

Changes in 311 Muni Code:

- 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. 10- 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*.
- Section 4. "R-2" residential PUD district:
 - Pg. 25- added *Courtyard*.
 - Pg. 27- adjusted the *Front yard setback*.
 - Pg. 27- adjusted the *Rear yard setback*
 - Pg. 27-28- contributed to "R-2" residential to include *Courtyard Residential*.
- Section 5. "R-3" multifamily residential PUD district:
 - Pg. 28- clarified 1(a) of permitted uses.
 - Pg. 28- modified the maximum height.
- Section 6. "NC" neighborhood commercial PUD district:
 - Pg. 30- adjusted the maximum height
- Section 8. "MXD" mixed use development PUD district:
 - Pg. 35- adjusted maximum height.

Changes in Ordinance 308:

- Pg. 39- adjusted table.

Zoning Summary - 10/28/11

	OS	R-1	R-2 DUPLEX 1	R-2 DUPLEX 2	R-2 DETACHED	R-2 ATTACHED	R-2 COURTYARD	R-3	R-3 COURTYARD	NC	C	MXD	EMP	LI
SETBACKS:														
front (excluding porch)	15'	15'	15'	15'	15'	15'	4'	15'		15'	0	0	0	0
side	10'	10% of width or Min 5' Max 7.5'	10% of width or Min 5' Max 7.5'	10% of width or Min 5' Max 7.5'	0	0	0'	15'		5' or 10' abutting residential	0	0	0	0
rear unit	10'	25'	10'	10'	25'	25'	0'	10'		10' or 15'	0	0	0	0
rear garage	5'	5'	5'	5'	5'	5'	10'	5'			0	0	0	0
MIN LOT AREA	3,500	6,000	6,000	7,200	3,600	2,500	2,000'	6,000		5,000	4,000	4,000	5,750	5,750
MIN LOT FRONTAGE	35'	50'	50'	60'	35'	25'	30'	50'		50'	35	35	50	50
MIN LOT DEPTH	n/a	n/a	n/a	n/a	n/a	n/a	NA	n/a		100'	100	100	100	100
MIN CUL-DE-SAC FRONT	n/a	30'	n/a	n/a	n/a	n/a	NA	n/a		n/a	n/a	n/a	n/a	n/a
MAX. PER LOT	n/a	n/a	n/a	n/a	n/a	n/a		36 / acre		n/a	n/a	n/a	n/a	n/a
MAX. BLDG HEIGHT	35'	35'	35'	35'	35'	35'	35'	60'		35'	3 1/2 stories or 50'	5 stories or 65'	45'	

EXHIBIT A. PLUM CREEK PLANNED UNIT DEVELOPMENT*

***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 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 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, 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, 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 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.

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.

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 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.

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.

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.

(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 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.
 - (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.
- (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 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.
- (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.

(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.

(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.

(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.

(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.

(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;
 - (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.

(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.

(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;
- (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.

(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, ~~not~~ 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:

(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"
- m. 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'.

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:

- (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.
 - (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 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.
 - (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.

(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 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
- (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.
- (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 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.

(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.

(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.

(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;

(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.

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 fences, walls and/or hedges do not impair vision from two feet to seven feet above the curblineline 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.

(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;
- (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;
- (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 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.*

(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;

- (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.

(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

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, 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.

(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 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.

(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.

(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 ordinance unless otherwise approved by the city council. For detailed information on the classifications shown in quotation marks, refer to the building code.

(B) *Existing signs.*

(1) All signs in use on the effective date of this ordinance shall carry the "identification of signs" as required in the building code.

(2) All signs in use on the effective date of this ordinance, that are in compliance with the requirements of this ordinance and the building code are required to have a permit as required in the building code, within a period of six months.

(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 25 square feet in area. No permit is required.

(D) *Development signs.* "Ground signs" up to 120 square feet in area, announcing or describing a legally approved subdivision or land development, may be lighted. Signs having flashing or moving parts, or "spectacular signs" are not permitted. Refer to the building code for permit requirements. A sign with the proper name of a legally recorded subdivision may be permanently erected.

(E) *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 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. Display of merchandise or examples of work is classified as a sign, and is not permitted in any residential district, except on nonconforming uses existing on the effective date of this ordinance.

(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" must be installed with the bottom of sign a minimum of 15 feet above the ground, and must be at least 50 feet from a public street. No sign or any part thereof shall be located within five feet of any public easement. 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.

(F) *Billboards.* No billboards or signs shall be erected advertising products or services not available on the site, except as otherwise allowed pursuant to subsection (5) [subsection (E)] herein.

(G) *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.

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 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.

(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.

(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 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;
- (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.

(1) *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 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. 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,

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.

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.

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.

- (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.

- (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

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

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

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 unsubdivided land, and an indication of whether or not contiguous properties are platted.

- (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

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 any and all changes,

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 (1/2) 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

(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 of plans and profiles of all streets, alleys, sidewalks, crosswalk ways, and monuments, and three copies of detained cost estimates.

(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

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.

(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

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

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

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.

- (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.

(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;

(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.

Street Type	Light Size/Lumens	Light Type
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.

(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

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.

(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.

(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

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

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.

(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

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-

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

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

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 the 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

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)(1)(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 I2(M)(4) hereafter if the City determines that sufficient park area as described in subsection 12(M)(1)(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

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

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.

(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

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.

(T) 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.

SCHEDULE A	
BOULEVARD [RESIDENTIAL/COMMERCIAL AREAS]	
STANDARDS	CRITERIA
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
AVENUE [RESIDENTIAL/NEIGHBORHOOD COMMERCIAL/COMMERCIAL /MIXED USE AREAS]	
STANDARDS	CRITERIA
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

RESIDENTIAL STREET [RESIDENTIAL/NEIGHBORHOOD COMMERCIAL AREAS]	
STANDARDS	CRITERIA
DESIGN SPEED	25 MPH/180 FOOT MINIMUM CURVE RADIUS
ROW WIDTH	50 FT.
PAVEMENT WIDTH	27 FT.
INTERSECTION CURB RADIUS	15 FT.
PERMITTED ON-STREET PARKING	2 LANE
AVERAGE DAILY TRIPS	LESS THAN 1,500 AVERAGE DAILY TRIPS

ONE-WAY ALLEY [RESIDENTIAL/COMMERCIAL]	
STANDARDS	CRITERIA
DESIGN SPEED	5 MPH
ROW WIDTH	20 FT.
PAVEMENT WIDTH	12 FT.
INTERSECTION CURB RADIUS	5 FT.
PERMITTED ALLEY PARKING	NONE
TWO-WAY ALLEY [RESIDENTIAL/COMMERCIAL]	
STANDARDS	CRITERIA
DESIGN SPEED	5 MPH
ROW WIDTH	25- 20 FT.
PAVEMENT WIDTH	15 FT.
INTERSECTION CURB RADIUS	5 FT.
PERMITTED ALLEY PARKING	NONE

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.

- (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.

- (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

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.

- (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.

- (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.

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 the _____ day of _____, 19_____.

City of Kyle

By: _____, Mayor

Attest:

By: _____, City Secretary