainder of  
Schmeltekopf Tract  
V. 1212/ P. 238 - OPRHC

**Legend**

OPRHC  
Official Public Records of Hays County  
( ) Data first recorded document  
V. 1212/P. 238 - OPRHC

Surveyor's Notes: This survey was done without a title search. There may be documents/ easements that affect this tract that are not referenced or shown.

**PLAT SHOWING SURVEY OF 181.06 SQ. FT., OUT OF AND PART OF THE D. A. BARBEE ADDITION TO THE TOWN OF KYLE, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME S, PAGE 164, DEED RECORDS OF HAYS COUNTY.**

**FOR: Mark Schmeltekopf**

**DATE: September 15, 2011**

The undersigned does hereby certify that this survey was made on the ground of the property legally described hereon and is essentially correct and that are no visible discrepancies, encroachments, overlapping of improvements, visible utility easements or roadways, except as shown and that said property has access to a public road. Only those plats with a red surveyors seal and red signature shall be deemed reliable and authentic.

*[Signature]*  
Ronald D. Hayes, Registered Professional Land Surveyor, No. 5703

According to the scaling of Map Panel 0385F of the September 2, 2005 insurance rate map for the County of Hays, Texas, the property described hereon is in the Zone "X" of the flood hazard area and determined to be outside the 100 year flood zone.

**HAYES SURVEYING  
202 SUNFLOWER DRIVE  
KYLE, TEXAS 78640  
512-268-4813**

File # RBLDRV04  
Field Book # 65  
Page # 17

Item # 26





0 50 100 200 Feet  
Item #200





# CITY OF KYLE, TEXAS

Meeting Date: 1/3/2012

Date time: 7:00 PM

## ROW Acquisition for Southside Sewer

**Subject/Recommendation:**

Authorize Award and Execution of a Professional Services Agreement with LNV, INC./STATESIDE R.O.W. SERVICES to perform the attendant services to acquire the easements needed for the "K-11-12-1" Kyle Southside Sewer and Related Projects, inclusive of the Blanco Basin and Elliott Branch Wastewater Interceptor Projects ~ *Steven Widacki, P.E., City Engineer*

**Other Information:**

The City solicited Requests for Quotes for ROW (property) acquisition services for the above referenced project. A total of six (6) firms submitted quotes. An assessment of these quotes is attached.

With City Council's authorization, the City of Kyle will engage the above firm to perform ROW (property) acquisition services to acquire the easements necessary for the construction of the Blanco Basin and Elliott Branch Wastewater Interceptor projects as defined in the "Preliminary Engineering Report (PER) for City of Kyle Southside Wastewater Service" (Neptune-Wilkinson Assoc., Inc., Rev. 9/13/2011). The referenced authorization is to acquire approximately 33 permanent easements and adjacent temporary construction easements (TCE) to facilitate construction and future maintenance operations of the installed wastewater (WW) lines and lift station (LS).

The WW lines and LS to be constructed consist of the following: a) Blanco Basin - Gravity Line East of IH-35; b) Blanco Basin - Gravity Line West of IH-35; c) Blanco Basin - Phase I Lift Station, and: d) Elliott Branch Interceptor. The estimated probable cost to construct these facilities is \$3,853,000 including engineering and contingencies per the PER.

These acquisition services (as well as the constructed WW improvements) will be completed using WW impact fee funds.

A copy of the proposed budget for the services to be provided by LNV, Inc./Stateside ROW Services detailing the planned scope of services, project deliverables, and project cost is also attached; amount not to exceed \$173,540. We recommend use of a 'sample contract' submitted under the RFQ to be adapted to the City's needs in concert with the City's attorney and the selected consultant. Any attendant legal services are not a part of this authorization.

**Budget Information:**

Please see attached Fiscal Note.

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Cover Memo

Attachments / click to download

Item # 27



- ▢ [Assessment & RFQ Evaluation 2011 12 27](#)
  - ▢ [LNV Budget RFQ](#)
  - ▢ [Fiscal Note - LNV Southside Easement Acq 1-3-2012](#)
  - ▢ [ROW \(Land\) Land Acquisition Svcs PSA 2011 12 28](#)
-

**PROFESSIONAL SERVICES AGREEMENT  
FOR LAND RIGHTS ACQUISITION SERVICES  
KYLE SOUTHSIDE SEWER AND RELATED PROJECTS "K-11-12-1"**

**THIS AGREEMENT** (Agreement) is entered into by and between the City of Kyle (Owner) and LNV, Inc. (Consultant). The Owner and the Consultant are hereinafter sometimes referred to individually as a "Party" and collectively as the "Parties".

**WITNESSETH**

In consideration of their mutual covenants hereunder, the Parties agree as follows:

- 1) **Scope of Services:** The Owner may from time to time request that Consultant perform certain right-of-way (ROW) and related technical services (the "Services"). The scope of services for the purposes of this Agreement is attached as Exhibit A.
- 2) **Performance of Services:** After accepting a request for Services, Consultant will perform the Services as an independent contractor. Owner agrees to provide Consultant with such information, data and criteria as may be required from time to time by Consultant to perform the Services efficiently and in accordance with this Agreement.
- 3) **Compensation and Charges for Services:** Charges for Services will be made in accordance with the Schedule of Rates and Expense Reimbursements attached hereto as Exhibit B. Consultant shall invoice monthly for Services performed and payment shall be made by Owner within forty-five (45) days of receipt of invoice. Consultant shall maintain such books and records as may be reasonably required to substantiate charges invoiced under this Agreement.
- 4) **Confidential Information:** All confidential data and information acquired by Consultant from the Owner during the performance of Services shall be kept confidential and shall not be disclosed by Consultant to third parties without the written consent of Owner, unless Consultant is required by law or court order to make disclosure. Data and information obtained by Consultant in the ordinary course of its business, or which is in the public domain through no wrongful act of Consultant shall not be considered confidential.
- 5) **Ownership of Work Product:** All reports, records, and other electronic files, sketches, working drawings and other tangible evidence of Consultant's work product prepared hereunder for Owner shall be the property of Owner. Consultant may retain a record of its work product.
- 6) **Indemnification:** CONSULTANT SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS OWNER, ITS DIRECTORS, AGENTS, EMPLOYEES, AND AFFILIATES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, OR CAUSES OF ACTION (AND ALL LOSSES, LIABILITIES, EXPENSES, AND JUDGEMENTS INCURRED IN CONNECTION THEREWITH, INCLUDING ATTORNEY'S FEES AND EXPENSES, COURT COSTS, AND OTHER EXPENSES INCURRED IN ENFORCING THIS INDEMNITY PROVISION) BROUGHT BY CONSULTANT OR ANY OF CONSULTANT'S EMPLOYEES, DIRECTORS, OFFICERS, AGENTS, OUTSIDE ADVISORY OR SUPPORT CONSULTANTS, OR REPRESENTATIVES, OR BY ANY THIRD PARTY, BASED UPON, OR IN CONNECTION WITH, RESULTING FROM, OR ARISING OUT OF, THE NEGLIGENCE OR MISCONDUCT OF CONSULTANT'S EMPLOYEES, DIRECTORS, OFFICERS, AGENTS, OUTSIDE ADVISORY OR SUPPORT CONSULTANTS, OR REPRESENTATIVES. Consultant shall promptly advise the Owner in writing of any claims, which could give rise to right of indemnification under this Paragraph.
- 7) **Insurance:** Consultant shall carry at its expense; the insurance coverage's set forth in the "Insurance Coverage" attached hereto as Exhibit C.
- 8) **Termination and Suspension:** a) Either party shall have the right to terminate this Agreement if the other Part materially defaults in the performance of its obligations hereunder and fails to commence

steps to remedy such default within fifteen (15) days after written notice thereof. Owner shall also have the right to terminate this Agreement for any reason upon thirty (30) days written notice to Consultant. In the event of termination, Consultant shall be paid for all (i) Services rendered up to the termination date and (ii) in cases where the termination is not due to the default of the Consultant, costs incurred by the Consultant for an orderly discontinuance of Services. All partially completed work product shall be delivered to Owner after termination and payment therefore.

- a) Owner may suspend for any reason performance of the Services provided that it issues to Consultant a written suspension notice, which includes an undertaking by the Owner to adjust the price and/or the performance schedule for the impact of the suspension.
- 9) **Adjustments:** In the event of: a) changes or additions to the scope of Services requested; or b) delays in the performance of Services by reason of force majeure, charges and/or performance schedules shall, if appropriate, be adjusted. Upon the occurrence of any change, addition or delay, Consultant shall, as soon as practicable, propose in writing to the Owner for consideration and mutual agreement, and adjustment to charges and/or performance schedules.
- 10) **Warranty:** Consultant warrants that the Services shall be performed with that degree of skill and judgment normally exercised by professional ROW firms performing services of similar nature. The Parties agree that there are no standards of performance, guarantees or warranties extending beyond those expressed in this Paragraph.
- 11) **Notices:** Any notices or communications required or permitted to be given hereunder shall be given in writing by delivery in person or by first class mail addressed to the Party, postage prepaid, or by facsimile at the following addresses of such other address (es) as a Party may from time to time designate in writing:

If to Owner:

City of Kyle  
100 W. Center Street  
Kyle, TX 78640

Telephone: 512-262-1010  
Facsimile: 512-262-3800  
Attention: Steven D. Widacki, P.E.

If to Consultant:

LNV, Inc.  
1101 Capital of Texas Hwy. S., C220  
Austin, TX 78746

Telephone: 512-381-8333  
Facsimile: 512-381-8334  
Attention: Susan Smith Turietta, P.E.

Notices delivered in person shall be effective upon delivery. Notices sent by mail shall be effective on the third day after being mailed. Notices sent by facsimile shall be effective on the day following transmission.

- 12) **Assignments and Subcontracts:** This Agreement shall inure to the benefit of and are binding upon Parties and their successors and permitted assigns. Neither party shall assign all or any part of this Agreement without the prior written consent of the other Party. Consultant shall obtain the consent of the Owner before subcontracting any component of the Services, such consent not to be unreasonably withheld by Owner.
- 13) **Governing Law:** This Agreement shall be governed and construed in unenforceable or invalid, the validity and enforceability of the remainder of the Agreement shall be unaffected.
- 14) **Severability:** In the event any portion of this Agreement is held to be unenforceable or invalid, the validity and enforceability of the remainder of the Agreement shall be unaffected.
- 15) **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and supersedes all previous bids, proposals, contracts, understanding and

other agreements between the Parties. This Agreement may not be amended except in writing signed by both Parties.

In Witness Whereof, the Parties hereto have executed this Agreement effective as of the day and year last executed below.

**OWNER:  
CITY OF KYLE**

**CONSULTANT:  
LNV, INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

DRAFT

## EXHIBIT A

### SERVICES TO BE PROVIDED

The Services to be provided under this Agreement shall be those requested by the Owner and accepted by Consultant in accordance with Paragraphs 1 and 2 of this Agreement. The project scope includes tasks necessary for land acquisition for the Blanco Basin and Elliott Branch Wastewater Interceptors as identified in the "Preliminary Engineering Report (PER) for City of Kyle Southside Wastewater Service" (Neptune-Wilkinson Assoc., Inc., Rev. 9/13/2011).

**Project Success Criteria:** Consultant will be representing the Owner and Consultant's efforts will involve the utmost level of professionalism, and a clear understanding of the complexities associated with land acquisition, and if necessary eminent domain. Collaborating with stakeholders, including landowners, City staff and (possibly) legal counsel is a critical success factor to any project involving land acquisition. Two items that are important to consider in this process are:

- 1) State of Texas Landowner's Bill of Rights, published by the Office of the Attorney General of Texas, and;
- 2) Senate Bill 18, passed by the 82<sup>nd</sup> Texas Legislature Session.

The Landowner's Bill of Rights has ten (10) rights that property owners are entitled to during the land acquisition process. The Landowner's Bill of Rights also describes the condemnation procedure and proceedings required. This document will be provided to the landowners prior to negotiations so that they are educated and aware of the process, and their rights. This information is provided to the landowners to help them understand the acquisition process, and possibly condemnation, so that the Owner and Consultant acknowledge their rights throughout the process.

**Management and Technical Process:** The following is an overview of the project scope and a list of deliverables.

#### **SCOPE:**

The project scope includes:

- 1) Landowner notifications;
- 2) Title review/courthouse research;
- 3) Right-of-entry for survey and other studies;
- 4) Survey;
- 5) Appraisals;
- 6) Landowner negotiations;
- 7) Condemnation packets to attorneys;
- 8) Execution and recordation of documents.

Items that are not in scope include:

- 1) Services related to relocation will not be a part of the work;
- 2) TxDOT utility permits are not in the scope of this proposal;
- 3) Title insurance.

**Project Deliverables:** Deliverables will be fully executed and recorded easements. Temporary construction easements would not be recorded. The Consultant's project team is identified in the

Organization Chart and a project schedule is to be prepared and maintained for the execution of this scope of services and both are attached constituting Exhibit D.

All file documentation will be kept on file for two (2) years with original files being delivered to the Owner for records. All files will include agent contact logs, copy of the tax card, vesting deed, easements and encumbrances, correspondence between agent and landowner and any other supporting documentation.

#### **BUDGET AND COST:**

Budgets and a further breakdown for the above referenced tasks are as follows:

##### **Blanco Basin WW Interceptor**

1) Project Management/administration	\$9,000
2) Landowner notifications (23 properties)	\$2,760
3) Title/courthouse research (30 properties)	\$9,000
4) Right-of-entry for survey and other studies (23 properties)	\$2,760
5) Survey (30 properties)	\$45,000
6) Appraisals (3 properties)	\$12,000
7) Landowner negotiations (23 properties)	\$60,720
8) Easement preparations (30 properties);	\$1,800
9) Condemnation packets to attorneys (3 properties)	\$7,920
10) Execution and recordation of documents (30 properties)	<u>\$3,000</u>
Subtotal:	\$153,960

##### **Elliott Branch WW Interceptor**

1) Project Management/administration	\$1,100
2) Landowner notifications (3 properties)	\$360
3) Title/courthouse research (3 properties)	\$540
4) Right-of-entry for survey and other studies (3 properties)	\$120
5) Survey (3 properties)	\$4,500
6) Appraisals (0 properties)	\$0
7) Landowner negotiations (3 properties)	\$7,920
8) Easement preparations (3 properties);	\$4,500
9) Condemnation packets to attorneys (0 properties)	\$0
10) Execution and recordation of documents (3 properties)	<u>\$300</u>
Subtotal:	\$19,580

**TOTAL: \$173,540**

**EXHIBIT B**

**SCHEDULE OF RATES AND EXPENSE REIMBURSEMENTS**

The Rates and reimbursements set forth in this Exhibit B are subject to annual adjustment by Consultant provided Consultant give the Owner a minimum of sixty (60) days written notice of any such adjustment.

The Hourly Rate Schedule is based on a per hour basis respectively. Consultant will be paid at the rates per service or employee shown below. The Owner will reimburse Consultant for actual, project-related expenses at the rates set forth below.

Consultant will submit monthly invoices for services provided through the last day of each month to the Owner, accompanied by an explanation of charges, professional fees, services, and expenses. Owner will pay such invoices according to its normal payment procedures, but in no event shall such payment be later than forty-five (45) days after Owner’s receipt of the invoice.

**HOURLY RATE SCHEDULE**

Project Management.....	\$XXX.XX/HR
Title Coordinator/Examiner.....	\$XXX.XX/HR
Right of Way Agent.....	\$XXX.XX/HR
Right of Way Assistant.....	\$XXX.XX/HR

All salary classifications may not be necessary on every project.

**REIMBURSABLE PROJECT EXPENSES**

**MISCELLANEOUS PROJECT RELATED EXPENSES:**

- a) Reproduction, duplicating and blueprinting services
- b) Recording fees
- c) Other expenses authorized by Owner in performance of the Scope of Services.

**EXHIBIT C****INSURANCE COVERAGE**

***Without limiting any of the other obligations or liabilities of the Consultant, the Consultant shall provide and maintain during the performance of the Services under this Agreement, and until the contracted work has been completed and accepted by the Owner, the minimum insurance coverage as indicated hereinafter.***

- 1) During the performance of the services under this Agreement, Consultant shall maintain the following insurance with an insurance company licensed to do business in the State of Texas by the State Insurance Commission or any successor agency that has a rating with Best Rate Carriers of at least an A- or above;
- 2) Comprehensive General Liability Insurance with bodily injury and property damage limits of not less than \$1,000,000 for each occurrence and not less than \$1,000,000 in the aggregate.
- 3) Automobile Liability Insurance with combined single limit bodily injury and property damage of not less than \$1,000,000 for each accident.
- 4) Consultant shall purchase and maintain Worker's Compensation Insurance, which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's Liability limits of at least \$100,000 for each accident, \$100,000 per each employee, and a \$500,000 policy limit for occupational disease. The Owner need not be named as an "Additional Insured" but the insurer shall agree to waive all rights of subrogation against the Owner, its officials, Agents, employees and volunteers for any work performed for the Owner by the Named Insured. For building or construction projects, the Consultant shall comply with the provisions in accordance with §406.096 of the Texas Labor Code and rule 28TAC 110.110 of the Texas Worker's Compensation Commission (TWCC).
- 5) Professional Liability Insurance with limits of not less than \$1,000,000 annual aggregate.
- 6) The Consultant shall furnish insurance certificates or insurance policies at the Owner's request to evidence such coverage. Except for workers compensation, employer's liability, and professional liability policies, the above insurance policies shall name the Owner as an additional insured on all such policies. Owner will be provided thirty (30) day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.



**EXHIBIT D****ORGANIZATIONAL CHART &  
PROJECT SCHEDULE**

Consultant's Organizational Chart depicting the assembled project team, main and secondary point(s) of contact and Project Schedule submitted with the proposal are attached. The Project Schedule's start date will be adjusted based upon the Notice to Proceed provided by the Owner.

ATTACHMENTS

DRAFT

**City of Kyle**  
 RFQ: ROW Acquisition Services for  
 Kyle Southside Sewer and Related Projects  
 “K 11-12-1”

1. **LNV/Stateside:** local office in Austin and LNV has performed work for City as engineering consultant; example contract not included; specified that title insurance may not be required for all parcels (usually recommended when cost for easement/ROW exceeds \$5,000 for any parcel) – could yield cost savings on title policy costs. Both LNV & Stateside are HUB certified. Fee submitted is \$263,540, with condemnation services (legal) at \$90,000; did not specify legal firm. Fee is \$173,540 w/out condemnation (legal) services. This proposal *offers the opportunity for the lowest overall cost.*
2. **Property Acquisition Services, Inc.:** references local office in Austin, however all resumes are for staff in the Sugar Land, TX office. HUB participation by surveyor (Tetra) and appraisal firm (RRES, LLC). NO LOCAL projects in submittal or website. Fee submitted is \$240,700, with condemnation services (legal) at \$36,000. Legal firm is Joyce, McFarland + McFarland, LLP, out of Houston, TX. Fee is \$204,700 w/out condemnation legal items. This proposal is lowest including all services and *provides the lowest overall cost should any one parcel go to condemnation.*
3. **O.R. Colan Associates:** Extensive experience in local market (SH 130 Segments 1-6). HUB certification not obtained for TX. No subs are specified in submittal. Fee submitted is \$340,250, with condemnation “Legal Services” at \$96,000. Fee is \$244,250 w/o condemnation legal items.
4. **Associated Right of Way Services, Inc.:** after breakout of other projects and pro-ration of fees, Blanco Basin & Elliott Branch services are approx. \$308,287, with condemnation services (legal) at \$33,900. Fee is \$274,387 w/out condemnation legal items.

**Submittals deemed non-responsive:** a) **Crossland Acquisition, Inc.** (legal for condemnation not included), and; b) **Spitzer & Associates** (legal for condemnation not included). Further information not pursued, because cost for other services would not place them in the top three (3) by price.

**City of Kyle**

RFQ: ROW Acquisition Svc's.

Kyle Southside Sewer Related Projects

<u>No.</u>	<u>Bidder Name</u>	<u>Overall</u>		<u>Less Legal</u>		<u>Overall Rank</u>
		<u>Amount</u>	<u>Legal Fees</u>	<u>Amount</u>	<u>Rank</u>	
1	Property Acquisition Services, Inc.	\$240,700	\$36,000	\$204,700	2	
2	O.R. Colan Associates of Illinois, LLC	\$340,250	\$96,000	\$244,250	3	
3	LNV, Inc./Stateside ROW Svc's.	\$263,540	\$90,000	\$173,540	1	
4	AR/WS Texas, L.P.	\$308,287	\$33,900	\$274,387	4	
5	Crossland Acquisition, Inc.	\$327,000	\$0	\$327,000	NR	
6	Spitzer & Associates	\$311,000	\$0	\$311,000	NR	

## BUDGET (CONT.)

BLANCO

Blanco Basin Wastewater Interceptor					
Description	Unit	Qty	Unit Price	Total	Comments
Project Management/administration	LS	1	\$ 9,000	\$ 9,000	
Landowner notifications	Property	23	\$ 120	\$ 2,760	2 hr/property @ \$60/hr
Title/courthouse research	Property	30	\$ 300	\$ 9,000	5 hr/property @ \$60/hr
Right of entry for survey and other studies	Property	23	\$ 120	\$ 2,760	2 hr/property @ \$60/hr
Survey	Property	30	\$ 1,500	\$ 45,000	\$1,500/property
Appraisals	Property	3	\$ 4,000	\$ 12,000	\$4,000/property
Landowner negotiations	Property	23	\$ 2,640	\$ 60,720	24 hr/property @ \$110/hr
Easement preparations	Property	30	\$ 60	\$ 1,800	1 hr/property @ \$60/hr
Condemnation packets to attorneys	Property	3	\$ 2,640	\$ 7,920	24 hr/property @ \$110/hr
Execution and recordation of documents	Property	30	\$ 100	\$ 3,000	Includes County filing fee
<b>Total</b>				<b>\$153,960</b>	

<del>Bunton Wastewater Interceptor, Phase 3</del>					
Description	Unit	Qty	Unit Price	Total	Comments
Project Management/administration	LS	1	\$ 2,000	\$ 2,000	
Landowner notifications	Property	4	\$ 120	\$ 480	2 hr/property @ \$60/hr
Title/courthouse research	Property	8	\$ 300	\$ 2,400	5 hr/property @ \$60/hr
Right of entry for survey and other studies	Property	4	\$ 120	\$ 480	2 hr/property @ \$60/hr
Survey	Property	8	\$ 1,500	\$ 12,000	\$1,500/property
Appraisals	Property	0	\$ 4,000	\$ -	\$4,000/property
Landowner negotiations	Property	4	\$ 2,640	\$ 10,560	24 hr/property @ \$110/hr
Easement preparations	Property	8	\$ 60	\$ 480	1 hr/property @ \$60/hr
Condemnation packets to attorneys	Property	0	\$ 2,640	\$ -	24 hr/property @ \$110/hr
Execution and recordation of documents	Property	8	\$ 100	\$ 800	Includes County filing fee
<b>Total</b>				<del>\$ 29,200</del>	

ELLIOTT

Elliott Branch Wastewater Interceptor					
Description	Unit	Qty	Unit Price	Total	Comments
Project Management/administration	LS	1	\$ 1,100	\$ 1,100	
Landowner notifications	Property	3	\$ 120	\$ 360	2 hr/property @ \$60/hr
Title/courthouse research	Property	3	\$ 180	\$ 540	5 hr/property @ \$60/hr
Right of entry for survey and other studies	Property	3	\$ 120	\$ 360	2 hr/property @ \$60/hr
Survey	Property	3	\$ 1,500	\$ 4,500	\$1,500/property
Appraisals	Property	0	\$ 4,000	\$ -	\$4,000/property
Landowner negotiations	Property	3	\$ 2,640	\$ 7,920	24 hr/property @ \$110/hr
Easement preparations	Property	3	\$ 1,500	\$ 4,500	1 hr/property @ \$60/hr
Condemnation packets to attorneys	Property	0	\$ 2,640	\$ -	24 hr/property @ \$110/hr
Execution and recordation of documents	Property	3	\$ 100	\$ 300	Includes County filing fee
<b>Total</b>				<b>\$ 19,580</b>	



City of Kyle, Texas  
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: January 3, 2012  
 CONTACT CITY DEPARTMENT: Public Works  
 CONTACT CITY STAFF: Steven Widacki, P.E. City Engineer

SUBJECT: Authorize award and execution of a professional services agreement with LNV INC./STATESIDE R.O.W. SERVICES in an amount Not to Exceed \$173,540 to perform the attendant services to acquire the easements needed for the "K-11-12-1" Kyle Southside Sewer and related projects, inclusive of the Blanco Basin and Elliott Branch Wastewater Interceptor Projects. ~ Steven Widacki, P.E., City Engineer

CURRENT YEAR FISCAL IMPACT:

This professional services agreement with LNV INC./STATESIDE R.O.W. SERVICES will require expenditure of accumulated funds from the City's Sewer Impact Fee Fund.

1. City Department:	Public Works
2. Project Name:	Kyle Southside Sewer Improvement
3. Budget/Accounting Code(s):	342-888-57317
4. Funding Source:	Sewer Impact Fee Fund
5. Current Appropriation:	\$ 6,864,323.45
6. Unencumbered Balance:	\$ 6,928,535.13
7. Amount of This Action:	<u>\$( 173,540.00)</u>
8. Remaining Balance:	<u>\$ 6,754,995.00</u>

FUNDING SOURCE OF THIS ACTION:

The funding source for this professional services agreement in the amount of \$173,540.00 is provided from the City's Sewer Impact Fee Fund. The City Council's approval of this item will also authorize staff to appropriate and apply accumulated funds in the amount of \$173,540 from the Sewer Impact Fee Fund.

ADDITIONAL INFORMATION/COUNCIL ACTION:

N/A.



# CITY OF KYLE, TEXAS

## Walmart Landscape Variance Request

**Meeting Date: 1/3/2012**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Walmart landscape variance request. A variance to the location of the required trees within a parking lot.  
*~ Sofia Nelson, Director of Planning*

*Planning and Zoning Commission voted 4-2 to approve the landscape variance request.*

**Other Information:** Please see the attached staff report.

**Budget Information:** N/A

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#### Attachments / click to download

- [Variance Request Letter](#)
  - [City Council memo](#)
  - [landscape plan](#)
  - [landscape berm plan](#)
  - [30 day postponement request](#)
-



**Doucet & Associates, Inc.**  
Consulting Engineers

7401 B Highway 71 West  
Suite 160 • Austin, TX 78735  
p 512.583.2600  
f 512.583.2601

CITY OF KYLE

NOV 22 2011

PLANNING DEPARTMENT

November 22, 2011

City of Kyle  
Planning Department  
100 W. Center Street  
Kyle, TX 78640

RE: Walmart #4130-00  
Kyle, TX  
Conditional Use Permit Submission

To City of Kyle Planning Staff:

Transmitted herewith for review, is the Conditional Use Permit Submission for the above referenced project.

The following materials have been enclosed, per requirements set forth in the Conditional Use Permit Application:

1. Completed Application
2. A computer printout from the Appraisal District listing adjacent property owners.
3. A check made payable to the City of Kyle for \$410.65.
4. The ALTA Survey showing the area proposed for change and RS Zoning for the property and all adjacent properties.
5. The Site Plan (two paper copies and one digital file)
6. Colored Elevation Drawings (two paper copies and one digital file) and the landscape plan.
7. Copy of Deed.

As discussed in the predevelopment meeting, the landscape plan submitted with this application has been prepared to alternatively comply with the City of Kyle code requirement in Section 53-992. All aspects of the landscaping will comply with City of Kyle code except Section 53-992 which requires that "no parking space be more than 50 ft away from the trunk of a tree."



The parking lot has been planned to incorporate 3 large landscape islands running the length of the parking lot ranging in width from 19' to 31' instead of multiple small islands as required by code. These large islands are designed to provide a greater amount of pervious cover than required by code and the trees and landscaping will receive more rainwater resulting in healthier trees and less irrigation and in turn conserve water.

This proposed alternative compliance to the City of Kyle code will promote healthy, sustainable trees and landscaping, water conservation, and grow a mature tree canopy more quickly offering greater aesthetics to the City of Kyle and a reduction in the thermal impact in the parking areas.

Should you have any questions regarding this application or the Landscaping plan, please do not hesitate to contact me.

Sincerely,



Robert J. Smith, P.E.



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## **MEMORANDUM**

**TO:** City Council

**FROM:** Sofia Nelson, Planning Director

**DATE:** December 16, 2011

**SUBJECT:** LANDSCAPE VARIANCE  
Walmart- Village at Kyle

### **Background**

#### **Location:**

The subject property is located at the intersection of N. IH-35 frontage road and Kyle Parkway, within the Village at Kyle Shopping Center.

#### **Proposal**

The proposed Walmart is approximately 150,898 square feet in size and is proposed to sit on a 17.87 acre lot. The applicant is requesting a landscape variance to allow for an alternative landscaping plan that would allow the clustering of the required parking lot trees within 3 large landscape islands (the code states each parking space shall be more no more than 50' from a tree). The proposed landscape islands will run the length of the parking lot and would be approximately 20-25 feet wide. The applicant is **not** requesting a variance to the number of trees to be planted but is requesting a variance to the location of the trees within the parking lot.

### **STAFF ANALYSIS AND RECOMMENDATION**

The City of Kyle Code identifies the purpose of the landscape requirements is to support the orderly, safe, attractive and healthful development of land located within the community, and to promote the general welfare of the community by preserving and enhancing ecological, environmental and aesthetic qualities, through established requirements for the installation and maintenance of landscaping elements and other means of site improvements in developed properties.

### **STAFF RECOMMENDATION**

Staff has reviewed the request and is recommending approval of the request for the following reasons:

- The landscape proposal to cluster the parking lot trees within larger landscaping islands within the parking lot appears to meet the intent of the landscape ordinance to promote an attractive and ecologically sensitive site.

- Granting the variance petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
- The request for a variance is not based exclusively on the petitioner's desire for increased financial gain from the property, or to reduce an existing financial hardship

### **PLANNING AND ZONING COMMISSION**

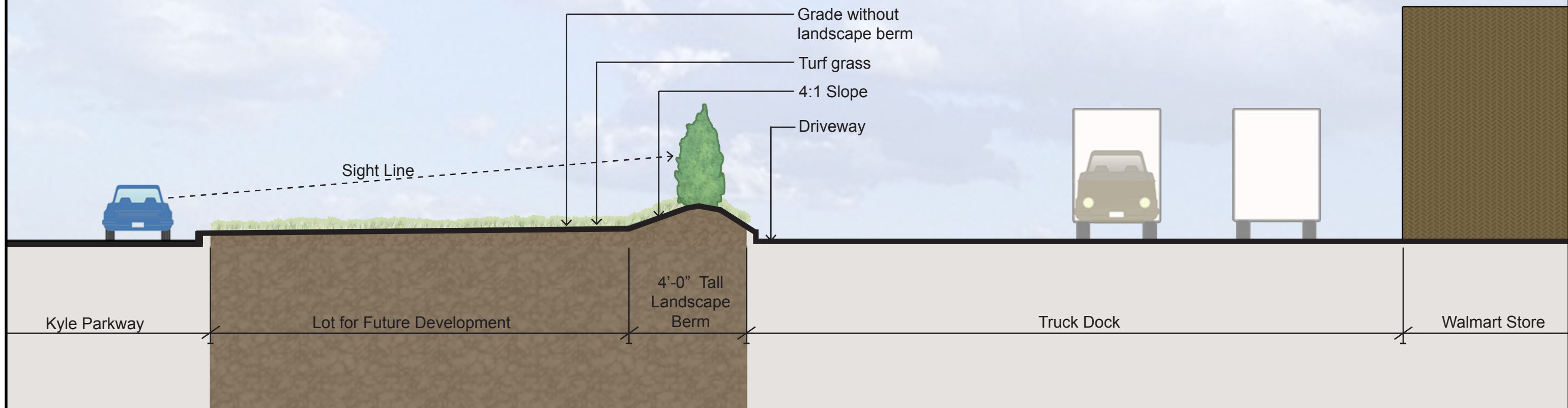
On December 13<sup>th</sup> the Planning and Zoning Commission held a public hearing and recommended to the City Council approval of the Conditional Use Permit with a vote of 4-2 ( Commissioner Fernandez- absent/ Commissioner DiLeo and Commissioner Kay voted against).







**Notes:**  
*Row of Arizona Cypress planted on earth berm as a vertical screen for truck dock.*  
*\*Arizona Cypress will be approximately 12' wide and 20' tall in 5-10 years.*



**LANDSCAPE SCREEN BERM**  
**WAL-MART KYLE**

Item # 28

DECEMBER 22, 2011

KYLE, TEXAS





# CITY OF KYLE, TEXAS

## Wal-Mart - CUP

Meeting Date: 1/3/2012

Date time: 7:00 PM

**Subject/Recommendation:**

Consider a request by SCC Kyle Partners, LTD. (Walmart) for a Conditional Use Permit to construct a 150,898 square foot building located within the Interstate Highway 35 Corridor District.

17.87 acres; 150,898 square foot building

Located at 5754 Kyle Parkway in the Village at Kyle Shopping Center

Applicant: SCC Kyle Partners, LTD.

Agent: Doucet and Associates, Inc.

~ Sofia Nelson, Director of Planning

*Planning and Zoning Commission voted 4-2 to approved the Conditional Use Permit.*

- *Public Hearing*

**Other Information:**

Please see the attached staff report

**Budget Information:**

N/A

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**Attachments / click to download**

- [Color Rendering](#)
- [City Council memo](#)
- [Elevations](#)
- [Elevations](#)
- [30 day postponement request](#)

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## MEMORANDUM

**TO:** City Council

**FROM:** Sofia Nelson, Planning Director

**DATE:** December 16, 2011

**SUBJECT:** **CONDITIONAL USE OVERLAY**  
**Walmart- Village at Kyle**

### Background

#### **Request:**

*The applicant is requesting approval of a Conditional Use permit for the exterior construction of the proposed Walmart within the I-35 Overlay District. The property is zoned Retail Services "RS" and as a result the use of property as a retail store is permitted by right.*

#### **Location:**

*The subject property is located at the intersection of N. IH-35 frontage road and Kyle Parkway, within the Village at Kyle Shopping Center.*

#### **Overlay District**

*The Interstate Highway 35 corridor conditional use overlay district extends from the northernmost city limit boundary at I-35 to the southernmost city limit boundary at I-35, and includes all real property within 1,500 feet of the outer most edge of the highway right-of-way of I-35.*

*a) The purpose of the of the overlay district is to maintain a high character and quality of community development, to promote compatible uses and standards, to preserve and enhance property values, to promote economic growth, to provide for orderly development, to provide for proper movement of traffic, and to secure the general safety of citizens by regulating the exterior architectural characteristics of structures*

*(b)The conditional use overlay districts will assist the community to recognize and preserve the distinctive architectural character of this community, which has been greatly influenced by the architecture of an earlier period in this community's history. This purpose shall be served by the regulation of exterior design, use of materials, the finish grade line, ingress and egress, and landscaping and orientation of all structures hereinafter altered, constructed, reconstructed, reacted, enlarged, remodeled, removed, or demolished in the conditional use overlay district.*



**Proposal**

The proposed Walmart is approximately 150,898 square feet in size and is proposed to sit on a 17.87 acre lot. The store will face the IH-35 frontage road with the seasonal garden area and truck loading area facing Kyle Parkway. The front of the building has been designed to include neutral colors such as brown and beige and materials such as split face CMU, EFIS, and limestone store veneer. The front of the store will include two entrances to break-up the façade of the building. The façade of the store facing Kyle Parkway is primarily split face CMU with a load area, 5 white metal roll-up doors, and a black fencing around the garden area.

**COMPREHENSIVE MASTER PLAN GUIDANCE**

The Comprehensive Master Plan identifies the site to be located within the Super Regional Node. The Comprehensive Master characterizes the Super Regional Node as follows:

- Should contain large-scale, institutional, commercial, and retail land uses, with the Seton Medical Center as the key distinguishing feature.
- The aggregation of commercial square footage in this Node should create a significant commercial destination that will be visible to regional travelers along the I-35 corridor.
- The purpose of the Super Regional Node is to capture employment opportunities and create a commercial destination within Kyle.

**STAFF RECOMMENDATION**

Staff has reviewed the request and is recommending approval of the proposed building renderings.

**PLANNING AND ZONING COMMISSION RECOMMENDATION**

On December 13<sup>th</sup> the Planning and Zoning Commission held a public hearing and recommended to the City Council approval of the Conditional Use Permit with a vote of 4-2 ( Commissioner Fernandez- absent/ Commissioner DiLeo and Commissioner Kay voted against).

**Public Notice**

Newspaper notice of the Planning and Zoning Commission public hearing was published on November 23<sup>rd</sup> and December 14<sup>th</sup> for the City Council public hearing. No mail notice was required.

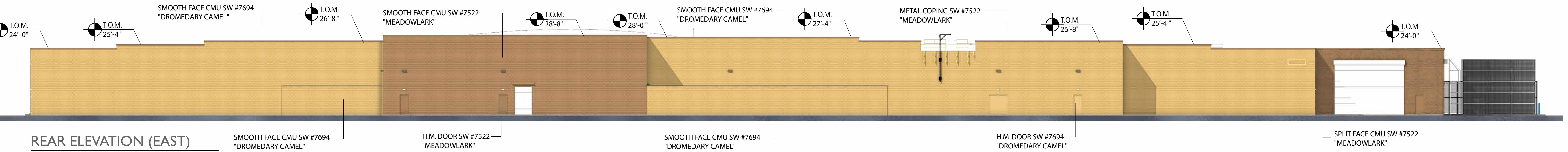






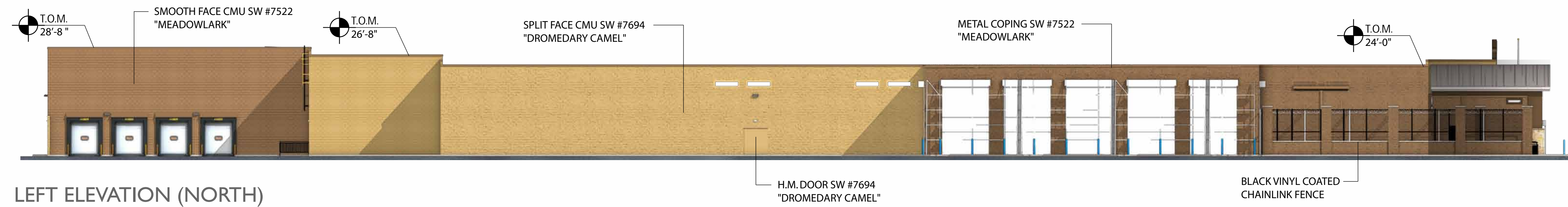


FRONT ELEVATION (WEST)

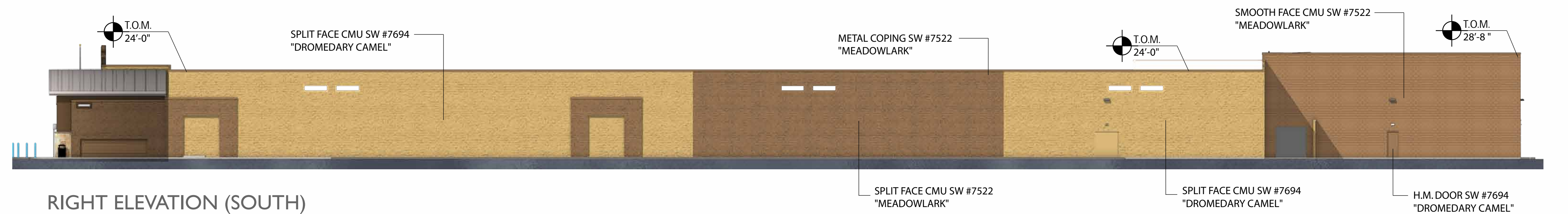


REAR ELEVATION (EAST)

Attachment number 4 in Page 1 of 1



LEFT ELEVATION (NORTH)



RIGHT ELEVATION (SOUTH)









# CITY OF KYLE, TEXAS

## City Managers Report

Meeting Date: 1/3/2012

Date time: 7:00 PM

**Subject/Recommendation:**

Update on Various Capital Improvement Projects, Road Projects, Building Program, and/or General Operational Activities ~ *Lanny Lambert, City Manager*

- Discuss Workshop to Prepare 2012 Goals for City Council

**Other Information:**

**Budget Information:**

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