Chapter 41 - SUBDIVISIONS[[1]](#fn_44)

Footnotes:

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**Charter reference—** Planning and development, art. X.

**State Law reference—** Regulation of subdivisions and property development, V.T.C.A., Local Government Code § 212.001 et seq.

ARTICLE I. - IN GENERAL

Sec. 41-1. - Definitions.

(a)  The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Abutting* means adjacent; joining at a boundary.

*Administrator* means the city engineer, director of public works or other person designated by the city to administer the regulations and provisions of this chapter.

*Alley* means a minor public right-of-way that is primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

*Block* means a unit of land bounded by streets or a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity to development.

*Building setback line* means a line beyond which building foundations or any building extension other than roof overhang not exceeding 18 inches must be set back from the property line.

*Crosswalkway* means a public right-of-way, between property lines, for pedestrian circulation.

*Cul-de-sac* means a local street with only one street outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

*Dead-end street* means a portion of a street or a road with only one street or road outlet.

*Developer.* See *Subdivider* .

*Double fronting lot* means a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

*Easement* means a grant of one or more of the property rights by the property owner to and/or for the use by the public, corporation or another person or entity.

*Easement, avigation,* means an air-rights easement, which protects air lanes around airports.

*Easement, drainage* , means an easement required for the installation of stormwater sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

*Engineer* means a person authorized under the Texas Engineering Registration Act to practice the profession of engineering.

*Flood* means a general and temporary condition as partial or complete inundation of normally dry land areas from the unusual and rapid accumulation or runoff of surface waters from any source.

*Flood protection elevation, regulatory.* See the flood hazard area regulations in chapter 17, article II.

*Homeowners' association* means a community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.

*Interior lot* means a lot other than a corner lot.

*Lot* means an undivided tract or parcel of land, identified by a number or symbol and designated as a distinct and separate tract on a fully approved subdivision plat properly filed of record.

*Lot area* means the total area within the lot lines of the lot excluding any street rights-of-way.

*Lot corner* means a lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

*Lot depth* means the distance measured from the front lot line to the rear lot line. Where the front and rear lot lines are not parallel, the lot depth should be measured by drawing lines from the front to the rear lot lines, at right angles to the front lot line every ten feet, and averaging the length of these lines.

*Lot line* means a line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space.

*Major subdivision* means any subdivision not classified as a minor subdivision.

*Master development plan* means a graphic representation and narrative description of a large area of land intended for eventual development in phases. The plan may involve a single parcel or a number of contiguous parcels. It should show proposed land use, street classification, parks and open space, major public facility sites, floodplains and waterways, major drainage and utility improvements, and other features deemed necessary or appropriate by the administrator to depict critical on-site and off-site relationships that coordinate the development with the community's overall plan and adjoining undertakings.

*Minor plat* means a proposed plat with four or fewer lots, with said lot or lots fronting on an existing street, and not requiring the creation of any new street or the extension of municipal facilities.

*Mobile home park* means a site with required improvements and utilities for the longterm parking of mobile homes, which may include services and facilities for the residents.

*Owner.* See *Subdivider* .

*Parkway* means that portion of the right-of-way between the curb and the right-of-way line.

*Person* means any individual, association, firm, corporation, governmental agency, political subdivision or other legal entity.

*Plan, comprehensive,* means the comprehensive plan of the city and adjoining areas adopted by the planning and zoning commission and approved by the council, including all its revisions. The plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, and other public and private developments and improvements, to include detailed plans for water, sewer, etc.

*Plan, concept,* means a rough concept map of a proposed subdivision with sufficient accuracy to be used for the purpose of discussion, classification, and comment.

*Plan* *or plat package* means and includes all drawings, instruments, written specifications, reports, test results, covenants, and other similar items required in this chapter.

*Plan, preliminary,* means a preliminary plan indicating the proposed layout of a subdivision that is submitted to the review authority for consideration and preliminary approval.

*Planned development* means a development provided for by chapter 53, pertaining to zoning wherein certain yards, areas and related standards may be varied and a variety of land uses associated on a tract, the plan of which is subject to approval by the planning and zoning commission and council.

*Planning and zoning commission* means the duly designated planning commission of the city acting as the planning and zoning commission having responsibilities as delegated by the city council including, but not limited to, land use review concerning comprehensive planning, zoning, and subdivision of land.

*Plat* means a map representing a tract of land, showing the boundaries and location of individual properties and streets.

*Plat drawing* means a drawing or drawings depicting the proposed subdivision layout itself, along with associated certifications, dedications and related notations.

*Plat, final,* means the final map of all or a portion of a subdivision, which is presented to the proper review authority for final approval.

*Predesign conference* means a conference between a developer and the city planning staff, held prior to application for approval of a plat, for the purposes of exchanging information and identifying potential problems with a proposed development.

*Replatting* means the alteration of any part or all of any lot, block or tract of a previously platted subdivision.

*Residential lane* means a street which, by its design, discourages through traffic and which may afford the only vehicular access to lots abutting thereon, which lots shall be restricted to residential use as set forth for only certain zoning districts in chapter 53, as amended, pertaining to zoning.

*Staff* or *city staff* means the employees, and the professionals providing services to the city, authorized or permitted by the council to undertake any duty or to provide any review, work or service contemplated by the terms of this chapter to be undertaken by city personnel.

*Street* means a public right-of-way, however designated, which serves one or more of the following purposes:

(1)  *Major thoroughfare, arterial street* or *expressway.* A major thoroughfare, arterial street or expressway primarily provides vehicular circulation to various sections of the city.

(2)  *Collector street.* A collector street primarily provides circulation within neighborhoods, to carry traffic from local streets to arterial or major thoroughfare streets, or to carry traffic through or adjacent to commercial or industrial areas.

(3)  *Marginal access.* A marginal access or frontage street is a street, which is parallel to and adjacent to an arterial street and primarily provides access to properties abutting these types of streets.

(4)  *Local street.* A local street is a street designed primarily for access to abutting residential property. A local street does not include roadways that carry through traffic, but will generally be intersected frequently by collector streets.

*Street width* means that distance from back of curb to back of curb.

*Subdivider* means any person, or agent thereof, dividing or proposing to divide land so as to constitute a subdivision, as defined herein. The term "subdivider" shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, of land sought to be divided.

*Subdivision* means a division of any tract of land, situated within the corporate limits of the city or within its extraterritorial jurisdiction, into two or more parts for the purpose of laying out any addition to the city, or for laying out suburban lots or building lots, or any lots, and streets, alley, access easements, public utility easements, or parks or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. The term "subdivision" does not include divisions of land in parcels of five acres or more, unless any such division of five acres or more includes the planning or development of a new street or access easement, or public utility easement.

*Surveyor* means a registered professional land surveyor authorized by state statute to practice the profession of surveying.

*Utility easement* means an interest in land granted to the city, the public generally or to a private corporation, for installing and maintaining utilities across, over or under private land.

(b)  Words and terms not expressly defined herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

(Ord. No. 296, art. I, § 3, 10-1-1996; Ord. No. 439, art, I, § 3, 11-24-2003)

Sec. 41-2. - Authority and dedications.

(a)  This chapter is adopted by the city pursuant to the police powers of general law cities, and under authority of the Constitution and general laws of the state including, but not limited to, V.T.C.A., Local Government Code § 212.001 et seq.

(b)  In accordance with the city's police powers and authority, and as specifically authorized by V.T.C.A., Local Government Code § 212.001 et seq., and other applicable laws, the planning and zoning commission and the city council, as a condition of subdivision plat or replat approval, may require the owners and developers of land who desire to subdivide, plat or replat land for urban development, to provide for building setback lines, to dedicate streets, alleys, parks, easements or other public places or facilities of adequate width and size and to coordinate street layouts and street planning with the comprehensive plan, with other municipalities, and with county, state and federally designated highways, as they may deem best in the interest of the general public.

(Ord. No. 296, art. I, § 1, 10-1-1996; Ord. No. 439, art. I, § 1, 11-24-2003)

Sec. 41-3. - Purpose.

The purpose of this chapter is to provide for orderly, safe and healthful development to promote the health, safety and general welfare of the community. From and after the passage of the ordinance from which this chapter is derived, all plats and subdivisions of land within the corporate limits of the city, and all plats and subdivisions of land outside the corporate limits of the city that the councilmembers may be petitioned to include within the corporate limits of the city by an extension of said corporate limits, and all tracts within the city's extraterritorial jurisdiction shall conform to the rules and regulations of this chapter.

(Ord. No. 296, art. I, § 2, 10-1-1996; Ord. No. 439, art. I, § 2, 11-24-2003)

Sec. 41-4. - Application and administration.

This chapter shall be applied to and govern all applications for subdivision approval made after the effective date of the ordinance from which this chapter is derived. This chapter shall be applied and administered in coordination with all other applicable ordinances, codes, development and standards and regulations. The provisions hereof shall also be applied and administered in conjunction with the adopted comprehensive plan, the adopted water and sewer plan and all other such official plans.

(Ord. No. 296, art. I, § 4, 10-1-1996; Ord. No. 439, art. I, § 4, 11-24-2003)

Sec. 41-5. - Flood damage prevention.

All subdivisions shall comply with all ordinances applicable to drainage and the prevention of floods, including, but not limited to, chapter 17, article II, pertaining to flood hazard area regulations.

(Ord. No. 296, art. I, § 5, 10-1-1996; Ord. No. 439, art. I, § 5, 11-24-2003)

Sec. 41-6. - Applicable to existing unrecorded subdivisions.

This chapter shall apply to any proposed subdivision submitted for approval prior to the effective date of the ordinance from which this chapter is derived, but which the owner or developer suffers or permits an approved concept plant, preliminary plat or final plat for the subdivision to expire under the terms and conditions of the prior applicable subdivision ordinance. All subdivision plats submitted for approval prior to the effective date of the ordinance from which this chapter is derived shall, except as provided in the preceding sentence, comply with the provisions of the preexisting Ordinance Nos. 137 and 149, as applicable. Provided further by resolution of the council, after recommendation by the planning and zoning commission, the time for recording the final plat of a previously approved subdivision may be extended an additional 90 days upon demonstration of good cause by the owner or developer of the subdivision. Save and except the terms and provisions of this chapter for vacating, amending, correcting or altering a recorded subdivision plat, this chapter shall not apply to a subdivision for which a final plat was approved and recorded under a previous city ordinance from 1965 to the effective date of the ordinance from which this chapter is derived.

(Ord. No. 296, art. I, § 6, 10-1-1996; Ord. No. 439, art. I, § 6, 11-24-2003)

Sec. 41-7. - Requirements for permits.

Unless an existing subdivision has obtained approval and recorded a final plat or unless such subdivision has obtained a resolution, as described in section 41-6, and said exception is adopted and filed of record, no building, repair, plumbing or electrical permit shall be issued by the city for any structure on a lot, tract or parcel of land in the subdivision; provided, however, in the case of the granting of an exception, such permit shall be issued in accordance with the specific requirements of the exception as set forth in the resolution.

(Ord. No. 296, art. I, § 7, 10-1-1996; Ord. No. 439, art. I, § 7, 11-24-2003)

Sec. 41-8. - Acceptance of streets and utilities.

The city shall not repair, maintain, install or provide any streets or public utility services in any subdivision unless a resolution has been adopted and filed of record pursuant to section 41-6 or a final plat has been adopted and filed of record in accordance with the requirements of this chapter; provided, however, in case an exception has been granted, the repairs, maintenance, installation and provision of streets or public utility services shall be in accordance with the specific requirements of that exception as set forth in the resolution.

(Ord. No. 296, art. I, § 8, 10-1-1996; Ord. No. 439, art. I, § 8, 11-24-2003)

Sec. 41-9. - Utility services.

(a)  The city shall not sell or supply any water or wastewater services to or within any subdivision platted after the date hereof, for which a final plat has not been approved and filed of record unless a resolution has been adopted and filed of record pursuant to section 41-6; provided, however, in case an exception has been granted, the city shall sell and supply water or wastewater services in accordance with the specific requirements of that exception as set forth in the resolution.

(b)  No water and/or wastewater connection shall be made by the city until the requirements as to the installation of water and wastewater mains have been complied with within the block facing the street on which the property is situated. This includes satisfactory testing of lines serving the property for which a connection request is made.

(Ord. No. 296, art. I, § 9, 10-1-1996; Ord. No. 439, art. I, § 9, 11-24-2003)

Sec. 41-10. - Exceptions.

(a)  It is the expressed intent of this chapter that all sections and parts should be complied with, except in those instances when the provisions of this section are applicable. It is further the intent of this chapter that the granting of an exception to this chapter (i.e., a variance from the requirements hereof) shall not be a substitute for the amending of this chapter.

(b)  The planning and zoning commission may recommend to the council that an exception from these regulations be granted when, in its opinion, undue hardship will result from requiring strict compliance. In considering, recommending and granting an exception, either the planning and zoning commission or the council shall prescribe such conditions that it deems necessary or desirable in the public interest. In making the findings required in subsection (c) of this section, both bodies shall take into account, at least, the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such exception upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.

(c)  No exception shall be granted unless the following conditions are met:

(1)  That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would have a substantial adverse impact on the applicant's reasonable use of his land;

(2)  That the granting of the exception will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and

(3)  That the granting of the exception will not have the effect of preventing the orderly subdividing of other land in the area in accordance with the provisions of this chapter.

(d)  Such findings of the planning and zoning commission and council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the meeting at which such exception is recommended and granted.

(e)  Exceptions may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice served.

(Ord. No. 296, art. I, § 10, 10-1-1996; Ord. No. 439, art. I, § 10, 11-24-2003)

Sec. 41-11. - Compliance with exception.

In any case where a final plat has not been approved or recorded but an exception has been obtained upon recommendation of the planning and zoning commission and a resolution of the council, the subdivision must comply with all conditions and requirements of the exception where these vary with this chapter. In all other instances, the subdivision shall comply with the requirements of this chapter. Unless the subdivision fully complies with the conditions set forth in this section, the city shall not issue the permits, repair, maintain, install or provide streets or public utility services to the subdivision.

(Ord. No. 296, art. I, § 11, 10-1-1996; Ord. No. 439, art. I, § 11, 11-24-2003)

Sec. 41-12. - Compliance.

No person shall create a subdivision, as herein defined, without complying with the provisions of this chapter. All plats and subdivision of any land shall conform to state and federal laws and applicable city ordinances.

(Ord. No. 296, art. I, § 12, 10-1-1996; Ord. No. 439, art. I, § 12, 11-24-2003)

Sec. 41-13. - Enforcement.

The city attorney shall institute appropriate action in a court of competent jurisdiction to enforce the provisions of this chapter, or the standards referred to herein, with respect to any violation thereof, which occurs within any area subject to all or a part of the provisions of this chapter.

(Ord. No. 296, art. I, § 13, 10-1-1996; Ord. No. 439, art. I, § 13, 11-24-2003)

Secs. 41-14—41-44. - Reserved.

ARTICLE II. - PROCESSING OF PROPOSED SUBDIVISIONS

Sec. 41-45. - Advice and cooperation.

Advice and cooperation in the preparing of plats will be reasonably given by the planning and zoning commission and appropriate members of the city staff.

(Ord. No. 296, art. II, § 1, 10-1-1996; Ord. No. 439, art. II, § 1, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-46. - Fees.

(a)  Fees and charges shall be collected by the city secretary in advance of the filing of any concept plan, short form plat, preliminary plan package, final plat package, or replat application with the city for processing and consideration. No such plan, plat, preliminary plan, final plat or replat shall be approved until all fees required therefor have been paid. No action by the planning and zoning commission or the council shall be valid until such fees are paid.

(b)  A receipt must be obtained from the proper officer specifying that the fees provided for herein have been paid prior to the submission of any plat to the planning and zoning commission. The receipt shall be attached to the formal request for plat review and processing.

(c)  No filing fee shall be refunded because a preliminary plan, final plat, or any other plat or plan is later withdrawn or disapproved.

(d)  The amounts to be charged shall be established by ordinance of the city council and adjusted from time to time as necessary to sustain efficient planning and development services and comply with laws and regulations.

(Ord. No. 296, art. II, § 2, 10-1-1996; Ord. No. 439, art. II, § 2, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-47. - Applications.

Requests for approval of plats must be filed with the city, in writing, on a form prescribed by the city. An application for subdivision plat approval shall not be deemed to be made until a complete application package has been filed with the city. The filing date of an application for approval of a plat is the date on which the following items are filed with the city:

(1)  Complete, signed application form;

(2)  Copy of receipt for filing fees;

(3)  All other certificates, plans, documents and instruments required by this chapter; and

(4)  The required number of copies of proposals, having the form and content specified in this chapter for the plat package shall be as follows:

|  |  |  |
| --- | --- | --- |
| Stage of Review | Information in Narrative Form | Plat Maps |
| Concept plan package | 2 | 20 |
| Preliminary plan package | 2 | 20 |
| Final plat package | 2 | 20 |

(Ord. No. 296, art. II, § 3, 10-1-1996; Ord. No. 439, art. II, § 3, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-48. - Concept plan package (CPP).

(a)  A developer may elect not to submit a concept plan for a minor subdivision (as defined by this article) or for any division of land where the proposed development of the tract is not to occur in phases.

(b)  Concept plan packages are helpful for identifying and resolving potential problems and deficiencies that might otherwise cause the planning and zoning commission to recommend disapproval of a preliminary plan or recommend approval with conditions. The intent of the concept plan is to provide an opportunity for the planning and zoning commission to be provided information and to offer comments relating to the concept plan.

(c)  If the proposed subdivision constitutes a phase or section of a large tract, which is intended to be subsequently subdivided as additional phases or sections of the same subdivision or development, the concept plan shall include the entire area, showing the tentative proposed layout of all phases of development, streets, blocks, drainage, water sewage, parks, schools and other improvements for such areas.

(Ord. No. 296, art. II, § 5, 10-1-1996; Ord. No. 439, art. II, § 4, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-49. - Short form subdivision.

A subdivision may receive approval by city staff if it meets the following conditions:

(1)  The lots must abut a dedicated and accepted public street for the required lot frontage;

(2)  Topography of the tract is such that drainage-related facilities will not be required;

(3)  Water and sewer mains of sufficient capacity are adjacent, or on the property, for tapping with service lines;

(4)  All requirements in these regulations regarding preliminary and final plats shall be complied with, where applicable, without exception (i.e., without a variance from the requirements of this chapter).

(Ord. No. 296, art. II, § 7, 10-1-1996; Ord. No. 439, art. II, § 5, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-50. - Administrative approval of plats.

The planning director, city engineer and director of public works may administratively approve a minor plat, as defined herein, without consideration by the planning and zoning commission and council.

(Ord. No. 296, art. II, § 8, 10-1-1996; Ord. No. 439, art. II, § 6, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-51. - Preliminary plan package (PPP).

(a)  [ *When required.* ] A Preliminary subdivision plat is not required, where the subdivider elects to submit only a final subdivision plat, accompanied by public improvement construction plans.

(b)  *Staff review.* The preliminary plan shall be reviewed by appropriate members of the city staff for compliance with this and applicable ordinance and policies. A report shall be prepared and submitted to the planning and zoning commission and applicant prior to the next regular commission meeting date. The report shall provide the comments received as part of the review by the staff and any other concerned entities. Such report should include comments relative to the proposed subdivision's compliance with the comprehensive plan and other master plans.

(c)  *Planning and zoning commission review.* After the preliminary plan is deemed administratively complete, the planning and zoning commission shall recommend approval or disapproval of the preliminary plan or recommend conditional approval with modifications. A conditional approval recommendation can include the requirements and specific changes the planning and zoning commission determines necessary for the plan to comply with this chapter, or the conditional approval recommendation can be specifically given by the planning and zoning commission as an expression of recommended acceptance of the layout submitted on the preliminary plan as a guide to the installation of streets, drainage, water, sewer and other required improvements and utilities and to the preparation of the final or recorded plat.

(d)  *Extension of plan term.* The term of a preliminary plan shall be extended if the following conditions are met before the initial term or an extension of the term expires:

(1)  The council approves a final plat for a phase of the subdivision that is reasonable in size and layout and finds that the final plat substantially conforms to the preliminary plan; and

(2)  The developer begins construction of the subdivision improvements required for the section or phase for which the final plat was approved.

(e)  *Recommendation not approval.* Approval of a preliminary plan, by the planning and zoning commission shall not constitute automatic approval of the final plat.

(f)  [ *Documentation from county 911 addressing division.* ] A preliminary plan shall be considered incomplete and not subject to the commission's review without a letter of acceptance or documentation from the Hays County 911 Addressing Division demonstrating that the street layout and names proposed on the preliminary plan comply with the applicable county criteria.

(Ord. No. 296, art. II, § 9, 10-1-1996; Ord. No. 439, art. II, § 7, 11-24-2003; Ord. No. 439-3 § 2, 9-19-2006; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013; [Ord. No. 823](http://newords.municode.com/readordinance.aspx?ordinanceid=684426&datasource=ordbank) , § 4, 10-21-2014)

Sec. 41-51.1. - Expiration.

Under no circumstance may the expiration date be earlier than September 1. 2010. After that date, a permit or development project approval shall lapse and become void no earlier than two years for an individual permit after the date the first permit application was filed and no earlier than five years for a development project after the date the first permit application for the development project was filed, unless a longer time shall be specifically established by the city as a condition of approval, or unless, prior to the expiration, a building permit is issued and construction is commenced and diligently pursued toward completion.

( [Ord. No. 823](http://newords.municode.com/readordinance.aspx?ordinanceid=684426&datasource=ordbank) , § 4, 10-21-2014)

Sec. 41-51.2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this article.

*City* means the City of Kyle, Texas.

*Commended and diligently pursued toward completion* means a developer has established that it has made progress toward completion of a development project by engaging in one or more of the following avenues:

(1)  Submission of an application for a final plat or plan;

(2)  A good faith attempt to file a permit application necessary to begin or continue toward completion of the project;

(3)  The incursion of costs in developing the project (exclusive of land acquisition) that equal five percent of the most recent appraised market value of the real property in which the project is located;

(4)  The posting of a bond with the city to ensure performance of an obligation that the city requires; or

(5)  Payment of utility connection fees or impact fees.

*Development* means and begins when a developer makes application for a single permit.

*Permit* or *permits* means any of the following: a site development plan; a license; a certificate; approval by the city staff; registration; consent by the city staff; permit; contract or other agreement for construction related to, or provision of, service from a water or wastewater utility agency owned, operated, or controlled by a regulatory agency; or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.

*Person* means any human being or legal entity and includes a corporation, partnership, and an incorporated or unincorporated association.

*Project* or *development project* means an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.

*Regulations* means whatever regulations are in place at the point a developer makes application for a single permit and govern through the rest of the development or project and include the provisions of any applicable ordinance, rule, regulation or policy and shall not include any intervening regulations between the time of a developer's application for a project's first permit and progress or completion of the project.

( [Ord. No. 823](http://newords.municode.com/readordinance.aspx?ordinanceid=684426&datasource=ordbank) , § 4, 10-21-2014)

Sec. 41-51.3. - Inception.

The expiration periods set forth in section 41-51.1 begin to run at the time a person:

(1)  Files either a preliminary or a final site development plan with the city;

(2)  Obtains one or more permits from the city;

(3)  Applies for a single permit;

(4)  Holds a building permit that is not older than two years;

(5)  Files an application that gives the city fair notice of the person's development project and the nature of the permit sought;

(6)  Exhibits progress toward completion of the project, including (1) submission of an application for a final plat or plan; (2) a good faith attempt to file a permit application necessary to begin or continue toward completion of the project; (3) the incursion of costs in developing the project (exclusive of land acquisition) that equal five percent of the most recent appraised market value of the real property in which the project is located;

(7)  Posts a bond with the city to ensure performance of an obligation that the city requires; or

(8)  Makes payment of utility connection fees or impact fees.

( [Ord. No. 823](http://newords.municode.com/readordinance.aspx?ordinanceid=684426&datasource=ordbank) , § 4, 10-21-2014)

Sec. 41-51.4. - Exempted regulations.

The expiration periods of Sec. 41-51.1 as set forth herein do not apply to or otherwise govern the following regulations, and the vesting provisions of V.T.C.A., Local Government Code ch. 245 are not applicable:

(1)  Building permits that are at least two years old;

(2)  Zoning regulations that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by restrictive covenants required by the city;

(3)  Regulations that specifically control only the use of the land and that do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage or building size;

(4)  Regulations for sexually oriented businesses;

(5)  City or county regulations affecting colonias;

(6)  Fees imposed in conjunction with development permits;

(7)  Regulations for annexation that do not affect landscaping or tree preservation or open space or park dedication;

(8)  Regulations for utility connections;

(9)  Flood control regulations;

(10)  Construction standards for public works located on public lands or easements; or

(11)  Regulations to prevent the imminent destruction of property or injury to persons that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size, residential or commercial density, or the timing of a project, or that do not change development permitted by restrictive covenant required by the municipality.

( [Ord. No. 823](http://newords.municode.com/readordinance.aspx?ordinanceid=684426&datasource=ordbank) , § 4, 10-21-2014)

Sec. 41-51.5. - Other.

(a)  *Series of permits.* If a series of permits is required for a project, the regulations in place at the time of the original application for the permit in the series must be the sole basis for consideration of all subsequent permits required for completion of the project.

(b)  *Timing of permit application.* The city shall consider a permit application solely on the basis of the regulations that were in effect at the time the original application for a permit was filed for any purpose, including review for administrative purposes, or a plan for development of real property or plat application was filed with the city. After the application for a project is filed, the city may not shorten the duration of any permit required for the project.

(c)  *Run with the land.* A permit approval shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the application.

(d)  *Dormant projects.* Notwithstanding section 41-51.1 stated herein, the city may impose an expiration date on dormant projects if it can show that no progress has been made toward completion of a project. Evidence that indicate a project is dormant and that no progress has been made toward completion of a project consists of facts or circumstances that a developer has not performed or otherwise acted upon any of the actions listed under section 41-51.3. The city council may decide by majority vote that a project is dormant upon evidence indicating such and determine that the expiration date required under section 41-51.1 herein is no longer valid or in effect.

(e)  *Expiration of permit application.* A permit application expires after 45 days if the permit applicant fails to provide the necessary information required by the application and the city provides the applicant with notice within ten days after the filing of the application. Notice shall be considered adequate if sent to the applicant by certified mail, return receipt requested, at the applicant's last known address provided by the applicant.

( [Ord. No. 823](http://newords.municode.com/readordinance.aspx?ordinanceid=684426&datasource=ordbank) , § 4, 10-21-2014)

Sec. 41-52. - Final plat package (FPP).

(a)  *Staff review.* The final plat shall be reviewed by appropriate members of the city staff for compliance with this and other applicable ordinances and policies. A report shall be prepared and submitted to the planning and zoning commission prior to the next regular commission meeting date stating the comments of the subdivision review, including comments received as part of the review of utility companies and other concerned entities. Such a report should include comments relative to the proposed subdivision's compliance with the comprehensive plan and other master plans.

(b)  *Planning and zoning commission.* The planning and zoning commission shall act on and administratively complete final plat within 30 days of the date the final preliminary plat application is filed with the city. If the planning and zoning commission shall determine that the plat is in proper form, that the arrangement of the development proposed for the property being subdivided is consistent with zoning regulations, if applicable, and that the subdivision complies with the provisions of this chapter and other applicable ordinances and policies, it shall recommend approving the plat.

(c)  *Approval of plat by sections.* A subdivider, at his option, may obtain approval of a portion or a section of a subdivision, provided he meets all the requirements with reference to such portion or section in the same manner as is required for a complete addition. In the event a subdivision and the final plat thereof is approved in sections, each final plat of each section shall substantially conform to the preliminary plan, carry the name of the entire subdivision, but is to be distinguished from each other section by a distinguishing letter, number or subtitle. Lot numbers shall run consecutively and names shall be consistent throughout the entire subdivision, even though such subdivision may be finally approved in sections.

(d)  [ *Documentation from county 911 addressing division.* ] As a condition of final plat approval and acceptance, the developer shall provide documentation from the Hays County 911 Addressing Division demonstrating that the street layout and names on the final plat comply with the applicable county criteria; further, the developer shall provide electronic or digital subdivision data to the county 911 addressing division in a format approved by the county 911 addressing division.

(Ord. No. 296, art. II, § 10, 10-1-1996; Ord. No. 439, art. II, § 8, 11-24-2003; Ord. No. 439-3, § 3, 9-19-2006; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-53. - Procedures after final plat approval.

(a)  *Certificate of approval.* The final plat shall be approved for recording after approval by the planning and zoning commission. The council's approval of the final plat shall authorize execution of certificates of approval on the final plat and duplicate originals of the final plat as provided in this chapter.

(b)  *Coordination with county.* The approved final plat for any subdivision located outside the corporate limits of the city but within the extraterritorial jurisdiction shall also be submitted to the planning and zoning commissioners court of the county for approval before filing, unless provided otherwise by interlocal cooperation agreement then in effect between the city and the county. After action by the planning and zoning commissioners court, or if no action by the planning and zoning commissioners court is required, the final plat with duplicate originals shall be returned to the city bearing all appropriate signatures and seals. A copy of the interlocal agreement between the city and the county for the processing of subdivisions may be obtained from the city manager.

(c)  *Final plat copies.* After approval of the final plat, one reproducible Mylar sepia and the required number of duplicate originals of the final plat shall be furnished to the city complete with all necessary signatures. All figures and letters shown must be plain, distinct and of sufficient size to be easily read, and must be of sufficient density to make a lasting and permanent record.

(d)  *Final plat term.* A final plat shall be recorded within 12 months after approval by the planning and zoning commission and if not so recorded such plat approval shall expire. Prior to such final plat being recorded, subdivision improvements must be completed in accordance with the approved construction plans and accepted by the city council or the subdivider shall obtain and provide to the administrator an acceptable performance and a payment bond, letter of credit or escrow account to secure that the required infrastructure and public improvements in the subdivision are completed within 12 calendar months including the city's cost for collecting the guaranteed funds and administering the completion of the improvements, in the event the subdivider defaults, hereinafter referred to as "fiscal surety, assurance, or guarantee"). Such bond, letter of credit or escrow shall be payable to the city in an amount equal to 110 percent of the estimate of construction costs as approved by the city engineer for constructing such infrastructure and improvements as approved by the city.

(e)  *Fiscal surety.* Fiscal surety required by this section shall comply with the following, as applicable to the type of surety:

(1)  *Performance and payment bonds.* The developer shall post a performance and a payment bond with the city, as set forth herein, in an amount equal to 110 percent of the estimated construction costs for all remaining required improvements, using the standard city form.

(2)  *Escrow account.* The developer shall deposit cash, or other instrument readily convertible into cash at face value, either with the city or in escrow with a bank or savings and loan institution. The use of any instrument other than cash shall be subject to the approval of the city. The amount of the deposit shall equal 110 percent of the estimated construction costs for all remaining required improvements. In the case of any escrow account, the developer shall file with the city an agreement between the financial institution and the developer guaranteeing the following:

a.  That the funds of said escrow account shall be held in trust until released by the city and may not be used or pledged by the developer as security in any other matter during that period.

b.  That in the case of a failure on the part of the developer to complete said improvements, the financial institution shall immediately make the funds in said account available to the city for use in the completion of those improvements.

Such escrow account agreement shall be prepared using the standard city form.

(3)  *Letter of credit.* The developer shall provide a letter of credit from a bank or other reputable institution or individual. This letter shall be submitted to the city and shall certify the following:

a.  That the creditor does guarantee funds equal to 110 percent of the estimated construction costs for all remaining required improvements.

b.  That, in the case of failure on the part of the developer to complete the specified improvements within the required time period, the creditor shall pay to the city immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.

c.  That this letter of credit may not be withdrawn, or reduced in amount, until approved by the city according to provisions of this section.

Such letter of credit shall be prepared using the standard city form.

(4)  *Cost estimates.* A licensed professional engineer licensed to practice in the State of Texas shall furnish estimates of the costs of all required improvements to the city engineer who shall review the estimates in order to determine the adequacy of the guarantee instrument for insuring the construction of the required facilities.

(5)  *Surety acceptance.* The bank, financial institution, insurer, person or entity providing any letter of credit, bond or holding any escrow account, pursuant to this section, shall meet or exceed the minimum requirements established by city ordinance and shall be subject to approval by the city as provided in the ordinances of the city.

(6)  *Sufficiency.* Such surety shall comply with all statutory requirements and shall be satisfactory to the city attorney as to form, sufficiency, and manner of execution as set forth in this section. All such surety instruments shall be both a payment and performance guarantee.

(f)  *Time limit for completing improvements.* The period within which required improvements must be completed shall be incorporated in the surety instrument and shall not in any event, without prior approval of the city, exceed one year from date of final plat approval.

(1)  The planning and zoning commission may, upon application of the applicant and upon proof of hardship, recommend to the council extension of the completion date set forth in such bond or other instrument for a maximum period of one additional year. Such hardship may include delays imposed due to city projects. An application for extension shall be accompanied by an updated estimate of construction costs prepared by a licensed professional engineer, licensed to practice in the State of Texas. A surety instrument for guaranteeing completion of remaining required improvements must be filed in an amount equal to 110 percent of the updated estimate of construction costs as approved by the city engineer.

(2)  The council may at any time during the period of such surety instrument accept a substitution of principal sureties upon recommendation of the planning and zoning commission.

(g)  *Failure to complete improvements.* Approval of final plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within one year of final plat approval, unless otherwise approved by the city. In those cases where a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the city may declare the applicant and/or surety to be in default and require that all the improvements be installed, as well as exercise any other remedy available under law or the fiscal surety.

(h)  *Inspection and acceptance of improvements.* The city engineer and/or city construction inspector shall inspect all required improvements, to insure compliance with city requirements and the approved construction plans.

(1)  When all required improvements have been satisfactorily completed, the city engineer and/or city construction inspector shall either:

a.  Accept, in writing, the improvements as having been satisfactorily completed; or

b.  Issue a punch list to the applicant denoting items remaining to be completed.

(2)  The city engineer and/or city construction inspector shall have ten working days to complete this inspection upon notification by the applicant.

(3)  The city engineer and/or city construction inspector shall issue the report within ten working days of the date of inspection.

(4)  The failure to perform the inspection or issue the report with[in] the ten working days shall not constitute city acceptance of the improvements or any defects in the improvements, nor shall such failure constitute a waiver of any rights the city may have under this section, state law, or an assurance filed pursuant to this section.

(5)  The city shall not accept dedications of required improvements or release or reduce a performance bond or other assurance until such time it is determined that:

a.  All improvements have been satisfactorily completed, as determined by the city engineer after performing an inspection.

b.  One Mylar set of as-built plans has been submitted to and approved by the city engineer and/or city construction inspector, along with a statement prepared by a licensed professional engineer that all improvements have been installed and constructed in accordance with the submitted as-built plans.

c.  Copies of all inspection reports, shop drawings and certified test results of construction materials have been submitted to and approved by the city engineer and/or city construction inspector.

d.  Two copies of maintenance bonds meeting the requirements of this article have been provided.

e.  Electronic copy containing computed generated Auto CAD drawings of all public improvements shown on the construction plans, and all lot lines shown on the plat; have been submitted to the city engineer and/or city construction inspector to update city maps.

f.  Documentation is provided from Texas Department of Licensing and Regulation that the improvements are acceptable.

g.  Any and all other requirements identified in the final plat process have been satisfied.

h.  An approved address plat provided by Hays County.

(i)  *Reduction or release of improvement surety instrument.*

(1)  A surety instrument may be reduced with the approval of the city engineer and or city construction inspector, and the director of finance, upon actual construction of required improvements by a ratio that the improvement bears to the total public improvements required for the subdivision, as determined by the city engineer and/or public works director.

(2)  Before the city shall reduce said surety instrument, the applicant shall provide a new or revised surety instrument in an amount equal to 110 percent of the estimated cost of the remaining required improvements.

(3)  The substitution of a new or revised surety instrument shall in no way change or modify the terms and conditions of the performance surety instrument or the obligation of the applicant as specified in the performance surety instrument.

(4)  In no event shall a surety instrument be reduced below ten percent of the principal amount of the original estimated total costs of improvements for which surety was given, prior to completion of all required improvements.

(5)  The city shall not release a surety instrument unless and until all the conditions of this section have been met.

(j)  *Maintenance bond required.*

(1)  Before the release of any surety instrument guaranteeing the construction of required subdivision improvements, or prior to release of the final plat for recording where subdivision improvements were made prior to the filing of the final plat for recordation, the developer shall furnish the city engineer with a maintenance bond or other surety to assure the quality of materials, workmanship, and maintenance of all required improvements including the city's costs for collecting the guaranteed funds and administering the correction and/or replacement of covered improvements.

(2)  The maintenance bond or other surety instrument:

a.  Shall be satisfactory to the city attorney as to form, sufficiency, and manner of execution.

b.  Shall clearly state both the applicant and the city as joint obligees.

c.  Shall cover all facilities requested for city acceptance, including water, wastewater, street, drainage improvements and erosion control.

d.  Shall be in an amount equal to 35 percent of the cost of improvements for the two calendar years from the date of city council acceptance of operation and maintenance of the subdivision. A statement of construction value or final pay estimate shall be provided to the engineering department to support said warranty and maintenance bond amounts.

e.  Shall require the surety to notify the city at least 30 days prior to the expiration of the maintenance bond or other surety instrument.

(3)  In an instance where a maintenance bond or other surety instrument has been posted and a defect or failure or any neglected maintenance of any required improvement occurs within the period of coverage, the city may declare said bond or surety instrument to be in default and require that the improvements be repaired or replaced.

(4)  Whenever a defect or failure of any required improvement occurs within the period of coverage, the city shall require that a new maintenance bond or surety instrument be posted for a period of two full calendar years sufficient to cover the corrected defect or failure.

(k)  *Acceptance of improvements.* Before the city council accepts the subdivision improvements by resolution the applicant shall comply with subsections 41-53(h) and (j).

(l)  *Building permits.* The approved final plat must be recorded in the records of Hays County and all the required streets, drainage, utilities and other infrastructure and public improvements for the subdivision must be completed and accepted as built in compliance with all applicable city requirements, prior to any building permit being issued for any home or building within the subdivision.

(Ord. No. 296, art. II, § 9, 10-1-1996; Ord. No. 439, art. II, § 9, 11-24-2003; Ord. No. 565, §§ 1—3, 4-7-2009; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-54. - Obligation by city for maintenance.

Approval of the plat shall not impose any duty upon the city concerning the maintenance of improvements of any such dedicated parts until the director of public works or his authorized representative shall have signed a statement for the acceptance of same.

(Ord. No. 296, art. II, § 12, 10-1-1996; Ord. No. 439, art. II, § 10, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-55. - No city obligation to furnish improvements.

The acceptance of a final plat, bond, letter of credit, or cash escrow by the city does not in any manner obligate the city to finance or furnish any storm sewers, drainage structures, street, water or wastewater improvements or any other improvements within the approved subdivision, except under the provisions provided herein. The city may in its discretion, but shall not be required to, use any bond, letter of credit, or cash escrow deposit provided or made for a subdivision to complete all or any part of the utilities, streets, drainage or other improvements in the subdivision for which the final plat was recorded. Further, if insufficient bond, escrow or letter of credit funding is available to complete all the required improvements within the subdivision, the city may use any such funds to complete only certain improvements selected in the sole discretion of the city council.

(Ord. No. 296, art. II, § 13, 10-1-1996; Ord. No. 439, art. II, § 11, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-56. - Resubmission of plats.

(a)  *Conformance with preliminary plan.* Unless the subdivider wishes to resubmit for preliminary plan processing, the final plat shall conform substantially to the preliminary plan as approved.

(b)  *Resubmission because of change or delay.* In the event that either or both of the following conditions occur during the processing of a subdivision plat, the planning and zoning commission may recommend or council may require resubmission as a preliminary plan or final plat:

(1)  *Significant change.*

a.  *Pending concept plan or preliminary plan subject to city regulations.* This section shall only apply to plans or plats legally filed and pending approval before the county commissioners court which have not been submitted to the city for review and approval as a result of not being within the city's jurisdiction at the time the pending series of plans or plats were submitted to the county. Such plans or plats shall be referred to herein as a "county project in progress."

1.  *Purpose.* Submission of a concept plan, preliminary plan and final plat to the city shall be required when substantial changes to a county project in progress have occurred during the county platting process.

2.  *Revision of preliminary plan.* If one or more of the following changes to a project in progress has been made between the filing or approval of a concept plan and the filing or approval of a preliminary plan, the concept plan previously submitted to the county shall be submitted to the planning and zoning commission and council to ensure compliance with city regulations. The following are deemed substantial changes requiring submission to the city:

(i)  Any change that causes the preliminary plan to be significantly inconsistent with the city's master plan for the property.

(ii)  More than a 20 percent change in the overall concept or design of the development or layout of the lots.

(iii)  Any change in land use categories that total more than 20 percent of the land area.

(iv)  Any change in the total number of residential or nonresidential lots totaling more than 20 percent of the total number of lots for any individual category of lots.

(v)  Any change in classification of arterial or collector streets or in alignment of arterial or collector streets of more than 150 feet.

(vi)  Any change in parkland that totals more than 20 percent of the proposed parkland area.

(vii)  Any change in detention pond or drainage channel location by more than 150 feet.

(viii)  Any change in phase timing by more than one year.

(ix)  Any change that would require a variance from the county regulations.

3.  *Revision of final plat.* If one or more of the following changes to a county project in progress has been made between the filing or approval of a preliminary plan and the filing or approval of a final plat, the concept plan and preliminary plan previously submitted to the county shall be submitted to the planning and zoning commission and council to ensure compliance with city regulations. The following are deemed substantial changes requiring submission to the city:

(i)  Any change that causes the final plat to be significantly inconsistent with the city's master plan.

(ii)  Any change in land use categories that total more than five percent of the land area.

(iii)  Any change in the total number of residential or nonresidential lots totaling more than five percent of the total number of lots for any individual category of lots.

(iv)  Any change in classification of arterial or collector streets or in alignment of arterial or collector streets of more than 75 feet.

(v)  Any change in parkland that totals more than five percent of the proposed parkland area.

(vi)  Any change in detention pond or drainage channel location by more than 75 feet.

(vii)  Any change in drainage channel location by more than 75 feet.

(viii)  Any change in phase timing by more than one year.

(ix)  Any change that would require a variance from the county's regulations.

4.  *Procedure for submission.*

(i)  A concept plan that is required to be submitted to the city under this section shall be submitted pursuant to the procedures set forth in sections 41-48 and 41-108.

(ii)  A preliminary plan that is required to be submitted to the city under this section shall be submitted pursuant to the procedures set forth in sections 41-51 and 41-109.

(iii)  Construction plans and final plats that are required to be submitted to the city under this section shall be submitted pursuant to the procedures set forth in sections 41-53 and 41-110.

(iv)  For cause shown, the city council may waive the requirement for resubmission of a revised plan or plat.

5.  *Current regulations govern.* If a concept plan or preliminary plan of a county project in progress is required to be resubmitted under this section, the subdivision shall be governed by the regulations, ordinances, rules, expiration dates, or other properly adopted requirements of the city in effect at the time of the submission to the city.

b.  *Revisions to pending preliminary plan or final plat.* This section shall apply to concept plans, preliminary plans or final plats legally filed and pending approval before the planning and zoning commission or city council which substantially vary from the previously filed and approved plan or plat. Such plan or plat shall be referred to herein as a "city project in progress."

1.  *Purpose.* Submission of a revised concept plan or preliminary plan to the city shall be required when substantial changes to a city project in progress are proposed on an approved concept plan or preliminary plan.

2.  *Revision to preliminary plan.* If one or more of the following changes to a project in progress has been made between the filing or approval of a concept plan and the filing or approval of a preliminary plan, the concept plan previously submitted to the planning and zoning commission or city shall be resubmitted to the planning and zoning commission and council to ensure compliance with city regulations. The following are deemed substantial changes requiring resubmission:

(i)  Any change that causes the preliminary plan to be inconsistent with the city's master plan for the property.

(ii)  More than a five percent change in the overall concept or design of the development or layout of the lots.

(iii)  Any change in land use categories that total more than five percent of the land area.

(iv)  Any change in the total number of residential or nonresidential lots totaling more than five percent of the total number of lots for any individual category of lots.

(v)  Any change in classification of arterial or collector streets or in alignment of arterial, collector or minor streets of more than 150 feet.

(vi)  Any change in parkland that totals more than five percent of the proposed parkland area.

(vii)  Any change in detention pond or drainage channel location by more than 150 feet.

(viii)  Any change in phase timing by more than one year.

(ix)  Any change that would not be consistent with the original intent of the approving body, or would require a variance.

3.  *Revision to final plat.* If one or more of the following changes to a city project in progress has been made between the filing or approval of a preliminary plan and the filing or approval of a final plat, the concept plan and preliminary plan previously submitted shall be resubmitted to the planning and zoning commission. The following are deemed substantial changes requiring submission to the city:

(i)  Any change that causes the final plat to be inconsistent with the city's master plan.

(ii)  Any change in land use categories that total more than one percent of the land area.

(iii)  Any change in the total number of residential or nonresidential lots totaling more than one percent of the total number of lots for any individual category of lots.

(iv)  Any change in classification of arterial or collector streets or in alignment of arterial, collector, or minor streets of more than 75 feet.

(v)  Any change in parkland that totals more than one percent of the proposed parkland area.

(vi)  Any change in detention pond location by more than 75 feet.

(vii)  Any change in drainage channel location by more than 75 feet.

(viii)  Any change in phase timing by more than one year.

(ix)  Any change that would not be consistent with the original intent of the approving body, or would require a variance.

4.  *Procedure for submission.*

(i)  A concept plan that is required to be submitted to the city under this section shall be resubmitted pursuant to the procedure set forth in sections 41-48 and 41-108.

(ii)  A preliminary plan that is required to be resubmitted to the city under this section shall be submitted pursuant to the procedure set forth in sections 41-51 and 41-109.

(iii)  Construction plans and final plats that are required to be submitted to the city under this section shall be submitted pursuant to the procedures set forth in sections 41-53 and 41-110.

(iv)  For cause shown, the city council may waive the requirement for resubmission of a revised plat.

5.  *Current regulations govern.* If a concept plan or preliminary plan of a city project in progress is required to be resubmitted under this section, the subdivision shall be governed by the regulations, ordinances, rules, expiration dates, or other properly adopted requirements of the city in effect at the time of the resubmission to the city.

(2)  *Extended delay in processing.* When the developer does not complete the review process within 12 months from the date of approval of the preliminary plan, extensions may be granted by the planning and zoning commission for good cause, for additional six-month periods.

(Ord. No. 296, art. II, § 14, 10-1-1996; Ord. No. 439, art. II, § 12, 11-24-2003; Ord. No. 439-1, § 2, 10-5-2004; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-57. - Vacating plats.

(a)  Upon approval by the planning and zoning commission and the city council, the owner of a tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat; provided that the planning and zoning commission and the council may establish requirements as may be reasonable in the discretion of the city to protect the public interest.

(b)  If lots in a plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of the lots in the plat with approval obtained in the manner prescribed for the original plat.

(c)  No plat shall be vacated except upon the approval of the planning and zoning commission and the council and the recording of the approved instruments vacating such plat in the office of the county clerk of the county. The county clerk shall write legibly on a vacated plat the word "vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

(d)  On the execution and recording of the vacated instrument, the vacated plat has no effect; provided that when necessary to protect the public welfare or preserve the benefits or integrity of any street, utility, park or other public improvement plan that has moved forward in reliance on such plat, the planning and zoning commission and council may require that any right-of-way, parkland, public property, or easement shown on such plat be dedicated to the city by separate instrument.

(e)  In the event of any conflict between the terms and provisions of this section and V.T.C.A., Local Government Code § 212.013, the terms and provisions of V.T.C.A., Local Government Code § 212.013 shall govern to the extent of such conflict.

(Ord. No. 296, art. II, § 15, 10-1-1996; Ord. No. 439, art. II, § 13, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-58. - Replatting.

(a)  *Procedural requirements.* The replatting of any existing subdivision, or any part thereof, shall meet the procedural requirements provided for herein for a new subdivision, except as provided in subsection (b) of this section. The subdivision standards imposed are those in effect at the time the application for replat is requested and, in the event of any conflict between this section and V.T.C.A., Local Government Code §§ 212.014 and 212.015, the terms and provisions of such sections shall govern to the extent of the conflict.

(b)  *Without vacating.*

(1)  A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

a.  Is signed and acknowledged by only the owners of the property being replatted;

b.  Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the planning and zoning commission, and is subsequently approved by the council; and

c.  Does not attempt to amend or remove any covenants or restrictions.

(2)  In addition to compliance with subsection (b)(1) of this section, a replat without vacation of the preceding plat must conform to the requirements of this section if:

a.  During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

b.  Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

(3)  Notice of the hearing required under subsection (b)(1) of this section shall be given before the 15th day before the date of the hearing by:

a.  Publication in an official newspaper or a newspaper of general circulation in the county; and

b.  By written notice, with a copy of subsection (b)(4) of this section attached, forwarded by the planning and zoning commission to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.

(4)  If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the planning and zoning commission. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the planning and zoning commission prior to the close of the planning and zoning commission's public hearing.

(5)  In computing the percentage of land area under subsection (b)(4) of this section, the area of streets and alleys shall be included.

(6)  Compliance with subsection (b)(4) and (5) of this section is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex-family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

(Ord. No. 296, art. II, § 16, 10-1-1996; Ord. No. 439, art. II, § 14, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Sec. 41-59. - Amendments.

(a)  *Purpose.* The planning and zoning commission and the council may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

(1)  To correct an error in a course or distance shown on the preceding plat;

(2)  To add a course or distance that was omitted on the preceding plat;

(3)  To correct an error in a real property description shown on the preceding plat;

(4)  To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

(5)  To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(6)  To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7)  To correct an error in courses and distances of lot lines between two adjacent lots if:

a.  Both lot owners join in the application for amending the plat;

b.  Neither lot is abolished;

c.  The amendment does not attempt to remove recorded covenants or restrictions; and

d.  The amendment does not have a material adverse effect on the property rights of the other owners in the plat;

(8)  To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvements on a lot line or easement;

(9)  To relocate one or more lot lines between one or more adjacent lots if:

a.  The owners of all those lots join in the application for amending the plat;

b.  The amendment does not attempt to remove recorded covenants or restrictions; and

c.  The amendment does not increase the number of lots; or

(10)  To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or part of the subdivision covered by the preceding plat if:

a.  The changes do not affect applicable zoning and other regulations of the municipality;

b.  The changes do not attempt to amend or remove any covenants or restrictions; and

c.  The area covered by the changes is located in an area that the municipal commission or other council of the municipality has approved, after a public hearing, as a residential improvement area.

(b)  *Application for amendment.* The amended plat may be submitted without approval of a preliminary plan or construction plans. The plat, prepared by a surveyor, and engineer if required, and bearing their seals shall be submitted to the administrator with a completed application and all required fees, for approval before recordation of the plat. Legible prints, as indicated on the application form, shall be submitted to the city engineer along with the following:

(1)  Completed application forms and the payment of all required fees.

(2)  Certification from all applicable taxing authorities that all taxes due on the property have been paid.

(3)  Any attendant documents needed to supplement the information provided on the plat.

(4)  The city engineer shall require the following note on the amended plat:

This subdivision is subject to all general notes and restrictions appearing on the plat of \_\_\_\_\_\_\_\_\_\_\_\_ Lots \_\_\_\_\_\_\_\_\_\_\_\_ recorded at Vol. \_\_\_\_\_\_\_\_\_\_\_\_ Page \_\_\_\_\_\_\_\_\_\_\_\_ of the Plat Records of Hays County, Texas.

(c)  *Required notice.* Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

(d)  *Conflicts between terms and provisions.* In the event of any conflict between the terms and provisions of this section and V.T.C.A., Local Government Code § 212.016, the terms and provisions of V.T.C.A., Local Government Code § 212.016 shall govern to the extent of such conflict.

(e)  *Expiration.* Approval of an amended plat shall expire if said plat is not recorded in the plat records of the county within 12 months of approval.

(Ord. No. 296, art. II, § 17, 10-1-1996; Ord. No. 439, art. II, § 15, 11-24-2003; [Ord. No. 739](http://newords.municode.com/readordinance.aspx?ordinanceid=663475&datasource=ordbank) , § 2(Exh. A), 8-20-2013)

Secs. 41-60—41-76. - Reserved.

ARTICLE III. - SPECIAL PROJECT PROVISIONS

Sec. 41-77. - Based on approved comprehensive plan.

Opportunity is provided for innovative site design and development responses to new market demands. The use of improved techniques for land development is often difficult under traditional land use regulations. Proper private development of infill areas, as well as advantageous development of large areas of substantially vacant land, require a flexible approach to be available both to the city and to the landowner. Any such innovative site design shall be based upon an approved comprehensive plan that is consistent with applicable city plans and services. The standards and specifications for required infrastructure and improvements shall be equal to or greater than the minimum standards and specifications adopted by the city; and no such proposed project or development shall have or obtain any vested right save and except the comprehensive plan, the standards and specifications for the development and improvement of the property are approved by separate ordinance of the city.

(Ord. No. 296, art. III, 10-1-1996; Ord. No. 439, art. III, intro., 1-24-2003)

Sec. 41-78. - Planned developments.

(a)  *Provisions for approval.* All planned development projects shall conform to the provisions and procedures set forth for conventional subdivisions in this chapter; provided that a detailed development plan must be submitted for review at the time of preliminary plan submittal and the project must be finally approved by ordinance. Such developments shall be otherwise submitted for approval in the same manner as any other plat.

(b)  *Purposes.* Planned developments are intended to provide:

(1)  Opportunities for innovative projects and development with emphasis on quality, including but not limited to establishing a quality living and/or work environment.

(2)  Conservation of energy and natural resources.

(3)  A maximum choice of types of environment, dwelling and/or business units.

(4)  An integration of open space and recreation areas with residential and/or office, retail, commercial and/or industrial development.

(5)  A pattern of development which preserves unique environmental assets, trees and other outstanding natural features.

(6)  A creative approach to the use of land and its related physical development.

(7)  An efficient use of land requiring smaller networks of utilities and streets, thereby lowering development, maintenance and housing costs.

(c)  *Master plan.* Planned developments shall be required to be submitted and considered for approval based upon a master plan establishing comprehensive and detailed plans for the development.

(1)  *Within corporate limits.* A planned development within the corporate limits of the city shall be submitted and considered in conjunction with the requirements of chapter 53, pertaining zoning, and shall, prior to final approval, satisfy both the requirements of this chapter and chapter 53, pertaining zoning. The final approval of the zoning for a planned development shall constitute the approval of such planned development pursuant to this chapter.

(2)  *Extraterritorial jurisdiction.* Upon the application of the owner, a planned development may be approved within the extraterritorial jurisdiction of the city, provided that the developer enters into a comprehensive, detailed written agreement with the city that provides detailed and comprehensive standards for:

a.  The development of the property;

b.  The construction of all infrastructure, improvements and buildings within the development;

c.  The provision of utility and other public services;

d.  Funding the upkeep and maintenance of all private facilities;

e.  Reimbursement of the city for its costs and expenses for providing water and wastewater services to the property;

f.  Restrictive covenants sufficient to control the population densities and to restrict the uses of the property in conformance with the subdivider's master plan and approved planned development;

g.  An agreement for the annexation of the property or the phased annexation of the property prior to its conveyance to the end user; and

h.  Such other provisions as the subdivider and the city may agree based upon all the applicable facts and circumstances.

(d)  *General infrastructure.* The requirements, standards and specifications provided in this chapter, and/or incorporated herein by reference, with respect to utilities, parks and greenbelts, drainage and stormwater management and all other improvements, infrastructure and amenities shall, except as in this section specifically provided otherwise, be applicable. When based upon sound engineering and construction practices, innovative techniques and combinations may be employed for the intended purpose of such combination exceeding the minimum standards required by this chapter.

(e)  *Streets.* On planned development projects, private interior streets to be used only as local or collector streets within the development shall have a minimum pavement width of 30 feet face to face of curb. Any such private streets may not conflict with streets identified in the city's comprehensive plan. If a potential exists for a private street to become a public street, the dedicated right-of-way and/or easements created for the private street should be the same width as the right-of-way required for a local street.

(f)  *Instruments of covenants.* Instruments of covenants, governing the proposed planned developments to include maintenance and operation, will be approved by the city attorney and the administrator to ensure there are no conflicts with city codes.

(g)  *Exceed minimum requirements.* This section shall apply to development proposals which vary the arrangement of landscaping, buildings, lots, open space, access, and/or relationships between uses required in this chapter and chapter 53, pertaining to zoning. A planned development shall not be used to obtain approval of gross densities, gross impervious coverages, lower specifications or standards, or land uses that are inconsistent with this chapter and chapter 53, pertaining to zoning; rather it is the intent of this section that a planned development will, in the aggregate, equal or exceed the minimum criteria and standards otherwise applicable to the development.

(Ord. No. 296, art. III, § 1, 10-1-1996; Ord. No. 439, art. III, § 1, 11-24-2003)

**State Law reference—** Development plat requirements, V.T.C.A., Local Government Code § 212.045.

Sec. 41-79. - Townhouses.

Applications for the approval of a townhouse subdivision shall meet the requirements specified in section 41-78 for planned developments and the provisions of chapter 53, zoning, applicable to townhouses. Such sections of chapter 53, zoning, as applicable to subdivisions and lots, are incorporated herein by reference as a part of this chapter.

(Ord. No. 296, art. III, § 2, 10-1-1996; Ord. No. 439, art. III, § 2, 11-24-2003)

Sec. 41-80. - Manufactured home subdivision.

All manufactured and mobile home parks and other subdivisions shall comply with this chapter except where specifically superseded by the city's codes and ordinances dealing with manufactured and mobile home subdivisions. A manufactured or mobile home park is a subdivision subject to this chapter.

(Ord. No. 296, art. III, § 3, 10-1-1996; Ord. No. 439, art. III, § 3, 11-24-2003)

Sec. 41-81. - Private facilities.

When an applicant proposes that any part of a subdivision, planned development, or any other development of land include any private park, street, amenity or improvement normally dedicated to the city, a property owner's association (or comparable mechanism) shall be created, whereby:

(1)  *Maintenance.* Total responsibility for maintenance in perpetuity of such private improvements is borne by the association.

(2)  *Funding program.* A program is established whereby the association can accomplish the maintenance of private facilities.

(3)  *Discretion.* Private streets will generally not be approved except in limited circumstances (e.g., a subdivision for townhouses, cluster homes and portions of planned developments, as appropriate). The approval of private streets in a subdivision shall be in the discretion of the city council, and require a waiver by the city council of the provisions of this chapter requiring the dedication of public right-of-way for streets. The city council may, in its discretion, waive the requirement for the public dedication of right-of-way for some, but not all, streets in a subdivision. In those subdivisions where private streets are permitted, the developer shall be required to grant to the city an easement for the provision, regulation and control of public utilities and services, and a separate easement for the provision of public safety and emergency services.

(4)  *Community postal box.* All subdivisions shall provide covered and lighted community postal box locations within the subdivision and meet all United States Postal Service requirements. All subdivisions shall provide off-street parking of a minimum of five spaces to allow residence ability to park off street to check mail at community postal box.

(Ord. No. 296, art. III, § 4, 10-1-1996; Ord. No. 439, art. III, § 4, 11-24-2003)

Sec. 41-82. - Rural subdivision standards.

(a)  *Purpose.* The provisions of this section are designed and intended to permit development of undeveloped agricultural land while preserving the rural character of the area until such time as development of a more intensive urban nature is appropriate and can be supported by the necessary public facilities and services. These design standards modify, and/or reinforce other requirements found in these regulations. By qualifying other particular requirements of these regulations, these rural subdivision design standards ensure minimum conditions for establishing a low density rural living environment while providing the necessary foundation upon which more intensive urban development can occur in the future.

(b)  *Applicability.* The requirements contained in this section shall apply to all land within the jurisdictional limits of the city that is outside the utility service area of the city for water and/or wastewater services, and for which the provision of such services will be accommodated through the use of individual, privately owned systems. No land or property within the city's certificated service area shall be entitled to be developed pursuant to this section, except upon a waiver given by the city council. Further, except as specifically qualified in this section, all other standards, terms, conditions and provisions of this chapter shall apply to such rural subdivisions.

(c)  *Streets.* All streets within rural subdivisions shall be designed and constructed in accordance with the requirements for rural streets set forth in the city's construction standards and specifications for roads, streets, structures, and utilities. The right-of-way required shall be the same as for all other subdivisions.

(d)  *Blocks.* Blocks in rural subdivisions shall not exceed 1,500 feet in length and shall adequately accommodate two tiers of lots arranged back to back.

(e)  *Lots.* All lots in rural subdivisions shall:

(1)  Be greater than one acre in area;

(2)  Have a minimum width at the front property line of 130 feet; and

(3)  Be designed so that all access is provided from a local street except access may be permitted from a major thoroughfare or street; state highway, farm to market road or ranch road; or numbered/or named county roadway if a minimum driveway centerline spacing of 200 feet is provided between driveways.

(f)  *Easements and dedications.* In addition to all other right-of-way dedications and/or easements required by this chapter, all rural subdivisions shall be required to dedicate not less than an additional ten feet of right-of-way along that portion of all property abutting:

(1)  Major thoroughfares;

(2)  State highways, farm to market or ranch roads; or

(3)  Numbered county roads.

(g)  *Utilities.*

(1)  *Wastewater collection systems.* For all rural subdivisions where public wastewater utility services are not available, the city reserves the right to require the installation of improvements required for nonrural subdivisions in accordance with the provisions of these subdivision regulations, when public wastewater services are available within one-quarter mile of the subdivision, the city is coordinating with the private sector to extend a public wastewater system to within one-quarter mile of the subdivision within two years, or the extension of urban services to within one-quarter mile of any portion of the subdivision is scheduled in the city's capital improvements program to occur within five years from the date of preliminary plan approval.

(2)  *Water distribution system.* To enhance the overall efficiency and service level for water distribution in rural subdivisions, the city will cooperate with existing nonmunicipal water utility providers in the city's extraterritorial jurisdiction. Through joint coordination and planning both the city and the nonmunicipal water utilities will work towards ensuring the availability throughout the jurisdiction of this chapter of a water distribution system that satisfies the fire flow requirements.

a.  Rural subdivisions designed for other than single-family detached residential development shall satisfy the applicable state and city fire flow standards;

b.  All single-family detached residential rural subdivisions shall install water distribution system improvements meeting the design requirements of this chapter, and:

1.  Where a public water system capable of providing required fire flows to the development is located within one-quarter mile of any part of the subdivision, then it shall be the responsibility of the developer to extend service and connect to the public utility in order to provide fire protection to the development; or

2.  For all rural subdivisions, which are not to be served by a public water supply, the subdivider must show proof of a safe and adequate water supply.

(h)  *Additional provisions.* In addition to any and all other provisions of this chapter, prior to any resubdivision of a rural subdivision being approved by the city, the level of improvements and urban services required by this chapter for nonrural subdivisions shall be available to and satisfied by the resubdivided property.

(Ord. No. 296, art. III, § 5, 10-1-1996; Ord. No. 439, art. III, § 5, 11-24-2003)

Secs. 41-83—41-107. - Reserved.

ARTICLE IV. - PLAT PACKAGES, FORM AND CONTENT

Sec. 41-108. - Concept plan package (CPP).

The concept plan package shall contain the following:

(1)  *Maps and narrative.* Maps and associated narrative information that will adequately explain all substantial aspects of the proposed development as it exists at the preliminary design and concept stage.

(2)  *Phased development.* If the development of a single tract or parcel of land is to occur in phases, the concept plan package should cover all phases of development, indicating how development is proposed or anticipated to occur.

(3)  *Facility location.* A proposed concept plan shall indicate a coordinated development strategy. As applicable, the concept plan package shall indicate preliminary location and arrangements for:

a.  Streets. General widths and rights-of-way; access and frontage proposals; bridges and culverts.

b.  Water. Major lines.

c.  Sewer. Overall service system with preliminary location of force mains and lift stations, if applicable.

d.  Major utility easements locations.

1.  Power;

2.  Gas;

3.  Sewer trunk; and

4.  Water.

e.  Major drainage system elements.

1.  On-site elements; and

2.  Off-site elements.

f.  Flood hazard areas.

g.  Land use and zoning proposals.

h.  General lot layout and street frontage arrangements.

i.  Sites for schools, parks and other public facilities.

j.  Information related to traffic management and engineering.

(4)  *Public plans.* The developer's plan should take into account current public plans for the elements covered in subsection (3) of this section. The planning and zoning commission and council review will include city policy, good engineering practices, and public plans, including:

a.  Comprehensive plan;

b.  Area and neighborhood plan;

c.  Water master plan;

d.  Wastewater master plan.

(Ord. No. 296, art. IV, § 1, 10-1-1996; Ord. No. 439, art. IV, § 1, 11-24-2003)

Sec. 41-109. - Preliminary plan package (PPP).

(a)  *Package.* The required number of copies of the preliminary plan package of the proposed subdivision shall be submitted to the city with an application for subdivision processing.

(b)  *Drawings.* Twenty copies of the preliminary plan drawing, prepared on sheets that are 24 inches by 36 inches, of the proposed subdivision shall be submitted to the city with an application for subdivision processing.

(c)  *Scale.* All drawings shall be drawn at a minimum scale of 100 feet to an inch.

(1)  When more than one sheet is necessary to accommodate the entire area of the subdivision plus other associated information, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.

(2)  On the plan drawing sheet or index sheet there shall be a vicinity concept drawing to indicate the general location of the subdivision. The plan and vicinity concept drawing shall graphically indicate the physical relationship (distance) of the corner of the subdivision (adjacent to a public right-of-way) to a physical point, acceptable to the city engineer as a visible reference and datum marker, and to property ownership patterns in the vicinity.

(d)  *Required certificates.* The following certificate shall be placed on the plat:

Recommended as administratively complete:

\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_

City Engineer and/or Director Of Public Works

\_\_\_\_\_\_\_\_\_\_\_\_

Date

(e)  *Plat notes.* The plat drawing shall show or be accompanied by the following general information:

(1)  The names of the owner and/or subdivider, the name of the registered professional land surveyor responsible for the survey, and the name of the licensed professional engineer responsible for the design of the plat.

(2)  The proposed name of the subdivision (which must not be so similar to that of an existing subdivision as to cause confusion).

(3)  Names of contiguous subdivisions and the owners of contiguous parcels of unsubdivided land, together with a notation as to which contiguous properties are platted and the volume and page number of the recorded subdivision plat.

(4)  Description by metes and bounds prepared from an accurate boundary survey of the subject property, with bearings and distances, referenced to survey lines and established subdivision. The description shall close and be based on an actual field survey with an adjusted closure of a minimum of one part in 10,000.

(5)  A draft of the dedicated instrument, which may include protective covenants whereby the subdivider proposes to regulate land use or development standards in the subdivision.

(6)  A statement from the developer that the appropriate utility companies have been furnished copies of the proposed preliminary plan for their review.

(7)  Subdivision boundary line, indicated by heavy lines, and the computed acreage of the subdivision.

(8)  Date of preparation, scale of plat and north arrow.

(9)  A number to identify each lot or site and each block. Number of lots and blocks shall be in accordance with a systematic arrangement.

(10)  Location of the city limit line and the outer border of the city's extraterritorial jurisdiction, if they traverse the subdivision, form part of the boundary of the subdivision, or are contiguous to such boundary.

(11)  Topographical information prepared from a field survey or United States Geological Survey Maps. Topographical information shall include contour lines on a basis of five vertical feet, in terrain with a slope of two percent or more, and on a basis of two vertical feet in terrain with a slope of less than two percent. All elevations shall be referenced to the United States Geological Survey benchmark system.

(12)  From the property line and within a distance of 500 feet:

a.  Location of boundary and property lines;

b.  Width and location of platted streets and alleys and easements. Streets, alleys and lots in adjacent subdivisions (at least for a distance of 500 feet shall be shown in dashed lines.

(13)  Physical features of property, including location of watercourses, ravines, bridges, culverts, present drainage structures and other features pertinent to the subdivision.

(14)  Existing utilities, watercourses, and flood elevations and boundaries:

a.  Existing utilities within the subdivision including the size of sewer and water. Existing utilities outside the subdivision should be shown if they affect the proposed subdivision.

b.  The exact location, dimensions, description and flow line of existing watercourses and drainage structures within the subdivision.

c.  Regulatory flood elevations and boundaries of floodprone areas, including floodways using the official existing flood insurance rate map (FIRM) or calculations when not shown on flood insurance rate map.

(15)  Proposed locations or sites of the following:

a.  The exact location, dimensions, description and name of all proposed streets, alleys, parkland, including acreage, and other public areas, reservations, easements or other rights-of-way, blocks, lots and other sites within the subdivision. Proposed streets shall not be shown over lands of adjacent owners unless written agreements permitting this are presented with the plat. The names of streets are to conform whenever possible to existing street names. In the case of branching streets, the lines of departure shall be indicated.

b.  On-site and related off-site drainage system elements, when direct access to an existing drainageway is unavailable.

c.  Water system elements.

d.  Wastewater system elements.

(16)  The computed acreage of land within the right-of-way of proposed streets, the total number of proposed lots in the subdivision, and the total number of proposed lots for each proposed land use or zoning classification.

(f)  *Texas Commission on Environmental Quality review.* Design of proposed system elements subject to regulation by the Texas Commission on Environmental Quality (TCEQ) shall be certified by the design engineer that systems comply with all applicable regulations of the Texas Commission on Environmental Quality.

(Ord. No. 296, art. IV, § 2, 10-1-1996; Ord. No. 439, art. IV, § 2, 11-24-2003)

Sec. 41-110. - Final plat package (FPP).

(a)  *Package.* The required number of the final plat package (FPP) of the proposed subdivision shall be submitted to the city with an application for subdivision processing.

(b)  *Drawings.* Twenty copies of the final plat package of any proposed subdivision shall be submitted with an application for subdivision plat processing.

(c)  *Engineer seal.* All engineering plans and engineering calculations shall bear the seal and signature of a state licensed engineer.

(d)  *Specifications.* The specifications for the final plat (drawings) shall conform to the requirements of subsection (g) of this section.

(e)  *Confirmation.* The developer shall confirm the written proposals submitted in accordance with subsection (g) of this section.

(f)  *Plat notes.* The final plat drawing shall show or be accompanied by the information required for the preliminary plan and as set forth in subsection (g) of this section.

(g)  *Construction plans.* The final plat package for a subdivision must include the construction plans. Construction plans, regardless of when filed, must be approved by the city engineer/director of public works before authority to proceed is given or building permits are issued. The construction and engineering plans for a subdivision shall include the following site improvement data, either separately or combined:

(1)  *Streets and right-of-way.* Four copies of plans and profile sheets showing all streets, alleys, sidewalks, crosswalkways with construction details.

(2)  *Sanitary sewer.*

a.  Four copies of the proposed wastewater plan, showing required contours and the location and dimensions of existing sanitary sewer lines to be used by the subdivision.

b.  Four copies of plans and profiles of proposed sanitary sewer lines, indicating depths, sizes and grades of lines.

c.  When a lift station and force main are proposed, four copies of proposed plans and specifications.

(3)  *Water.*

a.  Four copies of the proposed plat showing the location and size of existing water lines and fire hydrants to be used by the subdivision.

b.  Four copies of plans and profiles (12-inch pipe and larger) on all proposed water lines and fire hydrants, showing depths, sizes and grades of the lines.

c.  When a separate water system other than the city's will serve the subdivision, four copies of the plans, including fire hydrants, of the proposed system.

(4)  *Drainage.*

a.  Four copies of the proposed plan, overlaid on previously required topographic (mapped) information. All street widths and grades shall be indicated on the plan, and runoff calculations shall be indicated on the outlet and inlet side of all storm sewers, and at all points in the street at changes of grade or where the water enters another street, storm sewer or drainage ditch. Drainage easements shall be indicated.

b.  A general location map of the subdivision showing the entire watershed (a copy of the appropriate portions of a United States Geological Survey quadrangle is satisfactory).

c.  Calculations showing the anticipated stormwater flow, including watershed area, percent impervious cover, and time of concentration. When storm sewer is proposed, calculations shall be submitted showing basis for design.

d.  When storm sewer is proposed, complete plans, profiles and specifications shall be submitted, showing complete construction details.

e.  When conditions upstream or downstream from an existing channel or proposed storm sewer do not permit maximum design flow, high water marks, based on a 100-year frequency, shall be indicated based on conditions.

(5)  *Construction plans.* Plats shall be accompanied by four copies of the construction plans sufficient to build all the necessary infrastructure for the proposed subdivision, including water, sewer, storm drain, streets, curb and gutter and any other necessary improvements. The plans shall consist of plan and profile sheets in a standard engineering size of 22 inches by 36 inches and plotted to a maximum scale of 50 feet to one inch horizontal and five feet to one inch vertical. These plans shall be developed by a licensed professional engineer under the laws of the state and be sealed by the engineer before final submittal to the city. All details shall conform to city standard details unless otherwise approved by the city engineer and/or the director of public works. All engineering design on the plans shall conform to accepted engineering standards for public infrastructure construction.

(6)  *Street design.* Street design shall be based on soil testing and shall show the type and width of paving proposed for the streets. Curbs, gutters and drainage structures shall be in accordance with current design standards adopted by the city.

(h)  *Stormwater.* A final plan for proposed fills and other structure-elevating techniques, levees, channel modifications, stormwater detention ponds, and other methods to alleviate flood hazard and/or erosion-related hazards shall be submitted.

(i)  *Flood prevention.* See chapter 17, article II, pertaining to flood hazard area regulations, for requirements related to flood damage prevention.

(j)  *Setback lines and distances.* Front building setback line on all lots and sites; side and rear yard building setback line shall be shown on the plat.

(k)  *Proposed uses.* Designations of the proposed uses of land within the subdivision shall be shown for churches, schools, parks or other special uses.

(l)  *Number of lots.* The number of lots and proposed land use of the proposed subdivision shall be shown.

(m)  *Tax receipts.* Receipts showing that all city and county property taxes, then due, have been paid.

(n)  *Restrictive covenants.* All proposed deed restrictions. The applicant will provide satisfactory proof of ownership of property to be subdivided, or provide written proof of permission from the owner to subdivide.

(o)  *Texas Commission on Environmental Quality review.* Design of proposed system elements subject to regulation by the Texas Commission on Environmental Quality (TCEQ) shall be certified by the design engineer that systems comply with all applicable regulations of the Texas Commission on Environmental Quality.

(p)  *Certifications.* The following certifications shall be considered as minimum phrasings to be placed on the final plat drawing or accompanying sheets. Plat drawings shall bear the signature of the person or officer making the acknowledgment to the notary.

(1)  *Owner certification.*

a.  For a natural person acting in his own right.

State of Texas

County of Hays

KNOW ALL MEN BY THESE PRESENTS, That I OWNER, owner of DEEDED ACREAGE, acres of land out the ORIGINAL SURVEY, Hays County, Texas, as conveyed to me by deed dated \_\_\_\_\_\_\_\_\_\_\_\_ , and recorded in Volume, Page \_\_\_\_\_\_\_\_\_\_\_\_ , Hays County Deed Records, DO HEREBY SUBDIVIDE Subdivision Acreage acres of land out of the Original Survey (Note: If the subdivision lies in more than one survey, determine the acreage in each survey and repeat for each original survey within the subdivision) to be known as the Subdivision Name, in accordance with the plat shown hereon, subject to any and all easements or restrictions heretofore granted, and do hereby dedicate to the public (or: "owners of the property shown hereon" for private streets) the use of the streets and easements shown hereon.

WITNESS MY HAND, this the \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ , A.D., 20 \_\_\_\_\_\_\_\_\_\_\_\_ .

\_\_\_\_\_\_\_\_\_\_\_\_

(Owner's Name) Owner/Individual

State of Texas

County of Hays

This instrument was acknowledged before me on [date] by [name or names of person or persons acknowledging].

Seal (Signature of Notary)

\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public, State of Texas

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_

b.  For a corporation.

KNOW ALL MEN BY THESE PRESENTS, That I Corporation Name, a corporation organized and existing under the laws of the State of Texas, with its home address at Address, City, State, owner of Deeded Acreage acres of land out of the Original Survey, Hays County, Texas, as conveyed to it by deed dated, and recorded in Volume \_\_\_\_\_\_\_\_\_\_\_\_ , Page \_\_\_\_\_\_\_\_\_\_\_\_ , Hays County Deed Records, DOES HEREBY SUBDIVIDE Subdivision Acreage acres of land out of the Original Survey (Note: If the subdivision lies in more than one survey, determine the acreage in each survey and repeat for each original survey within the subdivision), to be known as the Subdivision Name, in accordance with the plat shown hereon, subject to any and all easements or restrictions heretofore granted, and do hereby dedicate to the public (or owners of the property shown hereon for private streets) the use of the streets and easements shown hereon.

IN WITNESS WHEREOF the said Corporation Name has caused these presents to be executed by its Corporate Title, Name, and thereunto duly authorized,

\_\_\_\_\_\_\_\_\_\_\_\_ ,

(Owner's Name) Owner

State of Texas

County of Hays

This instrument was acknowledged before me on [date] by [name of officer], [title] of [name of corporation acknowledging] a [state of incorporation] corporation, on behalf of said corporation.

Seal (Signature of Notary)

\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public, State of Texas

c.  Public officer, trustee, executor, administrator, guardian, etc.

State of Texas

County of Hays

This instrument was acknowledged before me on [date] by [name of representative], [title] of [name of entity or person represented].

Seal (Signature of Notary)

\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public, State of Texas

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_ / \_\_\_\_\_\_\_\_\_\_\_\_ / \_\_\_\_\_\_\_\_\_\_\_\_

d.  Partnership.

State of Texas

County of Hays

This instrument was acknowledged before me on the [date] by [name of acknowledging partner or partners], partner(s) on behalf of [name of partnership], a partnership.

Seal (Signature of Notary)

\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public, State of Texas

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_ / \_\_\_\_\_\_\_\_\_\_\_\_ / \_\_\_\_\_\_\_\_\_\_\_\_

(2)  *Surveyor certification.*

State of Texas

County of \_\_\_\_\_\_\_\_\_\_\_\_

I, the undersigned, a registered professional land surveyor in the State of Texas, hereby certify, that this plat is true and correct, that it was prepared from an actual survey of the property made under my supervision on the ground, and that all necessary survey monuments are correctly set or found as shown thereon.

\_\_\_\_\_\_\_\_\_\_\_\_

Registered Professional Land Surveyor

(3)  *Engineer certification.*

State of Texas

County of \_\_\_\_\_\_\_\_\_\_\_\_

I, the undersigned, a licensed professional engineer in the State of Texas, hereby certify that proper engineering consideration has been given this plat.

\_\_\_\_\_\_\_\_\_\_\_\_

Licensed Professional Engineer

(4)  *City engineer certification.*

State of Texas

County of Hays

I, the undersigned, City Engineer of the City of Kyle, hereby certify that this subdivision plat conforms to the requirements of the subdivision ordinance and hereby recommend approval.

\_\_\_\_\_\_\_\_\_\_\_\_

City Engineer

(5)  *County health department certification (extraterritorial jurisdiction on-site wastewater treatment only).* Certification statement as required under the county subdivision regulations.

(6)  *Director of public works certification.*

I, the undersigned, director of public works of the City of Kyle, hereby certify that this subdivision plat conforms to the requirements of the City of Kyle subdivision ordinance and hereby recommend approval.

\_\_\_\_\_\_\_\_\_\_\_\_

Director of Public Works

(7)  *Planning and zoning commission certification.*

This final plat has been submitted to and considered by the planning and zoning commission of the City of Kyle, Texas, and is hereby approved by such planning and zoning commission.

Dated this \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ , 20 \_\_\_\_\_\_\_\_\_\_\_\_ .

\_\_\_\_\_\_\_\_\_\_\_\_

Chairperson

(8)  *The county subdivision regulations (extraterritorial jurisdiction).* Certifications as required under the county subdivision regulations.

(9)  *Certification of the city secretary.* The following certificate shall be placed on the plat for execution after it has been finally approved by the city council:

I hereby certify that the above and foregoing plat of \_\_\_\_\_\_\_\_\_\_\_\_ Addition to the City of Kyle, Texas, was approved by the city council of the City of Kyle on the day of \_\_\_\_\_\_\_\_\_\_\_\_ , 20 \_\_\_\_\_\_\_\_\_\_\_\_ . Said addition shall be subject to all the requirements of the subdivision ordinance of the City of Kyle, Texas.

Witness my hand this \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ , 20 \_\_\_\_\_\_\_\_\_\_\_\_ .

\_\_\_\_\_\_\_\_\_\_\_\_

City Secretary

(10)  *Owner additional certification.* When avigation easements and/or releases are required pursuant to this chapter, then the following certificate shall be required:

I, (we), the undersigned, owner(s) of the land shown on this plat, hereby acknowledge that certain navigation easement(s) and/or release(s) were made to the City of Kyle and run with the title to all subdivided parcels within this subdivision.

\_\_\_\_\_\_\_\_\_\_\_\_

Owner(s)

(Ord. No. 296, art. IV, § 3, 10-1-1996; Ord. No. 439, art. IV, § 3, 11-24-2003)

Secs. 41-111—41-133. - Reserved.

ARTICLE V. - STANDARDS AND SPECIFICATIONS

Sec. 41-134. - General requirements.

(a)  *Standards and plans.* All construction plans and accepted subdivision improvements shall conform to the following standards and specifications, unless an exception is expressly approved by resolution of the council:

(1)  *Conformity with comprehensive plan.* The subdivision shall be consistent with the adopted comprehensive plan of the city, if any, and the parts thereof, as amended, from time to time.

(2)  *Connecting streets.* If a tract is subdivided, parcels shall be arranged to allow for the opening of future streets, as provided for herein.

(3)  *Prohibition of reserve strips.* No subdivision or addition showing reserve strips of land controlling the access to public ways or adjoining properties will be approved either in whole or in part, unless such strips are in compliance with the law and are not detrimental to the public health, safety and welfare.

(4)  *Inspection of construction.* All construction work, such as street grading, street paving, storm sewers, stormwater detention facilities, curbs and gutters, sanitary sewers and water mains, performed by the owner, developer or contractor shall be subject to inspection during construction by the proper authorities of the city. All construction shall be completed in compliance with the construction specifications of the city in effect at time of subdivision approval. Said specification shall be on file in the office of the city engineer. No construction work shall commence on any subdivision without a written notice to proceed being issued by the city; and no construction work shall proceed on any weekend or city holiday without the prior written agreement of the city and the contractor or developer paying the city's costs and expenses for the required construction inspection, including overtime pay and benefits.

(5)  *Street names and addresses.* Street addressing (odd-even), street naming (consistent with connecting street names, avoiding duplication), subdivision naming and related matters shall be subject to council approval and shall comply with such standards and regulations as are in effect from time to time.

(6)  *Subdivision construction standards.* All subdivisions shall comply with the city's typical construction standards in effect at the time of the application for plat approval. Construction detail standards for concrete, sanitary sewer, water lines and associated facilities shall be separately adopted from time to time by the city council acting by resolution. Variations in standards shall be based on field conditions and the professional judgment of the city engineer.

(b)  *Dedication of land.* The developer shall dedicate or convey title to the land needed for improvements required for a subdivision. All such dedication instruments, deeds and easements shall be to the city as grantee.

(c)  *Costs of installation.* All required improvements shall be constructed at the developer's cost, with no contribution from the city, except as specified in this chapter and chapter 50.

(d)  *Appeals.* Appeals may be taken to the planning and zoning commission and the city council by the owner and/or developer as to actions of the city engineer or director of public works, whether on preliminary or final review of a proposed plan.

(Ord. No. 296, art. V, § 1, 10-1-1996; Ord. No. 439, art. V, § 1, 11-24-2003)

Sec. 41-135. - Blocks.

(a)  *Generally.* In general, intersecting streets determining block lengths shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets or contemporary and accepted subdivision practices.

(b)  *Length.* Blocks shall be not more than 1,000 feet in length, and shall be, at minimum, bounded on either end of the long axis by a local street. Block length, up to 1,200 feet, may be approved for good and sufficient reasons (example: curvilinear streets or paved alleys). Blocks which contain lots afforded access only by a residential lane shall contain no more than ten such lots on a single block face, shall be not more than 300 feet in length, and shall be of such configuration that no portion of any building on any such lot will be more than 300 feet from the right-of-way of a local residential street to which the residential lane is connected.

(c)  *Commercial and industrial.* Industrial and commercial subdivisions may under appropriate circumstances include blocks longer than 1,000 feet. A master plan or preliminary plan of the subdivision depicting proposed land use shall demonstrate reasonable provisions in the street layout for the public health and safety, particularly the circulation of emergency vehicles and anticipated truck traffic.

(Ord. No. 296, art. V, § 2, 10-1-1996; Ord. No. 439, art. V, § 2, 11-24-2003)

Sec. 41-136. - Lots.

(a)  *Area requirements.* Within the corporate limits of the city, the required lot area, width, setback line, side yard and rear yard requirements shall be established by chapter 53, zoning, based on uses proposed by the developer. Such limited provisions of chapter 53, zoning, as to lot layout, size and setbacks are incorporated herein by reference as subdivision regulations (see chart 1). The minimum residential lot size in the city's extraterritorial jurisdiction shall be 9,600 square feet. All lots to be served by a septic system shall have a lot size that is the larger of 20,000 square feet or the minimum lot size required by the county rules for on-site sewage facilities, whichever is greater, and conform to the county rules for on-site sewage facilities.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Chart 1 | | | | | | | | |
| Land  Use  District | Front  Setback  (in feet) | Side  Setback  (in feet) | Corner Lot  at  Side Street  or  Alleyway  Setback  (in feet) | Street  Side Yard  Setback  (in feet) | Rear  Setback  (in feet) | Min. Lot  Square Feet  Area | Min. Lot  Street Line  Width  (in feet) | Height Limit  (in feet) |
| A | 25 | 25 | 25 | 25 | 25 | 43,500 | 150 | 45 |
| UE | 25 | 25 | 25 | 25 | 25 | 22,500 | 100 | 45 |
| R-1-1 | 30 (9) | 7 | 10 | 15 | 25 | 8,190 (1) | 80 (1) | 35 |
| R-1-2 | 30 (9) | 5 | 10 | 15 | 25 | 6,825 (1) | 65 (1) | 35 |
| R-1-A | 25 | 5 (2) | 10 | 15 | 15 | 4,550 (1) | 35 | 35 |
| R-1-T | (3) | (3) | 10 | 15 | (3) | 2,844 (3) | 35 | 35 |
| R-1-C | (4) | (4) | 10 | 15 | (4) | 9,000 (4) | 80 | 45 |
| R-2 | 25 (9) | 7 | 10 | 15 | 25 | 9,000 | 80 | 35 |
| R-3-1 | 25 | 15 | 15 | 15 | 25 | (5) | 80 | 35 (6) |
| R-3-2 | 25 | 20 | 15 | 15 | 25 | (5) | 80 | 45 (7) |
| R-3-3 | 25 | 7 | 15 | 15 | 25 | (13) | 90 | 45 (7) |
| M-1 | 25 | 7 | 15 | 15 | 25 | 8,190 | 80 | 35 |
| M-2 | 25 | 7 | 25 | 25 | 25 | 8,190 | 80 | 35 |
| CBD-1 | 25 (8) | (8) | 15 | 15 | (8) | (8) | (8) | 35 (8) |
| CBD-2 | 0 | 0 | 0 | 0 | 0 | 2,500 | 25 | 45 |
| RS | 25 | 10 | 15 | 15 | 15 | 6,000 | 50 | 45 |
| W | 25 | 25 | 25 | 25 | 25 | 9,000 | 80 | 45 |
| CM | 25 | 50 | 50 | 50 | 50 | 43,500 | 150 | 45 |
| E | 25 | 25 | 15 | 15 | 15 | 6,000 | 50 | 45 (14) |
| TU | 25 | 7 | 15 | 15 | 15 | (10) | (10) | (10) |
| B | 25 | 25 | 25 | 15 | 15 | (11) | (11) | (11) |
| PUD | (8) | (8) | (8) | 15 | (8) | 5 acres | (8) | (8) |

Notes: The footnotes in parentheses in Chart 1 refer to the footnotes of Chart 1 in chapter 53.

(b)  *Access.* Each lot shall front upon a public street or, in the case of a planned development, have access to a public way by access easement sufficient to meet the requirements of the fire code adopted by the city, governing access to buildings by fire apparatus. The frontage of each single-family detached residential, commercial, industrial and other lot on a public street shall not be less than that required by chapter 53, zoning, the provisions of which for the frontage of lots on a public street are incorporated herein by reference; provided that the minimum required frontage on a public street for single-family-detached residential lots situated on a cul-de-sac shall be 35 feet.

(c)  *Side lot lines.* Side lot lines in residential subdivisions shall be substantially at right angles to straight streets lines and radial to curved street lines. Except for culs-de-sac lots, street frontage shall not be substantially less in width than the width of the lot at building site location. The ratio of the lot depth to the average lot width shall not be greater than a 5:1 ratio.

(d)  *Extra depth and width.* Where a lot in a residential area backs up to a railroad right-of-way, a high pressure gasoline, oil or gas line, an industrial area, or other land use which has a depreciating effect on the residential use of property, and where no marginal access street or other street is provided, additional depth may be required by the planning and zoning commission. In no case shall a residential lot depth in excess of 175 feet be required. Where a residential lot sides to any of the situations stated in this subsection, additional width shall be required by the planning and zoning commission, but in no event shall a width in excess of 120 feet be required.

(e)  *Lot arrangement.* Lots for residential use should not front on or be contiguous at a side lot line to major thoroughfares or expressways. Lot arrangement in case of nonresidential uses is subject to the review and approval of the planning and zoning commission and council so that traffic congestion and movement problems are minimized whenever possible. Double fronting lots or lots with a side lot line contiguous to major thoroughfares or expressways may be allowed, after evaluation of the resulting exposure (i.e., fence, berm, wall) adjacent to the street.

(f)  *Subsequent platting.* At the option of the subdivider of a commercial and industrial subdivision, with recommended approval of the planning and zoning commission and approval of the council, the subdivider may plat all streets, easements, and minimum building lines, and at a subsequent date, plat the lots as individual subdivision plats consistent with the initial platting of streets and utilities.

(Ord. No. 296, art. V, § 3, 10-1-1996; Ord. No. 439, art. V, § 3, 11-24-2003)

Sec. 41-137. - Streets.

(a)  *Layout.* Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade, and location of each shall conform to the comprehensive plan of the city, if any, and other applicable plans, and shall be considered in their relation to existing and planned streets, to topographical conditions, public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served. In particular, subdivision layout should provide for a minimum practical number of intersections with major arterials, and those intersections should be with collector streets at intervals of not less than 800 feet.

(b)  *Relation to adjoining streets.* Where necessary to the street circulation pattern within a neighborhood, existing streets in adjoining areas shall be continued and shall be at least as wide as such existing streets and in alignment therewith. Practical downsizing of streets will be permitted where obvious transition is from high to low traffic frequency and there are no comprehensive plan thoroughfare requirements.

(c)  *Projection of streets.* Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provision for the future projection of streets into such unsubdivided areas, unless otherwise provided by the comprehensive plan. Subdivision plat design shall provide for the location of a reasonable number of street openings to adjoining properties. Such an opening shall occur at least every 1,000 feet or in alignment with existing or proposed subdivision streets along each boundary of the subdivision. An exception may be granted to this requirement if a natural or manmade barrier, such as a thoroughfare, railroad, etc., prevents its implementation. The developer shall convey or dedicate land to the appropriate public entity for the future projection of collector and larger streets into adjoining, unsubdivided areas. For the future projection of local streets, the developer shall either dedicate land or convey to the city, by general warranty deed, a fee simple on condition subsequent estate in one or more lots. If the city, by resolution of the council, ever determines that the property will not be needed for street extension, the grantor (or successor) shall have the right to reenter and assume ownership of the property. A residential lane shall connect only to another residential lane or to a local residential street, either existing or proposed to be constructed concurrently with the residential lane in a single phase of development, and shall not be constructed as a dead-end residential lane provided to connect with a future street in adjacent land.

(d)  *Intersections.* Off-center street intersections will not be approved, however jogs with centerline offsets of more than 180 feet may be submitted for consideration.

(e)  *Curvilinear streets.*

(1)  Street classification.

|  |  |
| --- | --- |
| Street Classification | Minimum Curve Radius  to Centerline of Street (in feet) |
| Local street | 275 |
| Collector street | 375 |
| Arterial street | 725 |
| Major thoroughfare | 1,000 |

(2)  The planning and zoning commission and the council may approve local residential streets with smaller radii than those required in subsection (e)(1) of this section in special circumstances (consistent with the use of the street).

(f)  *Half streets.* No new half streets shall be platted except in the case where such a street is to be a major thoroughfare.

(g)  *Street intersections.*

(1)  More than two streets intersecting at one point shall not be permitted.

(2)  No street shall intersect any other street at an angle of less than 60 degrees and curb radii at the corner shall be adjusted accordingly.

(3)  Major thoroughfare intersections shall have property line corner chords with a minimum tangent distance of 30 feet.

(4)  Curb radii at intersections, including alley openings, shall be a minimum of 25 feet, measured from face of curb, except in commercial or industrial developments where the radii shall be a minimum of 30 feet.

(h)  *Culs-de-sac.*

(1)  Streets ending in a cul-de-sac shall generally not exceed 600 feet in length, nor 200 feet in the case of a residential lane.

(2)  Minimum cul-de-sac dimensions shall be as follows:

|  |  |  |
| --- | --- | --- |
| Usage Area | Pavement Radius  (in feet) | Right-of-Way Radius  (in feet) |
| Residential | 45 | 55 |
| Commercial/industrial | 50—65 | 60—75 |

(i)  *Comprehensive plan street.* Where subdivision embraces a street as shown on the comprehensive plan of the city, such street shall be platted consistent with the location, purpose and width indicated by the comprehensive plan.

(j)  *Local streets.* Minor streets shall be laid out to discourage use by through traffic.

(k)  *Pavement and right-of-way width.*

(1)  Minimum standards. All pavement widths referred to in the table in this subsection are from curb face to curb face. Where a range of pavement or right-of-way width is shown, such decision shall be made during the subdivision approval process. Direct access from abutting property to arterial streets and major thoroughfares will be restricted.

|  |  |  |
| --- | --- | --- |
| Standard Category | Pavement Width  (in feet) | Right-of-Way Width  (in feet) |
| Residential lane | 28 | 60 |
| Local street | 30—36 | 60 |
| Collector street | 38 | 60 |
| Arterial street | 44—48 | 80 |
| Major thoroughfare | 66—70 | 100—120 |

(2)  Depending on traffic patterns, densities, needs and other related factors, the city can require:

a.  Additional pavement width and/or right-of-way width for major thoroughfares, including expressway sections.

b.  If a street pavement section is divided, the total width of each of the pavement sections shall not be less than the widths in subsection (k)(1) of this section.

c.  Additional right-of-way in vicinity of intersections of collector, arterial and major thoroughfare roadways to adequately accommodate turning movements and/or property access needs.

d.  Additional easements needed to provide for utilities.

(3)  If a street within a subdivision serves as an entrance to the subdivision at an intersection with a collector street, the entry street within the subdivision shall be a divided street for a distance of not less than 150 feet into the subdivision from the intersection with the collector street, with the required additional right-of-way and pavement widths.

(l)  *Typical sections.*

(1)  Subject to the requirements of the subsection (l)(2) of this section, typical street sections shall be based upon projected traffic volume, existing soil conditions, drainage condition and requirements. The design shall be in conformance with good engineering practices, this section and the recommendations of a geotechnical analysis of the site. The street sections shall be based on a 20-year life and the following loading shall be used as a minimum design standard:

a.  Residential lane and alleys 20,000, 18 Kip axle repetitions.

b.  Local street 20,000, 18 Kip axle repetitions.

c.  Collector street 100,000, 18 Kip axle repetitions.

d.  Arterial street 400,000, 18 Kip axle repetitions.

e.  Major thoroughfare 500,000, 18 Kip axle repetitions.

(2)  Notwithstanding subsection (l)(1) of this section, minimum requirements for typical street sections may be approved and adopted by the city council from time to time and if the requirements specified in any such minimum standards shall exceed the requirements resulting from the application of the subsection (l)(1) of this section then, in that event, such minimum standards shall govern.

(m)  *Street grades.*

(1)  Streets other than local streets shall have a maximum grade of eight percent, unless the city engineer shall concur that the natural topography requires steeper grades, in which case a ten percent grade may be used, if the site distance is adequate and there are no intersections at the top or bottom of the grade within the calculated stopping distance based upon the speed limit plus ten miles per hours.

(2)  Local streets may have a maximum grade of ten percent.

(3)  All streets must have a minimum grade of at least 0.5 of one percent.

(4)  Centerline grade changes with an algebraic difference of more than two percent shall be connected with vertical curves of sufficient length to provide sight distance on major streets as required for 45 mile per hour traffic; and sight distance on minor streets and local residential streets as required for 30 mile per hour traffic.

(5)  Whenever a cross slope is necessary or desirable from one curb to the opposite curb, such cross slopes shall not exceed 12 inches in 30 feet. Streets designed with super elevated curves shall conform to the standard highway design for such curves.

(n)  *Bonded contractor.* All street construction shall be performed by a bonded contractor.

(o)  *Signs and markers.* The developer shall pay the cost of purchasing and installing all required posts, signs and markers for all streets, which posts, signs and markers shall comply with the Texas Department of Transportation Uniform Traffic Control Manual.

(p)  *Adjacent streets fee.* The developer's obligations concerning adjacent lane miles of existing streets are as follows:

(1)  *Local, collector streets.*

a.  Dedicate land for one-half of the required right-of-way of an adjacent local and collector street; and

b.  Pay the city operations and maintenance fee, as assigned in the associated fee schedule, and administered by the community development department and/or city engineer's office.

(2)  *Arterial and larger streets.*

a.  Dedicate a proportional share of the right-of-way for arterial and larger streets; and

b.  Pay the city operations and maintenance fee, as assigned in the associated fee schedule, and administered by the community development department and/or city engineer's office.

(3)  *Designated, state or federal roadways.*

a.  Dedicate a proportional share of the right-of-way;

b.  Pay the city operations and maintenance fee, as assigned in the associated fee schedule, and administered by the community development department and/or city engineer's office;

c.  Pay the improvements cost for, or build, improvements required by a traffic impact analysis for the development; and

d.  Secure said obligations by a letter of credit, escrow account, or other means approved by city council.

(4)  *Fee schedule table.*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | A | B | C | D | E |
| **Land Use Category** | Trips per Day | Cost Multiplier | No. of DUs | GFA\* ÷ 1,000 |
| 1 | Single-Family Detached | 9.52 | $129.00 |  |  |
| 2 | Single-Family Attached | 5.81 | $ 65.00 |  |  |
| 3 | Multifamily | 6.65 | $ 81.00 |  |  |
| 4 | Office | 11.03 | $112.00 |  |  |
| 5 | Retail | 44.32 | $ 34.00 |  |  |
| 6 | Shopping Center | 42.7 | $ 40.00 |  |  |
| 7 | Warehouse/Storage | 3.56 | $129.00 |  |  |
| 8 | Manufacturing | 3.82 | $118.00 |  |  |
| 9 | Industrial | 6.97 | $ 71.00 |  |  |
| 10 | Institutional | 12.7 | $ 51.00 |  |  |

*Table Notes:* Residential uses (rows 1, 2, and 3) are computed by multiplying columns B, C, and D. Commercial uses (rows 4-10) are computed by multiplying columns B, C, and E. Mixed use and multi-use projects will be assigned their fees cumulatively, based on the percentage of each land use on the subject parcel.

(5)  *Timing.* Fees for residential use categories are payable at the time of final platting. Fees for commercial use categories are payable at the time of development/building permit, and shall similarly have a note affixed to the final plat.

(6)  Perimeter road fees can be appealed to the mayor and city council for alternative compliance. A traffic impact analysis, prepared by a state-certified engineering entity, will be required to indicate how the plan for alternative compliance meets the intent of this fee.

(p1)  *Exception for homesteads.*

(1)  Financial obligations related to operations and maintenance as set forth in this article may be waived or reduced by the city manager or designee for property owners subdividing their property for the sole purpose of creating a homestead under the following terms and conditions:

a.  A property owner must be subdividing property for the sole purpose of creating a homestead on an area of land no larger than one acre;

b.  The property being subdivided for homestead purposes cannot be subdivided into more than two tracts or parcels;

c.  Only single-family homes as defined by the city's zoning ordinance (chapter 53, Code of Ordinances) may be allowed on the property subdivided to be used as a homestead; and

d.  A waiver of the city manager or designee shall be in writing and filed with the city secretary, and the city council may be informed of all waivers.

(2)  If a waiver is not granted by the city manager or designee, the property owner denied such waiver shall have the right to appeal the denial of waiver to the city council. A public hearing to determine whether a property owner should be granted a waiver shall be conducted before the city council. By majority vote, the city council may grant such waiver.

(q)  *Monuments.*

(1)  The surveyor responsible for the plat shall place permanent monuments in accordance with the standards of the state board of registration for professional land surveyors.

(2)  The location of monuments shall be shown on the final plat.

(3)  All lot corners and street rights-of-way shall be set with a marker of a permanent nature (i.e., iron rod, pipe, etc.).

(4)  All monuments shall be in place at the time of acceptance of utilities and streets.

(r)  *Installation costs.* The developer shall pay all costs for the installation of streets in a subdivision, including those streets and related drainage structures that are deemed by the planning and zoning commission and/or the council to be required because:

(1)  A substantial amount of traffic will be generated from, to or through the subdivision because of existing and/or future conditions;

(2)  The city's comprehensive plan, or street plan, indicates a need for certain major thoroughfares through or adjacent to the subdivision; or

(3)  The city's ordinances requires the installation of frontage roads or similar special access arrangements.

(Ord. No. 296, art. V, § 4, 10-1-1996; Ord. No. 296-2, § 1, 8-17-1999; Ord. No. 439, art. V, § 4, 11-24-2003; [Ord. No. 819](http://newords.municode.com/readordinance.aspx?ordinanceid=670567&datasource=ordbank) , §§ 3, 4, 8-19-2014; [Ord. No. 894](http://newords.municode.com/readordinance.aspx?ordinanceid=767933&datasource=ordbank) , § 1(Exh. A), 3-15-2016)

Sec. 41-138. - Curbs and gutters.

(a)  *Required.* Curbs and gutters shall be required to be constructed on all streets. Standard curb and gutter profiles shall be required for all streets except as provided otherwise in this section. Reinforced concrete ribbon curbs having a width of not less than 18 inches may be substituted for standard curbs and gutters in a large lot subdivision, or estate size lot subdivisions designed and platted for single-family residences; provided that:

(1)  No lot within the subdivision will be less than one acre in size;

(2)  Standard curbs and gutters are not found by the city to be necessary or desirable for drainage and stormwater control; and

(3)  Standard curbs and gutters shall be installed for any street or part thereof as advisable for drainage and stormwater control.

(b)  *Intersections.* Standard curbs and gutters shall be constructed at each corner upon each block to which curbs and gutters are constructed; except for streets in subdivisions in which lay-down curbs are permitted under subsection (a) of this section.

(c)  *Valley gutters.* Concrete valley gutters shall be constructed across all alleys at street intersections.

(Ord. No. 296, art. V, § 5, 10-1-1996; Ord. No. 439, art. V, § 5, 11-24-2003)

Sec. 41-139. - Crosswalks.

Crosswalkways ten feet in width shall be dedicated where deemed necessary by the planning and zoning commission and/or council to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Crosswalkways shall be provided, when required by a development, with a concrete sidewalk six feet wide constructed to city specifications and ramped at street intersections.

(Ord. No. 296, art. V, § 6, 10-1-1996; Ord. No. 439, art. V, § 6, 11-24-2003)

Sec. 41-140. - Watershed and flood prevention.

(a)  *Watershed protection.* The watershed provisions contained herein are deemed necessary for the following reasons:

(1)  The watersheds within the city's jurisdiction contribute significantly to the city's drinking water supply.

(2)  Waterways and their associated watersheds within the city's jurisdiction represent significant recreational and aesthetic resources and contribute to the city's public health.

(3)  The future of the city is dependent on an adequate quality and quantity of water, a pleasing natural environment, recreational opportunities in close proximity to the city as well as the protection of people and property from the hazards of flooding.

(4)  All watersheds within the city's jurisdiction are vulnerable to nonpoint source pollution and sedimentation resulting from development activities.

(5)  All watersheds within the city's jurisdiction are undergoing development or are facing development pressure.

(6)  If watersheds within the city's jurisdiction are not developed in a sensitive and innovative manner, water resources, natural environment, and recreational characteristics may be irreparably damaged.

(7)  Protection of critical environmental features is necessary to protect water quality in those areas most susceptible to pollution.

(8)  It is important to protect the water supply and the natural environment of all watersheds for existing and future generations of citizens of the city.

(9)  The city may adopt additional appropriate development rules and regulations for the purpose of protection of the watersheds and aquifers within its jurisdiction as a facet of its overall program for the control and abatement of pollution resulting from generalized discharges of pollution which are not traceable to a specific source, such as urban runoff from rainwater; and for the abatement of the risks related to flooding within the watersheds.

(b)  *Stormwater management.* In order to achieve the purposes in subsection (a) of this section, this section provides for stormwater management systems. All development plans and subdivision plats submitted to the city shall comply with the provisions of this article and section and any other applicable regulations; specifically, the city's construction standards and specifications for roads, streets, structures and utilities and applicable Texas Commission on Environmental Quality rules. Plats of developed property on which no new structures or additional impervious coverage is planned shall be exempt from the provisions of this section.

(1)  *Stormwater management system requirements.* The planning and zoning commission shall not recommend approval for any plat, plan or subdivision which does not meet the minimum requirements of this chapter in making adequate provision for control of the quantity of stormwater and/or groundwater runoff to the benefit of both future owners of property within the subdivision and other lands within the watershed. It shall be the responsibility of the subdivider to design and construct a system for the collection and transport of all stormwater runoff flowing onto and generated within the subdivision in accordance with:

a.  The requirements of these regulations.

b.  Chapter 17, article II, pertaining to flood hazard area regulations.

c.  Good engineering practices.

d.  Approved plans.

e.  The principles of stormwater law established by the state water code.

(2)  *Basic design objectives.* In general, the stormwater management system shall be designed and constructed in a manner which promotes the development of a network of both natural and built drainageways throughout the community so as to:

a.  Retain natural floodplains in a condition that minimizes interference with floodwater conveyance, floodwater storage, aquatic and terrestrial ecosystems and groundwater and surface water.

b.  Reduce exposure of people and property to the flood hazard and nuisance associated with inadequate control of runoff.

c.  Systematically reduce the existing level of flood damages.

d.  Ensure that corrective works are consistent with overall city goals.

e.  Minimize erosion and sedimentation problems and enhance water quality.

f.  Protect environmental quality, social well-being and economic stability.

g.  Plan for both the large flooding events (25-year and 100-year) and the smaller, more frequent flooding (two-year and ten-year) by providing both major and minor drainage systems.

h.  Minimize future operational and maintenance expenses.

i.  Reduce exposure of public investment in utilities, streets and other public facilities (infrastructure).

j.  Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public.

k.  Acquire and maintain a combination of recreational and open space systems utilizing floodplain lands.

l.  Preserve natural drainage patterns and limit the amount of impervious cover so as to prevent erosion, maintain infiltration and recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by stormwater.

(3)  *General design requirements.*

a.  The storm drainage system shall be separate and independent of any sanitary sewer system and its use shall not interfere with the operation and maintenance of road networks or utility systems.

b.  Each lot, site and block within the subdivision shall be adequately drained as prescribed in the city's construction standards. Any use of retaining walls or similar construction shall be indicated on the preliminary plan and the city engineer may require construction plans.

c.  No subdivision shall be approved which would permit building within a regulatory floodway of any stream or watercourse. The planning and zoning commission may, when it deems necessary for the protection of the health, safety or welfare of the present and future population, recommend the subdivision and/or development of any property which lies within a designated regulator floodplain of any stream or watercourse be prohibited.

d.  No lot or building site within a subdivision shall derive sole access to a public street across a waterway unless such access shall be constructed to remain open under 25-year design storm conditions.

e.  Areas subject to inundation under design storm conditions shall be indicated with the minimum floor elevation of each lot so affected on a certified copy of the preliminary plan submitted. The planning and zoning commission may, when it deems necessary for the protection of the health, safety or welfare of the present and future populations, recommend placing restrictions on the subdivision, regarding the design and use of areas within a drainageway. The council shall not approve any subdivision of land within the floodplain of any stream or watercourse unless the applicant demonstrates that the subdivision and all development anticipated therein will comply with the requirements of this chapter and chapter 17, article II, pertaining to flood hazard area regulations.

f.  Design of all drainage facilities, including streets, inlets, storm sewers, outfall, culverts and ditches, shall conform with the city's construction standards and specification for roads, streets, structures, and utilities.

g.  All facilities shall be designed to intercept, detain and transport the projected runoff from the two-year, ten-year and 25-year frequency storm. Overflow and/or transport provisions shall be provided for 100-year storms.

h.  Projected runoff rates for the design of drainage facilities shall be based on the expected ultimate developed state of the upstream contributing area. Said ultimate developed state shall be based on the maximum intensity allowable under existing zoning as applicable, the city's comprehensive plans, and approved plans within the contributing area.

i.  All development establishing impervious cover or otherwise modifying an existing site shall incorporate facilities to prevent any increase in the peak rate of runoff from a two-year, ten-year and 25-year frequency storm. The city engineer may waive this requirement under one or more of the following circumstances:

1.  Approved off-site storage is provided for the required regulation of peak flows and adequate conveyance of stormwater flows from the site to the off-site storage facility is demonstrated.

2.  Development of a one-, two- or three-family residential structure on any legally platted lot creates no more impervious ground cover than 30 percent of the gross lot surface area exclusive of any area within the 100-year floodplain.

3.  Certified engineering data and calculations are presented which demonstrate the absence of adverse impact on all downstream conveyances and property between the downstream property line and the receiving major waterway.

4.  Certified engineering data and calculations are presented which fully describe, explain and justify recommended alternative to detention.

5.  The increase in runoff does not exceed ten percent of the existing condition runoff up to a maximum increase of five cubic feet per second, and said runoff does not affect adjoining property.

6.  The property is adjacent to a major waterway and in the judgment of the city engineer, waiver of detention requirements will not result in an increase in the peak flood flow of the major waterway.

Waiver of this requirement for any reason shall not relieve the owner of responsibility under civil law to adjacent and downstream property owners.

j.  Design of major drainageways through a subdivision and major structures such as box culverts or bridges across a major drainage channel shall be coordinated with the requirements of the county when any portion of the subdivision lies outside the city limits.

k.  Drainage channels.

1.  The limits of the 25-year and 100-year storm event shall be determined for watercourses draining 50 acres or more. Calculations for storm events shall utilize generally recognized backwater computational methods and actual field channel and overbank configuration.

2.  No importation of fill material or channel modifications shall be undertaken within the area of the 100-year floodplain without written approval of the city engineer. Such approval shall be based upon certified engineering data and calculations furnished by the applicant.

3.  All constructed or modified earthen channels shall be limited to areas outside the boundary of subdivision and shall be designed utilizing a side slope of 33 percent, or flatter, to allow for future maintenance and promote adequate slope stability. As a minimum, all slopes shall be hydro-mulched and seeded with erosion control matting, sodded, or seeded. Prior to lapse of two-year warranty period all disturbed areas shall have substantial vegetative growth and ground cover.

l.  Streets and storm sewer.

1.  All street sections shall be in accordance with city standards. The allowable design drainage capacity for stormwater flow at the gutter shall be no deeper than one inch above the top of the curb.

2.  Depth of flow in streets is to be controlled to allowable levels by modification of crossfall, gradient changes, or the placement of curb inlets, and storm sewers or the use of other appropriate, city engineer approved, alternatives for streets where ribbon curb is permitted by section 41-138.

m.  Bridges and culverts.

1.  All bridge and culvert structures shall be designed to carry and/or contain the upstream runoff from a 25-year storm.

2.  Runoff from a 100-year storm shall not top the road surface at bridge or culvert crossings for an arterial or thoroughfare crossing and shall not exceed a depth of six inches on a local street crossing.

3.  All bridge and culvert structures shall be designed such that the structural integrity of the roadway shall not be diminished by a 25-year or 100-year storm event.

n.  Computations, plans and construction.

1.  Plans and computations for proposed drainage facilities shall be certified with the seal of the design engineer, and submitted to the city engineer for acceptance prior to approval of construction plans.

2.  Computations for all drainage-related design shall be submitted with the plans for review. Data submitted shall include a drainage area map, a summary of methodology employed and resulting data, land use and runoff coefficient assumptions, and other pertinent hydrologic and hydraulic data.

3.  The city shall make such inspections as are deemed necessary to ensure proper installation.

4.  Following construction, but prior to acceptance of improvements or issuance of a building permit, the design engineer shall furnish one set of reproducible record plans for each project, bearing certification by a licensed professional engineer.

5.  Neither the review nor approval of such plans nor the inspection of the completed work will create any liability on the part of the city.

o.  Building permits and utility connections.

1.  Plans submitted for building permits and/or utility connections, other than single-family residential or duplex construction and those projects already in compliance with this chapter, shall include the necessary drainage-related facilities designed and provided for in compliance with this chapter and the city's construction standards.

2.  Plans and design calculations for all drainage facilities shall be submitted to the city engineer for acceptance prior to issuance of any permit within the development or subdivision.

p.  Drainage easements.

1.  General requirements. Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, or where a detention/filtration facility is required, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse or facility, and of such width and construction to contain the design storm and required freeboard. When parking lots or other approved use areas serve a dual function, including detention, those areas shall be designated on the plat as detention areas.

2.  Design requirements.

(i)  Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least 20 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

(ii)  When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and filed of record, documented on the plat, and drawn on the construction plans.

(iii)  Low-lying lands along watercourses subject to flooding or overflowing during storm periods shall be preserved and retained in their natural state as drainageways except where modification can be shown to benefit the community and as approved by the council. All development activity within the regulatory floodplain must comply with the city's and the Federal Emergency Management Agency (FEMA) floodplain management regulations.

(iv)  All sedimentation, filtration, detention and/or retention basins and related appurtenances shall be situated within a drainage easement. The owners of the tracts upon which are located such easements, appurtenances, and detention facilities shall maintain same and be responsible for their upkeep. Notice of such duty to maintain shall be shown on the plats.

q.  Drainage facilities shall be designed to serve the entire subdivision. For all subdivisions, design of drainage facilities shall be completed with other required construction plans in order to ensure adequate drainage easements and other reservations on the plat.

r.  The requirements set forth herein are not intended to be exhaustive and wherever it is necessary to make additional requirements in order to maximize the effectiveness of the drainage plan in question, such requirements shall be made by the planning and zoning commission. Variances to these requirements may be allowed pursuant to this chapter only when said variance will not result in drainage-related problems sought to be prevented by these regulations.

(4)  *Industrial uses.*

a.  An applicant proposing any industrial use, as defined in the city comprehensive plan or chapter 53, pertaining to zoning, and which is not completely enclosed within a building, must provide a pollutant attenuation plan which:

1.  Proposes methods to capture all surface water runoff from developed areas to contain and filter pollutants generated on-site.

2.  Controls dust and other particulate matter generated on-site, to meet the state commission on environmental quality standards for urban areas.

b.  The design of storage facilities for hydrocarbon or hazardous substances, including leak detection systems, spill containment areas or other control measures shall meet the following requirements:

1.  Underground storage facilities. Facilities for the underground storage of static hydrocarbon or hazardous substances shall be of double walled construction or of an equivalent method approved by the city engineer. Methods for detecting leaks in the wall of the storage facility shall be included in the facility's design and review prior to issuance of appropriate permits for construction.

2.  Aboveground storage facilities. Facilities for the aboveground storage of static hydrocarbon or hazardous substances shall be constructed within controlled drainage areas that are sized to capture 1½ times the storage capacity of the facility and that direct any spillage to a point convenient for collection and recovery. The controlled drainage area shall be constructed of a material suitably impervious to the material being stored.

c.  All transport facilities for hydrocarbons and hazardous substances shall be approved by the city engineer.

(5)  *Minimum criteria for issuance of floodplain development permit.* Pursuant to chapter 17, article II, pertaining to flood hazard area regulations, as amended from time to time, and similar provisions enforced by the county, a floodplain development permit shall be required such that:

a.  Development or alteration of the floodplain shall result in no increase in water surface elevation of the design storm of the waterway.

b.  Development or alteration of the floodplain shall not create an erosive water velocity on or off the site. The mean velocity of stream flow at the downstream end of the site after development or alteration shall be no greater than the mean velocity of the stream flow under existing conditions.

c.  Development or alteration of the floodplain shall be permitted by equal conveyance on both sides of the natural channel.

d.  Relocation or alteration of the natural channel shall not be permitted without an environmental assessment, including a stream rehabilitation proposal.

e.  The toe of any fill shall parallel the natural channel to prevent an unbalancing of stream flow in the altered floodplain.

f.  To ensure maximum accessibility to the floodplain for maintenance and other purposes, and to lessen the probability of slope erosion during periods of high water, maximum slopes of filled area shall not exceed a 3:1 ratio for 50 percent of the length of the fill and a 6:1 ratio for the remaining length of the fill. The slope of any excavated area not in rock shall not exceed a 4:1 ratio. Vertical walls, terracing and other slope treatments will be considered if no unbalancing of stream flow results.

g.  Whenever feasible, the integrity of the natural waterway channel will be protected.

h.  A landscape plan shall be required, and shall include plans for erosion control of cut and fill slopes, restoration of excavated areas and tree protection where possible, both in and below the fill area. Landscaping should incorporate natural materials (earth, stone, or wood) on cut or fill slopes whenever possible.

i.  The effects of existing or proposed public and private improvements shall be used in determining water surface elevations and velocities.

j.  Any alteration of the floodplain shall not cause any additional expense in current or projected capital improvements, nor should said alteration cause additional maintenance costs to be incurred by the city.

(c)  *Minimum requirements.* This subsection establishes further general and minimum standards. In the event of any conflict between any of the following and any other requirement of this section, the higher standard shall govern and control:

(1)  *Drainage structures.* Drainage structures shall be constructed in compliance with this chapter and in such locations and of such size and dimensions to adequately serve the subdivision and associated drainage area. The developer shall be responsible for all costs for the installation of the drainage system required to accommodate the needs of the subdivision being developed, to include the carrying of existing water entering or leaving the subdivision.

(2)  *Right-of-way.* In new subdivisions, the developer shall provide all the necessary easements and rights-of-way required for drainage structures, including storm sewer and open, paved or riprapped channels.

(3)  *Storm sewers and curb inlets.* Storm sewers shall be provided and curb inlets located so as to properly drain all streets and intersections.

(4)  *Standards.* The design, size, and location of all storm drainage facilities shall equal or exceed the city's minimum construction standards and be approved by the city engineer and director of public works. All storm sewer shall be constructed of reinforced concrete pipe or box.

a.  *Drainage ditches.* Only open, paved or improved drainage ditches, as accepted by the planning and zoning commission and council, shall be constructed across a portion or the entire subdivision being developed.

b.  *Storm sewer.* Water entering into the streets, in excess of what gutters will carry at maximum flow, shall be diverted into storm sewers. Capacity of storm sewers and channels shall be calculated by Manning's formula or other methods approved by the city engineer or director of public works.

(5)  *Detention.* Except for existing single-family residences on legally platted lots, all subdivisions and development establishing impervious cover or otherwise modifying an existing site shall incorporate facilities to prevent any increase in the peak of runoff from the two-year, ten-year and 25-year frequency storms.

(Ord. No. 296, art. V, § 7, 10-1-1996; Ord. No. 439, art. V, § 7, 11-24-2003)

Sec. 41-141. - Utility easements.

(a)  *Rear and side lots.* Each block that does not contain an alley shall contain or have access to a utility easement at the rear of each lot, or at other appropriate locations, reserved for the use of all public utility lines, conduits and equipment. In the case of rear lot locations, the utility easements shall be no less than ten feet in width. In side lot locations, the utility easements shall be no less than five feet in width. Unless abutting an alley, water and wastewater utility easements in the rear are not favored and will not be approved except under special circumstances.

(b)  *Drainage.* Required drainage easements shall allow for a minimum of 15 feet in width in addition to any width required for a drainageway structure. This easement may be split between drainageway sides but one side (easement) may be no less than ten feet in width unless access and maintenance provisions are provided by other dedicated right-of-way. All public utility easements shall also be dedicated for use as drainage easements.

(c)  *Utilities.* The developer shall arrange with the appropriate utility department and/or company for the payment and/or refund of construction costs of each utility involved.

(d)  *Easements abutting streets.* A 15-foot wide easement abutting the right-of-way of each street shall be dedicated as an easement for utilities, drainage and excavation and/or embankments.

(e)  *Electrical, telephone and other lines.* All electrical, telephone, cable television and similar lines shall be placed underground. Such lines shall be installed in accordance with the regulations and requirements established by each utility or service company, as applicable, and city ordinance. As authorized by V.T.C.A., Local Government Code ch. 212, the city council may waive this requirement for good cause, and permit such lines to be installed above ground.

(f)  *Private or gated communities.* Public utilities may be allowed within the confines of a private or gated community upon the approval of the city engineer, or his designee. This allowance applies only to a private or gated community of single-family homes. Multifamily projects that are private or gated shall have private utilities within the project and be served by a master meter on the public side periphery of any fence or gate, in which there is proper access granted for access as determined by the city engineer, or his designee.

If a private or gated community is allowed to have public utilities then all utilities inside of the private or gated community shall be placed within an easement of sufficient size, as accepted by the city engineer, or his designee, and which easement shall have in addition to standard requirements, added the following characteristics:

(1)  Shall be superior to any other easements or rights-of-way, whether private or public, such that future repairs to the utility shall not be impeded by failure of another entity to provide sufficient permission to proceed;

(2)  Permission to utilize existing private drives or roadways to facilitate a repair, including but not limited to:

a.  Access;

b.  The temporary storage or stockpile of material;

c.  The ability to temporarily close access, entirely or in part, on a private drive or roadway;

d.  Removal of vehicle(s) that may be impeding a repair.

(3)  Permission to cut or otherwise demolish portions of private drives or roadways needed to facilitate a repair, to include the waiver of any requirement to return the private drive or roadway affected to its original condition.

(4)  City, at its sole cost and expense, shall be obligated to restore the surface of the soil of the easement that has been removed, relocated, altered as a result of city's use of the easement. City will not be obligated to restore or relocate any other improvements, including, but not limited to, irrigation systems, walkways, driveways, access roads, parking areas, fences, landscaping items, and any movable structures such as benches, gazebos or other similar items, located in, upon, under or across the easement.

(Ord. No. 296, art. V, § 8, 10-1-1996; Ord. No. 439, art. V, § 8, 11-24-2003; [Ord. No. 893](http://newords.municode.com/readordinance.aspx?ordinanceid=767928&datasource=ordbank) , § 2, 3-15-2016)

Sec. 41-142. - Water and wastewater.

(a)  *Water mains.* Water mains shall be a minimum of eight inches in diameter. Water mains smaller than eight inches may be constructed to serve blocks with no more than six dwelling units, taking into account:

(1)  The recommendation of the design engineer for the developer;

(2)  Peak demands for domestic and irrigation use of water;

(3)  Fire protection and hydrant coverage;

(4)  Growth and development possibilities for the area; and

(5)  Approval of the city engineer and director of public works.

(b)  *Sewer mains.* Sewer mains shall be a minimum of eight inches in diameter.

(c)  *Sewer cleanouts.* Each home or building drain shall be provided with a cleanout near the junction of the building drain and building sewer in accordance with the plumbing code. A sewer yard line clean out shall be installed by the subdivider at the junction of each sewer yard line and the city service line.

(d)  *Construction period.* Water and sewer lines, including short side and long side taps, shall be installed during the construction phase of the subdivision. The subdivider will bring all valves and manholes within the subdivision boundary to grade prior to final acceptance.

(e)  *Fire hydrants.* Fire hydrants shall be used at the end of culs-de-sac.

(f)  *Septic tanks.*

(1)  No subdivision may be developed for any lots to be served by a septic tank if public sewer service is available within one-quarter mile of any boundary of the tract or tracts of land out of which the subdivision is proposed to be developed.

(2)  No permit shall be issued for the installation of a septic tank on any lot, tract or parcel within the jurisdiction of the city if adequate sewer service is available within 500 feet of the property line of the lot to be sewered.

(3)  No subdivision of lots within the city, or within the extraterritorial jurisdiction of the city, which depends in whole or in part on septic tanks or a septic tank system shall be approved unless the subdivision qualifies under subsection (f)(1) of this section and the lots meet the greater of the minimum lot size required by state regulations or the county rules for on-site sewage facilities, whichever is larger.

(Ord. No. 296, art. V, § 9, 10-1-1996; Ord. No. 439, art. V, § 9, 11-24-2003)

Sec. 41-143. - Sidewalks.

(a)  *Required.* Sidewalks are required in residential subdivisions and will be required as appropriate to the area and use in commercial and industrial subdivisions. Sidewalks shall be not less than four feet in width and shall be two feet from curb. Such sidewalks shall be installed and constructed on both sides of each residential street and be situated wholly within the dedicated right-of-way.

(b)  *Parkways.* Parkways shall be excavated, or filled, as required to result in a three to one grade or as detailed on approved construction plans.

(c)  *Americans with disabilities.* Sidewalks shall conform to the city construction standards and meet all requirements of the state accessibility standards.

(Ord. No. 296, art. V, § 10, 10-1-1996; Ord. No. 439, art. V, § 10, 11-24-2003)

Sec. 41-144. - Alleys.

(a)  *Generally.* Alleys need not be provided unless they are recommended by the planning and zoning commission and approved by the council. Where alleys are provided the pavement width shall be not less than 20 feet, and in no case shall the right-of-way width of such an alley be less than 27 feet.

(b)  *Alleys and easement intersections.* Where alleys or utility easements intersect, or turn at right angles, a diagonal of not less than ten feet from the normal intersection of the property or easement line shall be required. The diagonal length of intersections of alleys and/or utility easements at other angles must be approved by the city.

(c)  *Dead-end alleys.* Dead-end alleys shall not be permitted except if future development provides for the extension of the alleys, in which case temporary turnarounds will be provided.

(Ord. No. 296, art. V, § 11, 10-1-1996; Ord. No. 439, art. V, § 11, 11-24-2003)

Sec. 41-145. - Drive approaches.

Drive approaches shall be in conformance with standards approved and adopted by the council from time to time; provided that if no applicable standard has been adopted such approaches shall be designed pursuant to acceptable engineering practices and approved by the city engineer. The city may impose a more restrictive standard than contained in any such standard or design proposal, in conjunction with review of a subdivision plat, if anticipated development under the standards will result in a dangerous or unsafe condition to the public.

(Ord. No. 296, art. V, § 12, 10-1-1996; Ord. No. 439, art. V, § 12, 11-24-2003)

Sec. 41-146. - Streetlights.

(a)  *Street classification.* Streetlights shall be placed in accordance with the placement criteria in this section. Streetlights shall be located as follows:

(1)  At the intersection of two arterial streets, an arterial and a collector street, and at the intersection of two collector streets;

(2)  At any intersection where the traffic count is projected to reach 7,000 vehicles per day;

(3)  In the turnaround of culs-de-sac where the cul-de-sac length is longer than 300 feet; and

(4)  Pursuant to a street lighting plan submitted and approved in conjunction with application for subdivision plat approval pursuant to this chapter; which plan shall, generally, provide not less than one streetlight for each 500 linear feet of streets within or abutting the subdivision.

(b)  *Safety considerations.* Streetlights shall, additionally, be placed to illuminate street curves, significant topographic conditions, and other safety hazards.

(c)  *Spacing.* Streetlights shall be placed in accordance with the following spacing requirements:

(1)  Typical spacing of lights shall be one per intersection at the intersections described in subsection (a)(1) of this section;

(2)  Lights shall be provided along arterial and collector streets, with a maximum spacing between lights of 300 feet;

(3)  If the block length is over 600 feet but less than increments of 300 feet, the light shall be placed in mid-block to the degree practical;

(4)  In a cul-de-sac turnaround, if the cul-de-sac length is longer than 300 feet;

(5)  Streetlights shall be placed in the subdivision in compliance with the finally approved lighting plan.

(d)  *Light size.*

|  |  |
| --- | --- |
| Street Type | Light Size/Lumens |
| Thoroughfare (heavy traffic) | 400w/50,000 |
| Arterial (medium traffic) | 250w/27,000 |
| Collector | 175w/7,000 |
| Residential (low traffic) | 100w/9,500 |

(e)  *Subdivision lighting plan.*

(1)  The developer shall submit a streetlight plan as a part of the final subdivision plat package in conjunction with the utility plans and in conformance with these standards.

(2)  The staff shall review, coordinate with the electric utility, and recommend street lighting plans to the planning and zoning commission and council.

(3)  Metal poles shall be required for all street lighting and the developer shall pay all utility company charges for street lighting (e.g., underground, metal poles, special fixtures, charges for electricity, etc.) at the final plat phase.

(4)  Installation will be completed during the construction of the other infrastructure and public improvements, or, with city approval, coordinated with building permits issued in the area. Priority shall be given to arterial and collector streets in the subdivision to facilitate circulation; within each block face, when 50 percent of lots have been permitted, lights shall be installed. The developer shall give security as necessary to ensure installation of lighting required but scheduled for future installation. This light installation schedule may be accelerated in accordance with an agreement made with the developer whereby the developer pays the city the full cost of power during the time period necessary to reach this level of permitting.

(5)  The planning and zoning commission and the council may disapprove any subdivision where the developer fails to comply with the standards set forth in this section.

(f)  *Private street lighting.* In those instances when the criteria in this section do not warrant streetlight placement in a particular location where a property owners association, commercial or industrial property desire additional lighting, the city encourages privately funded and privately maintained lights by neighborhood residents and property owners. All privately funded lights shall be totally owned and maintained by the private property owners or residents. All utilities shall be entirely paid for by the private property owner or residents. The city shall never be obligated to pay for the maintenance or utilities of any privately funded light. Such lighting may be placed within easements where not inconsistent with the easement use, but shall not be placed within dedicated public right-of-way.

(Ord. No. 296, art. V, § 13, 10-1-1996; Ord. No. 439, art. V, § 13, 11-24-2003)

Sec. 41-147. - Parkland dedication.

(a)  *Definitions.* For the purposes of this section, the following terms, phrases and words shall have the meanings ascribed to them in this subsection:

*Hike and bike trail* means a strip of land that is dedicated for a trail or pathway for pedestrian circulation, alternative transportation and recreational uses, that is not less than ten feet in width, and that has installed, or is planned to have installed, certain improvements, including but not limited to an all-weather concrete trail or pathway that is not less than eight feet in width, designed and constructed in compliance with standards and specifications adopted and maintained by the city.

*Neighborhood park* means a public park provided for a variety of outdoor recreational opportunities located within a residential subdivision or within a close proximity or convenient distance of the majority of residences to be served thereby so that the residential subdivision or subdivisions so located shall be the primary beneficiaries of these facilities. These parks are generally smaller in size, being less than 15 acres.

*Park* means any public park, playground, pool, water feature, lake, waterway, recreation or open space area, or hike and bike trail, including a parking lot within such areas, which is operated, maintained and controlled by the city, and heretofore platted, dedicated, or designated as a public park within the city and its extraterritorial jurisdiction. These parks are generally larger in size, 15 acres or larger, and regionally located throughout the city. Land dedicated for public school land, which contains a park or park land as defined herein, shall be considered a park for the purposes of this section but only to the extent of the actual land dedicated for such a park.

*Private park* means a recreation area or open space land within a residential area which are not available for public use or which are intended primarily for exclusive use by residents of the residential area, by members of a homeowners association or other organizations. A private park shall be considered a park for purposes of this section but only to the extent necessary for planning purposes. A private park does not meet the cash payment nor park land dedication requirements of this section.

*Residential area* means any area within a subdivision plat which in whole or in part is platted for the development of dwelling units or residences, whether the same be single-family, multifamily, owner-occupied or rental dwelling units and including townhouses, condominiums and apartments.

(b)  *Park land fee.* The developer of any residential subdivisions or developments within the city and its extraterritorial jurisdiction shall pay a park land fee which shall be paid for each residential lot or dwelling unit within the subdivision or development at or prior to the time the final plat is submitted to the city for final signature approvals and recording in the public records. The park land fee shall be uniform and sufficient to acquire land for parks sufficient to serve the needs of the community as prioritized in the adopted parks, recreation and open space master plan. The park land fee shall be applicable to residential developments and dwelling units and shall be computed on the basis of $600.00 per dwelling unit. The park land fee shall not apply to developments of five dwelling units or less, unless such development is a phase, section, or part of a development plan that will include more than five lots when completed.

(c)  *Park land dedication in lieu of park land fee.*

(1)  An owner responsible for payment of the park land fee under this section may be required at the discretion of the city council to meet the requirements of subsection (b) in whole or in part by a park land dedication as set forth in subsection (c)(2) hereunder.

(2)  Whenever a final plat is submitted to the city for final signatures and filing of record with the County Clerk of Hays County for development of a residential area in accordance with this chapter, or a planned development or other development subject to this chapter and the comprehensive planning and zoning ordinance of the city, unless earlier waived by the city council such plat shall contain a clear, fee simple dedication of an area of land to the city for park purposes, which area shall equal one acre for each 75 proposed dwelling units, and the dedication by fee or easement of land for hike and bike trails. Except as found appropriate and necessary by the city council for the hike and bike trail, all dedication of land shall be in a single parcel. The council and commission may deem that noncontiguous parcels are permissible in accordance with the regulations set forth herein. Any proposed plat submitted to the city for approval where a park land dedication is being substituted for the required park land fee as provided by this section shall show the area proposed to be dedicated. If a provision of this section for park land dedication conflicts with a provision for a hike and bike trail, the park land dedication requirements shall govern and control except when waived or varied by the city council to provide for hike and bike trails.

a.  The council declares the development of an area smaller than five acres for public park purposes as impractical.

b.  No plat showing dedication of less than five acres shall be approved unless the Council, upon recommendation of the commission, approves a variance to this requirement by resolution.

c.  Dedication required by this subsection shall be made by the filing of the final plat clearly showing such park land dedication and by separate deed in a form acceptable to the city. The fully executed deed shall be delivered to the city at or prior to the time the final plat is submitted to the city for final signature approvals and recording in the public records. If the actual number of completed dwelling units exceeds the figure upon which the original dedication is based, additional dedication shall be required in the amount required by this section as amended, and shall be made by payment of cash instead of the land amount provided by subsection 41-147(b) and 47-147(d)(1).

(3)  Before any payment of park land fee, the council must find after review of the commission and at the public hearing at which the subdivision is considered for final approval, that payment of the park land fee bears a substantial relation to the health, safety, general welfare and morals of the community and that there is not a substantial and compelling interest of the community that would be better served by substituting a park land dedication for the park land fee required of the subdivision. In order to determine whether or not the need or benefit is sufficient to require the dedication, such factors as the size of lots in the subdivision, the economic impact of the subdivision, density of population, the amount of private park land contained in the subdivision, and the amount of open land consumed by the development shall be considered. The director of parks and recreation and the city parks and recreation committee shall be informed of all new subdivisions, which are submitted for approval and of all existing subdivisions, which are submitted for replatting, expansion, or redevelopment.

(4)  Dedication of land for hike and bike trails:

b.  Land shall be dedicated in fee simple or by easement by instrument acceptable to the city for hike and bike trails along all creek, natural drainage ways, selected tree lines as provided in the city adopted parks, recreation and open space master plan, unless specifically waived by the city council after review by the parks committee and the Commission. Land that is required to be dedicated in fee simple under this section, and that is not within an easement, shall be credited to the park land dedication requirements. Land that is dedicated by easement or that is within the right of way of any street, drainage or utility easement shall not be credited to the park land dedication requirement. The maximum distance between access points to trails shall be no more than 1,000 feet.

c.  Whenever a final plat is filed for development of any retail, commercial or industrial area in accordance with this section, or other comprehensive planning and zoning ordinance of the city, such a plat shall contain a clear dedication by fee simple, or by easement, if found appropriate by the city council, of an area of land to the city for a hike and bike trail, under the same terms, conditions and requirements as are applicable to residential plats.

(5)  No area of land or facility shall be dedicated to the city for park land purposes unless approved and accepted by the city council.

(d)  *Park development fee.*

(1)  In addition to the required payment of park land fee as set forth in subsection (b) of this section or the dedication of land as set forth in subsection (c) of this section, as applicable, the developer or his successor shall pay a park development fee to the city which shall be paid for each residential lot or dwelling unit within the subdivision or development at or prior to the time the final plat is submitted to the city for final signature approvals and recording in the public records. The park development fee shall be set from time to time by city ordinance and shall be sufficient to provide for the development of amenities and improvements on dedicated parks within the city. The park development fee shall be applicable to residential developments and dwelling units and the park development fee shall be computed on the basis of $600.00 per dwelling unit in the development or subdivision. The park development fee shall not apply to developments of five dwelling units or less, unless such development is a phase, section, or part of a development plan that will include more than five lots when completed.

(2)  In lieu of payment of the required park development fee, the developer, with approval of the parks director, may construct the park improvements. All public park improvements shall meet the minimum requirements set forth in the adopted the city parks, recreation and open spaces master plan. All development plans and specifications for the construction of said park improvements shall meet the minimum design and construction standards on file with the parks and recreation department, be sealed by a landscape architect registered in the State of Texas and be reviewed and approved by the parks director prior to construction.

a.  The developer shall financially guarantee the construction of such park improvements by providing performance and payment bonds, an irrevocable letter of credit, or other similar security that is deemed acceptable to the parks director and that complies with the requirements of this ordinance for fiscal guarantees for required subdivision improvements, except as provided otherwise in this section, prior to the recording of the final plat for the subdivision.

b.  The developer and contractor constructing the park improvements shall be required to execute a license agreement using the city's standard for prior to beginning work on the park improvements.

c.  Performance and payment bonds shall name the city as a beneficiary and shall cover 100 percent of the estimated construction cost of such park improvements as shown in a construction contract executed by the developer.

d.  The period within which required park improvements must be completed shall be incorporated in the surety instrument and shall not in any event, without prior approval of the city, exceed one year from date of final plat approval.

e.  As a condition of city acceptance of the park improvements, the developer shall be required to provide a two year maintenance bond that is equal in amount to 100 parks and that complies with the requirements of this section for maintenance bonds for required subdivision improvements, except as provided otherwise in this section, of the construction cost of said park improvements and a manufacturer's letter stating the main play structure and safety surface was installed in accordance with the manufacturer's installation requirements.

f.  As a condition of city acceptance of the park improvements, the developer shall also provide the city a copy of the application and subsequent inspection report prepared by the Texas Department of Licensing and Regulation or their contracted reviewer for compliance with the Architectural Barriers Act, codified as Article 9102, Texas Civil Statutes, as amended.

g.  All park improvements may be inspected by the city while construction is in progress and the developer shall provide the city with reasonable access to perform such inspections. Once construction of the park improvements are complete as determined by the park director, the developer shall convey such improvements to the city free and clear of any lien or other encumbrances by instrument acceptable to the city. The developer shall provide documentation satisfactory to the parks director demonstrating that the improvements and land are free and clear of any lien or other encumbrances. The parks director shall accept the park improvements in writing after inspection and upon the determination that the park improvements have been satisfactorily completed, the park improvements and underlying park land are free and clear of any lien or encumbrance, the developer has complied with subsections 41-147(d)(2)e. and f., and the developer has executed the required instrument to convey the park improvements to the city.

(e)  *Prior dedication.*

(1)  Credit shall be given for payment of park land and park development fees or for park land dedications paid or dedicated pursuant to the existing zoning ordinance or subdivision ordinance of the city at the time a development was accepted by the city.

(2)  If a park land and park development fee or park land dedication requirement arose prior to the passage of this section, that dedication requirement shall be controlled by the ordinance in effect at the time such obligation arose, except that an additional park land and park development fee or an additional park land dedication shall be required if the actual density of the dwelling units constructed on the property is greater than the former assumed density. An additional park land fee, or park land dedication, and park development fee shall be determined by the increase in density and shall be based on the ratio set forth in subsections (b) and (c) of this section.

(3)  At the discretion of the city, acting through its council, any former gift of park land to the city, which was not required by any provision of this ordinance, the zoning ordinance or other applicable laws, may be credited on a per acre basis toward eventual park land dedication requirements imposed on the donor of such land. The council shall consider the recommendation of the commission in exercising its discretion under this section.

(f)  *Comprehensive plan considerations.* Land designated in the comprehensive plan as being suitable for development by the city for a major recreational center, park, or other public use, may be reserved for a period of one year after the preliminary plan is approved by the council if, within two months after such approval, the council advises the subdivider of its interest in acquiring the land or of the interest of another governmental unit to acquire the land, at the appraised value of the land at the time of purchase. A failure by the council to notify the subdivider shall constitute a waiver of the right to reserve the land. Any waiver of the right to reserve the land shall no longer be effective if the preliminary plat shall expire without adoption of a final plat.

(g)  *Dedicated fund.*

(1)  There is hereby established a dedicated fund for the deposit of all sums paid for park land fees and park development fees. This fund shall be known as the "park lands dedicated fund." All monies set aside in said park lands dedicated fund shall be used exclusively for park land acquisition and park and recreational development and/or improvements in new or existing parks within the city.

(2)  The city shall account for all sums paid the park lands dedicated fund with reference to the individual plats involved and the contributing developer. Any funds paid for such purposes must be expended by the city on a "first-in, first-out" basis within ten years from the date received by the city for acquisition or development and/or improvement of parks within the City of Kyle.

(3)  The park lands dedicated fund may be placed in a "treasury fund" established by the city, so long as accounting procedures maintain a separate account for the proceeds in a manner allowing for the purposes set forth herein and that assures that such funds will not be disbursed for any purposes not set forth in this section.

(4)  Park land and park development payments may be used only for the acquisition, development, and/or improvement of park land located within the city limits or the city's extraterritorial jurisdiction. In determining the allocation of funds derived from the payment of park land and park development fees, the council shall allocate such funds to parks in the same area as the development giving rise to the park land and park development fees, or in close proximity thereto.

(5)  The council may allocate park land and park development fee funds at its discretion to any park within the city limits or the city's extraterritorial jurisdiction after there is a review by the commission and a finding by the council that there is a substantial and compelling interest of the community requiring a different allocation than that prescribed in subsection 41-147(g)(4).

(h)  *Additional requirements.*

(1)  Any land dedicated to the city under this section must be suitable for recreational purposes, such as for parks, playgrounds, hike and bike trails and usable open space. The following characteristics of proposed area are presumed unsuitable:

a.  Any area which is located within the 100-year flood plain.

b.  Any areas of unusable topography or slope which render more than 25 percent of the area unusable for organized recreational activities, or due to unusual circumstances relating to subsoil, slope or topography, the development of the property for park or recreational purposes would be unusually difficult or expensive.

c.  Areas encumbered by overhead utility lines or easements of any type which might limit the opportunity for park and recreation development.

d.  Land sites encumbered by hazardous and or municipal waste materials or dump sites.

(2)  The characteristics described in subsections 41-147(h)(1)a.—d. may be grounds for refusal of any preliminary or final plat.

(3)  Drainage areas may be accepted as a part of a park if the channel is constructed in accordance with the city engineering standards, and if no significant area of the park is cut off from the access by such channel; provided, however, that the developer may provide vehicular access by a bridge or similar structure. The percentage or portion of park land dedication hereunder may include 50 feet on each side of any well-defined creek or waterway subject to the approval of the city.

(4)  Each park must have ready access to an improved public street. The park entrance must be visible to the public.

(5)  Permanent property boundary markers required. The developer shall be obligated to place survey markers at all corners of the park land, which has been located by a license and professional surveyor. The markers will be four-inch diameter PVC pipe recessed 12 inches in the ground. They will contain a &half:-inch iron pipe or rebar and be filled with concrete flush with the ground.

(6)  The park site being dedicated shall be free of trash and debris. If the condition of the dedicated park land is disturbed during construction of subdivision improvements, then the subdivider shall be responsible for returning the dedicated land to its previous condition prior to or at the time of final plat filing. The public improvements to be constructed per the applicable subdivision plat will not be accepted by the city until such time that the above conditions have been met.

(7)  The following utility connections shall be completed by the developer, and such connections shall not count as a credit toward park land or park development fee or park land dedication requirements:

a.  *Water meter.* A two-inch metered water supply located 12 feet behind the curb in a location determined by the parks director.

b.  *Waste-water stub.* A six-inch gravity-feed waste-water (sewer) stub or two-inch pressurized sewer line and electricity line located 10 feet behind the curb in a location determined by the parks director.

(8)  Unless provided otherwise herein, an action by the city shall be by the council, after consideration of the recommendation of the commission and the parks and recreation committee.

(i)  *Updating of dedication fees, improvement costs and other requirements.* The requirements described within this section as related to fees, development costs, population and park land level of service may be updated from time to time on a basis of current conditions. The parks committee shall consider and make periodic recommendations to the city council on such conditions.

(Ord. No. 296, art. V, § 14, 10-1-1996; Ord. No. 439, art. V, § 14, 11-24-2003; Ord. No. 439-4, § 2, 8-4-2009; Ord. No. 665, § 2, 7-19-2011; [Ord. No. 864](http://newords.municode.com/readordinance.aspx?ordinanceid=734619&datasource=ordbank) , § 2, 9-1-2015; [Ord. No. 926](http://newords.municode.com/readordinance.aspx?ordinanceid=818235&datasource=ordbank) , § 2, 1-3-2017)

Secs. 41-148—41-177. - Reserved.

ARTICLE VI. - DEVELOPMENT FRONTING INTERSTATE 35

Sec. 41-178. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Access* means vehicular access, both automobile and truck.

*Fronting* means a tract or parcel of land that adjoins or abuts the right-of-way of Interstate Highway 35.

(Ord. No. 296, art. VI, § 1, 10-1-1996; Ord. No. 439, art. VI, § 1, 11-24-2003)

Sec. 41-179. - Administrative procedures.

(a)  *Approval of access.* No final plat may be approved or building permit issued until it is demonstrated that the Texas Department of Transportation has approved the access method (i.e., frontage road or ramps) for the property being platted, zoned or permitted.

(b)  *Interstate Highway 35 Access.*

(1)  An application for approval of a means of access to Interstate Highway 35 may not be filed until such application has been approved by Texas Department of Transportation, unless such application specifically provides that the application shall not be effective until such approval is obtained by the applicant. Upon filing of application for approval of means of access to Interstate Highway 35 by an applicant, the administrator shall place the request on the agenda of the next regular meeting of the planning and zoning commission; deadlines for filing of these requests shall be the same as for preliminary subdivision plat.

(2)  The planning and zoning commission shall not finally act upon the application until such time as the Texas Department of Transportation has approved the application and, after arriving at a decision on the request, shall forward its recommendation for action to the council for action.

(3)  The finding of the council shall be final.

(Ord. No. 296, art. VI, § 2, 10-1-1996; Ord. No. 439, art. VI, § 2, 11-24-2003)

Sec. 41-180. - Standards and specifications.

Frontage roads and ramps shall be constructed in accordance with the plans and specifications approved by the Texas Department of Transportation and the city.

(Ord. No. 296, art. VI, § 3, 10-1-1996; Ord. No. 439, art. VI, § 3, 11-24-2003)

Sec. 41-181. - Frontage road right-of-way.

(a)  *Dedication.* The owner of any property developed or subdivided which fronts or touches on Interstate Highway 35, for which sufficient right-of-way does not exist according to the Texas Department of Transportation records, shall be required to dedicate the additional right-of-way required for the construction of frontage roads, not to exceed a width of 60 feet, along the entire frontage of such property.

(b)  *Traffic circulation plan.* An owner or developer of property fronting Interstate Highway 35 desiring to develop, subdivide, or obtain a building permit on said property must submit a plat or development plan to the city for approval. The plat must address the right-of-way for the frontage road, access to Interstate Highway 35, and internal circulation for the platted property.

(c)  *Construction.* The owner of any property developed or subdivided and which fronts or touches on any portion of Interstate Highway 35, for which a frontage road has not been constructed, shall be required to construct the frontage road along the entire frontage of such property.

(Ord. No. 296, art. VI, § 4, 10-1-1996; Ord. No. 439, art. VI, § 4, 11-24-2003)

EXHIBIT A. - REGULATIONS FOR PLATTING AND SUBDIVIDING LAND WITHIN THE PLUM CREEK PUD[[2]](#fn_45)

ORDINANCE NO. 308

An ordinance of the City of Kyle, Texas, establishing the requirements, regulations and procedures for platting and subdividing land within the plum creek planned unit development; stating the public purpose; providing definitions; providing for fees and filing and processing plats; establishing standards and specifications; providing for remedies and variances; providing a severability, effective date and open meetings clause; and providing for related matters.

Be it ordained by the city council of the City of Kyle, Texas, that:

Footnotes:

--- (**2**) ---

**Editor's note—** Printed herein is 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.

Sec. 1. - Authority.

This ordinance is adopted under the authority of the Constitution and laws of the State of Texas, including, but not limited to, V.T.C.A., Local Government Code chs. 42, 212, 380, and 481; and V.T.C.A., Water Code ch. 26.

Sec. 2. - Purpose.

The purpose of the ordinance is to provide for the orderly, safe, healthy, and economic and commercial development of the area within that area of the city and the city's extraterritorial jurisdiction hereinafter specified and defined as the "Plum Creek Planned Unit Development" to promote the health, safety, and general welfare of the community, and for the good government, order, trade and commerce of the city; and to accomplish such public purposes by requiring that all land within the Plum Creek planned unit development shall be subdivided and platted in compliance with this ordinance.

Sec. 3. - Definitions.

For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this section:

*Administrator* [means] the city engineer and/or director of public works, or other person(s) designated by the city to administer the regulations and provisions of this ordinance.

*Alley* [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.

*Building official or building inspector* [means] any person, employee or agent designated and authorized by the city to issue permits for the construction or improvement of buildings and structures; and in the appropriate context, any such person authorized to inspect work and improvements to buildings and structures for compliance with the building codes and ordinances of the city.

*Building scale* [means] the relationship between the mass of a building, the individual elements of the building and its surroundings, including the width of the street, open space, and mass of surrounding buildings.

*Building setback line* [means] the line within a property defining the minimum horizontal distance between a building and the adjacent street line.

*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.

*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.

*City* [means] the City of Kyle, Texas.

*Commission* [means] the planning and zoning commission of the city.

*Common open space* [means] a parcel or parcels of land or an area of water, or a combination of land and water, which may include floodplain and wetland areas, within a development site and intended for the use and enjoyment of residents of the development and, where designated, the community at large.

*Crosswalk way* [means] a public right-of-way, six feet or more in width between property lines, which provides pedestrian circulation.

*Cul-de-sac* [means] a street having but one outlet to another street, and terminated on the opposite end by a vehicular turnaround.

*Dead-end street* [means] a street, other than a cul-de-sac, with only one outlet.

*Developer.* See "PUD subdivider."

*Development* [means] buildings, utilities, roads, and other structures; construction; and excavation, dredging, grading, filling, and clearing or removing vegetation.

*Engineer* [means] a person duly authorized, under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

*Extraterritorial jurisdiction* [means] that territory outside the corporate limits of the City of Kyle which is within the jurisdiction of the city by virtue of V.T.C.A., Local Government Code ch. 42.

*Flood* [means] a temporary rise in stream level that results in inundation of areas not ordinarily covered by water.

*Floodway* [means] the channel of a watercourse and portions of the adjoining floodplain which are reasonably required to carry and discharge the regulatory flood.

*Formal application* [means] the filing with the city of the required number of copies of an application that meets all of the requirements of this and other applicable ordinances, including requisite documentation, and accompanied by the filing fee as set forth in Ordinance No. 293, as amended, or otherwise required by city ordinance.

*Front porch* [means] an unairconditioned roofed structure attached to the front of a house. The front porch will have a minimum depth of six feet and minimum width of eight feet. Side and rear porches are not subject to these requirements. A front porch may include ramps for handicapped access.

*Front yard* [means] that portion of a lot extending from the front face of a building towards and to the front lot line.

*Human scale* [means] the relationship between the dimensions of a building, structure, street, open space, or streetscape element and the average dimensions of the human body.

*Impervious cover* [means] roads, parking areas, buildings, and other impermeable construction covering the natural land surface; this shall include, but not be limited to, all streets, driveways and buildings within a subdivision.

*Lot* [means] a parcel of land which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol on a subdivision plat approved in the manner required by V.T.C.A., Local Government Code ch. 212, and this ordinance, which has been properly filed of record; and which is, or in the future may be, offered for sale, conveyance, transfer or improvement.

*Modified grid street pattern* [means] an interconnected system of streets which is primarily a rectilinear grid in pattern; however, it can be modified in street layout and block shape so as to avoid a monotonous repetition of the basic street/block grid pattern.

*Multifamily* [means] any use of lots or tracts on which are built three or more dwelling units, within one building.

*Neighborhood* [means] a subdivision comprised primarily of residential lots with boundaries which are defined on a plat, parcel map, or subdivision map recorded in the office of the county clerk.

*Off-street parking* [means] vehicular parking outside the street right-of-way. Each parking space shall have adequate drives, aisles, and turning and maneuvering areas for access and usability.

*On-street parking* [means] vehicular parking contained on the street pavement (public and private streets) located outside the travel lanes. Parking spaces shall be designated and be located parallel or at an angle to the street center line.

*Owner* [means] a person, corporation, partnership or other legal entity which is the legal or equitable owner of land.

*Phase I property* [means] that part of the property located south of County Road 171, which consists of approximately 1,247.5 acres as set forth in exhibit "A" to this ordinance which is on file in the city secretary's office.

*Plum Creek planned unit development* [means] phase I as planned and shown on the Plum Creek planned unit development master plan (the "Plum Creek PUD").

*Planned unit development district/PUD district* [means] a zoning designation for an area within the Plum Creek PUD which must comply with the site development standards for such designated area.

*Planned unit development subdivision, PUD subdivision* or *subdivision* [means] a division of any tract of land situated within a planned unit development within the corporate limits, or within the city's extraterritorial jurisdiction, into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition of any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parts or other portions, intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. [The term] "subdivision" includes resubdivision. A PUD subdivision may, but is not required to, include a mix or combination of land uses within its boundaries (e.g. industrial, commercial, residential).

*Plat* [means] a map representing a tract of land, showing the boundaries and location of individual properties and streets.

*Plat drawing* [means] a drawing or drawings depicting the proposed subdivision layout itself, along with associated certifications, dedications and related notations.

*Plat, final* [means] the final map of all or a portion of a subdivision which is presented to the proper review authority for final approval; and which map or plat as approved by the commission and the city council, with or without amendments, shall be required for the development of land within the Plum Creek PUD.

*Plat, preliminary* [means] a preliminary map indicating the proposed layout of a subdivision which is submitted to the review authority for consideration and preliminary approval.

*Plum Creek PUD master plan* [means] a graphic representation or map of the proposed plan for development of phase I property which includes the use of several PUD districts and subdivisions in stages, depicting the proposed land uses, major street layout, parks and open space, and other features as may be deemed necessary or appropriate by the administrator.

*Property owners association* [means] an organization made up of the property owners in the area, which is responsible for maintenance of private streets, alleys, and the open spaces not conveyed to the city, and which shall have the authority to make and collect assessments sufficient to operate and maintain private streets, alleys and open spaces.

*PUD subdivider* [means] any person or any agent thereof, dividing or proposing to divide land so as to constitute a PUD subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land sought to be subdivided.

*Person* [means] any individual, association, firm, organization, company, corporation, proprietorship, partnership, trust, governmental agency, or political subdivision.

*Rear yard* [means] that portion of a lot extending from the rear face of a building towards and to the rear lot line.

*Regulatory flood* [means] a flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur in a particular stream. The regulatory flood generally has a flood frequency of approximately 100 years as determined from an analysis of floods on a particular stream and other streams in the same general region.

*Regulatory flood protection elevation* [means] the elevation of the regulatory plus one foot of freeboard to provide a safety factor.

*Right-of-way* [means] land dedicated or reserved for streets, utilities, or other public facilities.

*Setback distance* [means] the distance beyond which a building must be set back from any property line, another building or structure, setback lines or other line(s) or location as established by this ordinance.

*"Shall," "must," "will," "should,"* and *"may."* The words "shall," "must," and "will," are always mandatory. The words "should," and "may" are discretionary.

*Street* [means] the entire width included in any public right-of-way which is open for the use of the public, however designated, and which serves one or more of the following purposes:

(1)  An "arterial street" primarily provides vehicular circulation to various sections of the city.

(2)  A "collector street" provides circulation within neighborhoods, to carry traffic from local streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.

(3)  A "marginal access street" is a street which is parallel and adjacent to an arterial street, which primarily provides access to abutting properties and protection from through traffic.

(4)  A "minor or local street" is a street designed primarily for access to abutting residential property.

(5)  A "boulevard" is a short to long distance, medium speed circulation corridor, that traverses a residential or commercial urban area and segregates the slower traffic and parking activity from through traffic.

(6)  An "avenue" is a short to long distance, medium speed connector that traverses a residential or commercial urban area or neighborhood.

(7)  A "residential street" is a small-scale, low speed local connector providing frontage to low to medium density residential and neighborhood commercial buildings and properties.

*Streetscape* [means] the built and planted elements of a street which define its character.

*Street width* [means] the portion of a street available for vehicular traffic and which is the portion between the faces of curbs.

*Subdivision* [means] the subdivision of any tract, lot, piece, or parcel of land, or any portion in two or more parts for the purpose of laying out suburban and/or urban lots or building lots. Subdivision also includes vacation and resubdivision of any tract, lot, piece, or parcel of land.

*Surveyor* [means] a licensed state land surveyor or a registered public surveyor as authorized by state law to practice the profession of surveying.

*Traffic calming measures* [means] road design elements intended to slow the speed of vehicular traffic. The following traffic calming measures shall be permitted:

(1)  "Chicane" means a staggered roadway around tree groupings, at the end of a parking lane, or other feature, intended to slow traffic speed.

(2)  "Gateway" means a narrowed threshold at a road intersection, with an optional median, intended to slow traffic speed.

(3)  "Throttle" means a road narrowed at a tree grouping, at the end of a parking lane, or other feature intended to slow traffic speed.

(4)  "Roundabout" is a one way circular traffic rotary intersection, which reduces the need for traffic lights, allowing up to four streets to converge at a single point and at acute angles, and which are intended to move traffic through an intersection in a smooth and orderly fashion while lessening traffic delays.

(5)  "Speed plateau" means a slightly elevated section of road pavement over short duration, intended to slow traffic speed.

(6)  "Neckdown" means a staggered roadway at an intersection or other point intended to slow traffic speed.

*Shared driveway* [means] a paved vehicular access designed to residential driveway standards, which extends to and branches off of several homes; which is privately owned and maintained and does not require a turn around area at the end of the driveway.

*Utility easement* [means] an interest in land granted to the city, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

*Zero-lot-line lot* [means] a long and narrow single family lot that has a side wall along or near one of the lot lines so that a ten-foot minimum yard is created on the other side of the lot.

Any office referred to in this ordinance by title means the person employed or appointed by the city in that position, or his duly authorized representative, and includes any person designated to perform the duties of such office. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

Sec. 4. - Special provisions.

(A)  No permit shall be issued by the city for the installation of septic tanks upon any lot in a subdivision for which a final plat has not been approved and filed of record, or upon any lot in a subdivision in which the standards contained in this ordinance or referred to herein have not been complied with in full.

(B)  No building, repair, plumbing or electrical permit shall be issued by the city for any structure on a lot in a subdivision for which a final plat has not been approved and filed of record, nor for any structure on a lot within a subdivision in which the standards contained herein have not been complied with in full.

(C)  The city shall not repair, maintain, install or provide, or permit such repair, maintenance or installation of, any streets or public utility services in any subdivision in which the standards contained herein or referred to herein have not been complied with in full.

(D)  The city shall not sell or supply any water, or sewage service within a subdivision for which a final plat has not been approved or filed of record, nor in which the standards contained herein or referred to herein have not been complied with in full.

(E)  If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, and the city council shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and reciting the fact that the provisions of paragraphs (A), (B), (C), and (D) of this section will apply to the subdivision and the lots therein, the city secretary shall, when directed by the city council of the city, cause a certified copy of such resolution under the corporate seal of the city to be filed in the deed records of the county or counties in which the subdivision or part thereof lies. If full compliance and final plat approval are secured after the filing of such resolution, the city secretary shall forthwith file an instrument in the deed records of such county or counties which declares paragraphs (A), (B), (C), and (D) [of this section] no longer apply, and releases the subdivision and the lots therein from the provisions as set forth in the resolution reciting the facts of such noncompliance.

(F)  The provisions of this section shall not be construed to prohibit the issuance of permits for any lots upon which a residence building exists and was in existence prior to passage of this Plum Creek PUD subdivision ordinance, nor to prohibit the repair, maintenance, or installation of any street or public utility service for, to or abutting any lot, the last recorded conveyance of which prior to passage of this ordinance was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to passage of this ordinance and pursuant to the city's Subdivision Ordinance No. 296 [chapter 41 of this Code], or the predecessor ordinance. Furthermore, the provisions of this section shall not apply to the issuance of permits for the construction or maintenance of structures which are located in an area which has not been subdivided or for which a final plat has not been approved and filed of record, if said structures are required to provide functional service to a lot(s) located in a subdivision in which the final plat has been approved and filed of record pursuant to the city's Subdivision Ordinance No. 296 [chapter 41 of this Code], or the predecessor ordinance.

(G)  Any right, privilege, or remedy granted by this ordinance to the person obtaining or holding an approved permit shall run in favor of such person's successors in interest and assigns. Any duty or obligation of or remedy against such person arising from this ordinance shall inure to such person's successors in interest and assigns.

(H)  The subdivision of land within phase I, pursuant to this ordinance and the Plum Creek planned unit development master plan approved by the city council, shall be required only to meet the requirements and development standards approved by the city council.

Sec. 5. - Variances.

The city council may authorize a variance from these regulations or the requirements and development standards approved by the city council for the Plum Creek PUD when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the city council shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings herein below required, the city council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance shall be granted unless the city council finds that:

(A)  There are special circumstance or conditions affecting mixed use planning practices affecting land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land; and

(B)  A substantial and irrevocable commitment of resources uniquely suited and pursuant to the approved Plum Creek PUD cannot be substantially recovered except by developing the property substantially as proposed; and

(C)  The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

(D)  The granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area; and

(E)  The granting of the variance will not have the effect of preventing or adversely impacting the orderly subdivision of other land in the Plum Creek PUD area in accordance with the provisions of this ordinance.

An application for a variance shall be submitted to the planning commission, who shall forward a recommendation to grant, grant with conditions, or deny, to the city council. The findings of the city council, together with the specific facts upon which such finding are based, shall be incorporated into the official minutes of the city council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this ordinance so that the public health, safety, and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

Sec. 6. - Preliminary conference for subdivision of the Plum Creek PUD.

The owner of a large area known as the Plum Creek property proposes to stage development of the property in two phases, with phase I being the Plum Creek planned unit development which will be comprised of several subdivisions. Prior to the filing of a preliminary plan for any subdivision, the owner/subdivider of the proposed Plum Creek PUD area shall consult with and present the Plum Creek PUD master plan to the administrator for comment and advice on the procedures, specifications, and standards required by the city for the development of a subdivision within the Plum Creek PUD within the city or its extraterritorial jurisdiction. The purpose of this preliminary conference is to review:

(A)  The owner's Plum Creek PUD master plan for the proposed property.

(B)  The zoning status of the property to be subdivided.

(C)  The availability of utilities for the property to be subdivided.

(D)  The city's plans or policies that might affect the property to be subdivided.

(E)  Processing of Plum Creek PUD subdivisions.

(1)  The administrator shall check the Plum Creek PUD master plan as to its conformity with the city's master plan, major street plan, land use plan, Plum Creek PUD zoning ordinance [chapter 53, exhibit A] and the standards and specifications set forth in this ordinance.

(2)  Pertinent copies of the Plum Creek PUD master plan shall be submitted to the building inspector and administrator who shall check the same for conformity with the standards and specifications set forth by this ordinance.

(3)  The administrator shall return the Plum Creek PUD master plan data to the commission with his suggestions as to modifications, additions or alterations of such data.

(4)  Within 30 days after the request for consideration of the Plum Creek PUD subdivision ordinance is filed, the commission shall approve or disapprove such ordinance, or approve it with modifications, and forward it to the city council for its consideration. Formal filing of the Plum Creek PUD subdivision ordinance shall not be effective until all supporting documentation is provided to the city.

(5)  Approval of a Plum Creek PUD subdivision ordinance by the city council shall be deemed an expression of approval of the general layout submitted on the Plum Creek PUD master plan as a guide to the installation of major streets, water, sewer and other required improvements, to the proposed location categories of land uses (e.g. residential, commercial, industrial) and to the preparation of applications for preliminary plans for Plum Creek PUD subdivisions.

(6)  Approval of the Plum Creek PUD master plan shall be effective for 15 years; provided that such master plan shall expire unless at least ten percent of phase I has been platted and fully developed within five years from the date such master plan is approved by the city council.

(7)  If the development of phase I has not been completed pursuant to the Plum Creek PUD master plan, after 15 years of effective approval of the Plum Creek PUD master plan, the city council with the recommendation of the commission may, upon the application of the owner, extend the approval for an additional five-year period. Provided, however, that the owner/developer shall make a good faith effort to develop 20 percent of the property within the first five years; 50 percent of the property within the first ten years; and 75 percent of the property within the 15-year period. If the owner/developer has demonstrated a good faith effort to meet the development schedule but has been unable to, he may request and be granted an extension by the city for the additional five years.

(8)  If the Plum Creek PUD subdivision ordinance is disapproved by the commission, the applicant may appeal the commission's decision to the city council in writing within 15 days. The city council shall consider the appeal within 30 days of the applicant's appeal. Reversal of the commission's decision shall require the approval by a simple majority of the council.

Sec. 7. - Preliminary conference for preliminary plat.

The platting process described in sections 7 through 9 is described sequentially. However, if a developer has a relatively simple plat, in which all or most of the subdivision requirements are in place, the process can be simplified by combining various phases of the process upon agreement by the administrator. The preliminary conference can be used to explore ways to shorten the platting process upon agreement by the administrator. Prior to the official filing of a preliminary plat, the subdivider should consult with and present a proposed plan of subdivision to the administrator for comments and advice on the procedures, specifications, and standards required by the city for the subdivision of land.

Sec. 8. - Preliminary plat and accompanying data.

(A)  *General.* The subdivider shall cause a preliminary plat for a subdivision within the Plum Creek PUD to be prepared by a surveyor or engineer in accordance with this ordinance and with the Plum Creek PUD master plan.

(B)  *Time for filing and copies required.* The subdivider shall file 20 copies of the plat together with the original, with the commission at least ten days prior to the date at which formal application for the preliminary plat approval is made to the commission.

(C)  *Filing fees.* Such plat shall be accompanied by a filing fee as required by city ordinance. No action by the commission shall be valid until the filing fee has been paid. This fee shall not be refunded should the subdivider fail to make formal application for preliminary plat approval or should the plat be disapproved.

(D)  *Formal application.* Formal application for preliminary plat approval shall be made by the subdivider in writing to the commission at an official meeting.

(E)  *Form and content.* The plat shall be drawn on sheets 24 inches wide and 36 inches long with a binding margin of not less than one inch on the left side of the sheet and margins of the other three sides of not less than one-half inch, or suitable equal approved by the city engineer. The plat shall be drawn to a scale of 100 feet to one inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:

(1)  Names and address of the subdivider, record owner, engineer and/or surveyor.

(2)  Proposed name of the subdivision, which shall not have the same spelling as or be pronounced similar to the name of any other subdivision located within the city or within five miles of the city.

(3)  Names of contiguous subdivisions and the owners of contiguous parcels of unsubdivided land, and an indication of whether or not contiguous properties are platted.

(4)  Description, by metes and bounds, of the subdivision.

(5)  Primary control points or descriptions, and ties to such control points to which all dimensions, angles, bearings, block numbers and similar data shall be referred.

(6)  Subdivision boundary lines, indicated by heavy lines, and the computed acreage of the subdivision.

(7)  Existing sites as follows:

(a)  The exact locations, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries.

(b)  The exact locations, dimensions, descriptions and names of existing or recorded residential lots, parks, public areas, permanent structures and other sites within or contiguous with the subdivision.

(c)  The exact locations, dimensions, descriptions, and flow lines of existing watercourses and drainage structures within the subdivision or on contiguous tracts.

(d)  Regulatory flood elevations and boundaries of flood prone areas, including flood ways, if known.

(8)  The proposed locations, dimensions, descriptions and names of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements or other rights-of-way, block lots and other sites within the subdivision.

(9)  A preliminary plan for a water system, including all major lines and system elements.

(10)  A preliminary plan for on-site sewage disposal systems, including disposal site for land subject to flooding or sanitary sewers with grade, pipe size and points of discharge.

(11)  A preliminary plan of the drainage system with grade, pipe size, and location of outlet.

(12)  A preliminary plan for proposed fills or other structure elevating techniques, levels, channel modifications and other methods to overcome floor or erosion related hazards.

(13)  Date of preparation, scale of plat and north arrow.

(14)  Topographical information shall include contour lines on a basis of five vertical feet in terrain with a slope of two percent or more and on a basis of two vertical feet in terrain with a slope of three percent.

(15)  A number or letter to identify each lot or site and each block.

(16)  Front building setback lines on all lots and sites. Side yard building setback lines at street intersections and crosswalk ways.

(17)  Location of city limits lines, the outer border of the city's extraterritorial jurisdiction, and zoning district boundaries, if they traverse the subdivision, form part of the boundary of the subdivision, or are contiguous to such boundary.

(18)  Vicinity sketch or map at a scale of not more than 100 feet to an inch which shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities in the vicinity, the general drainage plan and ultimate destination of water and possible storm sewer, water, gas, electric, and sanitary sewer connections by arrows.

(F)  *Processing of preliminary plat.*

(1)  The administrator shall check the preliminary plat as to its conformity with the Plum Creek PUD master plan, major street plan, land use plan, and the standards and specifications set forth by the Plum Creek PUD zoning ordinance [chapter 53, exhibit A] (after it is approved by the city) and other applicable code requirements.

(2)  Pertinent copies of the preliminary plat data shall be submitted to the building inspector, city engineer, and director of public works and they shall check the same for conformity with the standards and specifications set forth by ordinance and code.

(3)  The administrator shall return the preliminary plat data to the commission with their suggestions as to modifications, additions or alterations of such plat data.

(4)  Within 30 days after the preliminary plat is formally filed, the commission shall approve or disapprove such plan or approve it with modifications, and forward its comments and recommendations to the city council. Formal filing of the preliminary plat shall not be effective until all supporting documentation is provided to the city.

(5)  The city council shall consider the preliminary plat that has been reviewed by the planning commission and its recommendation for approval or conditional approval, or lack thereof. Within 30 days of the city council's initial consideration of a preliminary plat package that has been approved, conditionally approved or disapproved by the commission, the city council shall either approve or disapprove such preliminary plat or conditionally approve it with modifications as provided for in this ordinance. In the event the city council disapproves a plat previously approved by the commission, or approves a plat previously disapproved by the commission, or adds or deleted conditions for approval, the plat shall be promptly reconsidered by the commission in light of the city council's action.

(6)  Approval of a preliminary plat by the city council shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the installation of streets, water, sewer and other required improvements and utilities, and to the preparation of the final or record plat. Conditional approval of a preliminary plat shall not constitute automatic approval of the final plat.

(7)  Approval of a preliminary plat shall be effective for two years unless reviewed by the commission and the city council in the light of new or significant information which would necessitate a revision of the preliminary plat. If the commission and the city council should deem changes in a preliminary plat as necessary, it shall so inform, in writing, the subdivider.

(8)  If no development has occurred which would affect the proposed plat, after two years of effective approval the commission and the city council may, upon the application of the subdivider, extend the approval an additional year.

Sec. 9. - Final plat.

(A)  *Form and content.*

(1)  The final plat and accompanying data shall conform to the preliminary plat as approved by the commission and city council, incorporating any and all changes, modifications, alterations, corrections and conditions as imposed by the commission and city council. No final plat shall be considered by the commission or city council unless a preliminary plat has first been approved by the commission and city council. Very simple plats, identified at the preliminary conference, may be submitted in final form without going through the preliminary plan process. However, the final plat shall be accompanied by all information required at submission of the preliminary plat.

(2)  The final plat shall be drawn on sheets 24 inches wide and 36 inches long with a binding margin on the left side of the sheet of not less than one inch and margins of not less than one-half inch on the other three sides, or suitable equal approved by the city engineer. The plat shall be drawn to scale of 100 feet to one inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. When requested by the administrator, the subdivider shall provide a complete copy of all such plats, plans and design specifications on CAD disks or in other such electronic format as then customarily in use by civil engineers within Travis and Hays Counties.

(3)  The final plat shall be submitted in such manner as is required by the commission, and shall contain all of the features required for preliminary plats in section 7 [8] above, and it shall be accompanied by site improvement data bearing the seal of an engineer and detailed cost estimates.

(4)  The final plat and accompanying site improvement data and detailed cost estimates shall be approved by the administrator.

(5)  In addition to the various requirements for the preliminary plat, the final plat shall also include the following:

(a)  The exact locations, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within the subdivision, intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, area, and central angle, degree or curvature, tangent distance and length of all curves where appropriate.

(b)  The exact locations, dimensions, descriptions and name of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements, or other rights-of-way, blocks, lots, other sites within the subdivision with accurate dimensions, bearings or deflecting angles and radii, area, and central angle, degree or curvature, tangent distance and length of all curves where appropriate.

(c)  (i)  Approval of the planning commission of the city:

|  |
| --- |
| This plat of \_\_\_\_\_\_\_\_\_\_\_\_ has been submitted to and considered by the Planning Commission of the City of Kyle, Texas, and is hereby approved by the Commission. |
| Dated this \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ , 20 \_\_\_\_\_\_\_\_\_\_\_\_ . |
| \_\_\_\_\_\_\_\_\_\_\_\_ |
| By: |
| ATTEST: |
| \_\_\_\_\_\_\_\_\_\_\_\_ |
| Secretary |

(ii)  Approval of the City Council of the City:

|  |
| --- |
| This plat of \_\_\_\_\_\_\_\_\_\_\_\_ has been submitted to and considered by the City Council of the City of Kyle, Texas, and is hereby approved by the Commission. |
| Dated this \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ , 20 \_\_\_\_\_\_\_\_\_\_\_\_ . |
| \_\_\_\_\_\_\_\_\_\_\_\_ |
| By: |
| ATTEST: |
| \_\_\_\_\_\_\_\_\_\_\_\_ |
| Secretary |

(d)  Certification of the surveyor responsible for surveying the subdivision area, attesting to its accuracy:

|  |  |
| --- | --- |
| State of Texas | /s/ |
| County of Hays | /s/ |
| I, the undersigned, a (Registered professional engineer/public surveyor) in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey of the property made under may supervision on the ground. | |
| [Engineer of Surveyor's Seal] | By: \_\_\_\_\_ |
|  | Registered Professional Engineer/or/ |
|  | Registered Public Surveyor |

(e)  A certificate by the engineer responsible for the preparation of the final plan and supporting data, attesting to its accuracy:

|  |  |
| --- | --- |
| State of Texas | /s/ |
| County of Hays | /s/ |
| I, the undersigned, a registered professional engineer in the State of Texas, hereby certify that proper engineering consideration has been given this plat. | |
| [Engineer's Seal] |  |
|  | By: \_\_\_\_\_ |
|  | Registered Professional Engineer |

(6)  When submitted, the final plat shall be accompanied by the following site improvement data. All plans and engineering calculations shall bear the seal and signature of an engineer.

(a)  Streets, alleys, sidewalks, crosswalk ways & monuments. Three copies or plans and profiles of all streets, alleys, sidewalks, crosswalk ways, and monuments, and three copies of detained cost estimates.

(b)  Sanitary sewers.

(i)  Three copies of the proposed plat, showing five-foot contours and the proposed location and dimensions of existing sanitary sewer lines.

(ii)  Three copies of plans and profiles of proposed sanitary sewer lines, indicating depths and grades of lines.

(iii)  Three copies of detailed cost estimates.

(c)  Water lines.

(i)  Three copies of the proposed plat, showing five-foot contours and location and size of existing water lines and fire hydrants.

(ii)  Three copies of plans and profiles of all proposed water lines and fire hydrants, showing depths and grades of lines.

(iii)  Three copies of detailed cost estimates.

(d)  Storm drainage.

(i)  Three copies of the proposed plat, indicating five-foot contours. All street widths and grades shall be indicated on the plat, and runoff figures shall be indicated on the outlet and inlet side of all drainage ditches and storm sewers, and at all points in the street at changes of grade or where the water enters another street or storm sewer or drainage ditch. Drainage easements shall be indicated.

(ii)  A general location map of the subdivision showing the entire watershed (a USGS quadrangle is satisfactory).

(iii)  Calculations showing the anticipated stormwater flow, including watershed area, percent runoff, and time of concentration. When a drainage ditch or storm sewer is proposed, calculations shall be submitted showing basis for design.

(iv)  When a drainage channel or storm sewer is proposed, complete plans, profiles, and specifications shall be submitted, showing complete construction details.

(v)  When conditions upstream or downstream from a proposed channel or storm sewer do not permit maximum design flow, high water marks based on a 25-year frequency, shall be indicated based on existing conditions.

(vi)  Three copies of detailed cost estimates.

(vii)  The final plat shall also include the following:

(A)  Owners acknowledgment.

|  |  |
| --- | --- |
| State of Texas | /s/ |
| County of Hays | /s/ |
| I [we], the undersigned, owner(s) of the land shown on this plat, and designated herein as the \_\_\_\_\_\_\_\_\_\_\_\_ subdivision to the City of Kyle, Texas, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, watercourses, drains, easements, and public places thereon shown for the purpose and consideration therein expressed. | |
|  | By: \_\_\_\_\_ |
|  | Owner |

|  |  |
| --- | --- |
| State of Texas | /s/ |
| County of Hays | /s/ |
| Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_\_\_\_\_\_\_\_ , known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein stated. | |
| Given under my hand and seal of office this \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ , 20 \_\_\_\_\_\_\_\_\_\_\_\_ . | |
|  | >By: \_\_\_\_\_ |
|  | Notary Public |

(B)  Certification of the planning commission.

|  |  |
| --- | --- |
| I, the undersigned, Chairman of the Planning Commission of the City of Kyle, hereby certify that this subdivision plat conforms to all requirements of the subdivision regulations of the City as to which the Commission's approval is required. | |
|  | By: \_\_\_\_\_ |
|  | Chairman |

(B)  *Processing of final plat.*

(1)  If desired by the subdivider and approved by the commission and city council, the final plat may constitute only that portion of the approved preliminary plat which the developer proposes to record and develop. However, such portions shall conform to all the requirements of this ordinance.

(2)  After the subdivider is notified of the approval of the preliminary plat and at least 15 business days prior to the planning commission meeting, the subdivider's engineer shall submit to the commission 20 copies of the final plat of the subdivision or portion thereof.

(3)  No final plat will be considered unless a preliminary plat has been submitted. However, if an approved plat has been duly recorded and the subdivider wishes to increase the size of the lots by combining two or more lots or by combining one lot with a portion of the adjacent lot in such manner that no portion of a lot remains smaller that the original lots, no preliminary plat will be necessary.

(4)  A final plat of an approved preliminary plat or a portion thereof (that is consistent with the requirements of the preliminary plat or a portion thereof) shall be submitted to the commission within two years of the date of approval of preliminary plat, otherwise the approval of the commission and city council shall become null and void, unless an extension of time is applied for and granted by the commission and city council.

(5)  When the final plat is submitted to the commission for approval, it shall be accompanied by the fees required in the ordinances of the city. That portion of the fees required for recording fees can be paid by means of a check or checks payable to the county clerk in the amount of the recordation fee for filing the final plat.

(6)  Within 30 days after the final plat is formally filed, the commission shall approve or disapprove such plat and forward its recommendation to the city council.

(7)  The city council shall act on the final plat within 30 days after the approval by the commission, or after the approval by reason of nonaction of the commission. If the plat is not disapproved by the council within 30 days, it shall be deemed to have been approved by the council. A certificate showing the filing dates hereunder and the failure to take action thereon within the period prescribed shall, on demand, be issued by the commission or the council, as the case may be, and such certificate shall be sufficient in lieu of the written endorsement or other evidence of approval herein required.

(8)  After the final plat has been finally approved and the subdivider has constructed all the required improvements and such improvements have been approved, and a maintenance bond filed as hereinafter provided; or after the plat has been finally approved and the subdivider has filed the security and maintenance bond hereinafter provided, the commission shall cause the final plat to be recorded with the county clerk or clerks in the county or counties in which the subdivision lies. The commission shall also cause the check or checks for the recordation fee or fees deposited at the time the final plat was filed for approval to be delivered with the final plat to the county clerk. No plat shall be filed for record without written consent of the subdivider. If subdivider fails to provide such written consent within 30 days of the date of final approval of the plat, the commission may at any time thereafter cancel such approval.

(C)  *Plat amendments.* The city council may, upon recommendation of the commission, approve an amended plat provided said plat is signed by all affected parties, and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:

(1)  To correct an error in any course or distance or property description shown on the prior plat or add any course or distance omitted on the prior plat;

(2)  To indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;

(3)  To show the proper location or character of any monument which has been added or changed in location or character or which originally was shown at the wrong location on the prior plat;

(4)  To correct any other types of scrivener or clerical error or omission as previously approved by the commission or council;

(5)  To correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat; or

(6)  To relocate a lot line in order to cure an inadvertent encroachment on a lot line or easement. In no event shall a plat amendment be allowed which amends, adds, or deletes restrictive covenants, unless approved by all of the lot owners in the subdivision.

Sec. 10. - Where subdivision is unit of a larger tract.

Preliminary and final plats of land within the Plum Creek PUD shall reasonably conform with the Plum Creek PUD master plan, show the proposed layout of streets, blocks, drainage, water, sewerage, and other improvements for the area being platted in compliance with this ordinance. The Plum Creek PUD master plan and the approved subdivision plats shall be filed in the permanent files of the city. All subdivisions platted within the Plum Creek PUD shall reasonably conform to the approved overall layout as provided in the Plum Creek PUD master plan, unless such master plan is modified by the subdivider/developer with the approval of the commission and city council.

Sec. 11. - Guarantee of performance.

(A)  If under section 9, paragraph (B)(8) of this ordinance the subdivider chooses to construct the required improvements prior to recordation of the final plat, all such construction shall be inspected while in progress by the appropriate city department, and shall be subject to approval by the city engineer. A certificate by such officer and the developer/subdivider stating that the construction conforms to the specifications and standards contained in or referred to herein must be submitted to the administrator prior to acceptance of the required improvements by the city as built. After construction of the improvements is completed and prior to the acceptance of such improvements by the city for maintenance, the subdivider or its contractor shall file with the city a maintenance bond, executed by a surety company holding a license to do business in the State of Texas, and acceptable to the city, in an amount equal to 35 percent of the cost of the improvements required, as estimated by the administrator, and on the condition that the subdivider will maintain such improvements in good condition for a period of one year after final acceptance of the completed construction by the city. Such bond shall be approved as to form and legality by the city attorney.

(B)  If under section 9, paragraph (B)(8) of this ordinance the subdivider chooses to file security and a maintenance bond in lieu of completing construction prior to final plat approval, he may utilize any of the following methods of posting security. If the subdivider chooses to file security, the plat shall not be approved unless the subdivider has done one of the following:

(1)  Has filed with the city a bond executed by surety company holding a license to do business in the State of Texas, and acceptable to the city, as approved as to form and legality by the city attorney, in an amount equal to the cost of the improvements required by this ordinance, as estimated by the director of public works, conditioned that the subdivider will begin to construct such improvements within one year after approval of such plat, and pursue the work in a timely manner excluding acts of God, with a completion date for such improvements within two years from the date of final plat approval; or

(2)  Has placed on deposit in a bank or trust company selected by the subdivider and approved by the city, in a trust account a sum of money equal to the estimated cost of all site improvements required by this ordinance. The estimated cost of improvements shall be the cost as estimated by the director of public works. Selection of the trustee shall be subject to approval by the city, and the trust agreement shall be approved as to form and legality by the city attorney.

(3)  Has furnished fiscal security in the form of a letter of credit obtained by the subdivider in an amount equal to the estimated cost of all site improvements required by this ordinance. The administrator shall provide an estimate of the cost of improvements. The subdivider shall obtain the letter of credit from a financial institution approved by the city and subject to approval as to form and legality by the city attorney.

(C)  If either type of security is filed by the subdivider under paragraph (B) of this section, the filing of such security shall be accompanied by a maintenance bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the city, and issued upon completion and the acceptance of the improvements by the city, in an amount equal to 35 percent of the cost of the improvements required, as estimated by the director of public works, under the condition that the subdivider will maintain such improvements in good condition for a period of one year after final acceptance of the completed construction by the city, as provided in paragraph (D) of this section. Such bond shall be approved as to form and legality by the city attorney.

(D)  If either type of security is filed by the subdivider under paragraph (B) of this section, the director of public works shall inspect the construction of improvements while in progress, and he shall inspect such improvements upon completion of construction. After final inspection, he shall notify the subdivider and the city attorney in writing as to his acceptance or rejection of the construction. He shall reject such construction only if it fails to comply with the standards and specifications contained or referred to herein, or otherwise in effect pursuant to applicable resolution or ordinance of the city. If he rejects such construction, the city attorney shall on direction of the city council proceed to enforce the guarantees provided in this ordinance.

(E)  Where good cause exists, the director of public works may extend the period of time for completion under paragraph (B) of this section for an additional period of time not to exceed 12 months if the subdivider has not completed the required site improvements or completed such improvements in compliance with this ordinance. No such extension shall be granted unless security as provided in such paragraph (B) has been provided by the subdivider covering the extended period of time.

(F)  Security but not maintenance guarantees shall be released by the city when all requirements for approval have been met and the improvements have been accepted. Maintenance guarantees shall expire one year after the date of final acceptance provided that no corrective work and/or repairs are in progress and no claim by the city is pending.

Sec. 12. - Standards and specifications.

No preliminary or final plat shall be approved by the commission, and no completed improvements shall be accepted by the director of public works, unless they conform to the following standards and specifications:

(A)  *General.*

(1)  *Conformity with city's comprehensive plan and Plum Creek PUD zoning ordinance [chapter 53, exhibit A].* The subdivision and its improvements shall conform to any relevant comprehensive plans, codes and the Plum Creek PUD zoning ordinance of the City of Kyle [chapter 53, exhibit A].

(2)  *Provision for future subdivisions.* If a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged to allow for the opening of future streets.

(3)  *Reserve strips prohibited.* There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.

(B)  *Streets.*

(1)  *Street layout.* Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade, and location of each shall conform with Plum Creek PUD master plan, and shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire Plum Creek PUD development.

(a)  *Generally.* The street system should generally consist of a rectilinear pattern of blocks with a hierarchy of public streets and service alleys, common greens, and landscaped rights-of-way accommodating automobiles, public transit, bicycles and pedestrians. Except as approved by the commission and the city council, the street layout should form an interconnected system of streets. The use of cul-de-sacs and other roadways with a single point of access are discouraged. Blocks shall be designed to have a maximum length of 1,200 feet, from intersection to intersection. Rear service alleys are a preferred element in the design of the neighborhood. Industrial and commercial subdivisions should be designed to have a maximum length of 1,000 feet.

(b)  *Local streets.* Local streets approved in the Plum Creek PUD subdivision may be public or private. If private streets are proposed, the street shall:

(i)  Ensure that public access is not restricted except as agreed to by the city;

(ii)  Provide adequate access for emergency vehicles and for school buses as necessary;

(iii)  Provide that construction standards and specifications are satisfactory to the city;

(iv)  Ownership and maintenance shall be the responsibility of the private owner or deeded to and maintained by the property owners association.

(c)  *Private streets and alleys.* All streets and alleys shall be dedicated to public use unless they are designated as private. All private streets and alleys shall be shown on all plans, but they will be allowed where they are found to be more appropriate due to the type and density of development or other applicable factors. All private streets and alleys shall be conveyed to and maintained by the property owners association.

(2)  *Relation to adjoining street system.* Where practical to the Plum Creek PUD neighborhood street pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.

(3)  *Projection of streets.* Where adjoining areas are not subdivided, the arrangements of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided area, where practical for the Plum Creek PUD.

(4)  *Street jogs.* Whenever practically possible, street jogs with centerline offsets of less than 125 feet should be avoided.

(5)  *Half-streets or adjacent streets.* In case of collector, minor, or marginal access streets, no new half-street shall be platted.

(6)  *Street intersections.* Street intersections shall be constructed at an angle of no less that 60 degrees. When necessary, a safety measure, such as a landscaped island, shall be introduced which safely channels left-turn movements into a nearly perpendicular pattern. No more than two streets intersecting at one point shall be permitted, except as approved by the city engineer and based on sound transportation planning principals.

(7)  *Dead-end streets.* Dead-end streets shall be prohibited except as short stubs to permit future expansion.

(8)  *Culs-de-sac.* In general, culs-de-sac shall not exceed 600 feet in length, and shall have a turnaround of not less than 45 feet of right-of-way radius in residential areas, and not less than 45 feet of right-of-way radius in diameter in commercial areas and 60 feet of right-of-way radius in industrial areas. Medians with a maximum width of 13 feet of right-of-way radius may be landscaped, where practical and reasonable.

(9)  *Marginal access streets.* Where a subdivision has frontage on an arterial street, there shall be provided a marginal access street on both sides or on the subdivision side of the arterial street, if the arterial street borders the subdivision, unless the adjacent lot backs up to the arterial streets, or unless the commission determines that such marginal access streets are not desirable under the facts of a particular case for adequate protection of the lots and separation of through and local traffic.

(10)  *Streets on comprehensive plan.* Where a subdivision embraces a street as shown on the comprehensive plan of the city, such street shall be platted in the location and of the width indicated by the comprehensive plan. Modification to street platting indicated by the comprehensive plan may be administratively approved by the director of public works if the owner or subdivider provides sufficient information related to the need for the revision in order to preserve the integrity of the Plum Creek PUD.

(11)  *Minor street.* Minor or local streets shall be laid out so as to discourage their use by through traffic.

(12)  *Pavement width and right-of-way.* Pavement widths and rights-of-way shall be as follows:

(a)  Arterial streets shall have a right-of-way width of at least 80 feet, with a pavement width of at least 44 feet, and a minimum curve radius of 725 feet.

(b)  Collector streets shall have a right-of-way width of at least 60 feet, and a pavement width of at least 36 feet, and a minimum curve radius of 375 feet.

(c)  Local streets shall have a right-of-way width of at least 60 feet, and a pavement width of at least 36 feet, and a minimum curve radius of 275 feet.

(d)  Nonresidential marginal access streets shall have a right-of-way width of at least 60 feet, and a pavement width of at least 36 feet.

(e)  Residential marginal access streets shall have a right-of-way width of at least 60 feet, and a pavement width of at least 36 feet.

(f)  Pavement width and rights-of-way, and minimum design criteria for boulevards, avenues, and residential streets, shall be as set forth in the schedule A located at the end of this section 12.

(13)  *[Pavement widths forming adjacent subdivision.]* Pavements widths and rights-of-way of streets forming part of the adjacent subdivision shall be as follows:

(a)  Where the PUD design warrants such requirements, the subdivider shall dedicate a right-of-way of 80 feet in width for new adjacent arterial streets, and 36 feet of such right-of-way shall be paved.

(b)  New adjacent collector, minor, or marginal access streets shall conform to paragraph (B)(12) of this section.

(c)  Where the proposed subdivision abuts upon an existing street or half-street that does not conform to paragraph (B)(12) of this section, the subdivision shall dedicate right-of-way sufficient to make the full right-of-way width conform to paragraph (B)(12) [of this section], and there shall be paved so much of such right-of-way as to make the full pavement width comply with paragraph (B)(12) [of this section]. Before any pavement is laid to widen existing pavement, the existing pavement shall be cut back two feet to assure an adequate subbase and pavement joint.

(14)  *Curbs.* Curbs shall be installed by the subdivider on both sides of all interior streets, and on the subdivision side of all streets forming part of the boundary of the subdivision. Horizontal ribbon curbs and four-inch roll curbs shall be permitted where the Plum Creek PUD design and drainage conditions warrant such use. The use of ribbon curbs and four-inch roll gutters shall be subject to the review and approval of the administrator.

(15)  *Street names.* Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.

(16)  *Traffic calming measures.* The use of traffic calming measures intended to moderate the speed of vehicular traffic within the subdivision will, generally, be permitted throughout the Plum Creek PUD. Traffic calming measures at roadway intersections include gateways, roundabouts and neckdowns. Traffic calming measures designed along roadway sections include chicanes, throttles and speed plateaus.

(17)  *Streetlights.*

(a)  *Street classification.* Streetlights shall be placed in accordance with the following placement criteria. Streetlights shall be located:

(i)  At the intersection of two arterial streets, an arterial and a collector street, and at the intersection of two collector streets;

(ii)  At any intersection where traffic count is projected to reach 7,000 vehicles per day;

(iii)  In the turnaround of culs-de-sac where cul-de-sac length is longer than 300 feet; and

(iv)  Pursuant to a street lighting plan submitted and approved in conjunction with application for subdivision plat approval pursuant to this ordinance; which plan shall, generally, provide not less than one streetlight for each 500 linear feet of streets in or abutting the subdivision.

(b)  *Safety considerations.* Streetlights shall, additionally, be placed to illuminate street curves, significant topographic conditions, and other safety hazards.

(c)  *Spacing.* Streetlights shall be placed in accordance with the following spacing requirements:

(i)  Typical spacing of lights shall be one per intersection at the intersections described in subsection (a)(i) above;

(ii)  Lights shall be provided along arterial and collector streets, with a maximum spacing between lights of 300 feet;

(iii)  If block length is over 600 feet but less than increments of 300 feet, the light shall be placed in mid-block to the degree practical.

(iv)  In a cul-de-sac turnaround, if the cul-de-sac length is longer than 300 feet.

(v)  Streetlights shall be placed in the subdivision in compliance with the finally approved lighting plan.

(d)  *Light size and type.*

|  |  |  |
| --- | --- | --- |
| Street Type | Light Size/Lumens | Light Type |
| Thoroughfare (heavy traffic) | 400w/50,000 | SV |
| Arterial (medium traffic) | 250w/27,000 | SV |
| Collector | 175w/7,000 | MV or |
| (Residential and low traffic) | 100w/9,500 | SV |

(e)  *Subdivision lighting plan.*

(i)  The developer shall submit a streetlight plan as a part of the final subdivision plat package in conjunction with the utility plans and in conformance with these standards.

(ii)  The staff shall review, coordinate with the electric utility, and recommend street lighting plans to the commission and council.

(iii)  Metal poles shall be required for all street lighting and the developer shall pay all additional utility company charges for street lighting, e.g., underground, metal poles, special fixtures, charges for electricity, etc., at the final plat phase.

(iv)  Installation will be completed during the construction of the other infrastructure and public improvements, or, with city approval, coordinated with building permits issued in the area. Priority shall be given to arterial and collector streets in the subdivision to facilitate circulation; within each block face, when 50 percent of lots have been permitted, lights shall be installed. The developer shall give security as necessary to assure installation of lighting required but scheduled for future installation. This light installation schedule may be accelerated in accordance with an agreement made with the developer whereby the developer pays the city the full cost of power during the time period necessary to reach this level of permitting.

(v)  The commission and the council may disapprove any subdivision where the developer fails to comply with the standards set forth in this section.

(f)  *Private street lighting.* In those instances when the above criteria do not warrant streetlight placement in a particular location where a property owners association, commercial or industrial property desire additional lighting, the city encourages privately funded and privately maintained lights by neighborhood residents and property owners. All privately funded lights shall be totally owned and maintained by the private property owners or residents. All utilities for privately funded lights shall be entirely paid for by the private property owner or residents. The city shall never be obligated to pay for the maintenance or utilities of any privately funded light. Such lighting may be placed within easements where not inconsistent with the easement use, but shall not be placed within dedicated public right-of-way.

(18)  *Street signs and markers.* Street signs shall be installed by the subdivider at all street intersections within or abutting the subdivision. Such signs shall be of a type approved by the city, and shall be installed in accordance with standards of the city. Provided, however, that upon written request from the subdivider/developer, the city engineer may approve design modifications to city requirements for signs and markers, if such change comports with sound engineering practices and judgment, and is consistent with the public health, safety and welfare.

(19)  *Paving surfaces.* Streets shall be paved with a minimum of 1½ inches of compressed hot mix with a minimum of eight inches of base over a proper subbase or a suitable alternative. Alternative paving material such as concrete pavers, brick, and stone shall be permitted when acceptable under sound engineering practices and approved by the director of public works; provided that all such street improvements and infrastructure installed and constructed within the Plum Creek PUD shall, when constructed and/or installed, meet or exceed the applicable specifications and construction standards then in effect within the city.

(C)  *Alleys.*

(1)  Width and paving. Alleys may be installed if approved by the administrator. Alleys of not less than 20 feet in right-of-way width and pavement width shall be installed by the subdivider in all business and industrial areas where practical. In residential areas, alleys not less than 20 feet in right-of-way width, with a paved surface of not less than 12 feet in width, shall be optional. All alley paving shall be done in accordance with city standards. Alleys shall be approximately parallel to the frontage of the street. All alleys, if constructed, must be paved as outlined in [sub]section [(C)](5) below. All alleys shall be maintained by the property owners association for the area.

(2)  Intersecting alleys or utility easements. Where two alleys or utility easements intersect or turn at a right angle, a cutoff of not less than ten feet from the normal intersection of the property or easement line shall be provided along each property or easement line where practical.

(3)  Dead-end alleys. Dead-end alleys shall not be permitted except if future development provides for the extension of the alleys, in which case temporary turnarounds will be provided.

(4)  In all alleys, underground easements for electric and telephone lines shall be provided by subdivider.

(5)  Alley design criteria shall be as set forth in the schedule A located at the end of this section 12.

(6)  All alleys in the Plum Creek PUD shall be private alleys and shall be maintained by the property owners association.

(7)  The typical alley section in the Plum Creek PUD shall be based upon projected traffic volume, existing soil conditions, drainage conditions and requirements. The design shall be in conformance with generally accepted engineering practices. The alley section shall be based on criteria which meet or exceed the loading criteria of 20,000 18 KIP axle repetitions.

(D)  *Utilities easements.*

(1)  Each block that does not abut an alley as provided for in paragraph (C) of this section shall have utility easements platted on each lot adjacent to the right-of-way of each street abutting the block. Such easements shall be reserved for the use of all public utility lines, conduits, and equipment. These utility easements shall be 7½ feet in width, shall be continuous for the entire length of the block and shall parallel the street line frontage of the block. Such easements shall be considered a part of the lot area for purposes of minimum lot-size requirements of this ordinance. Normal curb exposure shall be required where utility easements intersect streets.

(2)  Electrical distribution lines within phase I that serve but that are outside of platted subdivisions, may temporarily remain as overhead lines. [The term] "temporarily" means for the duration of time when the area outside the subdivision remains unplatted. Three-phase electric transmission lines within the subdivision are permitted to be overhead but all utilities constructed and installed within any subdivision must be underground. Excluded from this provision are facilities typically sited above ground, such as meter boxes, lift station, transformers, and other similar items.

(E)  *Sidewalks.* Sidewalks shall be installed as follows:

(1)  Sidewalks are required in residential subdivisions and will be required as appropriate to the area in commercial and industrial areas. Sidewalks shall be not less than four feet in width and may adjoin the curb or may be separated from the curb by a landscape planting strip. Such sidewalks shall be installed and constructed on both sides of each residential street. Sidewalk shall be situated wholly within the dedicated right-of-way.

(2)  Utility assignments shall be arranged so that utilities are not located underneath sidewalks except to cross perpendicularly for distribution.

(3)  Parkways and landing ways shall be excavated, or filled, as required to result in not more than a three to one grade, or as detailed on approved construction plans. Landing walks of width not less than 18 inches may be installed at the rear of the curb.

(4)  Americans with disabilities. Sidewalks shall conform to the city construction standards and meet all requirements of the Americans with Disabilities Act.

(F)  *Watershed and flood prevention.*

(1)  *Watershed protection.* The watershed provisions contained herein are deemed necessary for the following reasons:

(a)  The watersheds within the city's jurisdiction contribute significantly to the city's drinking water supply.

(b)  Waterways and their associated watersheds within the city's jurisdiction represent significant recreational and aesthetic resources and contribute to the city's public health.

(c)  The future of the city is dependent on an adequate quality and quantity of water, a pleasing natural environment, recreational opportunities in close proximity to the city as well as the protection of people and property from hazards of flooding.

(d)  All watersheds within the city's jurisdiction are vulnerable to non-point source pollution and sedimentation resulting from development activities.

(e)  All watersheds within the city's jurisdiction are undergoing development or facing development pressure.

(f)  If watersheds within the city's jurisdiction are not developed in a sensitive and innovative manner, water resources, natural environment, and recreational characteristics may be irreparably damaged.

(g)  Protection of critical environmental features is necessary to protect water quality in those areas most susceptible to pollution.

(h)  It is important to protect the water supply and the natural environment of all watersheds for existing and future generation of citizens of the city.

(i)  The city may adopt additional appropriate development rules and regulations for the purpose of protection of the watersheds and aquifers within its jurisdiction as a facet of its overall program for the control and abatement of pollution resulting from generalized discharges of pollution which are not traceable to a specific source, such as urban runoff from rainwater; and for the abatement of the risks related to flooding within the watersheds.

(2)  *Stormwater management.* In order to achieve the purposes in the foregoing section, the following sections provide for stormwater management systems. All development plans and subdivision plats submitted to the city shall comply with the provisions of this article and section and any other applicable regulations; specifically, the city's construction standards and specifications for roads, streets, structures and utilities and the applicable Texas Natural Resources Conservation Commission [Texas Commission on Environmental Quality] rules. Plats of developed property on which no new structures or additional impervious coverage is planned shall be exempt from the provisions of this section.

(a)  *Stormwater management system requirements.* The commission shall not recommend approval for any plat, plan or subdivision which does not meet the minimum requirements of this ordinance in making adequate provision for control of the quantity of stormwater and/or ground water runoff to the benefit of both future owners of property within the subdivision and other lands within the watershed. It shall be the responsibility of the subdivider to design and construct a system for the collection and transport of all stormwater runoff flowing onto and generated within the subdivision in accordance with:

(i)  The requirements of these regulations.

(ii)  The flood drainage prevention ordinance [chapter 17, article II of this Code].

(iii)  Good engineering practices.

(iv)  Approved plans.

(v)  The principles of stormwater law established by the Texas Water Code.

(b)  *Basic design objectives.* In general the stormwater management system shall be designed and constructed in a manner which promotes the development of a network of both natural and built drainageways throughout the community and so as to:

(i)  Retain natural floodplains in a condition that minimizes interference with floodwater conveyance, floodwater storage, aquatic and terrestrial ecosystems and ground and surface water.

(ii)  Reduce exposure of people and property to the flood hazard and nuisance associated with inadequate control of runoff.

(iii)  Systematically reduce the existing level of flood damages.

(iv)  Ensure that corrective works are consistent with overall city goals.

(v)  Minimize erosion and sedimentation problems and enhance water quality.

(vi)  Protect environmental quality, social well-being and economic stability.

(vii)  Plan for both the large flooding events and the smaller, more frequent flooding by providing both major and minor drainage systems.

(viii)  Minimize future operational and maintenance expenses.

(ix)  Reduce exposure of public investment in utilities, streets and other public facilities (infrastructure).

(x)  Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public.

(xi)  Acquire and maintain a combination of recreational and open space systems utilizing floodplain lands.

(xii)  Preserve natural drainage patterns and limit the amount of impervious cover so as to prevent erosion, maintain infiltration and recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by stormwater. Overland sheet flow shall be maintained whenever possible and the dispersion of runoff back to sheet flow shall be a considered in the drainage design for the subdivision as opposed to concentration of flows in storm sewers and drainage ditches.

(c)  *General design requirements.*

(i)  The storm drainage system shall be separate and independent of any sanitary sewer system and its use shall not interfere with the operation and maintenance of road networks or utility systems.

(ii)  Each lot, site and block within the subdivision shall be adequately drained as prescribed in the city's construction standards.

(iii)  No subdivision shall be approved which would permit building within a regulatory floodway of any stream or watercourse. The commission may, when it deems necessary for the protection of the health, safety or welfare of the present and future population, prohibit the subdivision and/or development of any property which lies within a designated regulatory floodway of any stream or watercourse.

(iv)  No lot or building site within a subdivision shall derive sole access to a public street across a waterway unless such access shall be constructed to remain open under design storm conditions as prescribed in the city's construction standards.

(v)  Areas subject to inundation under design storm conditions shall be indicated with the minimum floor elevation of each lot so affected on a certified copy of the preliminary plat submitted for filing. The commission may, when it deems necessary for the protection of the health, safety or welfare of the present and future populations, place restrictions on the subdivision, regarding the design and use of areas within a drainageway. The commission shall not approve any subdivision of land within the floodplain of any stream or watercourse unless the applicant demonstrates that the subdivision and all development anticipated therein will comply with the requirements of this ordinance.

(vi)  Design of all drainage facilities, including streets, inlets, storm sewers, outfall, culverts and ditches, shall conform with the city's construction standards and specification for roads, streets, structures, and utilities.

(vii)  All facilities shall be designed to intercept, detain and transport the projected runoff from the 25-year frequency storm. Overflow and/or transport provisions shall be provided for 100-year storms.

(viii)  Projected runoff rates for the design of drainage facilities shall be based on the expected ultimate developed state of the upstream contributing area. Said ultimate developed state shall be based on the maximum intensity allowable under existing zoning as applicable, the city's comprehensive plans, and approved plans within the contributing area.

(ix)  All development establishing impervious cover or otherwise modifying an existing site shall incorporate facilities to prevent any increase in the peak rate of runoff from a 25-year frequency storm. The city engineer may waive this requirement under one or more of the following circumstances:

(A)  Approved off-site storage is provided for the required regulation of peak flows and adequate conveyance of stormwater flows from the site to the off-site storage facility is demonstrated.

(B)  Development of a one-, two- or three-family residential structure on any legally platted lot creates no more impervious ground cover than 30 percent of the gross lot surface area exclusive of any area within the 100-year floodplain.

(C)  Certified engineering data and calculations are presented which demonstrate the absence of adverse impact on all downstream conveyances and property between the downstream property line and the receiving major waterway.

(D)  Certified engineering data and calculations are presented which fully describe, explain and justify recommended alternatives to detention.

(E)  The increase in runoff does not exceed ten percent of the existing conditions runoff up to a maximum increase of five curb feet per second, and said runoff does not affect adjoining property.

(F)  The property is adjacent to a major waterway and in the judgment of the city engineer, waiver of detention requirements will not result in an increase in the peak flood flow of the major waterway. Waiver of this requirement for any reason shall not relieve the owner of responsibility.

(G)  Design of major drainage ways through a subdivision and major structures such as box culverts or bridges across a major drainage channel shall be coordinated with the requirements of Hays County when any portion of the subdivision lies outside the city limits.

(d)  *Drainage channels.*

(i)  The limits of the 25-year and 100-year storm event shall be determined for watercourses draining 50 or more acres. Calculations for storm events shall utilize generally recognized backwater computational methods and actual field channel and overbank configuration.

(ii)  No importation of fill material or channel modifications shall be undertaken within the area of the 100-year floodplain without written approval of the administrator. Such approval shall be based upon certified engineering data and calculations furnished by the applicant.

(iii)  All constructed or modified earthen channels shall be designed utilizing a side slope of 33 percent, or flatter, to allow for future maintenance and promote adequate slope stability. As a minimum, all slopes shall be hydromulched, sodded or seeded.

(e)  *Streets and storm sewer.*

(i)  All street sections shall be in accordance with city standards. The allowable design drainage capacity for stormwater flow at the gutter shall be no deeper than three inches above the top of the curb.

(ii)  Depth of flow in streets is to be controlled to allowable levels by modification of crossfall, gradient changes, or the use of curb inlets and/or curb drains, and storm sewers.

(f)  *Bridges and culverts.*

(i)  All bridge and culvert structures shall be designed to carry and/or contain the upstream runoff from a 25-year storm.

(ii)  Runoff from a 100-year storm shall not top the road surface at bridge or culvert crossings for an arterial or thoroughfare crossing and shall not exceed a depth of six inches on a local street crossing.

(iii)  All bridge and culvert structures shall be designed such that the structural integrity of the roadway shall not be diminished by a 25- or 100-year storm event.

(g)  *Computations, plans and construction.*

(i)  Plans and computations for proposed drainage facilities shall be certified with the seal of the design engineer, and submitted to the city engineer for acceptance prior to approval of construction plans.

(ii)  Computations for all drainage related design shall be submitted with the plans for review. Data submitted shall include a drainage area map, a summary of methodology employed and resulting data, land use and runoff coefficient assumptions, and other pertinent hydrologic and hydraulic data.

(iii)  Plans and design calculations for all drainage facilities shall be submitted to the city engineer for acceptance prior to issuance of any permit within the development or subdivision.

(h)  *Building permits and utility connections.*

(i)  Plans submitted for building permits and/or utility connections, other than single family residential or duplex construction and those projects already in compliance with this ordinance, shall include the necessary drainage related facilities designed and provided for in compliance with this ordinance and the city's construction standards.

(i)  *Drainage easements.*

(i)  *General requirements.* Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, or where a detention/filtration facility is required, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse or facility, and of such width and construction to contain the design storm and required freeboard. When parking lots or other approved use areas serve a dual function, including detention, those areas shall be designated on the plat as detention areas. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks having adequate width to contain the volume of flow generated by the design storm under ultimate development conditions.

(ii)  *Design requirements.*

(A)  Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least 20 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

(B)  When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and filed of record, documented on the plat, and drawn on the construction plans.

(C)  Low-lying lands along watercourses subject to flooding or overflowing during storm periods shall be preserved and retained in their natural state as drainage ways except where modification can be shown to benefit the community and such modification is as approved by the commission. All development activity within the regulatory floodplain must comply with city, state and federal regulations.

(D)  All sedimentation, filtration, detention and/or retention basins and related appurtenances shall be situated within a drainage easement. The owners of the tracts upon which are located such easements appurtenances, and detention facilities shall maintain same and be responsible for their upkeep. Notice of such duty to maintain shall be shown on the plats.

(E)  Drainage facilities shall be designed to serve the entire subdivision. For all subdivisions, design of drainage facilities shall be completed with other required construction plans in order to ensure adequate drainage easements and other reservations on the plat.

(F)  The requirements set forth herein are not intended to be exhaustive and wherever it is necessary to make additional requirements in order to maximize the effectiveness of the drainage plan in question, such requirements shall be made by the commission. Variances to these requirements may be allowed pursuant to this ordinance only when said variance will not result in drainage related problems sought to be prevented by these regulations.

(3)  *Industrial uses.*

(a)  An applicant proposing any industrial use, as defined in the city comprehensive plan or Plum Creek PUD zoning ordinance [chapter 53, exhibit A], and which is not completely enclosed within a building or buildings, must provide a pollutant attention plan which:

(i)  Proposes methods to capture all surface water runoff from developed areas to contain and filter pollutants generated on-site.

(ii)  Controls dust and other particulate matter generated on-site, to meet the Texas Natural Resource Conservation Commission [Texas Commission on Environmental Quality] Standards for Urban Areas.

(b)  The design of storage facilities for hydrocarbon or hazardous substances, including leak detection systems, spill containment areas or other control measures shall meet the following requirements:

(i)  Underground storage facilities. Facilities for the underground storage of static hydrocarbon or hazardous substances shall be of double walled construction or of an equivalent method approved by the city engineer. Methods for detecting leaks in the wall of the storage facility shall be included in the facility's design and review prior to issuance of appropriate permits for construction.

(ii)  Aboveground storage facilities. Facilities for the aboveground storage of static hydrocarbon or hazardous substances shall be constructed within controlled drainage areas that are sized to capture one and one-half times the storage capacity of the facility and that direct any spillage to a point convenient for collection and recovery. The controlled drainage area shall be constructed of a material suitably impervious to the material being stored.

(c)  All transport facilities for hydrocarbons and hazardous substances shall be approved by the city engineer.

(4)  *Minimum criteria for issuance of floodplain development permit.* Pursuant to the flood hazard area regulations (chapter 17 article II), as amended from time to time, and similar provisions enforced by the county, a floodplain development permit shall be required such that:

(a)  Development or alteration of the floodplain shall result in no increase in water surface elevation of the design storm of the waterway.

(b)  Development or alteration of the floodplain shall not create an erosive water velocity on or off the site. The mean velocity of stream flow at the downstream end of the site after development or alteration shall be no greater than the mean velocity of the stream flow under existing conditions as defined in the city's construction standards and specifications for roads, streets, structures, and utilities.

(c)  Development or alteration of the floodplain shall be permitted by equal conveyance on both sides of the natural channel.

(d)  Relocation or alteration of the natural channel shall not be permitted without an environmental assessment, including a stream rehabilitation proposal.

(e)  The toe of any fill shall parallel the natural channel to prevent an unbalancing of stream flow in the altered floodplain.

(f)  To insure [ensure] maximum accessibility to the floodplain for maintenance and other purposes, and to lessen the probability of slope erosion during periods of high water, maximum slopes of filled area shall not exceed three to one for 50 percent of the lengthy of the fill and six to one for the remaining length of the fill. The slope of any excavated area not in rock shall not exceed four to one. Vertical walls, terracing and other slope treatments will be considered if no unbalancing of stream flow results.

(g)  Whenever feasible, the integrity of the natural waterway channel will be protected.

(h)  A landscape plan shall be required, and shall include plans for erosion control of cut and fill slopes, restoration of excavated areas and tree protection where possible, both in and below the fill area. Landscaping should incorporate natural materials (earth, stone, or wood) on cut or fill slopes whenever possible.

(i)  The effects of existing or proposed public and private improvements shall be used in determining water surface elevations and velocities.

(j)  Any alteration of the floodplain shall not cause any additional expense in current or projected capital improvements, nor should said alteration cause additional maintenance costs to be incurred by the city.

(G)  *Minimum requirements.* The following establish further general and minimum standards. In the event of any conflict between any of the following and any other requirement of this section, the higher standard shall govern and control:

(1)  *Drainage structures.* Drainage structures shall be constructed in compliance with this ordinance and in such locations and of such size and dimensions to adequately serve the subdivision and associated drainage area. The developer shall be responsible for all costs for the installation of the drainage system required to accommodate the needs of the subdivision being developed, to include the carrying of existing water entering or leaving the subdivision.

(2)  *Right-of-way.* In new subdivisions, the developer shall provide all the necessary easements and rights-of-way required for drainage structures, including storm sewer and open, paved or rip-rapped channels.

(3)  *Storm sewers and curb inlets.* Storm sewers shall be provided and curb inlets located so as to properly drain all streets and intersections.

(4)  *Standards.* The design, size, type and location of all storm drainage facilities shall equal or exceed the city's minimum construction standards and be approved by the city engineer and the director of public works.

(a)  *Drainage ditches.* Open, paved or improved drainage ditches, as required by the commission or the council, shall be constructed across the entire subdivision being developed.

(b)  *Storm sewer.* Water entering into the streets, in excess of what gutters will carry at maximum flow, shall be diverted into storm sewers. Capacity of storm sewers and channels shall be calculated by Manning's formula or other methods approved by the administrator.

(H)  *Detention.* Except for existing single family residences on legally platted lots, all subdivisions and development establishing impervious cover or otherwise modifying an existing site shall incorporate facilities to prevent any increase in the peak of runoff from a 25-year frequency storm.

(I)  *Water installation.*

(1)  *Water supply and distribution.* All subdivisions shall be provided with water supply and water distribution systems approved by the Kyle Water Department. In no event shall a water well be dug without the permission of the city.

(2)  *Fire hydrants.* Six-inch fire hydrants shall be installed as part of the water distribution system per specifications of the fire chief of the city and of the state board of insurance.

(J)  *Sewers.*

(1)  All subdivisions shall be provided with an approved sewage disposal system.

(2)  Connection with the sanitary sewer system shall be required except where the city council determines that such connection will require unreasonable expenditure when compared with other methods of sewage disposal. Where septic tanks are installed, the subdivider shall conduct percolation tests under the supervision of the director of public works and county health department in order to determine the adequacy of proposed lot sizes. If a sanitary sewer disposal system is to be installed, the plans for such system must be approved by the Texas State Health Department, prior to approval of the final plat by the planning commission.

(K)  *Utility lines.* All utility lines that pass under a street or alley shall be installed before the street or alley is paved, whenever practical. When it is necessary that utility lines pass under the street pavement, they shall be installed to a point at least three feet beyond the edge of the pavement. Buried utilities may be located within the alley service drive and under public street pavement, three feet inside the face of the curb. Electric distribution shall be provided by means of underground service within the subdivision. Overhead service to individual lots shall not be permitted. Transformer pads and enclosures shall be located behind the front face or to the rear of the building.

(L)  *Monuments.*

(1)  Monuments shall be located at the intersection of a line three feet north from and parallel to the north line of each block with a line three feet east from and parallel to the east line of the block, unless such point of intersection occurs within the limits of street paving. In such case, alternate monument locations shall be approved by the director of public works.

(2)  Where, due to topographic conditions, permanent structures, or other conditions, the view is obstructed between any two adjacent monuments, intermediate monuments shall be so set as to assure a clear view between adjacent monuments.

(M)  *Parkland dedication or designation.*

(1)  *Definitions.* For the purposes of this section, the following terms, phrases and words shall have the meaning ascribed to them in this subsection.

(a)  *"Park"* means any public park, playground, recreation or open space area, golf course, lake, together with parking lots, which is operated, maintained and controlled by the city, and heretofore platted, dedicated, or designated as a public park within the city. Land dedicated for public school land which contains a park or parkland as defined herein shall be considered a park for the purposes of this section but only to the extent of the actual land dedicated for such a park. Private gold course areas, recreation areas and open space land within a residential area and neighborhood commercial area shall be considered to be designated as park for purposes of this section but only to the extent of the actual land designated for such golf course, recreation and open space purposes and provided that no more than 50 acres of private golf course, recreation or open space areas shall be credited by the city as parkland that complies with the parkland dedication/designation requirements set forth in this [sub]section (M).

(b)  *"Neighborhood park"* means a park designated for a variety of outdoor recreational opportunities located within a residential subdivision or within a close proximity or convenient distance of the majority of residences to be served thereby so that the residential subdivision or subdivisions so located shall be the primary beneficiaries of these facilities.

(c)  *"Residential area"* means any area within a subdivision plat which in whole or in part is platted for the development of dwelling units or residences, whether same be single-family, multifamily, owner occupied or rental dwelling units and including townhouses, condominiums and apartments.

(d)  *"Neighborhood commercial area"* means any area as described in the Plum Creek PUD zoning ordinance [chapter 53, exhibit A].

(2)  *General.*

(a)  Whenever a final plat is filed of record with the county clerk of Hays County for development of a residential area in accordance with this ordinance, or the comprehensive planning and zoning ordinance of the city, such plat shall contain a clear fee simple dedication of an area of land to the city for park purposes, which area shall equal one acre for each 133 proposed dwelling units. As far as practical, all dedications or designations of land shall be in a single parcel. Provided, however, that the council and the commission deem that such dedication or designation is required in accordance with the regulations set forth herein. Any proposed plat submitted to the city for approval shall show the area proposed to be dedicated or designated under this section. Upon the approval of the council, the dedication or designation required by this section may be met by the payment of money instead of land when permitted or required by the provisions of this section or by the platting of a private golf course, recreation area, or open space area pursuant to subsection (M)(1)(a) herein.

(b)  The council declares the development of an area smaller than three acres for public park purposes, as described in subsection M(1)(a) herein, as impractical. Therefore, if fewer than 399 units are proposed by a plat filed for approval resulting in a dedication or designation of less than three acres, the developer shall be required to pay the applicable cash instead of being required to dedicate or designate any of the land area as provided by subsection (d) [of this section]. No plat showing dedication or designation of less than three acres shall be approved unless the council, upon recommendation of the commission, approves a variance to this requirement by resolution.

(c)  In an instance where an area of less than five acres is required to be dedicated or designated, the city shall have the right to accept the dedication or designation for approval on the final plat, or to refuse same, after consideration of the recommendation of the commission, and to require payment of cash instead of land in the amount provided by subsection 12(M)(4) [of this section] hereafter if the city determines that sufficient park area as described in subsection 12(M)(1)(a) [of this section] is already in the public domain in the area of the proposed development, or if the parkland recreational needs of the area would be better served by expanding or improving existing parks. Such recommendations shall be given after submittal and review of the preliminary plat.

(d)  The dedication or designation required by this section shall be made by the filing of the final plat clearly showing such parkland dedication or designation or contemporaneously by separate instrument unless additional dedication or designation is required subsequent to the filing of the final plat. If the actual number of completed dwelling units exceeds the figure upon which the original dedication or designation is based, such additional dedication or designation shall be required, and shall be made by payment of cash instead of the land amount provided by subsection (d) [of this section], or by the conveyance of entire numbered lot(s) to the city.

(e)  Before any dedication or designation of parkland or payment of cash instead of dedication or designation may be required, the commission and the council must find at the public hearing at which the subdivision is considered for final approval, that the dedication or designation of parkland or payment of money instead of park dedication or designation for future development of parks bears a substantial relation to the health, safety, general welfare and morals of the community and that there is a need for the park improvement caused by the subdivision development. In order to determine whether or not the need or benefit is sufficient to require the dedication or designation, such factors as the size of lots in the subdivision, the economic impact of the subdivision, density of population, the amount of private parkland contained in the subdivision, and the amount of open land consumed by the development shall be considered. The director of parks and recreation shall be informed of all new subdivisions which are submitted for approval and of all existing subdivisions which are submitted for replatting, expansion, or redevelopment.

(f)  Whenever payment of money instead of park dedication or designation is determined to be appropriate, the location of the park where the funds will be spent shall be determined within 90 days of the final acceptance of the completed subdivision.

(3)  *Prior or excess dedication or designation.*

(a)  Credit shall be given for dedication or designation of land or money paid instead of land for park or recreational purposes which was dedicated or given pursuant to the existing zoning ordinance or subdivision of the city. Credit shall also be given for the dedication or designation of land in excess of the requirements herein, subject to the provisions of subsection (M)(1)(a) [of this section]. Such credit may be used by the owner or developer who dedicated the parkland in excess of the dedication or designation requirements, provided that the credit is used within the Plum Creek PUD, as amended.

(b)  If a dedication requirement arose prior to the passage of this section, that dedication requirement shall be controlled by the ordinance in effect at the time such obligation arose, except that additional dedication or designation shall be required if the actual density of the dwelling units constructed on the property is greater than the former assumed density. Additional dedication or designation shall be required only for the increase in density and shall be based on the ratio set forth in subsection [12(M)(3)](a) of this section.

(c)  At the discretion of the city, acting through its council, any former gift of parkland to the city, which was not required by any provision of the city Code, the zoning ordinance or other applicable laws, may be credited on a per acre basis toward eventual parkland dedication requirements imposed on the donor of such land. The council shall consider the recommendation of the commission in exercising its discretion under this section.

(4)  *Money instead of land.* Subject to the approval of the council:

(a)  An owner responsible for dedication or designation under this section may elect to meet the requirements of subsection 12(M)(2)(a) above in whole or in part by cash payment instead of land in the amount set forth in subsection 12(M)(4)(b) hereunder. Payments instead of land shall be made prior to the time the subdivision improvements are accepted.

(b)  The dedication or designation requirement shall be met by a payment instead of land at a per-unit price set by resolution of the council, sufficient to acquire land and provide for adjacent streets and utilities for a neighborhood park to serve the area in which such development is located. Unless changed by the council, such per-unit price shall be computed on the basis of $200.00 per dwelling unit. Cash payment may be used only for acquisition or improvement of a neighborhood or regional park located within the same area as the development, or in close proximity thereto. This location shall be determined by the city within 90 days of the final acceptance of the completed subdivision.

(5)  *Comprehensive plan considerations.* Land shown on the comprehensive plan or any neighborhood plan, if same is designated as being suitable for development by the city for a major recreational center, school site, park, or other public use, shall be reserved for a period of one year after the preliminary plat is approved by the council if, within two months after such approval, the council advises the subdivider of its desire to acquire the land or of the interest of another governmental unit to acquire the land, for purchase by the interested governmental authority, at the appraisal value of the land at the time of purchase. A failure by the council to so notify the subdivider shall constitute a waiver of the right to reserve the land. Any waiver of the right to reserve the land shall no longer be effective if the preliminary plat shall expire without adoption of a final plat.

(6)  *Special fund.*

(a)  There is hereby established a special fund for the deposit of all sums paid in lieu of land dedication under this section, which fund shall be known as the "Parkland Dedication Fund." All monies set aside in said parkland dedication fund shall be used exclusively for park and recreational improvements in new or existing parks within the area of the subdivision which contributes the money, or as close to the subdivision as practical to ensure that the subdivision's residents gain the benefit of the improvements.

(b)  The city shall account for all sums paid instead of land dedication under this ordinance with reference to the individual plats involved and the contributing developer. Any funds paid for such purposes must be expended by the city within five years from the date received by the city for acquisition or development of a neighborhood park. Provided, however, if the funds paid for parkland dedication are being accumulated to acquire and develop a larger neighborhood park (a park in excess of five acres or more which will provide multiple recreational facilities and will serve several adjacent subdivisions) the fund must be expended within seven years from the date received by the city. When funds from several different subdivisions are being accumulated to develop a larger neighborhood park serving several different subdivisions they shall be segregated in an account earmarked for that particular project within the parkland dedication fund. Such funds shall be considered to be spent on a first in, first out basis. If not so expended, the contributing developer(s) on the last day of such period shall be entitled to a pro rata refund of such sum, computed on a square footage of area basis. The contributing developer shall be notified of such refund. Registered mail to three addresses provided by the contributing developer(s) will constitute diligent effort to locate and if unanswered in writing, requesting refund within 365 days of such mailing, such right to refund shall be barred.

(c)  Provided, however, the placing of the parkland dedication fund in a "treasury fund" established by the city, so long as accounting procedures established maintain a separate account for these proceeds for the purposes set forth herein and assure that funds will not be disbursed for any purposes not set forth in this ordinance, shall not be considered a violation of this section.

(7)  *Additional requirements.*

(a)  Any land dedicated to the city under this section must be suitable for recreational purposes, such as for parks, playgrounds and usable open space. The following characteristics of proposed area are generally unsuitable:

(i)  Any area of which more than 20 percent is located within the 100-year floodplain.

(ii)  Any areas of unusable topography or slope which render more than 25 percent of the area unusable for organized recreational activities, or due to unusual circumstances relating to subsoil, slope or topography, the development of the property for park or recreational purposes would be unusually difficult or expensive as determined by the director of public works.

(iii)  The above characteristics of a parkland dedication area may be grounds for refusal of any preliminary or final plat.

(b)  Drainage areas may be accepted as a part of a park if the channel is constructed in accordance with the city engineering standards, and if no significant area of the park is cut off from the access by such channel; provided, however, that the developer may provide vehicular access by a bridge or similar structure approved by the director of public works. The percentage or portion of parkland dedication hereunder may include 50 feet on each side of any well-defined creek or waterway subject to the approval of the city.

(c)  Each park must have ready access to an improved public street so as to provide visual access to a majority of the park area.

(d)  Unless provided otherwise herein, an action by the city shall be by the council, after consideration of the recommendation of the commission.

(N)  *Drainage.*

(1)  *Easements.* Where a subdivision is traversed by a watercourse, drainageway, natural channel or stream, there shall be provided an easement or right-of-way conforming substantially to the limit of such watercourse, plus additional width to accommodate future needs. An alternate path for drainage shall be permitted, based on approved engineering principles prepared by a registered professional engineer. The city shall review and approve proposed drainage methods.

(2)  *Drainage facilities.* Drainage facilities shall be proposed and constructed by the subdivider in a manner which shall be reasonably reviewed and approved by the planning commission.

(O)  *Blocks.*

(1)  In general, intersection streets determining block lengths shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets or contemporary and accepted subdivision practices.

(2)  Blocks shall be not more than 1,000 feet in length, and shall be, at minimum, bounded on either end of the long axis by a local street. Block length, up to 1,200 feet, may be approved by the administrator for good and sufficient reasons (example: curvilinear streets or paved alleys).

(P)  *Crosswalk ways.* Crosswalk ways six feet in width shall be dedicated where deemed necessary by the planning commission to provide circulation or access to schools, playgrounds, shopping centers, and transportation and other community facilities, or to provide pedestrian circulation within the subdivision. Crosswalk ways shall be provided with a sidewalk constructed of concrete, concrete pavers, brick, or other suitable paving surface a minimum of six feet wide.

(Q)  *Lots.*

(1)  *Sewered lots.* Where off-lot sewerage is provided, each residential lot shall have an area of at least 2,500 square feet.

(2)  *Unsewered lots.* Where off-lot sewerage is not required, and is not provided, residential lots shall have an area of at least 20,000 square feet. Where, as the result of the percolation test prescribed in paragraph (G) of this section, the director of public works and county health department deems the minimum lot area insufficient, the planning commission shall require additional area sufficient to accommodate the sanitary facilities deemed necessary by the director of public works.

(3)  *Extra depth and width in certain cases.* Where a lot in a residential area backs up to a railroad right-of-way, a high pressure gasoline, oil or gas line, an arterial street, an industrial area, or other land use which has a depreciating effect on the residential use of property, and where no marginal access street or other street is provided at the rear of such lot, additional depth may be required by the director of public works. In no case shall additional depth in excess of 50 feet be required. Where a lot sides to any of the above, additional width in excess of 50 feet may be required by the director of public works.

(R)  *Buildings, other.* Mechanical apparatus, trash containers, utility meters, conduit, A/C units and other utility elements should be located to the rear of the lot; plumbing and mechanical vents should be located to the rear of roofs, away from view of public streets.

(S)  *Common open space.* Common open space and structures thereon must be either:

(1)  Conveyed to a public body, if said public body agrees to accept conveyance and to maintain the common open space and buildings, structures, or improvements which have been placed on it; or

(2)  Conveyed to a property owners association or some other party responsible for maintaining common buildings, areas and land within the subdivision. The common open space shall be restricted to the uses specified on the final plat and which provide for the maintenance of the common open space in a manner which assures its maintenance for its intended purpose.

(T)  *Accessibility of site.* All proposed streets, alleys, and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic of the planned residential development, but may be designed so as to discourage outside through traffic from traversing the subdivision.

(U)  *[Inspections.]* The city may make such inspections as are deemed necessary to require proper installation. The subdivider and the subdivider's engineers and contractors, respectively, shall be responsible for proper design and installation of all required improvements and neither the review nor approval of such plans nor the inspection of the work in progress or the completed work will create any liability on the part of the city. Following construction, but not prior to acceptance of improvements or issuance of a building permit, the design engineer shall furnish one set of reproducible "AS-BUILT" plans for each project, bearing certification by a registered professional engineer.

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| Schedule A | |
| Standards | Criteria |
| *Boulevard [residential/commercial areas]* | |
| Design speed | 25 mph/180-foot minimum curve radius |
| ROW width | 80 ft. |
| Pavement width | 2 (20) ft. |
| Median | 15 ft. |
| Intersection curb radius | 15 ft. |
| Permitted on-street parking | None |
| Average daily trips | Less than 4,000 daily trips |
| *Avenue [residential/neighborhood commercial/commercial/mixed use areas]* | |
| Design speed | 25 mph/180-foot minimum curve radius |
| ROW width | 60 ft. |
| Pavement width | 36 ft. |
| Median | None |
| Intersection curb radius | 15 ft. |
| Permitted on-street parking | 2 lanes |
| Average daily trips | Less than 3,500 average daily trips |
| *Residential street [residential/neighborhood commercial areas]* | |
| Design speed | 25 mph/180-foot minimum curve radius |
| ROW width | 50 ft. |
| Pavement width | 27 ft. |
| Intersection curb radius | 15 ft. |
| Permitted on-street parking | 2 lane |
| Average daily trips | Less than 1,500 average daily trips |
| *One-way alley [residential/commercial]* | |
| Design speed | 5 mph |
| ROW width | 20 ft. |
| Pavement width | 12 ft. |
| Intersection curb radius | 5 ft. |
| Permitted alley parking | None |
| *Two-way alley [residential/commercial]* | |
| Design speed | 5 mph |
| ROW width | 20 ft. |
| Pavement width | 15 ft. |
| Intersection curb radius | 5 ft. |
| Permitted alley parking | None |

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

Sec. 13. - Standards and criteria for neighborhood commercial, mixed use, employment, or industrial area development.

A permit for a commercial or industrial development within the Plum Creek PUD may be issued by the governing body for buildings or premises to be used for the retail sale of merchandise and services, parking areas, office buildings, hotel and motels, and similar facilities ordinarily accepted as commercial uses and those industrial uses which can reasonably be expected to function in a compatible manner with the other permitted uses in the area and in accordance with the Plum Creek PUD. In addition to the general standards and criteria set forth in section 14 in this ordinance, criteria set forth in this section shall prevail for commercial or industrial developments of the Plum Creek PUD if there is a conflict with criteria in other sections of this ordinance. Commercial or industrial development shall comply with the following standards unless otherwise determined by the city council:

(A)  *Accessibility.* The site shall be accessible from the proposed street network in the vicinity which will be adequate to carry the anticipated traffic of the proposed commercial or industrial development. The streets and driveways on the site of the proposed development shall be adequate to serve the enterprises located in the proposed development and may be designed to discourage outside through traffic from traversing the development. The commission shall review and approve such street and driveway design.

(B)  *Landscaping.* Landscaping shall be required to provide screening of objectionable views and uses and to provide for the reduction of noise. Multi-story buildings shall be located within the development in a manner which will minimize any adverse impact on adjoining low rise buildings.

(C)  *Building relationship to a street.* Buildings should be designed to emphasize the front face and entrance of the building facing a public street. Front porches, eves, or other solar protection devices shall be included on the front face of buildings.

Sec. 14. - Responsibility for payment of installation costs.

(A)  Two complete sets of final construction plans and specifications will be submitted to the administrator at least 15 working days prior to anticipated commencement of any construction, accompanied by fees in accordance with Ordinance No. 293, as amended, or other applicable city fee ordinances. Review will be based on conformance with this ordinance and design specifications and the use of sound engineering practices.

(B)  An inspection schedule will be determined by the administrator. Inspections will be charged to the subdivider at the rate set forth in Ordinance No. 293, as amended, or other applicable city fee ordinances. Final approval will not be given until all inspection fees have been paid.

(C)  The subdivider shall pay all design, engineering, material and installation costs of all improvements required by this ordinance.

(D)  In the event a subdivider desires the extension of water or sewer lines to serve his subdivision, he shall bear the entire design, engineering, material, construction and installation costs of all on site and off-site lines unless otherwise agreed to between the city and subdivider in a development agreement. The city council of Kyle or their authorized representative shall specify the size of all such lines, taking into consideration the requirements of adjacent areas of future growth which must be served by such lines, unless otherwise agreed to between the city and subdivider in a development agreement. The decision of the city council or their authorized representative concerning the sizing of the line shall be final.

(E)  The construction of water and sewer lines to serve lots within a subdivision will be performed by a contractor of the subdivider's choice in accordance with plans and specifications approved by the City of Kyle. The subdivider and city can agree, however, that the city shall construct such lines.

(F)  If requested by the developer, oversized lines and lines serving areas other than the development proposed will be paid by the developer. The city will enter into a contract with the developer to provide that pro rata charges for additional connections or developments served by such lines will be collected by the city and reimbursed to the developer making the installation. Lines become city property upon installation and acceptance by the City of Kyle, after the contract period, pro rata charges will be collected from users, and deposited to the appropriate city account, unless otherwise agreed to between the city and developer in a development agreement.

(G)  Where an existing water or sewer line lies within or abuts the subdivision, the subdivider shall make no connections to or extensions of such existing line without first paying to the city the cost of the size line of equal length to that portion of such existing line which lies within or abuts the subdivision which would be required to serve the subdivision. This cost shall be determined by the city administrator and his decision shall be final.

(H)  All sewer and water lines constructed and installed pursuant to the provisions of this ordinance shall, when completed and accepted by the director of public works, become the property of the city, free and clear of all encumbrances, unless otherwise agreed to between the city and developer in a development agreement. Each and every contract entered into between a subdivider and a contractor for the installation of sewer or water lines pursuant to the provisions of this ordinance shall recite therein the provisions of this subsection.

(I)  No sewer or water line shall be installed or constructed except within a public street or alley or within an easement granted to the city by appropriate written instrument filed of record with the county clerk of Hays County at the expense of the person requesting the extension of the existing line.

(J)  No lift station, sanitary sewer siphon, or force main shall be constructed as a part of the sewer line extension unless the subdivider agrees that he will, at his own expense, construct such elements in accordance with the design standards provided by the director of public works or in the case of lift stations, a design using a dry and wet well installation prepared by the subdivider's engineer and approved by the director of public works, or a prefabricated installation of similar design and considered equal by the director of public works.

(K)  All street, curb and gutter, and sidewalks shall be installed at subdivider's expense. In those instances where an exterior street abuts unsubdivided or undeveloped land, the developer will be required to curb and gutter his side and pave a minimum of 30 feet in width. If adjoining property develops within five years, the adjoining property owner will be required to reimburse a pro rata share to the subdivider with said pro rata share to be determined by the City of Kyle.

Sec. 15. - Withholding services and permits.

The city shall withhold all city utility services and permits of whatsoever nature including the furnishing of sewage facilities and water services from all subdivisions which have not been approved as provided by law, and no permit shall be issued by the building official/inspector of the city on any lot, tract or parcel of land other than an original or resubdivided lot in a duly approved and recorded subdivision.

Sec. 16. - Flood hazard areas.

(A)  *General.*

(1)  The flood hazard areas of the City of Kyle are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare. These flood losses are caused by: (a) The cumulative effect of obstructions in floodplains causing increases in flood hazard areas by uses vulnerable to floods, or hazardous to other land, which are inadequately elevated or otherwise unprotected from flood damages.

(2)  This section is based upon a reasonable method of analyzing flood hazards, to wit: Hays County flood control data.

(B)  *Purpose.* It is the purpose of this section to promote the public health, safety and welfare, and to minimize the losses described in section 17 by provisions designed to:

(1)  Restrict or prohibit subdivision of land for uses which are dangerous to health, safety or property in time of flood or which, with reasonably anticipated improvements, will cause excessive increases in flood heights or velocities.

(2)  Require that each subdivision lot in an area vulnerable to floods be provided with a safe building site with adequate access and that public facilities which serve such uses be installed with protection against flood damage at the time of initial construction.

(3)  Protect individuals from buying lands which are unsuited for the intended purposes because of flood hazards by prohibiting the subdivision of unprotected flood hazard lands, requiring that the flood hazards areas be delineated on the final plat, and reserving through deed restrictions areas not suitable for development.

(C)  *Application.* This section shall apply to all land within the Plum Creek planned unit development delineated as flood hazard areas on City of Kyle maps.

(D)  *Warning and disclaimer of liability.* The degree of flood protection required under this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that area outside the delineated flood hazard areas or land uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Kyle or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

(E)  *Land suitability.* No land shall be subdivided which is held unsuitable for its intended use by the planning commission for reasons of flooding, inadequate drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earthslides, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature harmful to the health, safety or welfare of the future residents or property owners of the proposed subdivision or the neighboring community at large. However, the planning commission may approve the preliminary and final plats if subdividers improve lands consistent with the standards of this and other applicable ordinances to make subdivision areas, in the opinion of the planning commission, suitable for their intended uses. The planning commission may also approve the preliminary and final plats if subdividers agree to make suitable improvements and place a sum in escrow pursuant to this ordinance to guarantee performance. In determining the appropriateness of land subdivision at a site, the planning commission shall consider the objectives of this section and:

(1)  The danger of life and property due to the increased flood heights or velocities caused by subdivision fill, road, and intended uses.

(2)  The danger that intended uses may be swept onto other lands or downstream to the injury of others.

(3)  The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions.

(4)  The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5)  The importance of the services provided by the proposed facility to the community.

(6)  The availability of alternative locations not subject to flooding for the proposed subdivision and land uses.

(7)  The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future.

(8)  The relationship of the proposed subdivision to the city's comprehensive plan and floodplain management program for the area.

(9)  The safety of access to the property for emergency vehicles in times of flood.

(10)  The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

(11)  The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(F)  *Building site improvements.*

(1)  No subdivision or part thereof shall be approved if proposed subdivision levees, fills, structures or other features will individually or collectively significantly increase flood flows, heights, or damages.

(2)  Building sites for residences, motels, resorts, or other dwelling accommodation uses shall not be permitted in flood way areas. Sites for these uses may be permitted outside the flood way if the sites are elevated or filled to a height at least one foot above the elevation of the regulatory flood or if other provisions are made for elevating or adapting structures to achieve the same result. Required fill areas must extend five feet beyond the limits of intended structures and, if the subdivision is not to be sewered, must include areas for on site waste disposal.

(3)  Building sites for structures not included in (F)(2) shall similarly not be permitted in flood way areas. Such sites located outside the floodway shall ordinarily be protected as herein provided. However, the planning commission may allow subdivision of areas for commercial and industrial use at a lower elevation if the subdivider protects the areas to a height of one foot above the regulatory flood protection elevation by levees, seawalls, channel modifications, or other protective techniques; or if the subdivider assures that uses will be protected through structural floodproofing, flood warning systems or other techniques specified in section 12, subsection (F).

(4)  If the planning commission determines that only part of a proposed plat can be safely developed, it shall limit development to that part and shall require that the development proceed consistent with this determination.

(5)  When the subdivider does not intend to develop the plat himself and the planning commission determines that additional use controls are required to ensure safe development, it may require the subdivider to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on the face of the final recorded plat.

(G)  *Drainage facilities.* Storm drainage facilities shall be designed to store and convey the flow of surface waters from a 100-year frequency storm without damage to persons or property. The system shall insure [ensure] drainage at all points along streets, and provide positive drainage away from buildings and on site waste disposal sites. The planning commission may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate less frequent floods. Drainage plans shall be consistent with local and regional drainage plans.

(H)  *Roads.* Except as approved by the planning commission and city council on the recommendation of the city engineer, the finished elevation of proposed streets shall be no more that zero feet below the regulatory flood protection elevation. The planning commission may require, where necessary, profiles and elevation of streets to determine compliance with this requirement. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights.

(I)  *Sanitary sewer facilities.*

(1)  The planning commission may prohibit installation of sewage disposal facilities requiring soil absorption systems where such systems will not function due to high ground water, flooding, or unsuitable soil characteristics. The planning commission may require that the subdivider note on the face of the plat and in any deed of conveyance that soil absorption fields are prohibited in designated areas.

(2)  The planning commission may prescribe adequate methods for waste disposal. If a sanitary sewer system is located on or near the proposed subdivision, the planning commission shall require the subdivider to provide sewage facilities to connect to this system where practical, and shall prescribe the procedures to be followed by the subdivider in connecting to the system.

(J)  *Water facilities.* All water systems including individual wells located in floodprone areas, whether public or private, shall be floodproofed to a point at or above the flood protection elevation. If there is an existing public water supply on or near the subdivision, the planning commission shall require the subdivider to convert to this system.

(K)  *Erosion and sediment control measures.* The planning commission may require the subdivider to utilize grading techniques, subdivision design, landscaping, sedimentation basin, special vegetation cover, and other measures to reduce erosion and sediment.

(L)  *Floodproofing.* The following techniques, designs, [and] practices shall be used, as appropriate, to sufficiently address floodproofing requirements:

(1)  Anchorage to resist flotation and lateral movement.

(2)  Installation of watertight doors, bulkheads, and shutters, or similar methods of closure.

(3)  Reinforcement of walls to resist water pressures.

(4)  Use of paints, membranes, or mortars to reduce seepage of water through walls.

(5)  Addition of mass or weight to structures to resist flotation.

(6)  Installation of pumps to lower water levels in structures.

(7)  Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.

(8)  Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures.

(9)  Building design and construction to resist rupture or collapse caused by water pressure or floating debris.

(10)  Installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent backup of sewage and stormwaters into buildings or structures.

(11)  Location and installation of electrical equipment, circuits and electrical appliances so that they are protected from inundation by the regulatory flood.

(12)  Location and storage facilities for chemical, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare at elevations above the height associated with the regulatory protection elevation; or design of such facilities to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into floodwaters.

Sec. 17. - Authority of director of public works.

The director of public works is hereby authorized and directed to promulgate rules, regulations, standards and specifications for the construction, installation, design, location and arrangement of streets, curbs, streetlights, street signs, alleys, utility layouts, utility easements, gates for utility easements, sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, septic tanks, water wells, monuments, criteria for drainage easement requirements, drainage facilities, and crosswalk ways. He shall file same with the city secretary at least 15 days before they become effective. He may amend the same from time to time, provided that an amendment must be filed with the city secretary at least 15 days before it becomes effective. No such rules, regulations, standards and specifications shall conflict with this or any other ordinances of the City of Kyle, Texas. All such improvements shall be constructed, installed, designed, located and arranged by the subdivider in accordance with such rules, regulations, standards and specifications.

Sec. 18. - Approval procedure.

(A)  When an application for a subdivision is filed, the planning commission shall act on the plat within 30 days after the date the complete application is filed. The city council shall act on such plat within 30 days after the date of final action by the planning commission. The plat shall be considered approved by the planning commission and/or the city council, respectively, unless it is disapproved within that period of time.

(B)  In all instances where a plat is considered approved by the inaction of the planning commission, the city council shall act on such plat within 30 days after the effective date of such approval by inaction. A plat is considered approved by the city council unless it is disapproved within that period; provided that an approved by the city council with conditions shall be deemed a disapproval absent such conditions being satisfied.

(C)  A plat that complies with the requirements of V.T.C.A., Local Government Code ch. 212 and that satisfies all the requirements of this ordinance and any written agreements with the landowner, the PUD subdivider, or their predecessors shall be approved by the planning commission and the city council.

Sec. 19. - Applicability and conflicting or inconsistent ordinances.

(A)  This ordinance shall be applicable only to the Plum Creek planned unit development.

(B)  Whenever the standards and specifications in this ordinance conflict with or are inconsistent with those contained in another ordinance regulating the development and subdivision of land into legal lots, the provisions of this ordinance shall govern and control. This ordinance supersedes and replaces the applicability of all inconsistent and conflicting ordinances with respect to the subdivision and platting of land within the Plum Creek planned unit development.

Sec. 20. - Severability clause.

Should any portion or part of this ordinance be held for any reason invalid or unenforceable, the same shall not be construed to affect any other valid portion hereof, but all valid portions hereof shall remain in full force and effect.

Sec. 21. - Effective date.

This ordinance shall be effective on the date of adoption by the city council as shown herein below.

Sec. 22. - Open meetings.

That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, V.T.C.A., Local Government Code ch. 551.

Approved and Adopted this the 30 th day of June 1997.