

PART II - CODE OF ORDINANCES

Chapter 53 - ZONING

EXHIBIT A. PLUM CREEK PLANNED UNIT DEVELOPMENT

**EXHIBIT A. PLUM CREEK PLANNED UNIT DEVELOPMENT** [\[2\]](#)

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](#)

[ARTICLE II. - PLANNED UNIT DEVELOPMENT ZONING DISTRICT](#)

[ARTICLE II. - ZONING DISTRICTS AND BOUNDARIES](#)

[ARTICLE II. - PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS](#)

[ARTICLE II. - ADDITIONAL USE REGULATIONS](#)

[ARTICLE III. - ENFORCEMENT AND ADMINISTRATION](#)

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FOOTNOTE(S):

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**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. [\(Back\)](#)

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ARTICLE I. GENERAL TERMS, PROVISIONS, AND DEFINITIONS

**ARTICLE I. GENERAL TERMS, PROVISIONS, AND DEFINITIONS**

[Sec. 1. Authority.](#)

[Sec. 2. Title.](#)

[Sec. 3. General purpose and intent.](#)

[Sec. 4. Definitions of terms and uses within the Plum Creek PUD districts.](#)

**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;

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- (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.

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*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.

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*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.

*Corporate campus* [means] a planned industrial, research and development and/or office use in a campus-like setting.

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*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.

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*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.].

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*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



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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.

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*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.

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*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. Driveways and sidewalks may be constructed within the side yard. Roofs may extend up to 18 inches into the side yard. A room, bay window or fire place may project two 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 7½ 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; Ord. No. 687, § 1(Exh. A), 1-17-2012)

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**ARTICLE II. PLANNED UNIT DEVELOPMENT ZONING DISTRICT**

PART A

[Sec. 1. Plum Creek planned unit development district general provisions.](#)

[Sec. 2. Zoning application for Plum Creek PUD development.](#)

[Sec. 3. Application process for amendment to the Plum Creek PUD master plan.](#)

[Sec. 4. Additional development and amendment guidelines for Plum Creek PUD.](#)

**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

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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.

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- (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.

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##### **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.

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- (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;



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- (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 PUD district, except the MXD PUD district, 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;

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- (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 use district which shall be submitted and reviewed administratively.

- (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.

(Ord. No. 687, § 1(Exh. A), 1-17-2012)

ARTICLE II. ZONING DISTRICTS AND BOUNDARIES

**ARTICLE II. ZONING DISTRICTS AND BOUNDARIES**

PART B

[Sec. 1. Establishment of districts and boundaries.](#)

[Sec. 2. Interpretation of district boundaries.](#)

[Sec. 3. Compliance with the regulations.](#)

**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

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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.

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- (5) Boundaries indicated as following shorelines shall be construed to follow such shorelines. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed as following such centerlines as existed as of the date of the map approval.
- (6) Boundaries indicated as following railroad lines shall be construed to be midway between the rails of the main line.
- (7) Where PUD district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines of right-of-way lines of highways, such PUD district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Plum Creek PUD official zoning map. If no distance is given, such dimension shall be determined by the use of the scale on said Plum Creek PUD zoning map.
- (8) On property where the above methods cannot be applied, the PUD district boundary lines on the Plum Creek PUD zoning map shall be determined by use of the scale appearing on the map.
- (9) Where the streets or alleys on the ground differ from the streets or alleys as shown on the Plum Creek PUD district map, the streets or alleys on the ground shall control.
- (10) Where physical or cultural features existing on the ground are at variance with those shown on the Plum Creek PUD official zoning map, or in other circumstances not covered by (1) through (9) above, the board of adjustment shall interpret the PUD district boundaries.

#### **Sec. 3. Compliance with the regulations.**

Except as hereinafter specifically provided or otherwise authorized in this ordinance:

- (A) Any use of the land not specifically authorized by the terms of this ordinance is prohibited, unless otherwise approved by the city council.
- (B) No building shall be erected, converted, enlarged, reconstructed, moved into, structurally altered, or used, except for a use permitted in the PUD district in which such building is located and as set forth on the approved site plan if applicable, unless otherwise approved by the city council.
- (C) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height limit herein established for the PUD district in which such building is located, or is proposed to be located.
- (D) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered except in conformity with the site development and performance standards of the PUD district in which such building is located, or is proposed to be located, unless otherwise approved by the city council in a PUD district.
- (E) The minimum yards, parking spaces and open spaces, including lot areas required by this ordinance for each and every building existing at the time of passage of this ordinance, or for any building hereafter erected, shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building, nor shall any lot area be reduced below the requirements of this ordinance for the district in which such lot is located, unless otherwise approved by the city council.
- (F) Every building hereafter erected or structurally altered shall be on a lot as herein defined, and in no case shall there be more than one main building on one lot except as otherwise provided in this ordinance.

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- (G) No person shall erect, excavate, construct, or proceed or continue with the erection or construction of any building or structure or add to, enlarge, move, improve, alter, repair, convert, or demolish any building or structure or cause the same to be done in any area of the city except as permitted by city ordinance or approved by the city council.
- (H) No building or structure shall be erected, installed or moved on to or used which was previously built, erected or installed at a different location, except as permitted by ordinances of this city.
- (I) The uses of churches; facilities owned and operated by the federal government, the state and political subdivisions thereof; schools and educational institutions; fire stations; public utilities; athletic fields, sports facilities, playgrounds, recreational center and swimming pools; greenbelt, certain open space and recreational areas; and parking lots associated with all of these uses shall be allowable uses in each PUD district set forth in this ordinance. An appropriate site should contain adequate space for required off-street parking and buffering.

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**ARTICLE II. PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS**

PART C

[Sec. 1. PUD district regulations and performance standards.](#)

[Sec. 2. "OS" open space PUD district.](#)

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[Sec. 9. "EMP" employment PUD district](#)

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**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

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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.



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- (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.

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- (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:

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- (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

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

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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 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)[f] 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.

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- (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.

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- (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 eight feet from the property line to the front line of the building, including a covered porch, covered terrace, balconies, or bays.
    - (ii) Side yard. There shall be a side yard of not less than five feet from the walls of the building or accessory building to the side property line.
    - (iii) Rear yard. There shall be a rear yard setback having a depth of not less than five 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.

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- (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 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 principle dwelling unit and one accessory dwelling unit.
  - (d) Maximum height: 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 enlargements.
  - (f) Minimum setbacks:
    - (i) Front yard: There shall be a front yard setback having the depth of not less than four feet 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 set back having a depth of not less than eight feet from the property at public or private streets to the side line of 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) Each courtyard shall have a gathering place with a minimum of four chairs or two benches.
  - (j) The courtyard sidewalk(s) shall be the following minimum width for at least 70 percent of the length:
    - (k)[i] Single sidewalk: Five feet.
    - (l)[ii] Double sidewalk: Four feet to six [feet].
  - (m)[k.] Each dwelling unit shall have a front porch or front patio having an area with a minimum depth of five feet and a minimum length of seven feet.
  - (n)[l.] Minimum separation between interior dwelling units from back side of porch or garden patio to back side of porch or garden patio: 24 feet.
  - (o)[m.] Minimum separation of dwelling units at street: 16 feet.
  - (p)[n.] Minimum separation of dwelling units at rear of courtyard: Ten feet.

(Ord. No. 687, § 1(Exh. A), 1-17-2012)

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**Sec. 5. "R-3" multi-family residential PUD district.**

- (A) *Purpose.* This district is intended as an area for medium density single-family, duplex, and condominium uses. In appropriate locations, this district shall accommodate a variety of housing types, primarily multiple family dwellings and shall be designed to provide the widest range of housing types, as well as highest density in the community. Mobile homes and manufactured homes are excluded from this district.
- (B) *Permitted uses.* The following uses shall be permitted in the "R-3" multi-family residential PUD district:
- (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: 60 feet. A 25-foot minimum compatibility setback shall be required adjacent to a "R-2" development within the "R-3" site which limits maximum building height to 40 feet. Any development over three stories shall install an elevator to provide service to stories above three stories.



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- (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.

(Ord. No. 690, § 1(Exh. A), 2-21-2012)

#### **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:

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- (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.*

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#### ARTICLE II. PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS

- (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 50 feet in height. A 25 minimum foot compatibility setback shall be required adjacent to a "R-2" development within the neighborhood commercial (NC) site which limits maximum building height to 35 feet. Any development over three stories shall install an elevator to provide service to stories above three stories.
    - (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.

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- (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.

(Ord. No. 690, § 1(Exh. A), 2-21-2012)

#### **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.

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- (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.

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- (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 3½ stories or 50 feet.
    - (e) Minimum setbacks.
      - (i) Front yard: none.

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- (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.

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- (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.



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- (d) Maximum height: No building or structure shall be erected, enlarged or structurally altered to exceed five stories or 65 feet. A 25-foot minimum compatibility setback shall be required adjacent to a "R-2" development within the commercial site which limits maximum building height to three and one-half stories or 50 feet. Any development over three stories shall install an elevator to provide service to stories above three stories.
- (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; Ord. No. 690, § 1(Exh. A), 2-21-2012)

#### **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:

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- (1) The following uses that are uses permitted in the "OS" open space PUD district:
    - (a) Wetlands;
    - (b) Conservation areas;
    - (c) Golf courses;
    - (d) Outdoor recreational and athletic facilities;
    - (e) Outdoor swimming pools;
    - (f) Parks, playgrounds and playfields;
    - (g) Wildlife sanctuaries;
    - (h) Streams, lakes, impounded waterways, or their drainageways; and
  - (2) Any use permitted in the "C" commercial PUD district;
  - (3) Manufacture, assembly, and packaging of products from previously prepared material such as cloth, plastic, paper, leather, and precious or semi-precious metal or stone;
  - (4) Manufacture, assembly, and processing of food and beverages, excluding meat packing plants and similar processes that place a significant demand on wastewater or water treatment;
  - (5) Manufacture, assembly, and testing of communication equipment, medical instruments and apparatus, optics, photographic equipment and supplies, timing equipment, musical instrument and related equipment;
  - (6) Research, engineering and development facilities or laboratories;
  - (7) Motion picture or video production facilities and sound stages;
  - (8) Printing, publishing, and book binding;
  - (9) Warehouse, storage, and distribution center, provided development does not exceed a maximum of 15,000 square feet of building area;
  - (10) Instrument and component manufacturing;
  - (11) Apparel manufacturing;
  - (12) Electric and electronic assembly;
  - (13) Greenhouses and wholesale growers;
  - (14) Office equipment and supplies manufacturing;
  - (15) Warehouses;
  - (16) Offices;
- (C) *Site development standards.*
- (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) The following regulations shall be applicable to the "EMP" employment district:
    - (a) Minimum lot size: 5,750 square feet.
    - (b) Minimum lot width: 50 feet.

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- (c) Minimum lot depth: 100 feet.
- (d) Maximum height: No building or structure shall be erected, enlarged or structurally altered to exceed 45 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.
- (g) Paved Sidewalks, driveways and parking areas are required.
- (h) Screening of loading and storage facilities is required.

#### **Sec. 10. "LI" Light industrial PUD district**

- (A) *Purpose.* This district is designed to provide locations for outlets offering goods and services to a targeted segment of the general public as well as industrial users. The uses included primarily serve other commercial and industrial enterprises. No building or land shall be used, and no building hereafter shall be erected, maintained, or structurally altered, except for one (1) or more of the uses hereinafter enumerated. The "LI" light industrial PUD district is designated for selected sales, manufacturing and industrial classifications.
- (B) *Permitted uses.* The following uses shall be permitted uses in the "LI" light industrial PUD district:
  - (1) Any use permitted in the "EMP" employment PUD district;
  - (2) Agricultural implement sales and services;
  - (3) Air conditioning and heating sales and services;
  - (4) Automobile repair shops without outside garages and when conducted wholly within the enclosed building;
  - (5) Artificial limb manufacturers;
  - (6) Battery and tire service stations without outside garages and when conducted wholly within the enclosed building;
  - (7) Beverage bottling and distributing stations;
  - (8) Blacksmith shops;
  - (9) Book binding shops;
  - (10) Box manufacturers;
  - (11) Broom manufacturers;
  - (12) Bus lines shops and garages;
  - (13) Car wash;
  - (14) Canvas goods fabrication;
  - (15) Crating express storage;
  - (16) Computer and computer parts manufacturers;

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- (17) Hatcheries;
  - (18) Clothing and dress manufacturers;
  - (19) Craft and hobby shop with outside garage;
  - (20) Creameries;
  - (21) Drapery and bedding manufacturers;
  - (22) Expressing, baggage, and transfer delivery services;
  - (23) Farm implement sales or repair;
  - (24) Food processing and dehydrating operations;
  - (25) Frozen food lockers;
  - (26) Furniture manufacturers and upholsterers;
  - (27) Garages;
  - (28) Ice cream and ice manufacturers and sales;
  - (29) Instrument and electronic component manufacturing;
  - (30) Lumber and building sales and storage;
  - (31) Machine shops;
  - (32) Machine and metal products shops;
  - (33) Pet shops or animal hospitals when conducted other than only in enclosed buildings;
  - (34) Printing, publishing, and issuing of newspapers, periodicals, books and other reading matter;
  - (35) Public utility substations and distributing centers, regulations centers, and underground holder stations;
  - (36) Rail-served industries consistent with uses indicated above;
  - (37) Sheet metal fabrication shop;
  - (38) Sign shops;
  - (39) Stone, marble, and granite grinding and cutting operations;
  - (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.

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- (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.

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ARTICLE II. ADDITIONAL USE REGULATIONS

**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.](#)

[Sec. 2. Parking regulations applicable to PUD districts unless otherwise approved by the city council.](#)

[Sec. 3. Conditional use permits.](#)

[Sec. 4. Non-conforming uses.](#)

**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 curbline 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 consumption. A maximum height of 80 feet is allowed for all civic structures not within 150 feet of a single-family residence. Civic is defined as a not-for-profit organization dedicated to arts, culture, education, religion, recreation, government, transit, and municipal parking, or for use approved by the city council.
- (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.

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- (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

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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.

(Ord. No. 704, § 2(Exh. A), 8-21-2012)

#### **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.



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- (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.

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- (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.

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	Three and a half spaces for each 1,000 feet of gross floor area

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(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;

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- (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.

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- (2) In the event a nonconforming use of any building or premises is discontinued for a period of 270 days, the use of the same shall thereafter conform to the provisions of the district in which it is located. It shall not be construed to be a discontinuance of the nonconforming use if such use is discontinued for the purpose of making repairs or alterations to the building, or for offering the property for sale or lease, even if the premises are not so used for a period of longer than 270 days.
  - (3) A nonconforming use if changed to a conforming use or a more restricted nonconforming use, may not thereafter be changed back to a less restricted use than to which it was changed.
  - (4) The board of adjustment may issue a special use exception to extend the time when a nonconforming use may be allowed to continue, and may also allow it to be re-built, expanded or altered, upon a showing that the exception is necessary to allow a reasonable return on the investment in the affected property.
- (B) *No new non-conforming use.* No building or structure shall be constructed or installed, and no use of property shall begin, within the Plum Creek planned unit development after the effective date of this ordinance, except that such building, structure and use shall be in conformity with this ordinance.
- (C) *Uses becoming non-conforming on amendment.* If, by reason of amendment to this ordinance, the use of any property or building that began after the date of and in compliance with this ordinance, is hereafter transferred to a more restricted district by a change in the district boundaries, or the regulations and restrictions in any district are made more restrictive, the following provisions of this ordinance relating to the nonconforming use of buildings or premises shall apply to such building or premises first occupied or used after the effective date of this ordinance:
- (1) Repairs and alterations may be made to such nonconforming building, provided that no structural alterations or extensions shall be made except those required by law or ordinance, unless the building is to be changed to a conforming use.
  - (2) Such nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other cause. (i) In the case of partial destruction by fire or other causes not exceeding 50 percent of its value, the building permit authority shall issue a permit for reconstruction. (ii) If destruction is greater than 50 percent of its value, a building permit may be issued only to reconstruct the building for a use as a conforming use.
  - (3) In the event a nonconforming use of any building or premises is discontinued for a period of 270 days, the use of the same shall thereafter conform to the provisions of the district in which it is located. It shall not be construed to be a discontinuance of the nonconforming use if such use is discontinued for the purpose of making repairs pursuant to (C)(2)(i) herein.

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**ARTICLE III. ENFORCEMENT AND ADMINISTRATION**

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#### **Sec. 1. Enforcement and administration—Administrative official.**

- (A) Except as otherwise provided in this ordinance or as approved by the city council, the permit issuing authority designated in the building ordinance shall administer and enforce this ordinance, including the receiving of applications, the inspection of premises and the issuing of building permits and no permit or certificate of occupancy shall be issued by him except where the provisions of this ordinance have been complied with.
- (B) The permit authority or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.
- (C) Whenever any construction work is being done contrary to the provisions of this ordinance or the building ordinance, the permit authority shall serve notice in writing upon the owner or the contractor doing or causing such work to be done, or the agent of either, ordering such person to show cause why the work should not be ordered stopped. Any such person served with notice shall, within five days after service, show cause to the building inspector why such stop work order should not issue, and if such person shall fail to show good cause, then the building inspector may order the work stopped by notice in writing served upon such person, or agent, and any such person and all persons in privity with him shall forthwith stop and cause to be stopped such work until authorized by the building inspector to proceed with such work. Any stop work order shall be posted upon the work being done in violation of this ordinance. Provided, however, that the hearing provided for by this subsection may be dispensed with when, in the opinion of the building inspector, the work being done contrary to the provisions of this ordinance could cause imminent peril to life or property.
- (D) Whenever any building or portion thereof is being used or occupied contrary to the provisions of this ordinance, the permit authority shall serve notice in writing upon any person using or causing such use or occupancy, or the agent of any such person, ordering such person to show cause why such use or occupancy should not be ordered discontinued. Any such person served with notice shall proceed within five days to show cause to the permit authority, why such order should not issue and if such person shall fail to show good cause, then the permit authority may order such use or occupancy discontinued by notice in writing served upon such person, or agent and such person shall vacate or cause to be vacated such building or portion thereof within ten days after receipt of such notice or make the building or portion thereof comply with the requirements of this ordinance.

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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



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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.

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##### **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

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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 section 7 unless otherwise approved by the Plum Creek Architectural Review Committee (PCARC). Proof of PCARC approval is required with application for city permit. For detailed information on the classifications shown in quotation marks, refer to the building code.
- (B) *Existing signs.* All existing signs in use within the Plum Creek PUD on the effective date of the ordinance from which this section derives shall carry the "identification of signs" as required in the building code and are approved.
- (C) *Temporary signs.* A temporary sign pertaining to lease, rental or sale of premises or structure located thereon is permitted in all districts when located on such premises or structure. Such signs shall not be lighted, and shall not exceed 64 square feet in area. No permit is required.
- (D) *Plum Creek monument/development signs.* "Ground signs," announcing or describing the Plum Creek Development, may be lighted. A sign with the proper name of a legally recorded subdivision may be permanently erected and does not require a city permit.
- (E) Signs having flashing or moving parts, or "spectacular signs" are not permitted.
- (F) *Special district sign requirements.*
  - (1) *Residential PUD districts.* A person having a legal home occupation may display a nameplate on the face of the building or porch. The nameplate may contain only the name and the

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occupation of the resident. It shall be attached directly to the building or porch and shall not be illuminated in any way. No permit is required.

- (2) *Neighborhood commercial PUD districts.* Signs when attached to buildings shall advertise only services or products which are offered within the building to which the sign is attached, and such signs shall not extend above the roofline of such buildings or more than one foot from the face of the building. No flashing or moving signs are permitted and no "spectacular signs" are permitted. No detached signs or billboards are permitted. See building code for permit requirements.
- (3) *Other PUD districts.* No sign shall have flashing lights or moving parts if within 50 feet of a public street. "Spectacular signs" are not permitted. No sign or any part thereof shall be located within five feet of any public easement without approval by PCARC or city council. No more than one attached sign per user shall be allowed on any one building lot.
- (4) *PUD districts.* Temporary signs, not to exceed 120 square feet, are permitted in a PUD district.
- (5) *[Deed restrictions.]* Any and all signs which are allowed or prohibited shall be agreed to between the PUD developer and the city, and said requirements shall be included as deed restrictions within each subdivision.
- (G) *Billboards.* No billboards or signs shall be erected advertising products or services not available on the site.
- (H) *Street number.* A street address number, as designated by the building official, is required for all residences and establishments it must be readable from the street and may be on the building or in the yard and include the name of the occupant. No permit is required.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-1. Purpose and goals.**

- (A) The purpose of this section is to provide uniform sign standards that perform the following:
  - (1) Promote a positive image of the city and uniform signage program within the Plum Creek PUD boundaries;
  - (2) Protect an important aspect of the economic base;
  - (3) Reduce the confusion and hazards that result from excessive and prolific use of sign displays;
  - (4) Ensure that no hazard is created due to collapse wind, fire, collision, decay or abandonment, that no obstruction is created to fire fighting and police surveillance, and no traffic hazard is created by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs;
  - (5) Promote efficient transfer of information in sign message by providing that businesses and services may identify themselves: customers and other persons may locate a business or service, and persons exposed to signs are not overwhelmed by the number of messages presented, and are able to exercise freedom of choice to observe or ignore said messages, according to the observer's purpose; and
  - (6) Protect the public welfare and enhance the appearance and economic value of the landscape by providing signs that do not interfere with scenic views; do not create a nuisance to persons using the public rights-of-way; do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement; are not detrimental to land or property value; and contribute to the special character of particular areas or districts within the city, helping the observer to understand the city and orient oneself within it.

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- (7) Signage should be compatible with the proposed architectural style and be scaled appropriately. Signage height and size should consider sight distance from adjacent streets and visibility within the community. The design and location of signage must be approved by the PCARC or assigns.
- (B) By recognizing this purpose this section shall serve to strengthen the economic stability of business, cultural, and residential areas in the city; recognizing that visual clutter leads to decline in the community's appearance, in property values, and in the effectiveness of the signs.
- (C) The goals of this section are to preserve the integrity of our community, promote pride in our neighborhoods promote safe egress/ingress on public roadways, and encourage the effectiveness of signs.
- (D) In the event of conflicts, actual or perceived in the terms or requirements of this section, the PCARC or assigns shall issue final determination.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-2. First Amendment rights.**

This section shall not be construed, applied, interpreted, nor enforced in a manner to violate the First Amendment rights of any person, and the building official shall seek the advice and recommendation of the city attorney prior to taking any action to enforce any provision of this ordinance with respect to any noncommercial sign or speech by any person.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-3. Enforcement.**

- (A) *Authority.* The building official and the code enforcement officer is hereby authorized and directed to enforce all the provisions of this chapter. For such purposes the building official has the powers of a code enforcement officer.
- (B) *Right of entry.* Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition which violates the provisions of this chapter, the building official may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this chapter. If such building or premises is occupied, the building official shall first present proper credentials and request entry; and if such building or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-4. Definitions.**

As used in this chapter, all words shall have the common meaning of such word and the following terms shall have the meaning indicated below unless context clearly indicates otherwise:

*Actively being built.* The project or subdivision has continuous construction efforts underway to complete the project.

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*Activities and events sign.* An enclosed, marquee-type sign to provide public buildings, churches (limited to places of worship only), and neighborhood associations, herein referred to as "the entity(ies)" the opportunity to post notices of meetings, activities, and other notices of interest to the entity or group it serves. The purpose of this sign is to facilitate communication within the community served by the public buildings and the churches, and within the larger neighborhoods of 50 homes or more represented by their neighborhood association.

*Arcade signs.* Is a panel erected parallel to a building façade and within the opening of an arcade. Arcade signs must be supported their entire length by metal brackets, grillage or supports. An arcade sign may be non-illuminated or internally illuminated. An arcade sign may include neon tubing when forming a border for the subject matter or when forming letters, logos, or pictorial designs. The bottom edge of an arcade sign must be at least nine feet above the finished grade. The location of an arcade sign must be centered on the arcade entrance. The signage panel must be made of wood, sign foam, made to look like wood or metal. The support for the sign must be decorative and made of metal. Sign lighting must be affixed to the building or to the sign and must be shielded to prevent the light from shining directly into traffic, upper floor windows and pedestrian's eyes. Individual letters or graphics may be internally illuminated and glow either with a halo illumination effect or glow through their front faces. The use of neon is permitted. Exposed raceways, conduits and transformers are prohibited. The height of the arcade sign cannot exceed four feet.

*Awning Sign.* A sign that is applied to, attached to or painted on an awning, which is intended for protection of weather or as a decorative embellishment. Awnings project from a wall or roof of a structure and are located over a door or window. Awnings must be professionally constructed and cannot be made of vinyl. All internal support structures must be made of metal. Awnings are allowed to project over a sidewalk to a maximum of eight feet and must have a minimum clearance of nine feet. Awnings may have lettering and graphics on the front or side vertical panels only except that awnings located over the primary entrance of a building may have one store logo or the store name applied within a 16 square foot area on the sloped portion of the awning. Awnings may be lighted from above with lighting affixed to the building. All lighting must be shielded to prevent the light from shining directly into traffic, upper floor windows or pedestrian's eyes, in no case can the supporting structure of an awning sign extend into or over the street curb. Awnings must end a minimum of three feet from the curb edge. In instances where an awning encroaches into areas where street lights, trees or other obstacles in the streetscape conflict, the awning must be reduced in size (overhang) so as to eliminate the conflict. Awning support structures must be designed to meet local wind loads. Portions of the awning can be internally illuminated, provided that the entire awning can be internally illuminated. Awnings that do not include lettering or graphics are not considered signs.

*Banner.* A sign made of fabric or any nonrigid material.

*Bay windows.* A sign erected parallel to the façade of any building to which it is attached and supported throughout its entire length at its base by the top edge of a bay window. A bay window sign may have no-illuminated or internally illuminated lettering and graphics. Neon is permitted. Lettering and graphics may be raised up on pins to prevent the graphics from being obscured by the window trim from the sidewalk. Signage lettering and graphics must be made of wood, sign foam that simulates wood or metal. Faces of internally illuminated graphics may be made of acrylic, lexan or similar material. Signage lighting must be affixed to the building or to the sign and must be shielded to prevent the light from shining directly into traffic, upper floor windows or pedestrian's eyes. Individual letters or graphics may be internally illuminated and glow through the front faces. Exposed raceways, conduits and transformers are prohibited. The length of the bay window sign cannot exceed the width of the bay window. The height of the sign cannot exceed four feet and the depth of the sign cannot exceed 12 inches.

*Berm (monument) sign.* A sign where the frame of the sign face is set at grade with the ground as a monument or in an earthen berm. There is no clearance between the ground and the sign face.

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*Billboard.* A sign advertising products not made, sold, used or served on the premises displaying such sign, or a sign having a height greater than 12 feet and a surface area greater than four hundred square feet.

*Building identification.* Identifies commercial buildings at a scale appropriate to both vehicular and pedestrian traffic; in any case, the size of a building identification sign shall only contain the building name and street address. The street address may be applied to a canopy, awning or directly to a building. The building identification sign must be constructed as a single-sided, no-illuminated painted metal sign attached directly to the building. The color of the sign must be compatible to the building and must be approved by PCARC. This sign may be indirectly lot. Each building is allowed one building identification sign per face of building.

*Building official.* Any officer or employee, or person, designated by the city manager to perform the duties set forth in this ordinance to be performed by the building official.

*"Burma Shave" signs.* A sign intended to provide information and direction to potential home buyers within a recorded subdivision in which new homes are actively being built.

*Canopy.* A sign that is applied to, attached to or painted on an architectural canopy. The canopy must be intended for protection from the weather or used as an architectural embellishment and project from a wall over a door window. Canopies may be made out of wood, metal or glass, but all support structures must be made of metal. Canopies are allowed to project over a sidewalk to a maximum of six feet and must have a minimum clearance of nine feet. Canopies may have side panels, and may have a panel enclosing the underside of the canopy. Canopies may have lettering and graphics on or above the front or side vertical panels. Canopies may be lighted from above with lighting affixed to the building. All lighting must be shielded to prevent the light from shining directly into traffic, upper floor windows or pedestrian's eyes. Individual letters or graphics may be internally illuminated and glow either with a halo-illumination effect or glow through their front faces. The use of neon is permitted. No exposed raceways, conduits or transformers are permitted. In no case can the supporting structure of a canopy extend into or over the street curb. Canopies must end a minimum of three feet from the curb edge. In instances where canopies encroach into areas where street lights, trees or other obstacles in the streetscape conflict, the canopy must be reduced in size (overhang) so as to eliminate the conflict. Canopy support structures must be designed to meet local wind loads. Canopies that do not include lettering or graphics are not considered signs.

*Changeable electronic variable message sign.* A sign which permits alteration of the sign's message or images by electronic means. This includes a sign using light-emitting diodes (LEDs) or other means of digital display to resent a message or images.

*Clearance (of a sign).* The smallest vertical distance between the grade of the adjacent street curb and the lowest point of any sign, including framework and embellishments, but excluding sign supports.

*Commercial.* Locations where the principle use of the property is not classified as residential or multifamily.

*Construction trade sign.* A sign that identifies the architect, engineer, financial institution, builder, or other building trades contractor involved in a construction project at the site where the sign is located.

*Curbline.* An imaginary line drawn along the outermost part of back of the curb and gutter on either side of a public street, or, if there is no curb and gutter, along the outermost portion of the paved roadway, or if there is no paved roadway, along the edge of the traveled portion of the roadway.

*Directional signs, traffic.* An on-premises sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment and no advertising copy, e.g., parking or exit and entrance signs.

*Electrical sign.* A sign containing electrical wiring, connections, or fixtures, or utilizing electric current, but not including a sign illuminated by an exterior light source.

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*Electronic message sign.* A sign that includes provisions for programmable electronic message changes.

*Facade.* All building wall elevations, including any vertical extension of the building wall (parapet), but not including any part of the building roof.

*Face or surface.* The surface of the sign upon, against, or through which the message is displayed or illustrated on the sign. Flashing signs are not permitted.

*Flashing.* To light intermittently. To change colors intermittently in order to achieve a flashing, fluttering, scrolling, undulating, or rolling affect (i.e. LED displays). Scrolling of text in a single color is not considered to be flashing.

*Freestanding sign.* A sign that is not attached to a building but is permanently attached to the ground.

*Frontage.* A boundary line separating the public right-of-way from the lot.

*Future development signs (temporary construction, real estate, or development sign).* A freestanding or wall sign advertising the construction, remodeling, development, sale, or lease of a building or the land on which the sign is located.

*Government sign.* A sign installed, maintained, or used:

- (1) By a city, county, state or the federal government, required or specifically authorized for the public purpose pursuant to regulations promulgated by the state or federal government;
- (2) By the City of Kyle.

*Gross surface area.* The entire area within a single continuous perimeter enclosing the extreme limits of each sign. A sign having two surfaces shall be considered a single sign if both the surfaces are located back to back. In the event two or more signs share a single structure, i.e., directory signs, or signs on v-shaped structures, each sign or panel shall be considered separately for square footage purposes, provided that the combined area of such signs cannot exceed the total square footage allowed on a single sign.

*Height (of a sign).* The vertical distance between the finished grade before the sign or grade of the adjacent street curb, whichever is greater, measured to the highest point of the sign.

*Human sign.* A sign held by or attached to a human for the purpose of advertising or providing information about a business, commodity, service, product, or other commercial activity. A person dressed in a costume for the purpose of advertising or providing information about a business, commodity, service, product, or other commercial activity shall constitute a human sign. Human signs do not include T-shirts, hats, or other similar clothing.

*Incidental sign.* A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises (e.g. a credit card sign or a sign indicating hours of business).

*Inflatable sign.* Any balloon or other device which is inflated by air or other gas and displayed outdoors. Inflatable structures primarily designed for recreational use shall not be considered to be a sign as, for example: slides, swimming pools or space walks.

*Information signs.* Includes bulletin boards, changeable copy directories, or signs relating solely to publicly owned institutions (city, county, state, school district) intended for use by the institution on which the sign is located.

*Intersection.* A place where two roads meet or form a junction. For purposes of this ordinance, sign setback distance is measured from the intersections of the curblines of two streets.

*Kiosk sign or kiosk.* A free-standing sign structure located in or adjacent to public right-of-way authorized by written agreement approved by the city council that features a City of Kyle identification



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panel at the top of each structure, and displays directional information to new homes, independent school district facilities, and municipal or community events or facilities.

*Lamppost banners.* A fabric banner applied to lampposts with standard banner arms. The lamppost banners must be made of canvas, vinyl or other suitable banner fabric. Lamppost banners must be double-sided with similar imagery on both faces. Lamppost banners must include pictorial elements. The maximum size for lamppost banners is two feet, six inches wide by five feet tall. No more than two lamppost banners may be erected on a single lamppost. The minimum clearance from the pavement to the lower banner arm is nine feet and the lamppost banner and banner arm cannot extend over the street pavement. Lamppost Banners are limited to holiday messages, community events or festivals. No retail advertising shall be permitted on lamppost banners.

*Marquee.* A permanent roof-like structure or awning or rigid materials attached from, supported by, and extending from the facade of a building, including a false "mansard roof."

*Memorial signs or tablets.* Includes freestanding historical markers in accordance with state historical standards, and/or cornerstones with names and dates of construction of a building when cut into a building surface or inlaid upon it to become part of the building.

*Menu boards.* Freestanding or wall signs used for the purpose of informing patrons of food, which may be purchased on the premises.

*Model homes sign.* A temporary real estate sign placed in front of a group of model homes that is removed from the premises upon sale of the last model.

*Monument sign:* Are define by details located in [section 7-16](#)

*Multifamily.* Locations that contain three or more attached units designed for residential use including town homes and condominiums.

*Multitenant center sign.* A sign advertising two or more retail, wholesale, business, industrial, or professional uses (not necessarily under single ownership) utilizing common facilities including off-street parking, access, or landscaping.

*Multitenant center identification sign.* The portion of the sign that identifies the general name of the center or development as a whole. The sign shall include only the name and address of the development.

*Nameplates.* Nonelectrical, on-premises signs that communicate only the name of the occupant of the address of the premises.

*Nonconforming sign.* A sign that was lawfully installed at its current location prior to the adoption or amendment of the ordinance from which this section derives, but that does not comply with the present requirements of this section.

*Off-premises sign.* A sign referring to goods products or services provided at a location other than that which the sign occupies.

*On-premises sign.* A sign identifying or advertising the business, person, activity, goods, products, or services located on the site where the sign is installed, or that directs persons to a location on that site.

*Office tenant identification sign.* Each building that houses offices is allowed one primary tenant identification sign. The office tenant identification sign identifies the commercial tenants at the entrance to the building. Office tenant signs are encouraged to be attached to the face of the building. Where the sign is freestanding, it must be located parallel and as close as possible to the building facade, and provide a minimum four-foot clear area on the sidewalk to prevent obstruction of pedestrian circulation. The office tenant identification sign is a single-sided, internally illuminated or nonilluminated painted metal sign with changeable panels. The address of the building may also be included in the face of this sign. The maximum size for the office tenant identification sign is 64 feet.

*Parapet.* The extension of a false front or wall above a roofline.

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*Point-of-sale sign.* A sign advertising a retail item accompanying its display (e.g., an advertisement on a product dispenser).

*Political sign.* A sign advertising a political candidate or party for elective office or that advertises primarily a political message.

*Portable signs.* Signs not permanently attached to the ground or other permanent structure, or a sign designed to be transported by wheels including, but not limited to signs which are mounted on skids, trailers, wheels; signs converted to A- or A-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising.

*Primary beneficiary.* Any person who benefits from the installation, placement, construction, or alteration of a sign, including the owner or tenant of the property upon which the sign is located and the owner or operator of the business, product, service, or activity that is the subject of the sign.

*Primary tenant.* The primary tenant sign is a wall sign used to identify the primary tenant in a multistory building. The size of the sign is appropriate to be visible from vehicular or pedestrian traffic. The maximum size for each primary tenant sign is 200 square feet and may not be placed on a wall below the third story. Each building may be allowed one primary tenant sign.

*Private traffic-control signs.* Small traffic directional signs indicating interior circulation of parking areas on site, warn of obstacles or overhead clearance, or designate permissible parking.

*Project directory sign.* Project directory signs contain a map of listing of key destinations within the mixed use districts of Plum Creek. The project directory sign is scaled to pedestrian use. A project directory sign may be single or double-sided and may be internally illuminated. The maximum size for a project directory sign is 12 square feet. Project directory signs may be placed on the sidewalk provided a four foot clear area is provided for pedestrians. No retail advertising is allowed on project directory signs.

*Projecting signs.* A sign used to identify the name of a business, profession, service, product or activity conducted, sold or offered on the premises where the sign is located by providing an advertising message that is perpendicular to the wall of the building to which it is attached.

*Pylon signs.* Freestanding signs that are supported by a structure extending from and permanently attached to the ground by a foundation or footing, with a clearance between the ground and the sign face. Pylon signs are not considered monument signs.

*Real estate signs.* Temporary signs advertising the real estate upon which the sign is located as being for rent, lease, or sale.

*Rear of building signs.* Rear of building signs are signs that do not face a public street and are used to identify tenants in a building. One rear of building sign per tenant is allowed on the rear face of the building if there is a public entrance to the building from the rear of the building. Rear of building signs, may be wall signs or window signs and may be made of the same materials that are permitted for these signs. Rear of building signs cannot exceed 24 square feet in area. Rear of building signs can only identify tenants who are actually in the building to which the sign is attached.

*Residential.* Locations where the principal use of the property is for one and two-family dwelling units.

*Roof sign.* Any sign installed over or on the roof of a building.

*Sandwich board signs.* A sign constructed in such a manner as to form an "A" or tent-like shape. The sign can be hinged or not hinged at the top and each angular face held at an appropriate distance by a supporting member. Sandwich board signs are the only portable signs allowed in Plum Creek. Sandwich board signs may be placed on the sidewalk in front of a retail or restaurant premises during business hours only. Sandwich board signs must be located at least three feet from the curb of any adjacent street. Should a sandwich board sign be placed on or adjacent to a sidewalk, an unobstructed pedestrian clearance of at least four feet from the curb of any adjacent to the sign. A maximum of one sandwich

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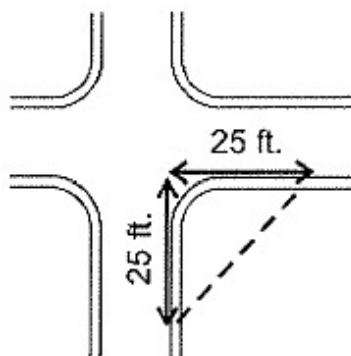
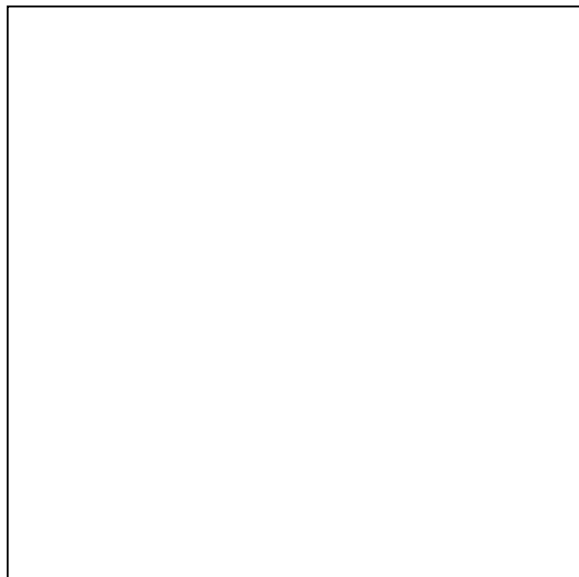
board sign may be placed per business or tenant within storefront limits of the business the sign advertises. Sandwich board signs cannot be closer than 20 feet to another sandwich board sign. Dry-erase boards are prohibited on sandwich board signs. The maximum size of a sandwich board sign is 12 square feet per side. The maximum height of a sandwich board sign is four feet.

*Sign.* Any surface, display, design, light device, painting, drawing, message, plaque, poster, billboard or other device visible from the public right-of-way on which letters, illustrations, designs, figures, or symbols are painted, printed, stamped, raised, projected, outlined or attached in any manner whatsoever that are intended or used to advertise, inform, or attract the attention of persons both on and not on that premises, excluding those lights and landscape features which display words or symbols as holiday decorations. The term "sign" also includes the supporting structure of the sign.

*Sign area.* Includes all lettering, wording, logos, design, symbols, framing, roofing, and cabinets, or modules, calculated according to the provisions established in this section.

*Sign panel.* An individual sign placard displaying directional information on a sign kiosk.

*Sight triangle.* The area of vehicle visibility at all street intersections, which shall be clear of all obstructions that may present a hazard to traffic. The visual triangle for a street shall be described as a 45-degree triangle where the right angle sides measure at the very minimum 25 feet. The visibility triangle shall be measured from a point at which the projected curb lines intersect.



The sight triangle is measured 25 ft. from the intersection of lines extended from curbs at intersections, driveway entrances and exits.

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*Small blade signs.* A sign is attached to and projects out from a building face or wall more than 12 inches and are generally set at a right angle to the building. Small blade signs may project over the sidewalk, but must be set back at least three feet from the back of curb and have at least nine feet of clearance from grade. Support structures for small blade signs must be decorative in nature and made of metal. Supports must be engineered to support local wind loads. The sign panel, lettering and graphics can be made of wood, synthetic wood or metal. A small blade sign's background panel may be internally illuminated or made of acrylic, Plexiglas or similar plastic sheeting. Individual letters or graphics may be internally illuminated and glow either with a halo-illumination effect or glow through their front face. The use of neon is permitted. Exposed conduits, raceways or transformers are prohibited. Indirect lighting must be attached to the building or sign and be shielded to prevent the light from shining directly into traffic, upper floor windows or pedestrian's eyes. The size of a small blade sign cannot exceed 12 square feet in area. The support structure is not included when calculating area. Small blade signs must be double sided and depth of the sign cannot exceed eight inches. Only one face of the sign will be used to calculate size.

*Subdivision.* For purposes of this section, the subdivision in its entirety, not a phase, section, village, unit, or product line.

*Subdivision development entrance signs.* Defined as:

- (1) Primary entrance signs;
- (2) Secondary entrance signs; and
- (3) Tertiary entrance signs;

and are used to define various entries of the subdivision.

*Temporary Banner.* Signs advertising "Going Out of Business" events are prohibited. Temporary banner signs must be professionally constructed and may not be attached directly to windows with tape or adhesive.

*Temporary sign.* Any sign that is used temporarily and is not permanently mounted (i.e. on stakes or posts), and is constructed of cardboard, foam board, cloth, canvas, fabric, plywood, or similar lightweight material. A portable sign is not a temporary sign.

*Temporary wall signs.* An on-premises wall sign of a nonpermanent nature advertising a special event, sale, product, or service.

*Valet parking identification* A series of signs used to identify a valet parking station. Each station is allowed three components: 1) valet station with umbrella or awning; 2) a sandwich board sign; and 3) cones. Valet parking identification or valet parking operations shall not occur in the public right-of-way, except that a sandwich board sign complying with the limitations set forth for signage, maximum signage allowances; sandwich board signs of these development standards may be allowed in the sidewalk, provided that at least four feet of clearance is maintained for pedestrians.

*Vertical projecting signs.* A sign that is attached to and projecting out from a building face or wall more than 12 inches, generally set at a right angle to the building. A vertical projecting sign may overhang the sidewalk but must be located a minimum of three feet from the back of curb. At least nine feet of clearance must be provided between the bottom of the sign and the sidewalk. Vertical projecting signs can extend above a tenant's lease space with approval of the owner of the building. The support structure from which the projecting sign panel is suspended must be decorative in nature and made of wood, synthetic wood or metal. Signage lighting must be affixed to the building or to the sign and be shielded to prevent the light from shining directly into traffic, upper floor windows or pedestrian's eyes. A vertical projecting sign's background panel may be internally illuminated and made out of acrylic, Plexiglas or similar sheeting. Individual letters or graphics may be internally illuminated and glow with either a halo-illumination effect, or glow through their front face. The use of neon is permitted. Exposed raceways,

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conduits and transformers are prohibited. The height of a vertical projecting sign cannot exceed 75 percent of the overall wall length of the wall on which it is erected or a maximum of 25 feet, whichever is less. Vertical projecting signs must be double-sided. The depth of the sign panel may not exceed 15 inches, including the depth of the applied letters or graphics. The size of a vertical projecting sign cannot exceed 150 square feet in area. Only one face of the sign will be used to calculate size, graphics may be internally illuminated and glow either with a halo-illumination effect or glow through their front face. The use of neon is permitted. Exposed conduits, raceways or transformers are prohibited.

*Wall sign.* A sign attached to the façade of a building or a canopy. Wall signs include signs on or affixed to walls, windows, awnings, or other parts of the exterior of a building or canopy.

*Window or door surface signs.* Signs installed on or in a window or door.

*Window signs.* A sign that is visible from a public street or sidewalk and that is posted, attached, painted or affixed in or on a window, or a sign that is located within three feet of a window. Window signs must be located on the inside of the window. The area of the window sign cannot exceed 25 percent of the square footage of the window in which the sign is located. Only one window sign is allowed per window. Window signs may be located on the upper floors of a building. Hours of operation, not to exceed two square feet per window, shall not be counted in the square footage allowance of a window sign. When the address of the business is displayed as a window sign, the address shall not be counted in the square footage allowance.

*Work of art.* Sculpture, fountain, or similar object, and containing no reference to or image of a business or its logo, is not considered as a sign.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-5. Applicability.**

- (A) All land within the city and its extraterritorial jurisdiction (ETJ) is subject to compliance with this section.
- (B) The sections, provisions, and regulations set forth in this section 7 shall apply to the control, use, installation, regulation, licensing and permitting of signs within the Plum Creek PUD.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-6. Permit required.**

- (A) *Permit required.* It shall be unlawful for any person to erect, construct, enlarge, move or convert any sign within the Plum Creek PUD without first obtaining a PCARC approval and a city sign permit and paying a permit fee unless specifically provided otherwise in this chapter. A change of business requires a new sign permit.
- (B) *Compliance required.* No person may install a sign or structurally alter an existing sign except in conformity with this ordinance and other applicable federal, state, and local regulations, including, but not limited to, the building code, electrical code, and other applicable ordinances of the city. In the event of a conflict between this chapter and other laws, the most restrictive standards applies.
- (C) *Permit not required.* Permits shall not be required for the following signs, provided, however, that such signs shall otherwise comply with all applicable sections of this chapter.
  - (1) On-site real estate "for sale" signs, or for a model home sign and future development signs that is approved by the PCARC.

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- (2) Political signs located on private property with the consent of the property owner that do not exceed 36 square feet in area, are not more than eight feet in height are not illuminated, and do not have any moving elements.
- (3) Government signs, including traffic signs, private traffic-control signs, regulation address numerals, and memorial signs.
- (4) Construction trade signs.
- (5) Garage sale signs.
- (6) No sign permit is required for a change of copy on any sign, or for the repainting, cleaning and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified.
- (D) *Primary beneficiary.* The primary beneficiary of any sign installed, moved, structurally altered, structurally repaired, maintained, or used in violation of this section shall be deemed responsible for the violation of this section.
- (E) *Building official authority.* The building official shall enforce and implement the terms of this chapter, including without limitation:
  - (1) Issuing permits and collecting the fees required by this chapter;
  - (2) Conducting appropriate inspections to insure compliance with this chapter;
  - (3) Instituting legal proceedings, including suits for injunctive relief when necessary, to insure compliance with this chapter; and
  - (4) Investigating complaints of alleged violations of this chapter.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-7. Application for permit.**

- (A) An application for a sign permit must be accompanied by the permit fee and shall include such information as is necessary to assure compliance with all appropriate laws and regulations of the city, including:
  - (1) The name and address of the owner of the sign.
  - (2) The name and address of the owner, and if different from the owner, the person in possession of the premises where the sign is located or to be located.
  - (3) Clear and legible drawings with description definitely showing location of the sign which is the subject of the permit and all existing signs whose construction requires permits, when such signs are on the same premises.
  - (4) Scale drawings showing the site plan location, dimensions, construction supports, sizes, foundation, electrical wiring, and components, materials of the sign and method of attachment and character of structure members to which attachment is to be made. The design, quality, materials and loading shall conform to the requirements of the building code. Projection, wall and temporary signs not over six square feet in area, constructed of metal or other noncombustible material, attached securely to a building or structure and not projecting more than 18 inches beyond the building wall, structure, building line or property line, shall not require an engineer certification as to its soundness. Wind pressure and dead loads shall be shown where deemed appropriate, and the building official may require structural drawings designed and sealed by a civil engineer registered by the State of Texas when it cannot otherwise be

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determined that the sign will be structurally sound if building official, engineering data certified by a licensed structural engineer shall be supplied on any submitted plans.

- (5) Any electrical permit required and issued for said sign if required.
- (6) For free-standing signs, documentation demonstrating that the applicant holds general liability insurance in the amount of one million dollars. No license or permit for the installation, erection and maintenance of a freestanding sign shall be issued to any person, firm or corporation until such person, firm or corporation has filed with the building official a certificate of insurance verifying general liability insurance in the amount of \$1,000,000.
- (7) A surety bond in the sum of \$5,000.00 for the installation and erection of the sign payable to the city and providing for the indemnification of the city and any and all damages or liability which may accrue against the city for a period of one year after installation, erection, demolition, repair, removal, or defects in or collapse of any sign.
- (8) The permit fee.
- (9) Written PCARC approval.
- (B) Fees for sign permits shall be as specified in appendix A, and calculations of the square footage shall include decorative trim and borders, but exclude supports, except when otherwise specified in this chapter.
- (C) Expiration of sign permits:
  - (1) A sign permit shall expire and become void unless a request for final inspection of the sign is made no later than 180 days after the date the permit is issued.
  - (2) A single extension 90-day extension of the permit may be granted by the building official if requested before the expiration of the permit. Final inspection must be requested before the end of the extension period or the permit becomes void.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-8. Calculation of sign area.**

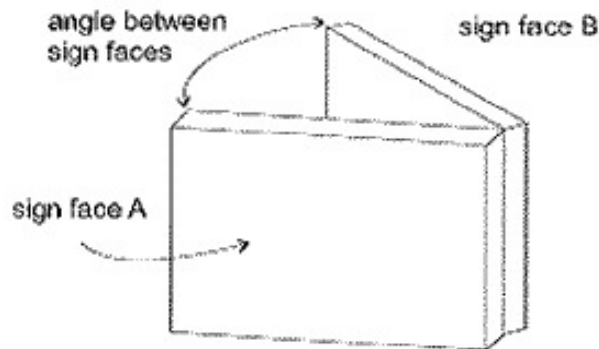
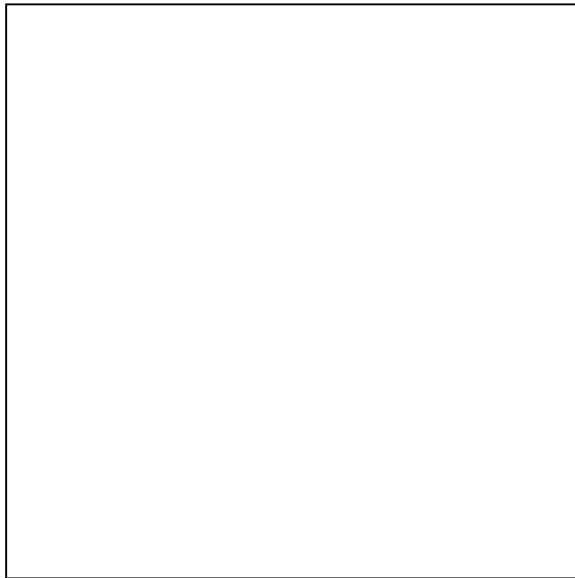
- (A) *Sign area measurement.* Sign area for all sign types is measured as follows:
  - (1) Sign copy mounted, affixed, or painted on a background panel or area distinctively painted, textured, or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest rectangle(s) that will enclose both the sign copy and the background.
  - (2) Sign copy mounted as individual letters or graphics against a wall, fascia, mansard, or parapet of a building or surface of another structure that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as a sum of the smallest rectangle(s) that will enclose each word and each graphic in the total sign.
  - (3) Sign copy mounted, affixed, or painted on an illuminated surface or illuminated element of a building or structure, is measured as the entire illuminated surface or illuminated element which contains sign copy. Such elements may include, but are not limited to lit canopy fascia signs, cabinet signs, and/or interior lit awnings. Support structures and frames of a freestanding sign shall count toward the sign area.
  - (4) Multiface signs are measured as follows:

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- a. *Two-face signs.* If the interior angle between the two sign faces is 30 degrees or less, the sign area is of one sign face only. If the angle between the two sign faces is greater than 30 degrees, the sign area is the sum of the areas of the two sign faces.



if angle between sign faces  $\leq 30^\circ$   
sign area = larger of area A or area B

if angle between sign faces  $> 30^\circ$   
sign area = area A + area B

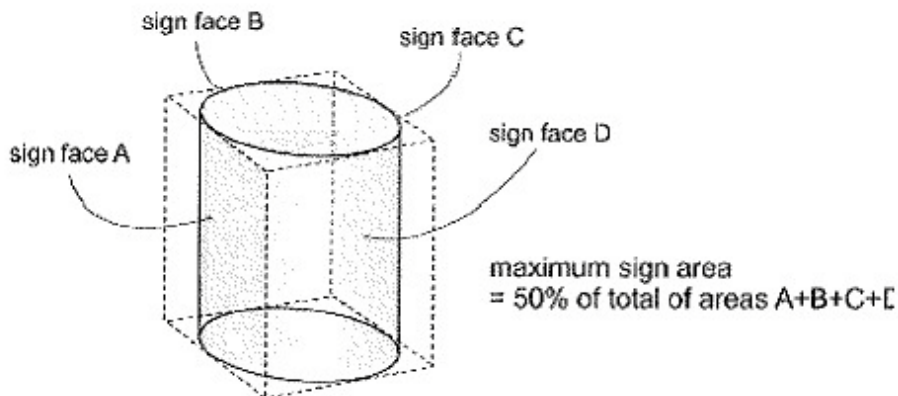
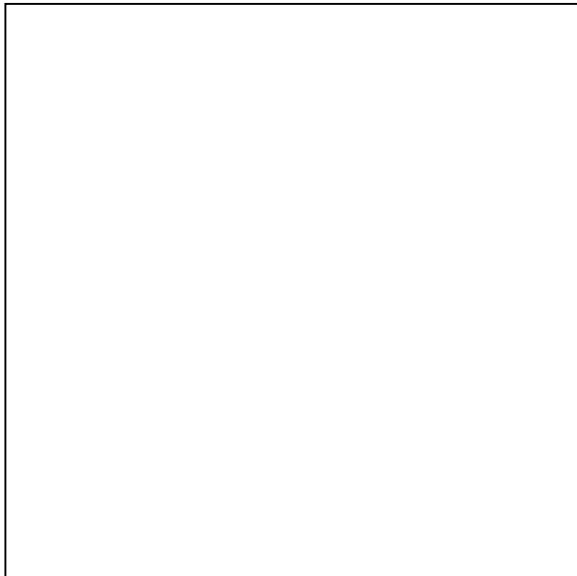
- b. *Three or four face signs.* The sign area is 50 percent of the sum of the areas of all sign faces.
- (5) Spherical, free-form, sculptural, or other nonplanar sign area is 50 percent of the sum of the areas using only the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. Signs with greater than four faces are prohibited.



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- (6) Freestanding sign area is the entire advertising area of a sign, including framing, trim or molding and the supporting frame for monument signs and including the air space between the supporting structures for freestanding signs.
- (B) *Sign height measurement.* Sign height is measured as follows:
- (1) *Freestanding signs.* The height of a freestanding sign shall be computed as the distance from the base of the sign at finished grade to the top of the highest attached component of the sign. The height of any monument sign base or other structure erected to support or adorn the sign is measured as part of the sign height. If a sign is located on a mound, berm, or other raised area for the sole purpose of increasing the height of the sign, the height of the mound, berm, or other raised area shall be included in the height of the sign.
  - (2) *Building mounted signs.* The height of wall, fascia, mansard, parapet or other building mounted signs is the vertical distance measured from the base of the wall on which the sign is located to the top of the sign or sign structure.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

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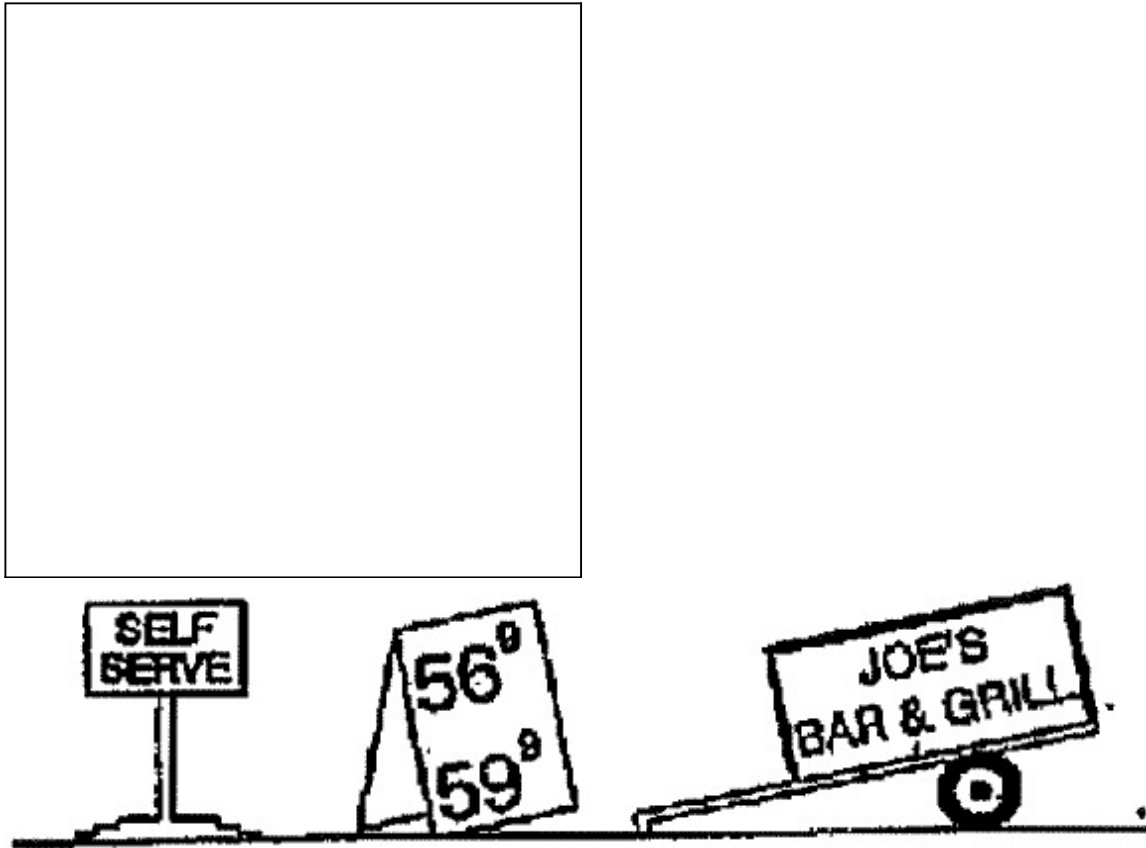
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**Sec. 7-9. Prohibited signs.**

The following signs are prohibited from installation, construction, repair, alteration, location or relocation within the city, except as otherwise permitted in this section.

- (1) Signs with flashing lights, revolving beacon lights, fluttering, undulating, swinging, or otherwise moving parts. For purposes of this section, an electronically controlled changeable-copy sign is not considered a flashing sign unless it directly falls under the definition of 'flashing' as defined in this section.
- (2) Billboards.
- (3) Off-premises signs, except for kiosks and any other sign specifically authorized in this ordinance that are compliant with this section.
- (4) Portable signs.



- (5) Temporary signs except as specified in [section 29-20](#)
- (6) Signs placed on a vehicle or trailer that is parked or located for the primary purpose of displaying a sign shall be permitted.
- (7) Roof signs.
- (8) Signs painted on fences or roofs.
- (9) Pylon signs, except as specifically provided for [section 29-17](#)
- (10) Inflatable signs larger than eight feet in any dimension.

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(11) Light emitting diode (LED) displays or signs, with the limited exception of LED message boards and static LED fuel price signs that comply with [section 29-16](#) and [section 29-17](#). Such signs, where authorized, shall fully comply with the requirements of this chapter. Electronic message signs are allowed only as part of the monument sign and can have a display size no larger than 12 inches by 72 inches. Messages shall be programmed to remain static for a period of not less than 60 seconds. Messages shall not be programmed to flash.

(12) Changeable electronic variable message signs except as specifically provided in this chapter.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-10. Signs exempt from these regulations.**

The following types of signs shall be exempt from the permitting provisions of this section. However, regulations regarding sign location in a public right-of-way or public access easement shall apply. It is further specifically provided that the building official may, based upon the size, materials used in construction and other relevant factors, require the owner of any sign to show evidence of structural soundness and compliance with the safety requirements of this section.

- (1) Any sign erected by or under the authority of the city on property owned by the city.
- (2) Street identification signs, public notices, and warning signs installed by any city, county, state or federal agency.
- (3) Historical markers placed by a city, county, state or national historical preservation organization.
- (4) Official vehicle inspection station signs, holiday lights and decorations, or works of art.
- (5) Signs located on-premises or inside a building and which are not displayed so as to be legible from a public street, including, but not limited to, such signs as credit card decals, hours of operation signs, emergency contact information, and barber poles.
- (6) On-site traffic control signs on commercial properties, such as stop, yield, and similar traffic control signs containing no commercial message.
- (7) "No parking" or "towing" signs authorized by city ordinance.
- (8) "No dumping allowed" signs posted to deter illegal dumping not exceeding four square feet.
- (9) Underground utility warning signs not exceeding one square foot in size and similar safety signs.
- (10) Signs on railway property, which references the operation of such railway.
- (11) Security warning, neighborhood watch or crime watch signs under two square feet.
- (12) Flags, emblems and insignia of any governmental body, including the official flag of a nation or of a state is not a sign subject to this chapter. Notwithstanding the preceding sentence, a national or state flag shall not be installed, maintained, or used in a manner that would make that flag a hazardous sign if it were a commercial flag.
- (13) Corporate flags displayed on a freestanding pole, which do not exceed 35 feet in height. The flag shall not exceed 32 square feet in area. The flagpole shall be setback a minimum of 20 feet from the front property line and eight feet from the side property line.
- (14) Hand held signs or signs, symbols or displays on persons or animals, except for signs that qualify as human signs.
- (15) Signs located on mail boxes, newspaper vending machines and curbside residential newspaper holders which identify the owner and address of the premises or the name of the newspaper

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sold or subscribed to; provided that such devices are not placed so as to interfere with the safe movement of pedestrians or vehicular traffic.

- (16) Signs located on outdoor machines, devices, or equipment which display the trademark, trade name, manufacturer, cost of operating or service instructions or similar information, but do not advertise the business where located. This exemption includes, but is not limited to signs on coin-operated vending machines, fuel dispensing pumps, telephone facilities, automatic teller machines, automatic vacuum cleaners, amusement rides and similar machines, devices or equipment.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-11. Sign categories.**

For purposes of this section, property within the city's sign ordinance jurisdiction is classified into a sign category. Those properties within the city's limits are classified based upon their zoning district classification. Those properties located within the ETJ shall be classified into a sign category by the building official based upon the existing or proposed use and the zoning district most closely associated with that use. Classification into a sign category is for the purposes of signage only and does not establish vested use rights towards the assignment of zoning should the property be annexed into the city limits. In overlapping areas, the most restrictive sign regulations will apply.

- (1) Single-family residential sign category includes any residential site in an agricultural (A), manufactured housing (M-1, M-2, M-3), or any single-family (SF, R-1A) townhouse (R-1-T) zoning districts or equivalent land use in the ETJ. Nonresidential uses permitted in the identified residential districts shall be included in the commercial sign category.
- (2) Multifamily residential sign category includes any site in a multifamily (R-2, R-1-C, R-3-1, R-3-2, R-3-3) zoning districts or equivalent use in the ETJ. Nonresidential uses permitted in the identified residential districts shall be included in the commercial sign category.
- (3) Commercial sign category includes any site in retail services (RS), warehouse (W), construction manufacturing (CM), entertainment (E), and transportation utilities (TU) zoning districts or equivalent use in the ETJ and the permitted nonresidential uses identified in the city's residential and multifamily zoning districts.
- (4) Central business district sign category includes any site that is located within the boundaries of the central business district (CBD) zoning district.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-12. General provisions.**

- (A) *Uniform signs in multi-tenant/multi-business developments.* Wall signs displayed by two or more businesses using common parking facilities shall be uniform in construction (i.e. cabinets, channel letters, plaques) and lighting (i.e. direct, indirect).
- (B) *Street address.* All freestanding signs, either berm or monument signs, shall include the street address. The street address shall not be included in the calculation of the sign area, except in such case that the street address is also the name of the center, business, or development, or in such case that the street address exceeds six square feet in size.
- (C) *Setback.* A minimum setback of at least five feet from any property line is required for all signs. A sign installed in compliance with this ordinance is not required to meet building setback requirements

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established in a separate city ordinance; however, no sign or sign support, other than a wall sign, may be installed less than 12 feet from the public right-of-way unless it is:

- (1) Less 30 inches in height above street pavement grade;
  - (2) Has a clearance of more than nine feet above pavement grade, provided that the sign shall have a clearance of more than 12 feet when located over a driveway;
  - (3) Does not extend into or over the public right-of-way unless specifically authorized under this chapter.
- (D) *Visibility.* Signs shall not be constructed or installed in a manner that would interfere with visibility, create a traffic hazard, or be confused with any traffic control sign or signal.
- (E) *Structural integrity.* Any sign as defined in this section, shall be designed and constructed to withstand wind pressures and receive dead loads as required in the building code adopted by the city. Any sign, other than a wall sign, shall be designed, installed, and maintained so that it will withstand a horizontal pressure of 30 pounds per square foot of exposed surface.
- (F) *Maximum height.* No sign shall exceed the maximum height provided for in this chapter. In determining the maximum height of a sign, no sign shall be located on a mound where the surrounding grade has been altered by more than 18 inches for purposes of artificially increasing the overall height of a sign above that allowed by the height regulations in this chapter.
- (G) *Historic district.* Signs on premises within a historic district designated by the city shall be subject to the issuance of a certificate of appropriateness by the state or local historic preservation commission.
- (H) *Public utility facilities.* New signs and signs being structurally altered shall maintain clearance from public utility facilities, shall not substantially interfere with drainage, and shall not be located in a utility or drainage easement. The minimum clearance from electrical lines shall be as follows: for service lines, except those serving a sign, five feet horizontal and six feet vertical clearance; for distribution lines, 7½ feet horizontal and eight feet vertical clearance.
- (I) *Parking, driveways, sidewalks.* Only signs required in the interest of public safety may occupy a required off street parking or loading space or obstruct any driveway or sidewalk, except as specifically authorized herein.
- (J) *Public property.*
- (1) No sign shall be located on or project over public property or a street right-of-way except governmental signs and temporary banner signs that comply with the approval by the city council of a license agreement. No portion of a freestanding sign shall be permitted to extend into the public right-of-way.
  - (2) No person shall, either directly or indirectly, cause or authorize a sign to be installed, used, or maintained on any utility pole, traffic signal pole, traffic signal controller box, tree, public bench, street light, or any other structure located on or over any public property or public right-of-way, located within the city's planning jurisdiction, except as authorized by this section.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-13. Illumination.**

- (A) *Lighting.* Sign lighting shall be installed to protect the driver of a vehicle from dangerous glare and to maintain visual clearance of all official traffic signs, signals and devices.
- (B) *Glare.* Signs shall be designed, located, shielded, and directed to prevent the casting of glare or direct light from artificial illumination, upon adjacent public right-of-way and surrounding property.

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- (C) *Bare bulb illumination.* Bare bulb illumination is prohibited within 150 feet of any premises containing a residential use, and in other cases is limited to 25-watt bulbs at night and 33-watt bulbs during daylight hours.
- (D) *Brightness limitations.* The lighting intensity of a sign, whether resulting from internal illumination or external illumination, shall not exceed 75 foot candles when measured with a standard light meter perpendicular to the face of the sign from a distance equal to the most narrow dimension of the sign.
- (E) *Electrical permit.* All signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of the city's electrical codes.
- (F) *Central business sign category.* In the central business sign category, neon or phosphorescent lighting shall not exceed ten percent of the total signage allowed and may only be located in a window.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-14. Sign regulations relating to single-family residential sign category.**

- (A) *General.* No sign other than a temporary event directional sign (such as a garage sale sign, event sign, or a real estate sign) or a political sign that comply with subsection [29-6\(c\)\(2\)](#) shall be erected on property used for single family or duplex dwellings.
- (B) *Burma shave signs.*
  - (1) Not more than eight on-site subdivision burma shave signs may be permitted for each recorded subdivision not to exceed six per entry into the primary entrance of the subdivision.
  - (2) A burma shave sign shall not exceed 16 square feet of total sign area on one side and both sides of the sign may contain signage. The sign shall not exceed six feet in height and be located out of the right-of-way in a manner that does not obstruct the visibility of vehicle ingress/egress from surrounding streets and/or properties. For burma shave signs along roads bearing speed limits of 40 MPH or more or having setback at or greater than 25-foot setback, signs shall not exceed 64 square feet.
- (C) *Model home signs.* Model home signs are limited to a 32 square foot sign face, a height of eight feet, and to one sign for each cluster of model homes. A nameplate sign that identifies the individual product name is exempt under this subsection if it does not exceed three square feet in sign area. Signs shall be placed by permit only, and no fee shall be required.
- (D) *Subdivision development entrance sign.* A subdivision development entrance sign is a sign authorized for each major project entry into a legal recorded, multi-lot, multi-sectioned, master-planned subdivision, and contains only the name of the subdivision with no other information. Subdivision entrance signs must be berm or monument signs constructed of stone, brick or other maintenance free material. The design and construction must be compatible with surrounding development. Signage may appear on both sides of the entrance roadway within the recorded or master-planned subdivision and will be soldered as one sign. Lighting shall be ground lights or lights attached to the top of the sign focused downward directly on the sign.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-15. Sign regulations relating to multifamily residential sign category.**

- (A) Signs in multifamily locations shall be limited to signs allowed in this section and in all applicable restrictions of this section as well as other requirements of this Code, and any other applicable law.

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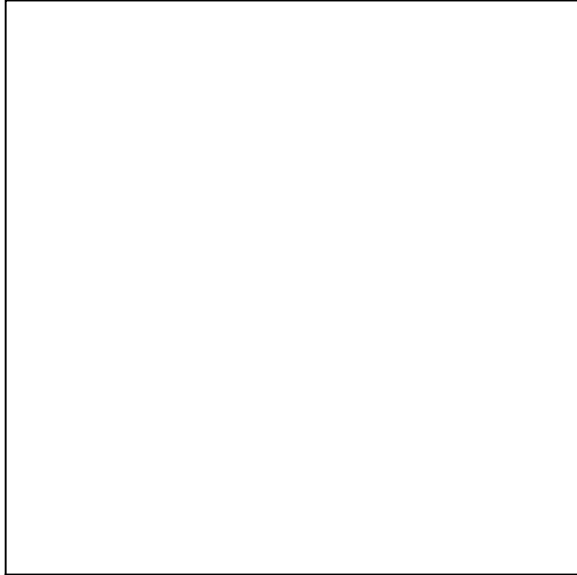
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- (B) Except as provided in this subsection, a single freestanding sign is permitted only as berm or monument signs on the same lot as the development to identify the development and its entrance. Signs must be constructed of stone, brick or other maintenance free material.
  - (1) Lighting shall be ground lights or lights attached to the bottom of the sign focused upward directly on the sign.
  - (2) The maximum size of the sign shall be 0.09 square feet per linear foot of frontage, up to a maximum size of 24 square feet. A minimum size of 12 square feet is allowed for a berm sign.
  - (3) The maximum height of the sign shall be eight feet.
  - (4) In the event the development has a second entrance from a public street, a second entrance sign may be constructed, at one-half the size of the one main entry sign.
- (C) Wall signs are permitted at a size to be calculated as one-half square foot per linear foot of frontage, not to exceed a total of 35 square feet.
- (D) Window or door surface signs are allowed .The total sign area of all window and door signs shall be included in calculating the maximum wall sign area authorized at a particular location.
- (E) No LED displays, signs, or message boards are permitted in the multifamily residential sign category.  
(Ord. No. 653, § 3(Attach.), 4-19-2011)

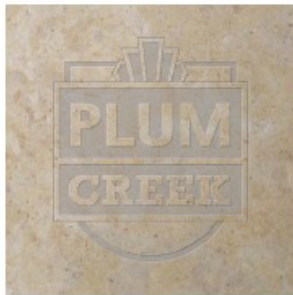
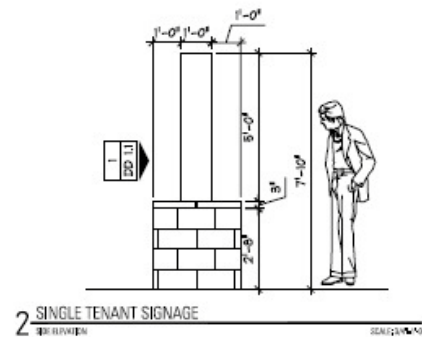
## Chapter 53 - ZONING

### ARTICLE III. ENFORCEMENT AND ADMINISTRATION

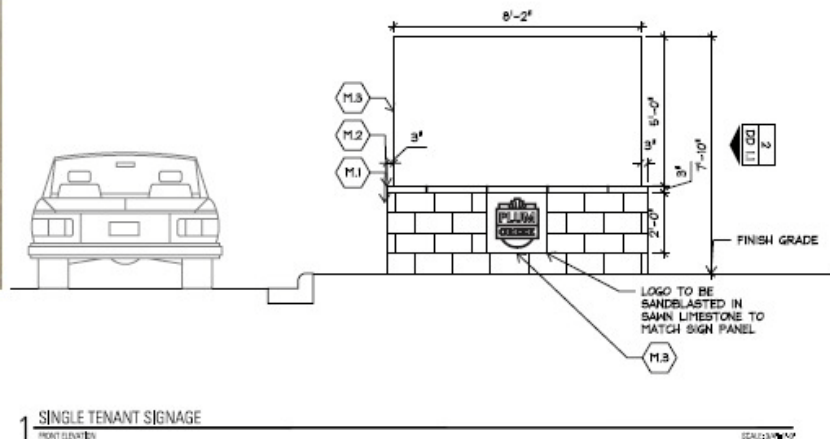
**Sec. 7-16. Attached sign regulations.**



MATERIALS SCHEDULE					
MATERIALS					
CONTRACTOR TO SUBMIT SHOP DRAWINGS, PRODUCT DATA AND MATERIAL SAMPLES TO LANDSCAPE ARCHITECT FOR APPROVAL BY DECLARANT PRIOR TO CONSTRUCTION.					
KEY	DESCRIPTION MODEL NUMBER	COLOR	FRESH	CONTACT	REMARKS
(10)	LIMESTONE VENEER USE 1/2" MORTAR JOINTS	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-5762	- 3" THICK SIZE 18"x18" LENGTH 12"x6" WIDTH. CONTRACTOR TO PROVIDE MUCK UP FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL. - SUBMIT MORTAR COLOR FOR APPROVAL PRIOR TO MUCK UP.
(10)	LIMESTONE CAP	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-5762	- CONTRACTOR TO PROVIDE MUCK UP FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL.
(10)	LIMESTONE SIGN PANEL/LIMESTONE LOGO PANEL	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-5762	- ALL ALTERNATE DESIGN MATERIAL MAY BE SUBMITTED TO THE DECLARANT FOR THEIR APPROVAL.



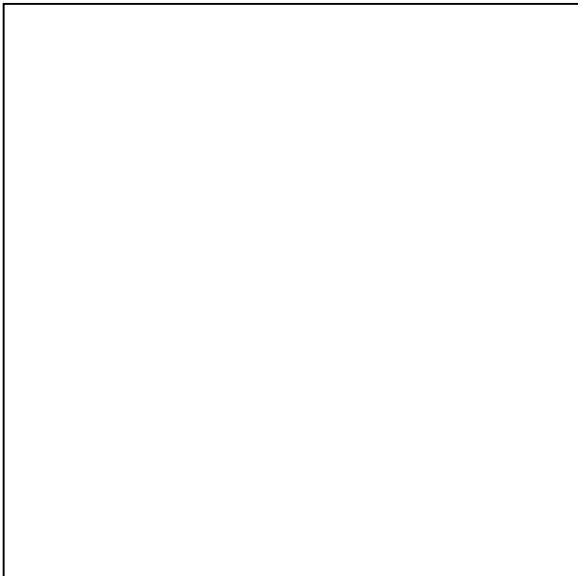
### Example of Sandblasted Sign





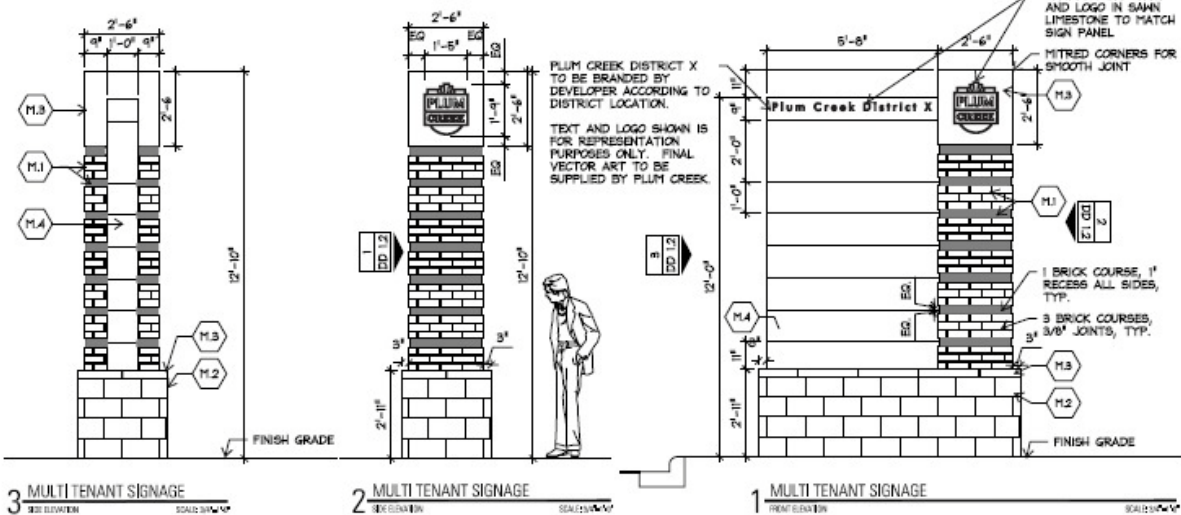
PART II - CODE OF ORDINANCES  
Chapter 53 - ZONING

ARTICLE III. ENFORCEMENT AND ADMINISTRATION



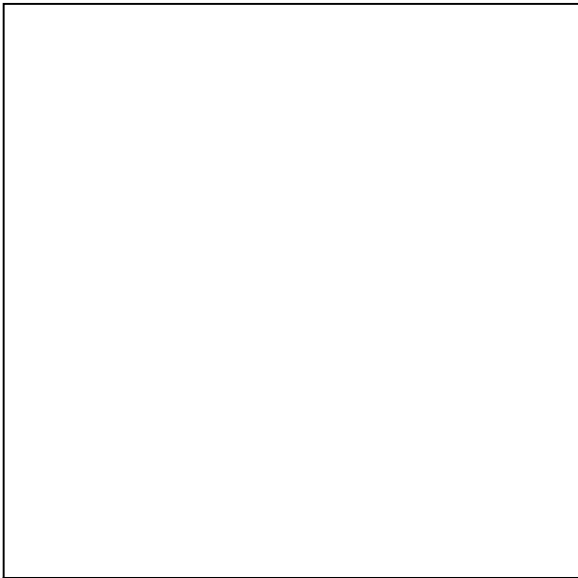
MATERIALS SCHEDULE					
MASONRY					
CONTRACTOR TO SUBMIT SHOP DRAWINGS, PRODUCT DATA AND MATERIAL SAMPLES TO LANDSCAPE ARCHITECT FOR APPROVAL BY DECLARANT PRIOR TO CONSTRUCTION.					
KEY	DESCRIPTION AND/OR NUMBER	COLOR	FINISH	CONTACT	REMARKS
(M)	FACE BRICK HFG. SOUX CITY BRICK PRODUCT: WILLIAMSBURG - STRAFORD SIZE: BUILDERS SPECIAL	MATCH EXISTING PLUM CREEK MASONRY	MATCH EXISTING PLUM CREEK MASONRY	COMPANY: ELSGIN-SUTLER BRICK CO. PHONE: (502) 386-3566	- CONTRACTOR TO PROVIDE MOCK UP FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL. - SUBMIT MORTAR COLOR FOR APPROVAL PRIOR TO MOCK UP.

(M)	LIMESTONE VENEER USE 3" MORTAR JOINTS	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-6792	- 3" THICK SIZE: 16 1/2" LENGTH X 7 1/2" WIDTH CONTRACTOR TO PROVIDE MOCK UP FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL. - SUBMIT MORTAR COLOR FOR APPROVAL PRIOR TO MOCK UP.
(M)	LIMESTONE SIGN PANEL	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-6792	- CONTRACTOR TO PROVIDE SAMPLE FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL.
(M)	LIMESTONE SIGN PANEL/LIMESTONE LOGO PANEL	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-6792	- ALL ALTERNATE DESIGN MATERIAL MAY BE SUBMITTED TO THE DECLARANT FOR THEIR APPROVAL.



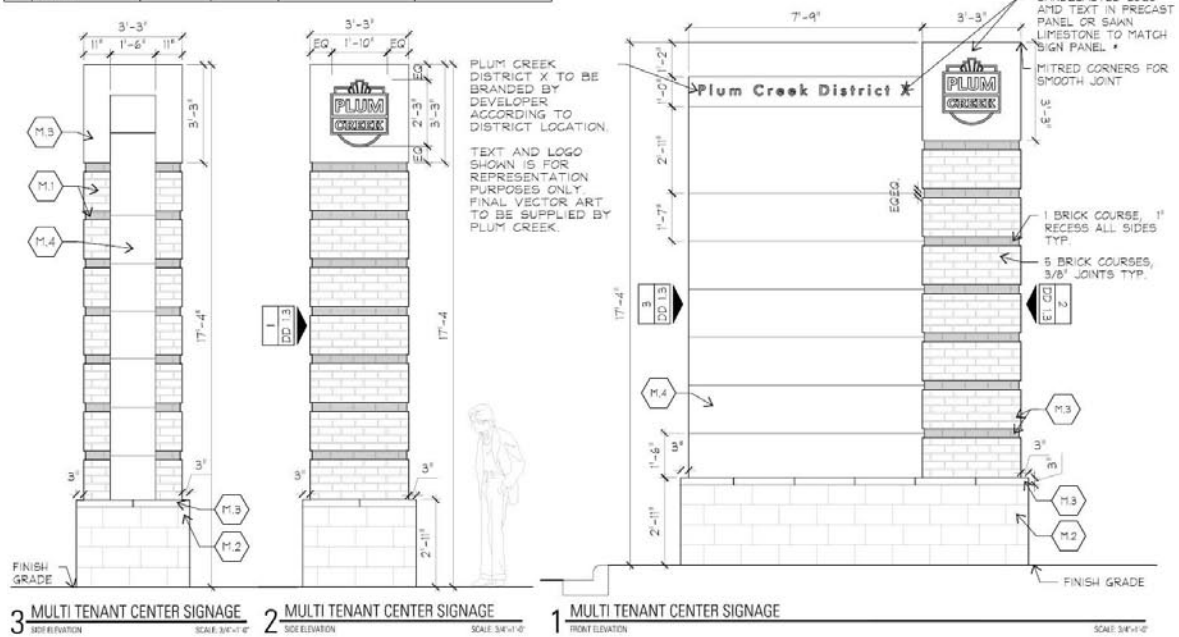
PART II - CODE OF ORDINANCES  
Chapter 53 - ZONING

ARTICLE III. ENFORCEMENT AND ADMINISTRATION



MATERIALS SCHEDULE					
MASONRY					
CONTRACTOR TO SUBMIT SHOP DRAWINGS, PRODUCT DATA AND MATERIAL SAMPLES TO LANDSCAPE ARCHITECT FOR APPROVAL BY DECLARANT PRIOR TO CONSTRUCTION.					
KEY	DESCRIPTION /MODEL NUMBER	COLOR	FINISH	CONTACT	REMARKS
M.3	FACE BRICK	MATCH EXISTING PLUM CREEK MASONRY	MATCH EXISTING PLUM CREEK MASONRY	COMPANY: ELEGIN-BUTLER BRICK CO. PHONE: (912) 285-3334	- CONTRACTOR TO PROVIDE MOCK UP FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL. - SUBMIT MORTAR COLOR FOR APPROVAL PRIOR TO MOCK UP.

M.1	LIMESTONE VENEER	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-5792	- 3" THICK SIZE: 14 1/2" LENGTH X 7 1/2" WIDTH. CONTRACTOR TO PROVIDE MOCK UP FOR DECLARANT/LANDSCAPE ARCHITECT'S APPROVAL. - SUBMIT MORTAR COLOR FOR APPROVAL PRIOR TO MOCK UP.
M.2	LIMESTONE SIGN PANEL/LIMESTONE LOGO PANEL	CREAM	SAWN ALL SIDES	COMPANY: A.J. BRAUER STONE, INC. PHONE: (800) 746-5792	- ALL ALTERNATE DESIGN MATERIAL MAY BE SUBMITTED TO THE DECLARANT FOR THEIR APPROVAL.



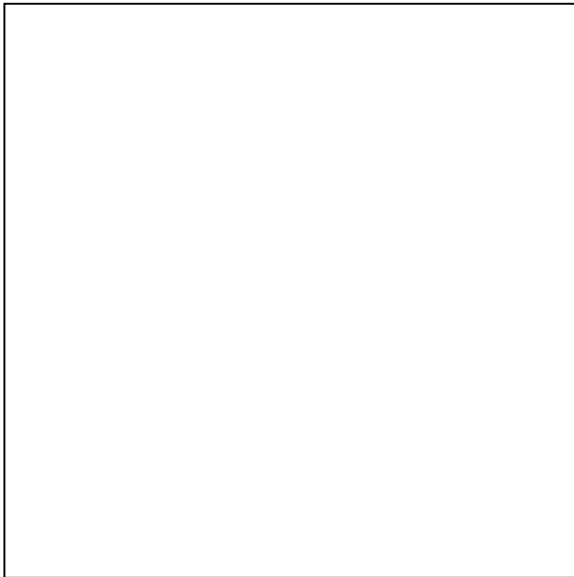
## PART II - CODE OF ORDINANCES

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#### ARTICLE III. ENFORCEMENT AND ADMINISTRATION

(A) *Awning signs.* The purpose of an awning sign is to provide an advertising message on the face of an awning. Awning signs shall only be allowed within commercial districts, industrial districts, the central business district.

- (1) An awning may extend across the entire width of a building or tenant space. An awning may extend above the apparent roof line of the building, provided the awning extends across 75 percent of the entire width of the building facade to which it is attached. An awning shall not exceed six feet in height.
- (2) The sign area on an awning shall not exceed 20 percent of the area of the awning and shall extend for no more than 50 percent of the length of the awning. A permit shall be required for an awning sign. Awning signs may be illuminated.

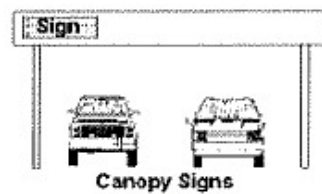
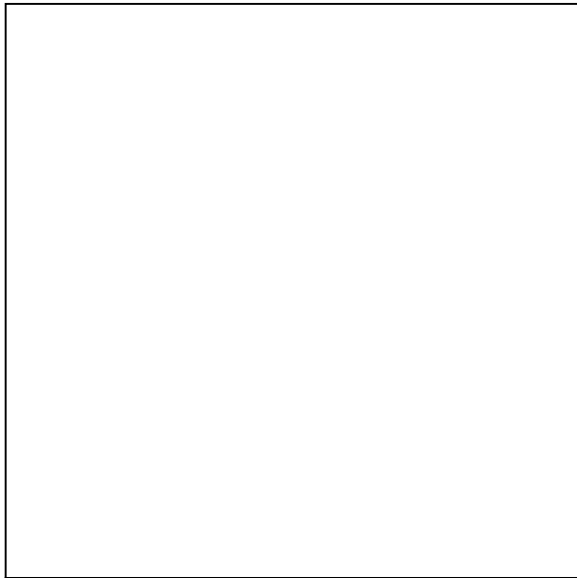


(B) *Canopy signs.* A canopy sign shall be no greater in size than 20 percent of the face of the canopy of which it is a part or to which it is attached and shall not extend beyond the face of the canopy either vertically or horizontally. An illuminated strip may be incorporated into the canopy. Canopy signs shall only be allowed within commercial districts, industrial districts, and the central business district.

## PART II - CODE OF ORDINANCES

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#### ARTICLE III. ENFORCEMENT AND ADMINISTRATION

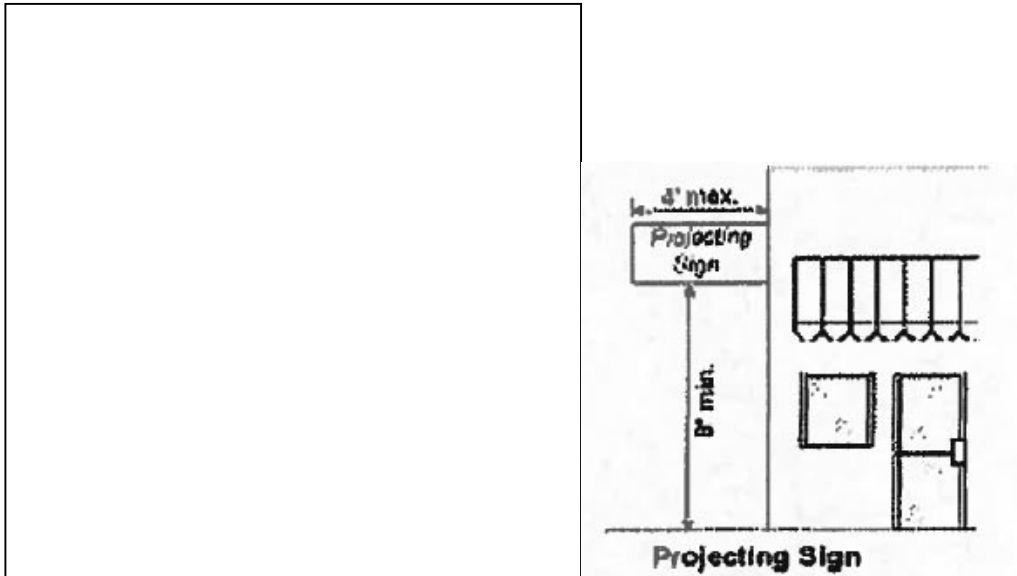


- (C) *Projecting signs.* The purpose of a projecting sign is to identify the name of a business, profession, service, product or activity conducted, sold or offered on the premises where the sign is located by providing an advertising message that is perpendicular to the wall of the building to which it is attached. Projecting signs shall be allowed within commercial districts, industrial districts and within the central business district.
- (1) *Number of signs:* One projecting sign shall be allowed for each single tenant building or for each tenant in a multi-occupancy structure. However, no tenant storefront shall have a projecting sign in combination with a wall sign on the same building elevation.
  - (2) *Maximum area:* A projecting sign shall not exceed 20 square feet. The plane of the message area shall not exceed 18 inches from the plane of the message area on the opposite side of the sign.
  - (3) *Horizontal projection:* A projecting sign shall not project more than four feet from any wall facing and shall not be closer than two feet from a curb line. A projecting sign shall not extend above the apparent roof line of the building.
  - (4) *Clearance:* Every projecting sign shall be a minimum of eight feet above the grade over a walking area or 14 feet over a vehicular maneuvering area. Projection signs shall not project over any property line or right-of-way line unless with an approved license agreement.
  - (5) A projecting sign may be illuminated.

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ARTICLE III. ENFORCEMENT AND ADMINISTRATION



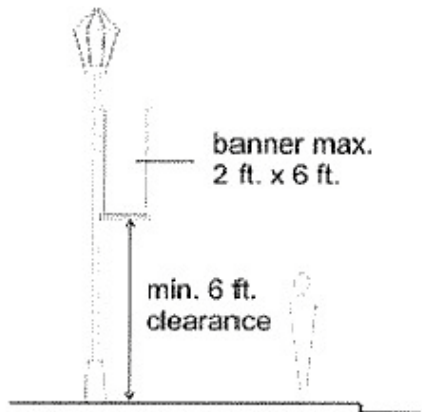
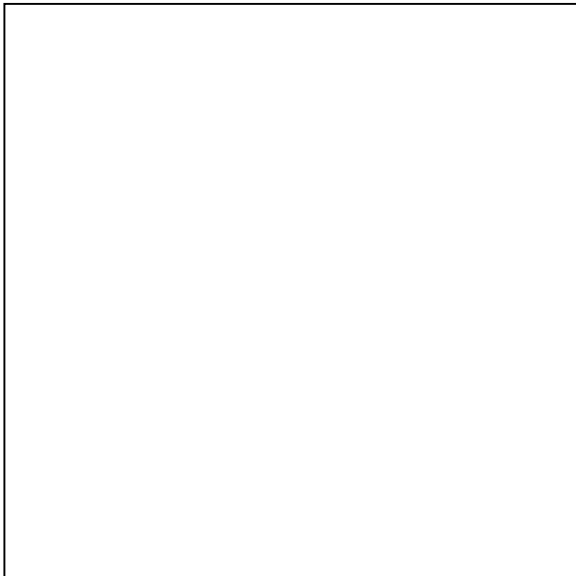
(D) *Light mounted banner signs.* Light mounted banner signs shall only be permitted In the central business district for the advertising of permitted community events, seasonal and historic themes, or other such civic purposes; on collector level and higher classification within a residential subdivision; within master planned commercial subdivision. Such banners are limited to subdivision identification, or seasonal decorations and works of art by local artists. Such banners must be approved by the appropriate electric utility company in addition to receiving a permit from the city manager's office. No permit shall be approved for a period exceeding 30 calendar days. Light mounted banner signs shall comply with the following regulations:

- (1) Banners shall be limited to not more than one banner on any light pole.
- (2) Banners shall be limited to no more than two feet by six feet in exterior dimension and 12 square feet in area per banner.
- (3) A minimum height of six feet as measured from adjacent grade to the bottom of the banner shall apply.
- (4) Banners shall be maintained in good repair. Should they become excessively faded, tattered or torn, they shall be replaced or removed.
- (5) Banners shall not be illuminated, except for indirect lighting associated with the main lamp of the light pole to which it is mounted.

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ARTICLE III. ENFORCEMENT AND ADMINISTRATION

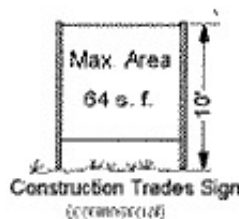
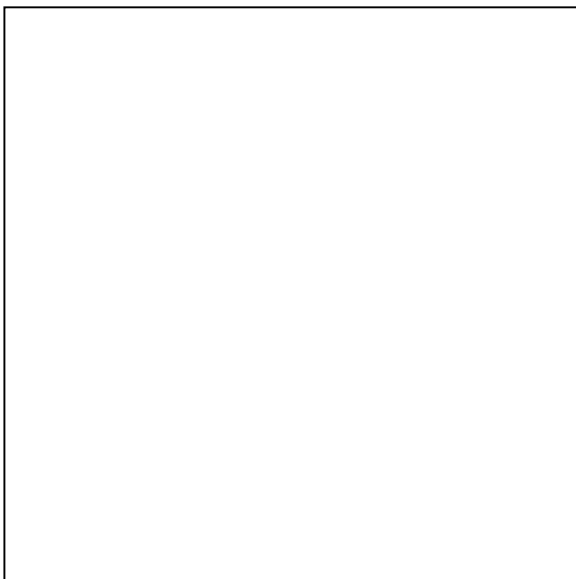


(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-17. Temporary sign regulations.**

(A) *Construction trades signs.* The purpose of a construction trades sign is to denote the architect, engineer, financial institution or building trades contractor involved in a construction project. Construction trades signs shall be categorized as either commercial or residential.

- (1) The maximum area, height, spacing and setbacks of a construction trades sign for commercial locations shall not exceed 64 square feet and shall not exceed ten feet in height.

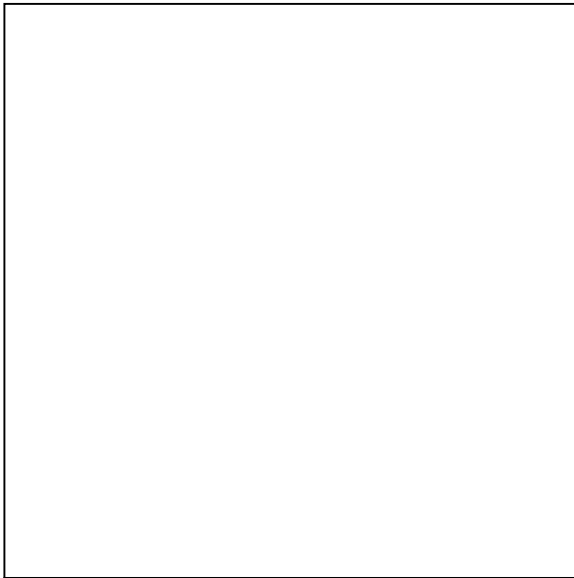


- (2) The maximum area, height, spacing and setbacks of a construction trades sign for residential locations shall not exceed eight square feet and shall not exceed four feet in height.

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ARTICLE III. ENFORCEMENT AND ADMINISTRATION

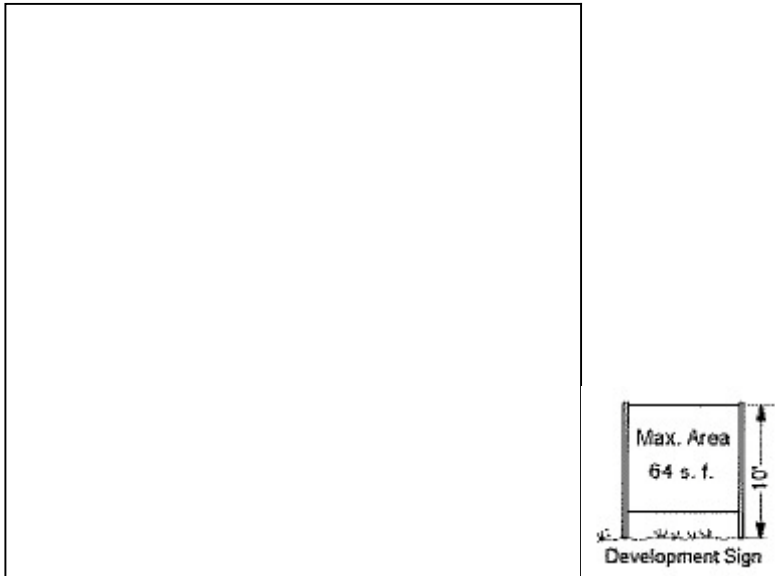


- (3) Construction trades signs shall not be erected until a building permit has been submitted for building construction and shall be removed up on completion of the construction project or occupancy of the structure, whichever is applicable.
- (4) No permit or fee shall be required for a construction trades sign.
- (5) Signs shall not be located in the street right-of-way, shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curbline.
- (6) A construction trade sign shall not be illuminated.
- (b) *Future development signs.* Future development signs shall be regulated as either commercial or residential.
  - (1) The maximum area, height, spacing and setbacks of a future development sign shall not exceed 64 square feet and shall not exceed ten feet in height.
  - (2) A permit shall be required for a future development sign.
  - (3) A future development sign shall not be illuminated.
  - (4) A future development sign shall be removed when the project is 90 percent complete or within three years from start of construction, whichever is less. For the purpose of this provision, a subdivision shall be deemed 90 percent complete when 90 percent of the lots within the subdivision are sold.
  - (5) Signs shall not be located in the street right-of-way, shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curbline.
  - (6) One sign shall be permitted per lot; except that one sign per major access to the development shall be authorized if a lot is used together with one or more contiguous lots for a single use or a unified development (for example, a shopping center).

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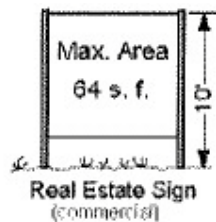
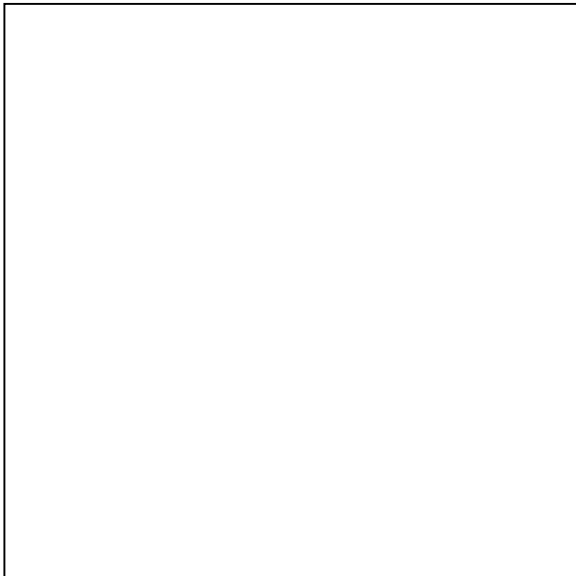
- (C) *Garage sale signs.* The purpose of a garage sale sign is to announce the sale of household possessions.
- (1) Garage sale signs shall not exceed four square feet. Signs shall be allowed for a maximum of 72 consecutive hours no more than two times per calendar year.
  - (2) Single-family residential on-premises: One garage sale sign per street frontage shall be allowed, but only on the premises where the garage sale is being conducted and where there is an existing residential use.
  - (3) Neighborhood-wide garage sales: Two garage sale signs per subdivision entrance shall be allowed for a neighborhood-wide garage sale sponsored by a homeowner's association (HOA). The garage sale sign may be off premises from where the actual garage sale is conducted, but the sign shall be located on property, including a street right-of-way, that is within the limits of the homeowner's association. The HOA must be registered with the city.
  - (4) Signs shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curbline. Signs shall not be placed anywhere in the center median of a public or private street.
  - (5) No permit or fee shall be required for any garage sale sign.
- (D) *Real estate signs (commercial, including subfamily).* The purpose of a commercial real estate sign is to advertise the sale, rental or lease of the premises on which said sign is located.
- (1) A commercial real estate sign shall not be illuminated.
  - (2) The maximum area and height of a commercial real estate sign shall not exceed 64 square feet and shall not exceed ten feet in height.
  - (3) Commercial real estate signs shall be removed within seven days following the completion of the sale, rental or lease of the premises.
  - (4) No more than one sign per 300 linear feet of street frontage may be placed on such property.
  - (5) Signs shall be placed at least twenty-five feet from an intersection and a minimum of ten feet from the curbline.
  - (6) No permit or permit fee shall be required for a commercial real estate sign.



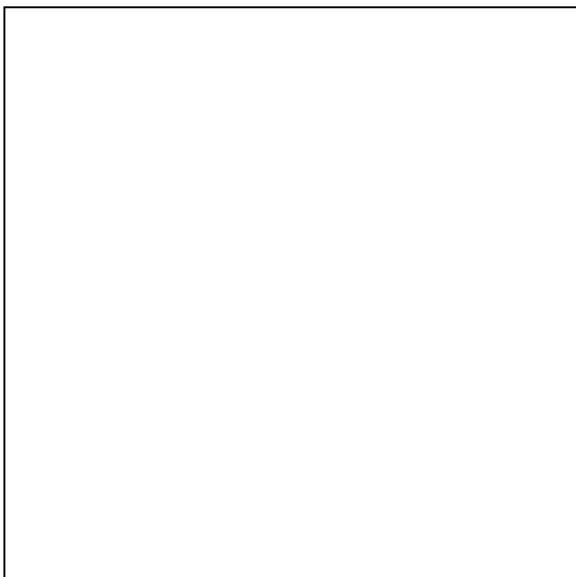
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- (E) *Real estate signs (residential)*. The purpose of a residential real estate sign is to advertise the sale, rental or lease of the premises on which said sign is located.
- (1) A residential real estate sign shall not be illuminated.
  - (2) The maximum area and height of a residential real estate sign shall not exceed 12 square feet and shall not exceed six feet in height.
  - (3) All signs shall be removed within seven days following the completion of the sale, rental or lease of the premises.
  - (4) Signs shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curblane.
  - (5) No permit or permit fee shall be required for a residential real estate sign.



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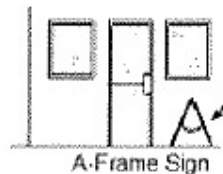
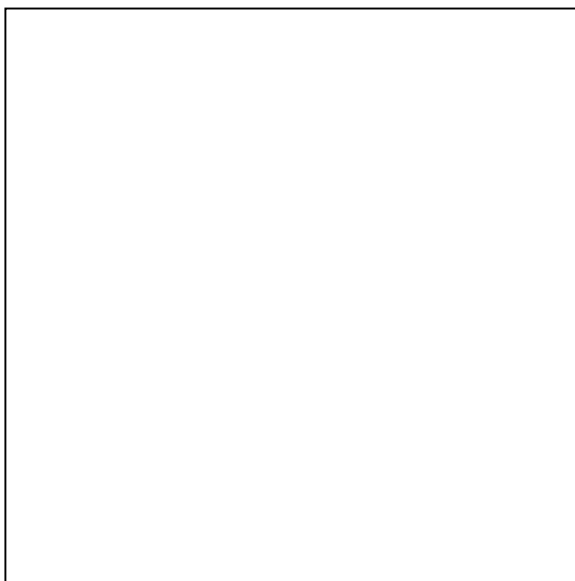
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(F) *A-frame signs.* The purpose of an A-frame sign is to provide temporary advertising during business hours of a commercial occupancy.

(1) Maximum height and area shall conform to the following table:

Maximum Height and Areas of A-Frame Signs		
	Max. Area	Max. Height
Located on a sidewalk	8 s.f.	4 feet
Located in a yard	24 s.f.	8 feet



(2) Time duration: Only displayed during business hours.

(3) Placement: Only allowed on private property, but may be located on a public sidewalk, provided a width of four feet shall remain free from intrusion.

(G) *Miscellaneous temporary sign regulations.*

(1) Temporary signs advertising the opening or relocation of a business shall only be permitted for a maximum period of 30 days before and 60 days after such opening or relocation. Signs shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curbline.

(2) Except as specifically provided otherwise in this chapter, banners shall not exceed 32 square feet, must be attached and parallel to a wall of the structure, and shall only be permitted for a period not to exceed 30 calendar days and with a period of not less than 30 days between displays.

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- (3) Human signs shall be allowed on private property and the untraveled public rights of way provided that no human sign, as defined by this section, shall be displayed within five feet of a vehicular traffic lane.
- (4) Except as specifically provided otherwise herein, temporary signs shall not exceed four square feet in size and shall be allowed for a maximum of 14 calendar days per event. Temporary signs shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curblane. Temporary signs shall not be placed anywhere in the center median of a public or private street.
- (5) Open house signs do not require a permit, shall not exceed four square feet, and shall be allowed for a maximum of four hours the day of the open house. Open house signs shall be placed at least 25 feet from an intersection and a minimum of ten feet from the curblane. Open house signs shall not be placed anywhere in the center median of a public or private street.
- (6) Use of temporary decorations as signs, otherwise referred to as decorative festoons, meaning tinsel, strings of ribbon, small commercial flags, or streamers may be used as temporary enhancement of signage in a commercial sign category, providing these devices have no glare, no moving parts, are maintained, and comply with all codes and policy guidelines governing their safe use. No lettering is permitted on these items. Temporary decorations may be used for a period not to exceed 30 calendar days with a period not less than 30 days between displays.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-18. Flagpoles and commercial flags.**

One flagpole is allowed per development at a maximum height of 50 feet. Commercial flags are allowed in multifamily and/or commercial developments. No text or logo is permitted on such flags as such would constitute a sign. The national or state flag and the flagpoles for the express purpose of displaying the national or state flag are exempt from this section.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-19. Advertising searchlight.**

- (A) For purposes of this section, an "advertising searchlight" means a searchlight used to direct beams of light upward for advertising purposes.
- (B) Use of an advertising searchlight at any location is authorized upon issuance of a permit by the building official.
- (C) The permit shall be effective for a maximum period of five days per calendar year to any business or group.
- (D) An advertising searchlight shall not be operated between the hours of 1:00 a.m. and 6:00 p.m.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-20. Kiosk signs.**

- (A) Kiosk signs are intended to provide a uniform, coordinated method of providing homebuilders and developers a means of utilizing directional signs, while minimizing the negative impacts of weekend homebuilder's signs on the appearance of the city. Kiosk signs are also intended to provide service to the public on the directions to municipal facilities and parks, community events, and school district facilities.

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- (B) The city council may, by duly executed license agreement, grant the exclusive right to design, erect and maintain kiosk signs within the city limits and extraterritorial jurisdiction of Kyle.
- (C) Kiosk signs shall be designed and constructed in accordance to the specifications contained in the aforementioned license agreement.
- (D) Prior to erecting any kiosk sign, the licensee shall submit a sign location map to the building official for approval.
- (E) Kiosk sign installation shall include break-away design features as required for traffic signs in the street right-of-way.
- (F) Advertisement of price information shall be prohibited on kiosk signs.
- (G) No additional or extraneous signs, pennants, flags or other devices for visual attention or other appurtenances shall be attached to kiosk signs.
- (H) Kiosk signs shall not be illuminated.
- (I) Individual sign panels on kiosks shall have a uniform design and color.
- (J) Kiosk signs shall not interfere with the use of sidewalks, walkways, bike and hiking trails; shall not obstruct the visibility of motorists, pedestrians or traffic control signs; shall not be installed in the immediate vicinity of street intersections; and shall comply with the visibility triangle requirements contained in the Subdivision Regulations or other visibility easements provided by code or subdivision plat.
- (K) Kiosk sign may be located on private property, or other state-maintained roadways, provided written permission is obtained from the property owner.
- (L) Kiosk sign panels shall be available to all developers and homebuilders operating within the city on a first-come, first-served basis. Developers and homebuilders operating November 18, 2008 within the city limits shall have first priority to lease sign panels in the event extra panel space is available, residential developments, located outside the city limits may also lease panels.
- (M) In accordance to the specifications contained in the aforementioned license agreement, a percentage of the kiosk sign panels shall be reserved for the city to use as directional signage to municipal or community facilities or locations or community events.
- (N) No kiosk sign shall be placed, located, or installed on city-owned property or public right-of-way without a license agreement duly approved by the city council.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-21. Other sign regulations.**

- (A) *Activities and events sign.* An activities and events sign is a changeable copy directory allowed solely to public buildings, church buildings (places of worship only), and neighborhood associations, intended for use only by the entity where the sign is located. A maximum of one information sign shall be allowed for each neighborhood group, church, or public development complex, and it is not considered a freestanding sign in this section. Activities and events signs shall comply with the following criteria:
  - (1) The sign shall be constructed of a non-oxidizing metal (e.g. aluminum, stainless steel) cabinet set on a pole or on the ground as a monument, with a clear, acrylic panel inset and a locking door. The door of the sign shall remain locked except while the message is being posted.
  - (2) The maximum size of the cabinet shall be 12 square feet, and maximum height shall be five feet above grade.

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- (3) Only changeable letters shall be used and letters shall be no larger than four inches and no less than two inches in height.
  - (4) Such sign may have direct lighting that is placed inside the cabinet (portrait lighting); however, no backlighting or external direct lighting is permitted.
  - (5) Such sign shall be located at or near the entrance of the public building or church; for a neighborhood sign, such sign shall be located within the subdivision at a commonly traveled location, for example, near the neighborhood park or amenity center, the main mail station, or the main entrance to the neighborhood. Such a sign shall not be required to meet building setback requirements or setback requirements established in [section 29-12](#) provided that it does not obscure the travel path or visibility of drivers, bicyclists, or pedestrians, as determined by the planning department. Such sign shall be located on property maintained by the neighborhood association or with a written agreement between the property owner and the neighborhood association. Such sign shall not be placed closer than 150 feet from the intersection of a collector street and a major or minor arterial street, as defined in the city roadway plan. Such signs shall be maintained by the neighborhood association in a "like-new" condition at all times.
- (B) *Government sign.* Government sign(s) are permitted in all categories, subject to all laws and regulations that apply.
  - (C) *Memorial sign.* Memorial sign(s) may be installed in accordance with state historical standards, or as building cornerstones not to exceed eight square feet.
  - (D) *Private traffic-control signs.* Private traffic control signs are not allowed for single-family residential or duplex uses, but are otherwise permitted. Signs shall not exceed four square feet in size, and may contain directions and the name or logo of the same site user.
  - (E) *Window signs.* Window signs may be placed so as not to obscure more than 25 percent of the visible window area. Where multiple windows exist, fronting on the single elevation, the 75 percent visibility shall be maintained for the total window area on said elevation.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-22. Nonconforming signs.**

- (A) By the passage of the ordinance from which this section derives and its amendments, no presently illegal sign shall be deemed to have been legalized unless such sign complies with all current standards under the terms of this ordinance and all other ordinances of the city. Any sign which does not conform to all provisions of this section but which existed on the effective date of this section and was lawfully constructed or installed shall be considered as a nonconforming sign. All nonconforming signs shall be permitted in the same manner as any other legally existing sign or proposed sign, provided that no sign that was constructed or installed in violation of any state or local law, or that was originally constructed or installed without a permit that was then required at such time, shall be or qualify as a nonconforming sign.
- (B) A nonconforming sign shall be allowed to be continued and maintained at its existing location subject to the limitations of this section.
- (C) No nonconforming sign may be enlarged or altered in a way which would increase its nonconformity: provided that the sign face may be changed in compliance with this chapter.
- (D) A nonconforming sign shall be removed immediately if any of the following applies:
  - (1) The nonconforming sign is abandoned as defined in this subsection. Whenever any nonconforming sign no longer advertises a bona fide business or a business which has moved

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away or closed, a product sold, or service rendered, such sign shall be removed within 60 days. If the nonconforming sign is a wall sign, the wall sign shall be removed or painted over with a color that resembles or matches the rest of the wall of the building if the owner of, or person responsible for the sign, or if the tenant closing a business, fails to remove the abandoned sign or paint over the wall sign, the owner of the premises shall be held responsible and the work shall be done within 30 days following written notice to do so by the building official.

- (2) The building official or his/her designee determines the sign to be obsolete or substandard under any applicable ordinances of the city to the extent that the sign becomes a hazard or dangerous.
  - (3) A nonconforming sign, or a substantial part of it is destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.
- (E) Reconstruction, repair, or replacement of a nonconforming sign shall be completed no later than 90 days following the date of the damage. For purposes of this subsection, a sign, or a substantial part of a sign, is considered destroyed if the cost of repairing the sign is more than 50 percent of the cost of installing a new sign of the same type at the same location.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-23. Hazardous signs.**

Except as otherwise provided by law or this chapter, no person may install, maintain, or use a sign that:

- (1) Obstructs a fire escape, required exit, window, or door used as a means of escape.
- (2) Interferes with a ventilation opening, except that a sign may cover a transom window if otherwise in compliance with the building code and fire code.
- (3) Substantially obstructs the lighting of public right-of-way or other public property, or interferes with a public utility or traffic control device.
- (4) Contains or utilizes a supporting device placed on public right-of-way or other public area within the city limits and the extraterritorial jurisdiction of the city, unless the use of the public rights of way or other public area has been approved by the city and a right-of-way joint use agreement has been filed.
- (5) Is illuminated in such a way as to create a hazard to pedestrian, bicycle, or vehicular traffic.
- (6) Creates a traffic hazard for pedestrians, bicyclists, or motorists, by restricting visibility at a curb cut or adjoining public street.
- (7) Has less than nine feet of clearance above street pavement grade or has less than 12 feet of clearance above a driveway, and/or is located outside the public right-of-way and within the visibility triangle at an intersection that results in impaired sight distance of users of the intersection.
- (8) Violates a requirement of the electrical code.
- (9) Is determined by the building inspector to be dangerous.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

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**Sec. 7-24. Abatement of sign violations and removal of unsafe signs.**

- (A) Any sign that is structurally unsafe or that constitutes a hazard to the health, safety, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage, abandonment or other cause is hereby declared to be a public nuisance and shall be abated by demolition or removal.
- (B) Should the building official or the code enforcement officer determine that any sign is not properly maintained, is unsafe or insecure or has otherwise been constructed, erected or maintained in violation of the provisions of this section, he shall take action as follows.
  - (1) Except as provided in the following paragraphs (2) and (3), the building official shall give the sign or property owner written notice to repair, remove or obtain a permit for such sign as applicable within ten days after such notice. If the sign or property owner fails to remove, repair, or obtain a permit for such sign so as to comply with all applicable standards and regulations, the building official shall cause the sign to be either removed or repaired and such cost shall be charged to and paid by the property owner if such demolition or repair expenses are not paid by the property owner within 30 days of such billing, then such expenses shall constitute a valid lien against the property. Such notice shall also provide the sign or property owner an opportunity to bring the sign into compliance or to request a hearing before the sign control board to determine whether the sign should be repaired or removed. Such appeal must be filed in writing with the city secretary within ten days of the notice. After consideration of all facts, the sign control board shall rule upon the appeal.
  - (2) The building official may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.
  - (3) Any sign located in public right-of-way may be immediately removed by the building official without notice to the owner.
- (C) In addition to the above, the building official or the code enforcement officer may issue citations without giving prior notice of violation or pursue any other administrative or legal remedy in order to abate any sign which is in violation of this chapter or any other law.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-25. Repairs and maintenance.**

All signs in the city and its ETJ shall be properly maintained in good and safe structural condition, shall be painted on all exterior parts, unless coated or made of rust resistant material, and shall be maintained in good condition and appearance at all times. Any owner or primary beneficiary failing to maintain, repair, or remove any such sign after due notices has been given shall upon conviction be guilty of a misdemeanor. The building official shall have the authority to order the painting, repair, or removal of a sign and accompanying landscaping which do not comply with this ordinance or the building codes or that constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

**Sec. 7-26. Appeals; exceptions to sign regulations.**

- (A) *Board of adjustment is established as sign control board; composition.* The board of adjustment is hereby established to serve in a dual capacity as the sign control board ("SCB").

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- (B) *Powers; duties of the SCB.* The city council authorizes the board of adjustment in its capacity as the SCB to sit as a board of appeals and to exercise the powers set forth in this chapter.
- (C) *Appeals.* Appeals to the SCB may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the building official. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building official and with the SCB a notice of appeal specifying the grounds thereof. The building official shall forthwith transmit to the SCB all the papers constituting the record upon which the action appealed from was taken.
- (D) *Appeal stays proceeding.* An appeal stays all proceedings in furtherance of the action appealed from, unless the building official certifies to the SCB after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the SCB or by a court of record on application or notice to the building official and on due cause shown.
- (E) *Hearing.* The SCB shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent.
- (F) *SCB powers.*
  - (1) The SCB shall have the following powers:
    - a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the building official in the enforcement of this section.
    - b. To hear and decide special exceptions to the terms of this section upon which the SCB is required to pass.
    - c. To authorize, upon appeal in specific cases, such exception from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this section will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.
  - (2) In exercising the above-mentioned powers, the SCB may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the building official from whose action the appeal is taken.
- (G) *Limitations on the authority of the SCB.*
  - (1) The SCB may not grant an exception authorizing a sign where it is not otherwise allowed by this charter.
  - (2) The SCB shall have no power to grant an amendment to the sign ordinance. In the event that a request for an amendment is pending before the city council, the board shall neither hear nor grant any exceptions with respect to the subject property until final disposition of the sign ordinance amendment.
  - (3) The SCB shall not grant a request for any exception to any parcel of property or portion thereof upon which a zoning application, site plan, preliminary plan, or final plat, where required, has not been finally acted upon.
- (H) *Exceptions.*
  - (1) The SCB may grant an exception from a requirement of the sign ordinance, if it makes written findings that:



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- a. The requirement does not allow for a reasonable use of the property;
  - b. The hardship for which the exception is requested is owing to a special condition inherent in the property itself, such as restricted area, shape, topography or physical features;
  - c. The special condition is unique to this property and is not generally characteristic of other parcels of land in the area; and
  - d. The development under the exception does not:
    1. Alter the character of the area adjacent to the property;
    2. Impair the use of adjacent property that is developed in compliance with the city requirements; or
    3. Impair the purposes of the regulations of the sign ordinance.
- (2) An exception may not be granted to relieve a self-created or personal hardship, nor for financial reasons only.
- (3) The applicant bears the burden of proof in establishing the facts justifying an exception.
- (I) *Vote required.* The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the building officials, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in this chapter.
- (J) *Time limitation on order permitting erection of sign.* No order of the SCB permitting the erection or alteration of a sign shall be valid for a period longer than six months, unless a sign permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- (K) *Appeals from action of the SCB.* Any person or persons, jointly or severally, aggrieved by any decision of the SCB, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to the city secretary, on behalf of the city council, a petition, duly verified, appealing the decision of the SCB. Such petition shall be presented to the city secretary within ten days after the meeting date of the decision by the SCB.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 7-27. Penalty.**

- (A) Any individual, association, corporation or legal entity violating any provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by the assessment of a fine not exceeding \$2,000.00 and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- (B) The primary beneficiary of any sign installed in violation of this section shall be presumed to have authorized or caused, either directly or indirectly, the installation, use, or maintenance of the sign in violation of this section.
- (C) Whenever any construction, installation, alteration, or repair of a sign is being done contrary to the provisions of this section, another controlling ordinance or statute governing the sign, the building official may order the work stopped by notice verbally or in writing served on any persons engaged in the doing or causing such work to be done and the city shall post a stop work order on the property adjacent to the posted building permit, and any such persons shall forthwith stop such work until authorized by the building official to proceed with the work. If no permit has been issued, all work shall stop until a permit has been properly issued and all errors corrected to the satisfaction of the

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building official. The building official or code enforcement authority may also issue a work correction order, which shall be served upon any persons who are working on a certain aspect of the sign.

- (D) The city and/or the city manager shall enforce this section by appropriate administrative action including but not limited to, the rejection of plans, maps, plats and specifications not found to be in compliance with this section and good engineering practices, and the issuance of stop work orders.
- (E) Upon the request of the city council, the city attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this ordinance, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or recover damages in an amount sufficient for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this chapter.

(Ord. No. 653, § 3(Attach.), 4-19-2011)

#### **Sec. 8. Board of adjustment.**

- (A) *Creation of the board of adjustment.* The city council shall provide for the appointment of a board of adjustment and the regulations and restrictions adopted shall be pursuant to the provisions of applicable statutory requirements of the State of Texas. The board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of this Plum Creek PUD zoning ordinance consistent with state law and in harmony with its general purpose and intent and in accordance with general and specific rules herein contained.
- (B) *Powers and duties.* The board of adjustment shall have the following powers:
  - (1) To hear and decide appeals from certain decisions of the building official where it is alleged there is error in any order, requirement, decision, interpretation, or determination made by the building official in the enforcement of this ordinance;
  - (2) To interpret the intent of the Plum Creek PUD official zoning map where uncertainty exists because of the physical features on the ground varying from those on the official zoning map and none of the rules set forth in this ordinance apply.
  - (3) To authorize, upon appeal variances of the yard, lot width, lot depth, signs, minimum setback, off-street parking or off-street loading regulations from the terms of this ordinance, if not contrary to the public interest, where owing to unique and special conditions of the land not normally found in a PUD district a strict enforcement of the provisions of the ordinance by the building official would result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.
- (C) *Organization of the board.* The board of adjustment shall be established and appointed as provided in Chapt. 211, Loc. Gov't. Code [V.T.C.A., Local Government Code § 211.001 et seq.] and the ordinances of the city.
- (D) *Appeals.*
  - (1) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, commission or committee of the city affected by any decision of the building official made pursuant to this ordinance. Such appeal shall be made within 30 days by filing with the building official and with the board of adjustment a notice of appeal specifying the grounds 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

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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

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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.

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- (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

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- (3) Written request made by the owner(s) of land within the Plum Creek PUD.
- (C) *Responsibility for change.* The city council has sole responsibility for changes in the Plum Creek PUD official zoning map and changes in the Plum Creek PUD zoning ordinance.
- (D) *Referral of amendment petition to commission.* The council, upon receipt of an application to amend the ordinance, which has been examined and approved as to form by the city secretary, shall refer the request to the same planning and zoning commission for study, hearing, and report. The council may not enact the proposed amendment until the commission makes its report to the city council.
- (E) *Action by the commission.* The commission shall cause a study to be made, give public notice, hold a public hearing and recommend to the city council such action as the commission deems proper.
- (F) *Action by the council.* The city council shall give public notice and hold a public hearing before taking final action on a request to amend this ordinance, or on any proposed amendment initiated by the commission or the city council.
- (G) *Public hearing and notice.* Notice shall be given and hearings held in the same manner as provided in article III, section 9 of this ordinance for planning commission hearings and article III, section 10 of this ordinance for city council hearings for zoning changes.
- (H) *Protest to proposed amendments.* A written protest duly signed by the owners of 20 percent or more of the area of lots or of the lots or land immediately adjoining the same and extending 200 feet therefrom shall not become effective except by the favorable vote of three-fourths of all members of the council.
- (I) *Comprehensive review of ordinance.* The commission shall from time to time, at intervals of not more than three years, examine the provisions of this ordinance and the location of the Plum Creek PUD zoning district boundary lines and shall submit a report to the city council recommending changes and amendments if any, which are deemed desirable in the interest of the public health, safety and general welfare.

#### **Sec. 13. Interpretation, purpose and conflict.**

The requirements established by the provisions of this ordinance shall be the minimum standards and requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare, it being intended to lessen congestion of streets, to secure safety from fire, panic and other dangers; to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water and sewage, schools, parks, and other public requirements. It is not 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.

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**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.