

## **CHAPTER 1: ZONING DISTRICTS**

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## CHAPTER 1: ZONING DISTRICTS

### 1.01 Establishment Of Districts

The following zoning districts are hereby established:

ZONING DISTRICTS	
R-A	Residential - Agricultural
RSF-1	Residential Single-family – One Unit per Acre
RSF-2	Residential Single-family – Two Units per Acre
RSF-4	Residential Single-family – Four Units per Acre
RMF-2	Residential Multi-family – Two Units per Acre
RMF-4	Residential Multi-family – Four Units per Acre
R-O	Residential-Office
MU	Mixed Use
C-1	Neighborhood Commercial
C-2	Central Business Commercial
I-1	Heavy Commercial and Light Industrial
P-1	Institutional

### 1.02 Official Zoning Map

- (A) *Map.* The city is hereby divided into zones, or districts, as shown on the official zoning map, which together with all explanatory matter whereon, is hereby adopted by reference and declared to be a part of this chapter.
- (B) *Signature/seal.* The official zoning map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the city.
- (C) *Location.* The official zoning map shall be located in the office of City Clerk.
- (D) *Changes.*
  - (1) *Entry on map.* If in accordance with the provisions of the state law, changes are made in the district boundaries or other matter portrayed on the official zoning map such changes shall be entered on the official zoning map as promptly as is possible after the amendment has been approved by the City Council, with an entry on the official zoning map as follows:  
  
“Amended to \_\_\_\_ by Ordinance No. \_\_\_\_.”
  - (2) *Effective date.* Amendments to this ordinance which involve matters portrayed on the official zoning map shall be effective upon the passage, approval, and publication of the amended ordinance.
  - (3) *Changes/unauthorized.* No changes of any nature shall be made in the official zoning map or matter shown except in conformity with the procedures set forth in this chapter.

### 1.03 Rules Of Interpretation Of District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- (A) *Center lines.* Boundaries indicated as approximately following the center lines of streets highway, or alleys shall be construed to follow such center lines.
- (B) *Platted lot lines.* Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (C) *City limits.* Boundaries indicated as approximately following the city limits shall be construed as following such city limits.
- (D) *Bodies of water.* Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
- (E) *Extensions.* Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (D) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (F) *Physical or cultural features.* Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (A) through (E) above, the Planning Commission Chair shall interpret the boundaries.
- (G) *Divided lot/single ownership.* Where a district boundary line divides a lot which was in single ownership, the Planning Commission may permit the extension of regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

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**CHAPTER 2: ZONING REGULATIONS**

**2.01 Application of District Regulations**

*Minimum regulations/exceptions.* The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly for each class or kind of structure or land, except as hereinafter provided:

- (A) *General.* No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it was located.
- (B) *Limitations.* No building or other structure shall hereafter be erected or altered:
  - (1) *Height/bulk.* To exceed the height or bulk;
  - (2) *Number of units.* To accommodate or house a greater number of units. For all residential zoning districts, only one residential structure is allowed for each parcel of land;
  - (3) *Lot area.* To occupy a greater percentage of lot area;
  - (4) *Setback/open spaces.* To have narrower or smaller rear setbacks, front setbacks, side setbacks, or other open spaces than herein required; or
  - (5) *Other.* In any other manner contrary to the provisions of this chapter.
- (C) *Independent compliance.* No part of a setback, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a setback, open space, or off-street parking or loading space similarly required for any other building.
- (D) *Annexation.* All territory which may hereafter be annexed to the city shall be considered to be in District R-A until the territory is rezoned as provided herein.
- (E) *Measuring setbacks.*
  - (1) *Front.* Measured from the street right-of-way, or street right-of-way setback as required by the Master Street Plan.
  - (2) *Side.* Measured from the side property line.

- (3) *Rear.* Measured from the rear property line.
- (4) *Corner.* A corner lot has two fronts and two sides.
- (G) *Conditional Uses.* These uses are permissible if approved by the Planning Commission. See Chapter 3, Use Conditions.

**2.02 District R-A, Residential-Agricultural**

- (A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.
- (B) *Uses.*
  - (1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Livestock
Unit 8	Single-family dwellings
Unit 37	Manufactured homes

- (2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured Home Park
Unit 12	Neighborhood Business
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 30	Extractive Uses
Unit 36	Wireless communications facilities
Unit 41	Accessory Dwelling Units

- (C) *Density.*

Units per acre	One
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- (D) *Bulk and area regulations.*

Lot width minimum	100 ft.
Lot Area Minimum:	1 acres
Lot area per dwelling unit	1 acres

- E) *Setback requirements.*

Front	Side	Rear
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50 ft.	10 ft.	25 ft.
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(F) *Building height regulations.*

Building Height Maximum	45 ft.
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*Height requirements.* Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in.

**2.03 District RSF-1, Residential Single-Family – One Unit Per Acre**

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of one unit per acre. The district is designed to permit and encourage the development of very low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

(C) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Neighborhood Business
Unit 24	Home occupations
Unit 41	Accessory Dwelling Units

(D) *Density.*

Units per acre	1
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(E) *Bulk and area regulations.*

Lot width minimum	80 ft.
Lot area minimum	1 ace
Land area per dwelling unit	1 acre

(F) *Setback requirements.*

Front	Side	Rear
35 ft.	10 ft.	25 ft.

(G) *Building height regulations.*

Building Height Maximum	45 ft.
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*Height regulations.* Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in.

**2.04 District RSF-2, Residential Single-Family – Two Units Per Acre**

(A) *Purpose.* To provide a single-family dwelling transition zone between single-family neighborhoods that have developed with larger lot sizes (one acre and over) and non-residential areas.

(B) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

(C) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Neighborhood Business
Unit 24	Home occupations
Unit 41	Accessory Dwelling Units

(D) *Density.*

Units per acre	2
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(E) *Bulk and area regulations.*

Lot width minimum	80 ft.
Lot area minimum	.5 Ac
Land area per dwelling unit	.5 Ac

(F) *Setback requirements.*

Front	Side	Rear
30 ft.	10 ft.	25 ft.

(G) *Building height regulations.*

Building Height Maximum	45 ft.
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*Height regulations.* Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in.

**2.05 District RSF-4, Residential Single-Family – Four Units Per Acre**

(A) *Purpose.* To permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing developments of these types.

(B) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

(C) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 41	Accessory Dwelling Units

(D) *Density.*

Units per acre	4
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(E) *Bulk and area regulations.*

Lot width minimum	80 ft.
Lot area minimum	.25 Ac
Land area per dwelling unit	.25 Ac

(F) *Setback requirements.*

Front	Side	Rear
25 ft.	10 ft.	25 ft.

(G) *Building height regulations.*

Building Height Maximum	45 ft.
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*Height regulations.* Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in.

**2.06 District RMF-2, Residential Multi-Family**

(A) *Purpose.* The RMF-2 Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 37	Manufactured Homes

(C) *Density.*

Dwellings per acre	2
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(D) *Bulk and area regulations.*

	Single-family	Two-family
Lot width minimum	100 ft.	100 ft.
Lot area minimum	1 Ac	1 Ac
Land area per dwelling unit	.5 Ac	.5 Ac

(E) *Setback requirements.*

Front	Side	Rear
30 ft.	10 ft.	25 ft.

(F) *Height regulations.*

Building height maximum	45 ft.
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**2.07 District RMF-4, Residential Multi-Family**

(A) *Purpose.* The RMF-4 Residential District is designed to permit and encourage the development of multi-family residences at a higher density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings



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Unit 9	Two-family dwellings
Unit 10	Three-Family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 37	Manufactured Homes

(C) *Density.*

Dwellings per acre	4
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(D) *Bulk and area regulations.*

Lot width minimum	100 ft.
Lot area minimum	1 Ac
Land area per dwelling unit	.25 Ac

(E) *Setback requirements.*

Front	Side	Rear
30 ft.	10 ft.	25 ft.

(F) *Height regulations.*

Building height maximum	45 ft.
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**2.08 District MU, Mixed Use Zoning District**

(A) *Purpose.* The Mixed Use district is designed to serve as an area between commercial districts/uses and residential districts/uses. Mixed Use promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetic, and use with the surrounding land uses.

(B) *Uses*

(1) *Permitted uses*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings

Unit 13	Eating Places
Unit 24	Home occupations

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses*

Unit 2	City-wide uses by conditional use
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 10	Three-family dwellings
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 41	Accessory Dwelling Units

(C) *Density.* 10 Units Per Acre.

(D) *Bulk and Area*

(1) *Lot width minimum*

Single-family	35 feet
Two-family	70 feet
Three or more	90 feet
All other uses	None

(2) *Lot area minimum.*

Single-family	4,000 sq. ft.
Two-family or more	3,000 sq. ft. of lot area per dwelling unit
All other permitted and conditional uses	None

(E) *Setback regulations*

Front	10 feet
Side	5 feet
Rear	15 feet

(F) *Building height regulations.*

Building Height Maximum	45 ft.
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(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot.

**2.09 District R-O, Residential Office**

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices ,

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together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 24	Home Occupation
Unit 25	Offices, studios, and related services

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 26	Multi-family dwellings
Unit 41	Accessory Dwelling Units

(C) *Bulk and area regulations.*

(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

Single-family	80 ft.
Multi-family	80 ft.

(2) *Lot area minimum.*

Single-family	.25 Ac
Multi-family	.25 Ac

(D) *Density.*

Units per acre	4
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(E) *Setback regulations.*

Front	30 ft.
Side	10 ft.
Rear	25 ft.

(F) *Building height regulations.*

Building Height Maximum	45 ft.
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*Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district an additional distance of one foot for each foot of height in excess of 20 feet.

**2.10 District C-1, Commercial**

(A) *Purpose.* The Commercial District is designed primarily to provide convenience goods, personal services or shopping centers which provide a wide range of retail uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 12	Neighborhood Business
Unit 13	Eating places
Unit 14	Hotel, Motel and amusement facilities
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios, and related services
Unit 35	Outdoor music establishments*

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 14	Hotel, Motel and amusement facilities
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor Stores
Unit 36	Wireless communications facilities*
Unit 38	Mini-storage units

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when parking lot in front	50 ft.
Side	20 ft.
Front, when parking lot in rear	10 ft.

Side	None
Side, when contiguous to a residential district	25 ft.
Rear	25 ft.

(F) Height regulations. Maximum height is four stories or 55 feet whichever is less. .

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

**2.11 District I-1, Heavy Commercial And Light Industrial**

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 13	Eating places
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Offices, studios, and related services

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 23	Heavy Industrial
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 28	Center for collecting recyclable materials
Unit 31	Facilities emitting odors and facilities handling explosives
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 39	Auto salvage and junk yards

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front,	50 ft.
Side when adjoining Residential districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear, when adjoining C, I, or P districts	10 ft.
Rear when adjoining Residential district	50 ft.

(F) *Height regulations.* Maximum height is four stories or 55 feet whichever is less.

(G) *Building area.* None.

**2.12 District P-1, Institutional**

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	30 ft.
Side	20 ft.
Side, when contiguous to a residential district	25 ft.
Rear	25 ft.

(F) *Height regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

## 2.13 District PUD, Planned Unit Development

(1) General Description. It is the intent of this district to encourage development with superior living environments brought about through unified development, and to provide for the application of design ingenuity in such developments, while protecting existing and future surrounding areas in achieving the goals of the comprehensive plan for development of the City. The PUD provisions herein established, are intended to provide for greater flexibility in the design of buildings, yards, courts, circulation and open space than would otherwise be possible through the strict application of other district regulations, and to produce:

- (a) A maximum choice in the type of environment and living units available to the public;
- (b) Open space and recreation areas;
- (c) A pattern of development that preserves natural features, prevents soil erosion, and protects water quality;
- (d) A creative approach to the use of land and related physical development;
- (e) An efficient use of land resulting in smaller networks of utilities and streets, and thereby lowering costs; and
- (f) An environment of stable character in harmony with surrounding development.

The PUD regulations are designed to provide for small- and large-scale developments incorporating a single type or a variety of residential, commercial, and related uses that are planned and developed as a unit. Such development may consist of individual lots or it may have common building sites. Private or public common land and open space should be an essential and major element of the plan that is related to and affects the long-term value of the homes and other development. A planned unit shall be a separate entity with a distinct character and be in harmony with surrounding development.

(2) Standards of Development.

(a) Ownership Control. The land in a planned unit development (PUD) district shall be owned, leased, or otherwise controlled by a person, firm, group of individuals, partnership, corporation, or trust, provided assurances are given through the procedures contained herein that the project can be successfully completed.

(b) Uses Permitted. In order to increase creativity and flexibility in the development of areas suitable for a planned unit development, there are no specifically

prescribed uses that are permitted within the boundaries of a planned unit development. The developer shall be responsible for preparation of a list of permitted uses within the specific planned unit development requested. The development list shall take into account the nature and purpose of the PUD area, and such uses and locations shall be appropriate in order to protect and be in harmony with surrounding development.

At the time of the pre-application submittal, the applicant shall generally describe the nature and types of land uses to be located within the boundaries of the PUD district. At the time of PUD zoning and development submittal, a specific written list of uses to be "permitted by right" shall be submitted for review by the planning commission. If approved by the planning commission and city council, the list of specific uses permitted by right shall serve as the control list in issuance of building permits and certificates of occupancy.

In addition to the above permitted uses that are established by right, certain other uses may be prescribed by the developer in accordance with the restrictions included herein and said uses are designated as conditional uses. These uses more intensely dominate the area in which they are located than do other uses that might be permitted in the PUD district and, as such, they require special considerations and restrictions. If the developer and/or planning commission agree that certain conditional uses should be included within the PUD district, the applicant shall precisely indicate the specific use, its location, area to be included, maximum building square footage, and such other information as required by the planning commission to properly and comprehensively evaluate the nature and impact of such conditional uses. When such conditional uses are approved at the time of rezoning, they shall not be subsequently changed to any other use until and unless they are changed to another use that is permitted by right, or the new proposed use if not permitted by right in a PUD district, is resubmitted for rezoning approval.

(c) Parking and Off-Street Loading. All uses established with a planned unit development district shall comply with the off-street parking and loading requirements as established in the city's zoning regulations. However, the requirements for individual structures or lots may be met through either provision of adequate parking on the lot on which such structure is so located, or upon

adjacent property which is under the control of a property owners' association, to which said lot is an automatic participant. In no case, however, shall the cumulative requirements of all parking and off-street loading requirements be less than if said uses were individually established and located in any other zoning district within the city.

(d) Perimeter Requirements. In order to assure compatibility with surrounding development, the developer shall submit specific information as to the setbacks, building height, coverage factors and other elements necessary for all perimeter lots that are adjacent to the boundary of the PUD district or adjacent to any boundary or perimeter street right-of-way. While no specific setbacks are herein established, the planning commission shall consider the extent and character of the adjacent development and shall take into consideration the types of area regulations applicable to adjacent properties.

(e) Residential Density Standards. The maximum number of dwelling units permitted within a PUD district is dependent upon both the type and number of each type of residential units intended to be included in the PUD district. Densities within certain areas of the PUD may be beyond the overall limits through a transfer of density. However, overall project densities shall not be exceeded in accordance with the following schedule:

- (1) Eight (8) dwelling units per net residential acre for single-family attached and detached houses and duplexes.
- (2) Fifteen (15) dwelling units per net residential acre for triplexes, four-plexes, and row or terrace housing.
- (3) Eighteen (18) dwelling units per net residential acre for two story, and twenty-seven (27) units per net residential acre for three story apartments.
- (4) Forty (40) dwelling units per net residential acre for high-rise (four stories or more) apartments.

For purposes of calculating densities, net residential acres are defined as gross acres of the PUD site minus all public rights-of-ways, and less the area of all parcels or lots devoted to commercial, industrial, or institutional uses not of a residential nature. Common open space that is owned and

maintained by a property owners' association shall be included in calculating the net residential acres available for all dwelling units that automatically belong to such an association. Where more than one property owners' association is to be created, then each common open space can only be attributed to the lot or dwellings which have automatic membership for that specific common open area.

(e) Open Space Requirements. Common open space constitutes an essential ingredient in a planned unit development and is one of the most basic and important design elements. Open space should be distributed more or less equitably throughout the PUD district in relationship to the dwelling units and other use areas intended to be served by the common open space. Adequate guarantees must be provided that the common open space areas as in the plan for the PUD district are preserved and maintained for those purposes only. A minimum of twenty percent (20%) of the total project area shall be devoted to lawn and/or green space, exclusive of paved surfaces. A property owners' association shall be required, if other arrangements satisfactory to the planning commission have not been made, for improving, operating and maintaining all such common open space areas. At the time the final plan and plat is submitted, the articles of incorporation and bylaws of the property owners' association shall be reviewed and approved by the planning commission. Additionally, the restrictive covenants which run with the land must be submitted and include similar provisions to preserve all open space areas.

(3) Procedures For Obtaining PUD Zoning. A three-step review procedure is required for obtaining PUD zoning and final approval of the final plan and plat. The first step involves a pre-application submittal which is designed to provide information to the city of the developer's intention with respect to the nature and scope of the PUD district, and to allow the developer to be informed of the City's policies concerning development alternatives for the area. The second step involves submission of a formal application for rezoning of the area to a PUD district and simultaneous submission of a preliminary plat or large-scale development in accordance with the City's development regulations. The last step involves submission of the final development and plat for approval and recording prior to commencing building construction. These steps are outlined as follows with respect to the procedure followed and submission requirements at each step:

- (a) Pre-application Submittal

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(1) Procedure.

(a) A pre-application submittal shall be submitted to the planning commission for review of the area and proposed uses relative to the compatibility of a planned unit development project with existing development in the surrounding area and the comprehensive development plan of the city.

(b) The general outlines of the proposal, evidenced schematically by the pre-application submittal and such other information as may be desired, are to be considered before submission of the planned unit development application.

(c) Upon review of the site plan and general area, and following discussion of the pre-application submittal by the planning commission, the planning commission may furnish the applicant with written comments regarding the conference, including appropriate recommendations to inform and assist the applicant prior to preparing the components of the planned unit development application.

(2) Submission Requirements. At the time of requesting of the pre-application submittal, the applicant shall submit a scaled site plan and such other narrative or graphic information the applicant deems pertinent to the city's initial review and evaluation of the potential of the PUD district proposed. The pre-application submittal shall include the following:

- (a) Boundaries of the property involved;
- (b) Existing zoning of the area and zoning of adjoining properties;

- (c) Existing roadways, easements, and waterways;
- (d) Indication of availability of all utilities;
- (e) General plan of development, at a level of detail sufficient to indicate to the city the nature and scope of the project as to its magnitude in terms of approximate number and types of dwelling units; location and extent of nonresidential elements; proposed major open space areas; and circulation and access.

(b) Zoning Application and Preliminary Plat. After receiving comments regarding the pre-application submittal, the applicant may proceed in preparing a formal application for a planned unit development application to the planning commission. The application shall consist of a simultaneous submission of a preliminary plat and a rezoning application. The preliminary plat shall conform to all requirements contained in the subdivision regulations with the exception of certain design requirements regarding lots, setbacks, etc., that are specifically exempted or modified by provisions of this chapter. The rezoning application shall be processed following the procedure for map amendments.

(1) Submission Requirements. The applicant shall simultaneously submit both a preliminary plat and a rezoning application. To form the basis for the rezoning application, a preliminary site plan shall be submitted and it shall include at least the following information:

- (a) Proposed title of the project and name of any engineer, architect, land planner, land surveyor, landscape architect, or company responsible for various elements of the plan.
- (b) North point, graphic scale, and date.
- (c) Boundaries of the properties involved, all existing easements, section lines and property lines, existing streets, existing buildings,

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watercourses, waterways or lakes, and other existing physical features in and adjoining the property.

(d) Location and sizes of sanitary and storm sewers, water mains, culverts and other underground structures in and adjacent to the project.

(e) Topography of the project area with appropriate contour.

(f) General land use development plan of the area indicating the location of different land uses, dwellings by types and numbers, areas designated for commercial uses and other nonresidential uses, and areas proposed for open space and recreational use. For all residential areas, the site plan shall clearly indicate the type and number of dwellings to be located per parcel, lot or block in accordance with the preliminary plat. For all commercial or other uses, the areas shall clearly be indicated in accordance with lots, parcels, or blocks, and each such parcel shall indicate the type of building proposed, number of stories, and gross square footage to be included on each parcel. The boundaries of all open space areas shall be clearly indicated along with the form of proposed ownership, that is, by property owners' association or public park or other legal entity, and in such case where more than one property owners' association is being created, documentation shall be clearly submitted as to which areas will have automatic membership into said associations. This requirement, however, shall not be interpreted as requiring a detailed site development plan that includes the exact

boundaries and locations of all structures proposed for construction.

(g) All setback lines for all properties shall be shown.

(h) If the project is to be developed in more than one phase, the boundaries of each proposed phase shall be clearly indicated on the site plan map.

(i) Calculations shall be submitted of the total number of gross acres in the project, and the acres and percentage thereof, proposed be devoted to the several dwelling types, commercial uses, other nonresidential uses, streets, parks, schools, and other reservations.

(j) Tabulation of the total number of dwelling units by various types in the project, and the total number of net residential acres within the project. The tabulations shall so indicate conformance of the proposed project, or each phase within the project, to the residential density standards for the PUD district.

(c) Final Plan and Plat. Upon approval of the rezoning request by the city council, the applicant may proceed with the preparation of construction documents which will be reviewed by the City. After construction of all of the required infrastructure, the final plan and plat can be submitted. The final plat shall meet all applicable requirements of the City's subdivision regulations and shall be processed in accordance with those regulations. The applicant shall submit a written and graphic description of any modifications made to the final plan from the approved preliminary plan. If it is determined that no changes have been made from the preliminary plan, or if only minor plan changes have been made in accordance with the definition provided herein below, then the review by the planning commission may proceed and the plat may be submitted to the planning commission for approval. If approved, the plat shall be filed in the office of the county circuit clerk.

(4) Amendments. Amendments may be required either to the preliminary site plan or the final

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development plan. The procedure governing the disposition of amendments shall be as follows:

(a) Amendments to Preliminary Plan. At the time a final plan is submitted for review, it shall be determined whether or not any amendments have been made to the approved preliminary plan. If amendments have been made, then a determination shall be required as to whether or not said amendments constitute a major or minor plan change. Modifications from the previously approved preliminary plan shall be deemed to be minor plan changes if any and all modifications of the plan by the applicant do not:

- (1) Vary the total number of dwelling units by more than five percent (5%);
- (2) Involve a reduction of the area set aside for common open space nor the substantial relocation of such area or areas;
- (3) Increase by more than five percent (5%) the total floor area proposed for any nonresidential use; and
- (4) Does not substantially change the location of any nonresidential areas as shown on the preliminary plan.

Additionally, modifications in the location or design of minor streets, cul-de-sacs, alleys, or facilities for water and for disposal of storm water and sanitary sewage shall not be considered as major modifications. All other changes in the planned unit development, including changes in the site plan and development schedule, must be made under the procedures that are applicable to the initial approval of a planned unit development project.

(b) Amendments to Final Development Plan. The final development plan as submitted and approved may be amended in accordance with the following. Minor change may be authorized by the Mayor or the Mayor's designee, in such cases where changes are required by engineering or other circumstances not foreseen at time the final development plan was approved. No change authorized by the City under this section, however, may either increase the total area devoted to any and all nonresidential uses, or decrease the amount of area devoted to common open space, or increase the total number of dwelling units located on any lot, block, or parcel as approved in the final development plan. Notwithstanding any of

these conditions, the city planner may not permit changes beyond the minimum or maximum requirements set forth in these regulations. All other changes in the planned unit development, including changes in the site plan or the development schedule, must be made under the procedures that are applicable to the initial approval of a planned unit development.

(5) Administration and Enforcement.

(a) Review Standards. The planning commission shall investigate and ascertain that the plans for a planned unit development meet the following conditions:

- (1) That the project is in conformity with the requirements and standards of development of the planned unit development district and is consistent with the intent and purpose of this section.
- (2) That the proposed project constitutes an environment of sustained desirability and stability, and that it is in harmony with the character of the surrounding neighborhood, and is not inconsistent with the city's comprehensive plan.
- (3) That the property adjacent to the proposed development will not be adversely affected.

(b) Recorded Plat and Plot Plan Required. The proposed development shall follow all applicable procedures, standards, regulations, and laws governing the subdivision of land. No building permit for any structure shall be issued until a final plat of the proposed development, or part thereof, is approved and recorded and an approved plot plan is submitted in accordance with these regulations.

(c) Phasing and Development Schedule. The applicant shall clearly indicate on the site plan map, the boundaries of each proposed phase. If the sequence of construction of various portions of the development is to occur in phases or stages, then the open space and/or recreational facilities should be developed or committed thereto in proportion to the number of dwelling units intended to be developed during any given stage of construction.

Additionally, the applicant shall submit a schedule of construction for the project, or



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for each phase within the project, indicating the sequence of development according to residential type and other nonresidential construction within the project. Upon adoption of the schedule of construction, the building inspector shall be responsible for enforcing this schedule. If the building inspector determines that the rate of construction of residential units or nonresidential structures differs from the construction schedule, he shall so notify the developer in writing. Thereafter, the building inspector may issue such orders to a developer as necessary to correct said schedule, and upon continued violation of this subsection may suspend the developer from further construction of dwelling units or nonresidential structures until compliance is achieved.

(d) Guarantee of Completion. Before approval of the final development plan, the planning commission shall require a contract with safeguards satisfactory to the commission guaranteeing completion of the development plan for any single phase in a period to be specified by the commission, but which period shall not exceed five (5) years, unless extended by the commission.

(e) Causes for Revocation. The planning commission may recommend to the city council that any previous planned unit development approval be revoked, and all building permits be voided under the following circumstances:

- (1) If the applicant has not submitted a final development plan to the city within one (1) year of preliminary plan approval. Where an optional development plan is utilized, the affected portion of the approved preliminary plan may be revoked in its entirety, or to the extent of that portion on which a final development plat has not been submitted and approved.
- (2) If no building permit has been issued within two (2) years from the recording date of the final development plan map, or initial plan of a staged final development plan map, and the applicant has not been granted an extension.
- (3) If the applicant does not adhere to the phased development schedule as stated in the approved preliminary development plan.
- (4) If the construction and provision of all common open spaces and public and recreational facilities that are shown on the final development

plan map are proceeding at a substantially slower rate than project components.

From time to time, the planning commission shall compare the actual development accomplished with the approved development schedule. If the commission finds that the rate of construction of dwelling units or other structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the planning commission may initiate revocation action or cease to approve any additional final development plans/plats if preceding phases have not been finalized. The city may also issue a stop work order or discontinue issuance of building permits, or revoke those previously issued.

**CHAPTER 3: USE UNITS**

**3.01 ESTABLISHMENT/LISTING ..... 3**

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**CHAPTER 3: USE UNITS**

**3.01 Establishment/Listing**

The various use units referred to in the zoning district provisions are herein listed in numerical order. Within the use units, the permitted uses are ordinarily listed in alphabetical order. In these use units where there is a preliminary descriptive statement (which may mention specific uses) in addition to the detailed list of uses, the detailed list shall govern. The asterisk (\*) next to a specific use indicates that the use has special conditions as required by Chapter 4, Use Conditions and Chapter 5 Supplemental Regulations.

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 11	Manufactured home park
Unit 12	Neighborhood business*
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 24	Home occupation
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 30	Extractive uses
Unit 31	Facilities emitting odors & facilities handling explosives
Unit 32	Sexually oriented business
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 37	Manufactured homes
Unit 38	Mini-storage units
Unit 39	Auto salvage and junk yards
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(A) *Unit 1. City-wide uses by right.*

- (1) *Description.* Unit 1 consists of public uses, essential services, agricultural uses, open land uses, and similar uses which are subject to other public controls or which do not have significantly adverse effects on other permitted uses and are, therefore, permitted as uses of right in all districts.
- (2) *Included uses.* Public facilities of the types embraced within the recommendations of the Comprehensive Land Use Plan.

Non-Commercial Agricultural,	•Fruit, tree, and vegetable gardening
Essential services located in public right-of-way:	•Fire alarm box •Fire hydrant •Passenger stop for bus •Police alarm box •Sidewalk •Street, highway, and other thoroughfare •Street signs, traffic signs, and signals •Utility mainline, local transformer and station, and similar facilities customarily located in public right-of-way
Recreation and related use:	•Arboretum •Historical marker •Park area •Parkway •Wildlife preserve
Water facilities:	•Reservoir, open •Watershed •Conservation or flood control project

(B) *Unit 2. City-wide uses by conditional use permit.*

- (1) *Description.* Unit 2 consists of uses which may be conducted anywhere in the territorial jurisdiction, but which can be objectionable to nearby uses and are therefore permitted subject to conditional use permits in all districts.

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(2) *Included uses.*

Public and private facilities:	<ul style="list-style-type: none"> <li>•Airport, flying fields and heliport</li> <li>•Bed and breakfast facilities*</li> <li>•Campground</li> <li>•Plant nursery</li> <li>•RV sewage disposal facility</li> <li>•Solid waste disposal facility</li> <li>•Water recreation area</li> </ul>
Temporary facilities:	<ul style="list-style-type: none"> <li>•Carnival, circus, and tent revival*</li> <li>•Construction facility</li> <li>•Real estate sales office (located at a specific location in an underdeveloped subdivision and operated for the purpose of developing said subdivision)</li> </ul>

(C) *Unit 3. Public protection and utility facilities.*

(1) *Description.* Unit 3 consists primarily of public protection and utility equipment which:

- (a) Is ordinarily not located in the street right-of-way and can be significantly objectionable to nearby residential, commercial, and light industrial uses;
- (b) Have requirements for specific locations or are needed to serve residential neighborhood or local areas; and
- (c) Are, therefore, permitted only on review.

(2) *Included uses.*

Facilities of Public Service Corporations:	<ul style="list-style-type: none"> <li>•Electric regulating station</li> <li>•Pressure control station</li> <li>•Transmission station for tower, radio, telegraph, telephone, television</li> </ul>
Other utility and protective facilities:	<ul style="list-style-type: none"> <li>•Airway beacon</li> <li>•Public utility maintenance building, warehouse, or storage building</li> <li>•Water pipeline rights-of-way, sewer or water treatment plant, water storage facility</li> </ul>
Railroad rights-of-way	
Communications and utility transmission line rights-of-way	

(D) *Unit 4. Cultural and recreational facilities.*

(1) *Description.* Unit 4 consists of cultural and recreational uses to serve the residents of the community.

(2) *Included uses.*

Auditorium, stadium	
Art gallery, museum	
Cemetery	
Child care center, nursery school *	
Church	
College or university	
Community center	
Crematorium	
Dormitory	
Eldercare	
Hospital	
Mausoleum	
Playfield, playground	
Private club or lodge	
School:	<ul style="list-style-type: none"> <li>•Elementary</li> <li>•Junior High</li> <li>•Senior High</li> </ul>
Swimming pool	
Tennis court	
Theater	

(E) *Unit 5. Government facilities.*

(1) *Description.* Unit 5 consists of the main facilities of government agencies.

(2) *Included uses.*

City or county jail
Courts of law
Fire station
Governmental agencies and offices
Library
Police station
Post office
Detention Home

(F) *Unit 6. Agriculture.*

(1) *Description.* Unit 6 consists of agricultural uses and services and certain other uses suitable for location near, but not in, a residential district.

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(2) *Included uses.*

Agricultural uses and services:	Farm:	<ul style="list-style-type: none"> <li>•Poultry</li> <li>•Egg</li> <li>•Truck</li> </ul>
	Services:	<ul style="list-style-type: none"> <li>•Hay baling</li> <li>•Smoking, curing and selling of smoked or cured poultry and livestock</li> <li>•Sorting, packing and selling of fruits, vegetables and flowers</li> <li>•Threshing</li> </ul>

(G) *Unit 7. Livestock*

(1) *Description.* Unit 7 consists of livestock raising and related activities.

(2) *Included uses.*

Animal farms for show, breeding, and training	
Farms with livestock	
Kennel	
Livestock services:	<ul style="list-style-type: none"> <li>•Animal hospitals</li> <li>•Shipping of livestock</li> <li>•Training of horses</li> <li>•Veterinarian's treatment areas</li> </ul>
Recreational uses:	<ul style="list-style-type: none"> <li>•Guest ranch</li> <li>•Riding stable *</li> <li>•Rodeo ground</li> </ul>

(H) *Unit 8. Single-family dwellings.*

(1) *Description.* Unit 8 is provided in order that single-family dwellings may be located in appropriate residential areas.

(2) *Included uses.*

Single-family dwellings
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(I) *Unit 9. Two-family dwellings.*

(1) *Description.* Unit 9 is provided in order that two family attached dwellings may be located in appropriate residential areas.

(2) *Included uses.*

Duplexes
Townhouse dwellings, no more than two attached units
Two-family dwellings

(J) *Unit 10. Three-family dwellings.*

(1) *Description.* Unit 10 is provided in order that three-family attached dwellings may be located in appropriate residential areas.

(2) *Included use.*

Townhouse development, no more than three attached units
Three-family dwellings
Tri-plexes

(K) *Unit 11. Manufactured home park. \**

(1) *Description.* Unit 11 consists of a separate use of manufactured home parks in order that they may be located in appropriate residential areas.

(2) *Included uses.*

Manufactured home park *
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(L) *Unit 12. Neighborhood business. \**

(1) *Description.* Unit 12 consists of small-scale businesses operating from a place of residence and has limited impact to the surrounding neighborhood. These uses shall be subject to the regulations in Chapter 5.

(2) *Included uses.*

<ul style="list-style-type: none"> <li>•Lawn Care</li> <li>•Air conditioning</li> <li>•Building construction</li> <li>•Carpentry</li> <li>•Concrete</li> <li>•Day Care Facilities</li> <li>•Decorating</li> <li>•Electrical</li> <li>•Furnace cleaning</li> <li>•Heating</li> <li>•Masonry</li> <li>•Painting</li> <li>•Paper Hanging</li> <li>•Plastering</li> <li>•Plumbing</li> <li>•Professional Offices</li> <li>•Roofing</li> <li>•Sheet metal</li> <li>•Stonework</li> <li>•Tile setting</li> </ul>
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(M) *Unit 13. Eating places.*

(1) *Description.* Unit 13 is established that eating places, excluding drive-ins and those that provide dancing and entertainment, can be located as needed without necessarily introducing other commercial uses.

(2) *Included uses.*

Eating places, other than drive-ins, which do not provide
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dancing or entertainment
Restaurants
Café's

(N) Unit 14. Hotel, motel, and amusement facilities.

(1) *Description.* Unit 14 consists of hotels, motels, and certain types of amusement facilities.

(2) *Included uses.*

Hotel
Membership lodge
Motel
Motion picture theater
Night club, not providing dancing or outdoor music
Tavern, not providing dancing or outdoor music

(O) Unit 15. Neighborhood shopping goods.

(1) *Description.* Unit 15 includes a variety of frequently purchased commercial goods, where convenience of location is more important than comparative shopping. These uses are grouped in limited areas while prohibiting all others not necessary near the residential areas. All uses classified under Unit 15 must be within a building containing 25,000 square feet or less.

(2) *Included uses.*

	<ul style="list-style-type: none"> <li>•Photography Studio</li> <li>•Picture framing</li> <li>•Shoe store</li> <li>•Sporting goods</li> <li>•Stationary store</li> <li>•Toy store</li> <li>•Video rental</li> </ul>
Vehicular Sales (interior display only)	<ul style="list-style-type: none"> <li>•Automobile</li> <li>•ATV/Motorcycle</li> <li>•Boat/PWC</li> </ul>

(P) Unit 16. Shopping goods.

(1) *Description.* Unit 16 consists of stores selling retail goods which are ordinarily purchased less frequently and often have a community-wide or regional market.

Retail Trade

Personal services	<ul style="list-style-type: none"> <li>•Barber/Salon</li> <li>•Laundry facility</li> <li>•Dry cleaning</li> <li>•Tailoring</li> </ul>
Retail	<ul style="list-style-type: none"> <li>•Apparel and accessory</li> <li>•Bakery, pastry shops</li> <li>•Bicycle shop</li> <li>•Bookstores</li> <li>•Coffee shop</li> <li>•Delicatessen</li> <li>•Drugstore</li> <li>•Electronics</li> <li>•Florists</li> <li>•Food specialty stores</li> <li>•Furniture and Home Décor</li> <li>•Grocery</li> <li>•Hardware store</li> <li>•Health food store</li> <li>•Hobby/craft shop</li> <li>•Ice cream</li> <li>•Jewelry/watch sales and repair</li> <li>•Meat market</li> <li>•Music instruments</li> <li>•News and magazine stand</li> <li>•Optical goods</li> <li>•Pet shop</li> </ul>

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(2) *Included uses.*

Neighborhood Shopping Goods	All uses within Unit 15 are also permitted within Unit 16, without restriction to size
General Merchandise:	<ul style="list-style-type: none"> <li>•Department store</li> <li>•Mail order</li> </ul>
Home/Office:	<ul style="list-style-type: none"> <li>•Appliances</li> <li>•China, glassware</li> <li>•Draperies, curtains</li> <li>•Floor coverings</li> <li>•Furniture</li> </ul>
Personal services:	<ul style="list-style-type: none"> <li>• Animal daycare</li> <li>•Costume rental service</li> <li>•Detective service</li> <li>•Gunsmith</li> <li>•Interior decorating</li> <li>•Locksmith</li> <li>•Office supplies</li> <li>•Sign painting</li> <li>•Watch and jewelry repair</li> <li>•Weight loss center</li> <li>•Animal hospital</li> <li>•Auctioneer</li> <li>•Bindery</li> <li>•Linen supply and industrial laundry</li> <li>•Rug cleaning, repair</li> <li>•Tattoo and piercing</li> <li>•Taxidermist</li> <li>•Tool sharpening, repair</li> <li>•Electrical repair service</li> <li>•Furniture repair, refinishing</li> </ul>
Retail	<ul style="list-style-type: none"> <li>• Apparel and accessory</li> <li>•Auto accessory store</li> <li>•Boat and accessory store</li> <li>•Dry goods</li> <li>•Garden supply</li> </ul>

*Unit 17. Transportation trades and services.*

- (1) *Description.* Unit 17 consists of establishments engaged primarily in providing vehicular sales, service and maintenance, and similar services which fulfill recurrent needs of residents of nearby areas, but are generally incompatible with primary retail districts because they break the continuity of retail frontage. Uses also include those that require transport of materials on a regular basis by truck.

(2) *Included uses.*

Retail trade establishments, general:	<ul style="list-style-type: none"> <li>•Automotive sales,</li> <li>•Marine craft sales, repair</li> <li>•Body shops/garages</li> <li>•Motorcycle sales, repair</li> <li>•Truck sales</li> <li>•Trailer, camping, hauling, travel, sales</li> <li>•Used car lots</li> <li>•Farm supplies and equipment and repair</li> <li>•Lawn equipment sales, repair</li> </ul>
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General merchandise establishment	
Merchandise vending machine operations	•Sales and repair
Personal help:	<ul style="list-style-type: none"> <li>•Packing and crating</li> <li>•Auto wash</li> <li>•Motor repair</li> </ul>
Transportation service:	<ul style="list-style-type: none"> <li>•Bus station</li> <li>•Express service</li> <li>•Helistop</li> <li>•Railway terminal</li> <li>•Taxicab station</li> <li>•Car rental</li> </ul>

(R) *Unit 18. Gasoline service stations and drive-in restaurants.*

- (1) *Description.* Gasoline service stations and drive-in restaurants can be significantly objectionable to nearby uses, so, therefore, have been allowed only in districts where necessary to provide this use.

(2) *Included uses.*

Gasoline service station *
Self-service auto wash (in conjunction with a gasoline service station) *
Drive-in restaurant *

(S) *Unit 19. Commercial recreation, small sites.*

- (1) *Description.* Unit 19 consists of commercial amusements which ordinarily do not require large sites and often seek location in or near developed commercial areas.

(2) *Included uses.*

Billiard and pool parlor
Bowling alley
Slot car track
Skating rink
Video arcade
Indoor theater

(T) *Unit 20. Commercial recreation, large sites.*

- (1) *Description.* Unit 20 consists of commercial recreation facilities which are usually conducted out-of-doors, on large sites, and in undeveloped, outlying parts of the city. Uses in this unit have an adverse effect on certain other uses, in that they are often noisy and are large traffic generators.

(2) *Included uses.*

Amusement park *
Drag strip



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Drive-in theater
Fairgrounds
Fishing dock
Go-cart track
Golf range, golf course
Miniature golf
Race track
Zoo

(U) Unit 21. Warehousing and wholesale.

(1) *Description.* Unit 21 includes warehousing, wholesaling and trucking of the type which is usually located to serve the central business district and is easily serviced by rail and highway transportation.

(2) *Included uses.*

Building material establishments:	<ul style="list-style-type: none"> <li>•Air conditioning</li> <li>•Building materials</li> <li>•Electrical supply</li> <li>•Glass</li> <li>•Heating equipment</li> <li>•Lumber</li> <li>•Paint</li> <li>•Plumbing supplies</li> <li>•Wallpaper</li> </ul>
Fuel and ice establishments:	<ul style="list-style-type: none"> <li>•Bottled gas</li> <li>•Fuel dealer</li> <li>•Fuel oil</li> <li>•Ice house</li> </ul>
Monument, including processing	
Service establishments: Building service	<ul style="list-style-type: none"> <li>•Disinfecting and exterminating service</li> <li>•Janitorial service</li> <li>•Window cleaning service</li> </ul>
Service establishments: Contract construction service	<ul style="list-style-type: none"> <li>•Air conditioning</li> <li>•Building construction</li> <li>•Carpentry</li> <li>•Cesspool cleaning</li> <li>•Concrete</li> <li>•Decorating</li> <li>•Electrical</li> <li>•Furnace cleaning</li> <li>•Heating</li> <li>•Heavy construction</li> <li>•Masonry</li> <li>•Oil well drilling</li> <li>•Painting</li> <li>•Paper Hanging</li> <li>•Plastering</li> <li>•Plumbing</li> <li>•Roofing</li> <li>•Sheet metal</li> <li>•Stonework</li> <li>•Tile setting</li> <li>•Towing, Impound lot</li> <li>•Water well drilling</li> <li>•Housing for caretakers</li> </ul>
Trucking establishments	
Vending machines	
Warehouses	
Wholesale establishments	

(V) Unit 22. Manufacturing.

(1) *Description.* Unit 22 consists of industrial uses which usually generate some adverse environmental effects and for this reason they should be located away from uses which do not produce adverse effects.

(2) *Included uses.*

Fabricated metal products:	<ul style="list-style-type: none"> <li>•Cutlery engraving</li> <li>•Fire control equipment</li> <li>•Guns and related equipment</li> <li>•Machinery</li> <li>•Tanks</li> <li>•Transportation equipment, including body shops</li> </ul>
Fabricated structural products:	<ul style="list-style-type: none"> <li>•Air conditioning and cooling apparatus</li> <li>•Fabricated wire products</li> <li>•Fire control equipment</li> <li>•Hardware products</li> <li>•Heating apparatus</li> <li>•Metal cans</li> </ul>
Miscellaneous manufacturing:	<ul style="list-style-type: none"> <li>•Athletic goods</li> <li>•Amusements</li> <li>•Musical instruments</li> <li>•Plated ware</li> <li>•Silverware</li> <li>•Sporting goods</li> <li>•Toys</li> <li>•Textile products</li> <li>•Housing for caretakers</li> </ul>

(W) Unit 23. Heavy industrial.

(1) *Description.* Unit 23 consists of uses which cause the greatest adverse environmental effects because of odor, noise, unsightliness, air pollution and explosions.

(2) *Included uses.*

Manufacturing uses:	<ul style="list-style-type: none"> <li>•Fabricated metal products</li> <li>•Primary metal industries</li> <li>•Textile mill products</li> </ul>
Processing and sales:	<ul style="list-style-type: none"> <li>•Scrap metal</li> <li>•Refuse</li> </ul>
Repair service	<ul style="list-style-type: none"> <li>•Tirecapping</li> </ul>
Wrecking and demolition services	
Apparel products:	<ul style="list-style-type: none"> <li>•Industrial leather belting</li> </ul>
Clay products	
Food and allied products	
Furniture and allied products	
Glass products	
Lumber and wood products:	<ul style="list-style-type: none"> <li>•Millware products</li> <li>•Plywood products</li> <li>•Prefabricated structural wood</li> <li>•Veneer products</li> <li>•Wooden container</li> </ul>
Paper and allied products:	<ul style="list-style-type: none"> <li>•Paperboard containers</li> </ul>
Petroleum and related industries:	<ul style="list-style-type: none"> <li>•Coal yard</li> <li>•Lubricating oils and greases</li> </ul>

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Primary metal industry:	•Foundry
Stone products	
Housing for caretakers	

(X) Unit 24. Home occupation.

(1) *Description.* Unit 24 consists of businesses for which financial compensation is received, conducted in a dwelling unit, and generates motor vehicle traffic to the dwelling unit. Only those residing in the dwelling unit are employed by the home occupation.

(2) *Included uses.*

Home child care, no more than six children	
Instructional services:	Art Crafts Dance Music Tutoring
Professional services:	Architects Insurance agents Lawyers Real estate agents Accountants Editors Publishers Graphic designers Travel agents Engineers Interior Design
Repair services:	Clocks and watches Computers Electronic devices Lawnmowers Small appliances Small engines

(Y) Unit 25. Studios, offices and related services.

(1) *Description.* Unit 25 consists of offices, studios, medical and dental labs, and other supporting services and sales.

(2) *Included uses.*

Medical Clinic:	• Dentist's office/clinic • Doctor's office/medical clinic
Professional office:	• Accountant • Architect • Attorney • Broker • Engineer
Services:	• Advertising agency • Animal daycare (10 animals or less) • Bail bonding agency • Business or management consultant • Computing service • Data processing service • Drafting service • Employment agency • Financial institution • Funeral home

	• Insurance sales • Interior decorator • Photocopying or printing • Realtor • Social and welfare agencies • Veterinary small animal out-patient clinic
Studios:	• Photography studio • Studio for teaching any of the fine or liberal arts

(Z) Unit 26. Multi-family dwellings.

(1) *Description.* Unit 26 is provided in order that multi-family dwellings and more than three attached units may be located in appropriate residential areas.

(2) *Included areas.*

Apartments
Convalescent home
Dormitory
Fraternity/Sorority houses
Multi-family attached dwellings
Rooming/boarding house
Townhouse, more than three attached units

(AA) Unit 27. Wholesale bulk petroleum storage facilities with underground storage tanks.

(1) *Description.* Unit 27 is provided in order that wholesale bulk petroleum storage facilities with underground storage tanks may be located in the appropriate industrial areas.

(2) *Included uses.*

Wholesale bulk petroleum storage facilities with underground storage tanks
--

(BB) Unit 28. Center for collecting recyclable materials.

(1) *Description.* Unit 28 is provided in order that centers for collecting recyclable material may be located in appropriate commercial and industrial areas.

(2) *Included uses.*

Center for collecting recyclable materials
--

(CC) Unit 29. Dance halls. \*

(1) *Description.* Unit 29 is provided in order that establishments that provide areas for dancing may be located in an appropriate environment and as not to negatively impact adjacent properties.

(2) *Included uses.*

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Bars providing area for dancing
Dance halls
Restaurants providing area for dancing
Taverns providing area for dancing

(DD) Unit 30. *Extractive uses.*

- (1) *Description.* Unit 30 consists of extractive uses which generate substantial nuisances and adverse environmental effects.
- (2) *Included uses.*

Mining:	<ul style="list-style-type: none"> <li>•Coal and ores</li> <li>•Clay, sand and silt</li> <li>•Rock and gravel</li> <li>•Other minerals</li> <li>•Petroleum extraction</li> <li>•Natural gas extraction</li> </ul>
Other:	<ul style="list-style-type: none"> <li>•Rock crushing</li> <li>•Sorting and washing of earth products</li> </ul>

(EE) Unit 31. *Facilities emitting odors and facilities handling explosives. \**

- (1) *Description.* Unit 31 consists of facilities which are heavy industrial in nature, but which have the potential to have adverse effects such as odor or the potential for explosions
- (2) *Included uses.*

Manufacturing Uses:	Chemical and allied products	
	Food and kindred products:	<ul style="list-style-type: none"> <li>•Animal fats and oils rendering</li> <li>•Beverages distilling</li> <li>•Meat slaughtering and packaging</li> </ul>
	Paper and allied products	
	Rubber and plastic products	
Processing and sales:	Explosives	
Wholesale and warehousing:	Livestock stockyards	
	Explosive materials	
Apparel products:	Leather tanning	
Chemical and allied products:	Any process likely to emit odor or have the potential for explosion	
Paper and allied products:	Building paper and board	•Paper
Petroleum and related industries:	Bulk station and terminal	
Rubber and miscellaneous	Inner tubes Tires	

plastic products:		
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(FF) Unit 32. *Sexually oriented business.*

- (1) *Description.* Unit 32 consists of adult arcades, adult bookstores or adult video stores, adult cabarets, adult motion picture theaters, or adult theaters whose inventory, merchandise or performances are characterized by a preponderance of sexual activities or anatomical areas.
- (2) *Included uses.*

Adult arcade
Adult bookstore
Adult video stores
Adult cabarets
Adult motion picture theaters
Adult theaters

(GG) Unit 33. *Adult live entertainment club or bar.*

- (1) *Description.* Unit 33 includes fixed places of business selling or dispensing alcoholic beverages including private clubs which emphasize and seek through one or more dancers to arouse or excite the patron's sexual desires.
- (2) *Included uses.*

Semi-nude club or bar
Exotic dance club or bar
Go-Go dance club or bar
Strip club or bar
Gentlemen's club or bar

(HH) Unit 34. *Liquor Stores. \**

- (1) *Description.* Unit 34 includes fixed places of business licensed by the Arkansas Alcoholic Beverage Control Board to sell alcoholic beverages for off-premise consumption.
- (2) *Included uses.*

Liquor Stores *
-----------------

(II) Unit 35. *Outdoor music establishments. \**

- (1) *Description.* Unit 35 includes any business or establishment that has a garden, patio, rooftop or premises not wholly enclosed by solid walls and fully roofed in which amplified or loud music is played that could be audible at nearby residences or businesses.
- (2) *Included uses.*

Outdoor music establishments *
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(JJ) *Unit 36. Wireless Telecommunications Facilities.*

(1) *Description.* A land use facility that transmits and/or receives electromagnetic signals for the purpose of transmitting analog or digital voice or data communications.

(2) *Included uses.*

Wireless telecommunications facilities *	Antennas Accessory buildings Accessory development Cellular towers Horns Microwave dishes Monopoles
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(KK) *Unit 37. Manufactured Homes.*

(1) *Description.* Unit 37 is provided in order that manufactured homes may be located in appropriate residential areas.

(2) *Included uses.*

Manufactured homes *
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(LL) *Unit 38 Mini-storage units*

(MM) *Unit 39 Auto salvage and junk yards*

(NN) *Unit 40. Sidewalk Cafes.*

(1) *Description.* Unit 40 is provided in order that sidewalk cafes may be located in appropriate commercial areas.

(2) *Included uses.*

Sidewalk Cafes
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(OO) *Unit 41 Accessory Dwelling Units*

(1) *Description.* Unit 41 includes accessory dwelling units.

(2) *Included uses.*

Accessory Dwelling Units *
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(PP) *Unit 42 Clean Technologies\**

(1) *Description.* Unit 42 consists of uses that fabricate or produce goods and services that greatly reduce or eliminate negative environmental impacts, create new technologies or improve the productive and responsible use of natural resources.

Alternative Energy Fabrication and Storage Components:	<ul style="list-style-type: none"> <li>•Wind</li> <li>•Solar</li> <li>•Fuel cells</li> <li>•Batteries</li> <li>•Hybrid systems</li> </ul>
Fabrication or Production of Materials:	<ul style="list-style-type: none"> <li>•Nano Technologies</li> <li>•Solar panels</li> <li>•Computer components, such as microchips</li> <li>•Advanced packaging</li> </ul>
Research and Development:	<ul style="list-style-type: none"> <li>•Monitoring and control systems</li> <li>•Energy infrastructure management</li> <li>•Energy efficiency management</li> <li>•Materials and recycling management</li> <li>•Transportation logistics</li> <li>•Environmental cleanup and safety</li> <li>•Scientific or high tech research laboratories</li> </ul>

**3.02 Interpretation**

(A) In each use unit division, permitted uses are set forth in the division entitled "Included uses." In the event of a conflict between such divisions and the "description" divisions, the former shall prevail.

(B) In any case where there is a question as to whether or not a particular use is included in a particular use unit, the Planning Commission shall decide. A use shall not be interpreted as being in any use unit if it is specifically listed in another unit in this chapter.

**3.03 Conditions Of Use**

(A) A use shall be subject to the provisions of the district in which the use is permitted. Certain uses shall be subject to additional conditions set forth separately herein. Reference will be made in the chapter to conditions applicable to a particular use in the unit where the use is listed.

(B) Uses which are permitted both as principal and accessory uses shall be subject to the conditions set forth for the use as a principal use.

**3.04 Enclosure Of Uses**

Where so specified in a use unit listing, a use shall be operated only within a fully enclosed structure. The excepting of certain districts from this requirement with respect to certain uses does not indicate that such uses are necessarily permitted in such districts. In districts where enclosure of use is required, accessory off-street parking and loading shall be exempted from this enclosure requirement.

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**CHAPTER 4: USE CONDITIONS**

**4.01 Listing**

The use conditions set forth in this chapter are the following:

Bed and breakfast facilities
Carnival, circus, amusement park or similar temporary open-air enterprise
Child care, nursery school
Dance halls
Facilities emitting odors and facilities handling explosives
Home occupations
Manufactured homes
Outdoor music establishments
Sexually oriented businesses
Tandem lot development
Wireless communications facilities

**4.02 Authority; Conditions, Procedures**

(A) *Applications.* The requirements contained herein shall apply to all conditional uses in addition to the specific requirements set forth in each individual conditional use.

(B) *Authority; conditions.* The Planning Commission shall:

- (1) Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;
- (2) Decide such questions as are involved in determining whether a conditional use should be granted; and
- (3) Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
- (4) Deny a conditional use when not in harmony with the purpose and intent of this chapter.

(C) *Procedures.* A conditional use shall not be granted by the Planning Commission unless and until:

- (1) A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.
- (2) The applicant shall pay a filing fee of \$100.00 to cover the cost of expenses incurred in connection with processing such application.

(3) The Planning Commission shall make the following findings before a conditional use shall be issued:

- (a) That it is empowered under the section of the chapter described in the application to grant the conditional use;
- (b) That the granting of the conditional use will not adversely affect the public interest; and,
- (c) The Planning Commission shall certify:
  - (i) Compliance with the specific rules governing individual conditional uses; and
  - (ii) That satisfactory provisions and arrangements have been made concerning the following, where applicable:
    - a. Ingress to and egress from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
    - b. Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;
    - c. Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading;
    - d. Utilities, with reference to locations, availability, and compatibility;
    - e. Screening and buffering with reference to type, dimensions, and character;
    - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and

compatibility and harmony with properties in the district;

- g. Required setbacks and other open space; and
- h. General compatibility with adjacent properties and other property in the district.

(D) *Approval/reconsideration.* No application for a conditional use will be considered by the Planning Commission within 12 months from the date of final disapproval of a proposed conditional use unless there is evidence of changed conditions or new circumstances which justify reconsideration submitted to the Planning Commission.

(E) *Expiration if discontinued.* All existing conditional uses that are discontinued for more than one (1) year shall be rendered null and void, and shall not be reestablished without Planning Commission approval of a new conditional use permit.

(F) *Exceptions.* If the proposed conditional use is for a home based business that meets the following criteria, then the Conditional Use Permit may be approved administratively by the Mayor or the Mayor's designee:

- (1) There are no outside employees.
- (2) There will be no customer's visiting the site.
- (3) There will be no large-scale deliveries (ex. Semi-truck and trailer) to the site.
- (4) There will be no signage.
- (5) The business does not create an excessive disturbance such as noise, dust, or odor.

#### 4.03 Bed And Breakfast Facilities

Bed and breakfast facilities shall be a conditional use subject to the following conditions:

(A) *Term.* After approval of a conditional use permit by the Planning Commission, the applicant must obtain a certificate of occupancy from the City before the facility begins operation. If no complaints regarding those times required to be considered by the Planning Commission prior to the issuance of a conditional use permit are received by the City from neighborhood residents, the City may issue a renewal certificate of occupancy annually, subject to the inspection requirements of subsection (G) below. If such complaints are received, the owner or operator of the bed and breakfast facility must apply to the Planning Commission for a new conditional use.

(B) *Lot size.* Where a new structure is constructed, the lot on which the bed and breakfast facility is located must comply with the minimum lot size

for the zoning district in which the property is located.

(C) *Parking.* One off-street parking space per guest room shall be required; provided, the Planning Commission may allow the use of on-street parking to meet this requirement upon a determination by the Planning Commission that traffic safety will not be impaired. The parking of motor vehicles may be stacked in a driveway with the owner of the bed and breakfast facility being responsible for the handling of ingress and egress.

(D) *Length of stay.* The maximum length of stay of any one guest at a bed and breakfast facility shall be 14 days.

(E) *Inspection.* Before a conditional use permit is issued for a bed and breakfast facility, the building must be inspected by the fire inspector and/or building inspector to assure compliance with the Arkansas State Fire Code and to assure that no significant safety hazard exists. No conditional use permit shall be issued for a bed and breakfast facility if the building does not pass the inspection.

#### 4.04 Carnival, Circus, Amusement Park Or Similar Temporary Open-Air Enterprise

(A) *Location of structure.* Any carnival, circus, amusement park, tent revival, or similar temporary open-air enterprise shall be so located that no facilities are nearer than 100 feet to any occupied dwelling. Adequate off-street parking, access controls, lighting and utility connections shall be provided.

(B) *Temporary use permit.* All such enterprises shall obtain a permit which shall be valid for not more than seven (7) days and shall not be granted for more than three (3) such periods for the same location within any one year period.

#### 4.05 Child Care; Nursery School

All such establishments shall be located on lots which:

(A) *Minimum lot area.* Contain a minimum lot area of 250 square feet per child.

(B) *Minimum outdoor play space.* Provide a minimum outdoor play space of 80 square feet per child, calculated on the basis of the number of children occupying the outdoor play space at one time.

(C) *Number of children.* In a Residential zone, a child care facility may be approved as a



conditional use of no more than 10 children, or the number of children approved by the state's licensing board, whichever is fewer.

#### 4.06 Dance Halls

Dance halls may be allowed as conditional uses subject to the following conditions:

- (A) *Site plan.* A site plan showing the property lines, structures on the property, driveways and parking spaces shall be filed with the City at least 15 days before the Planning Commission meeting at which the conditional use application will be considered.
- (B) *Inspection.* Before a conditional use permit is issued for a dance hall, the building must be inspected by the fire marshal and building inspector to assure compliance with the Arkansas State Fire Code and to assure that no significant safety hazards exist. No conditional use permit shall be issued for a dance hall facility if the building does not pass inspection.

#### 4.07 Facilities Emitting Odors And Facilities Handling Explosives

Facilities emitting odors and facilities handling explosives shall be a conditional use in the I-1, Heavy Commercial and Light Industrial District subject to the following conditions:

- (A) *Notice.* Notice shall be given as set forth in §14.04(B).
- (B) *Inspection.* Before a conditional use permit is issued for a facility emitting odors or handling explosives, the building must be inspected by the fire marshal and building inspector to assure compliance with the Arkansas State Fire Code and to assure that no significant safety hazards exist. No conditional use permit shall be issued for a facility emitting odors or a facility handling explosives if the building does not pass inspection.
- (C) *LSD review.* All facilities emitting odors or handling explosives shall be subject to the large scale development review process.
- (D) *Reasonable satisfaction.* The Planning Commission shall be reasonably satisfied that the permitted use will not generate generally offensive or noxious odors, or create an unreasonable hazard to the public.

#### 4.08 Home Occupations

In any dwelling unit in any zoning district where home occupations are permitted by right or conditional use, said home occupations shall not occupy more than 300 square feet of the gross floor area. For Building

Regulations purposes, any non-residential use that exceeds 300 square feet of the gross floor area of the structure shall meet all applicable building and development regulations and shall not be considered a home occupation. These limitations shall not apply to foster family care, or the providing of room or board as an accessory use only. Home occupations that require a conditional use permit shall be subject to the following regulations:

- (A) *Exterior alterations.* No exterior alterations of the structure may be made which are of a nonresidential nature.
- (B) *Sign/evidence of business.* No advertising, display, storage or other external evidence of business shall be permitted, except that for each dwelling unit with a permitted home occupation, one unanimated, non-illuminated home occupation sign which identifies the home occupation shall be permitted, if such sign is erected flat against a wall or door or is displayed in a window, and does not exceed three (3) square feet in area. No freestanding signs shall be permitted for home occupations in any zone.
- (C) *Employees.* No person may be employed other than a member of the immediate family residing on the premises.
- (D) *Mechanical equipment.* No mechanical equipment may be used which creates an excessive disturbance such as noise, dust, odor, or electrical disturbance.
- (E) *Parking.* No parking spaces other than normal residential parking spaces shall be permitted.
- (F) *Additional regulations.* Home occupations in an RSF District shall be subject to the following additional regulations:
  - (1) *Term.* No conditional use permit for a home occupation in any RSF District shall be issued for a period exceeding one year, but such a permit may be for a period shorter than one year. Upon expiration of a conditional use permit, the City shall have the authority to renew a conditional use permit for the same period as originally authorized, if the City has received no complaints or opposition from residents of the neighborhood in which the home occupation is located. The City may refer any proposed renewal of a conditional use permit to the Planning Commission for final decision.
  - (2) *Hours.* No home occupation shall be open to the public earlier than 7:30 a.m. or later than 10:00 p.m.; provided, the Planning Commission may vary the restrictions

imposed hereby upon a determination that such a variance will not adversely affect the health, safety, peace, tranquility, or welfare of the neighborhood in which the home occupation is located.

- (3) *Traffic.* No home occupation shall be allowed in an RSF District if the Planning Commission determines that the home occupation would generate such excessive traffic as would adversely affect the safety, peace, tranquility or welfare of the neighborhood.

#### 4.09 Manufactured And Mobile Homes

##### (A) *Definitions*

- (1) A mobile home, or trailer-house (including double-wides) shall be and include any house or structure being used as living quarters for human beings which may be towed from one location to another without change in structure or design, and whether or not the same be supported by wheels, but not including recreational vehicles, travel trailers, and campers stored for occasional recreational use.
- (2) A manufactured home means a structure, transportable in one (1) or more sections, which in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or when erected on sight, is Three Hundred Twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

##### (B) *Prohibited Use*

It shall be unlawful for any person, firm, or corporation to camp, stand, place, park or locate any mobile home, trailer-house or manufactured home, as defined herein within the corporate limits of the City of Elm Springs, Arkansas, except within a qualified mobile home park, or except as otherwise provided for hereinafter.

##### (C) *Accessory Structure*

Any structure meeting the definition of trailer-house, mobile home or manufactured home shall not be used as an accessory structure.

##### (D) *Mobile Home Parks*

All mobile home parks within the corporate limits of the City of Elm Springs, Arkansas, shall conform with the following:

- (1) All such manufactured home or mobile home parks shall be subject to the Uses and Height Regulations allowed in the zoning district in which the park is located. The Density, Bulk and Area Regulations and Setback Requirements are established in this portion of the code and may not match the requirements of the zoning district in which the park is located.
- (2) The minimum size of a property proposed for a trailer-house, manufactured home or mobile home park is 5 acres.
- (3) All such parks shall have adequate roadways that are paved with concrete or asphalt. The pavement thickness shall be designed to accommodate the weight of the trash trucks and fire apparatus.
- (4) The trailer parking areas shall be divided into spaces, each of which shall contain a minimum of 5,000 square feet and shall have a width of at least 50 feet and a length of at least 100 feet. Trailer-houses, mobile homes or manufactured homes shall be parked on the spaces so that there will be a minimum distance of 30 feet between structures measured from the exterior wall of the mobile home or exterior wall of any addition, garage, covered porch or deck if one is attached thereto. Only one (1) trailer-house or mobile home shall be parked or situated on each such space.
- (5) All utility facilities for the use of trailer-houses shall be constructed underground. Each structure shall have a UL approved 5-lb. A, B, C or dry powder fire extinguisher and smoke detector hard wired with a battery backup installed.
- (6) All trailer-houses or mobile homes or manufactured homes shall be equipped with modern plumbing connected to individual septic tanks or city sewage

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- lines with water, under pressure, furnished to the inside of said mobile home or trailer-house.
- (7) Every trailer-house or mobile home space shall be equipped with a sanitary garbage storage area, and no garbage shall be permitted to collect in said park.
  - (8) All mobile homes, trailer-houses or manufactured homes must be permanently attached to a concrete foundation or have acceptable skirting and acceptable tie-downs. Acceptable skirting may consist of wood, fiberglass, metal, or rock, but in no case shall it consist of any fibrous material consisting of fiber wood, sheetrock, etc.
  - (9) No mobile home, trailer-house or manufactured home shall be permitted which was built prior to 1975 or which has less than 720 square feet of living space.

(E) *Planning Commission Process*

No mobile home, trailer-house, or manufactured home park shall be constructed without first obtaining approval from the Planning Commission.

- (1) If a mobile home, trailer-house, or manufactured home park is allowed in the zoning of the proposed site, then the applicant may petition the Planning Commission for approval.
- (2) A conditional use permit is required to allow a mobile home, trailer-house, or manufactured home park.
- (3) A mobile home, trailer-house, or manufactured home park must also be processed as a large scale development.
- (4) All fees must be paid and notification procedures for the conditional use permit and the large scale development approval must be followed.

(F) *Setback Requirements*

Setbacks for a mobile home, trailer-house, or manufactured home located inside of a mobile home, trailer-house, or manufactured home park shall meet the following setback requirements:

Setback from property line of mobile home park:  
Front 50 feet  
Side 20 feet  
Rear 20 feet  
Distance from any building 30 feet (on the same lot)

“Front” shall be deemed to include all sides facing upon a public right-of-way; front setback shall be measured from right-of-way line.

(G) *Enforcement*

The Town’s building inspector, code enforcement officer, or the Mayor’s designated agent, is hereby authorized and directed to make inspections to determine the condition of locations of mobile homes, trailer-house or manufactured homes or the condition of mobile home, trailer-house, or manufactured home parks located within the City of Elm Springs in order that he may perform the duty of safeguarding the health and safety of occupants thereof and of the general public. He shall have the power to enter at reasonable times upon the park property for the purpose of inspecting and investigating conditions relating to the enforcement of this Ordinance.

(H) *Exemptions*

The provisions of this Ordinance shall not apply to manufactured home or mobile home parks which exist within the city limits of Elm Springs at the time of the passage of this Ordinance, but shall apply to any expansions or additions thereto or relocations thereof. The minimum overall acreage requirement for a manufactured home or mobile home park will not apply to an existing park.

Revised 7/25/19

**4.10 Individual Mobile Homes, Trailer-Houses and Manufactured Homes**

- (A) A single mobile-home, trailer-house, or manufactured home of metal or wood construction shall be permitted to be placed outside a mobile home park so long as such trailer-house, mobile home or manufactured home contains approved plumbing, utility, water and sanitary disposal connections which meet all state, county and city code requirements; meets the set-back requirements hereinafter provided, and meets all other requirements set out and established herein, and provided further, that no

more than one such mobile home, trailer-house or manufactured home shall be permitted on any one lot, tract, or parcel of land.

- (B) The minimum area requirements for an individual mobile home, trailer-house or manufactured home shall be one (1) acre.
- (C) Setbacks for a mobile home, trailer-house, or manufactured home located outside of a mobile home, trailer-house, or manufactured home park shall meet the following setback requirements:

Setback from property line:  
 Front 50 feet  
 Side 20 feet  
 Rear 20 feet  
 Distance from any building 30 feet

“Front” shall be deemed to include all sides facing upon a public right-of-way; front setback shall be measured from right-of-way line.

Revised 7/25/19

**4.11 Outdoor Music Establishments**

Outdoor music establishments may be allowed as conditional uses subject to the following additional conditions:

- (A) *Site plan.* A site plan showing the proposed location and size of the outdoor music area; location and direction of the speakers; noise absorbing walls, structures or devices; proposed days and hours of operation of the outdoor music area; and measures proposed to lessen or eliminate any adverse affects upon nearby residences and businesses.
- (B) *Planning Commission review.* In addition to all normal considerations for a conditional use, the Planning Commission may require noise reducing measures and structures be incorporated into an outdoor music area, may limit the size, power, number and direction of speakers, and may limit the hours of outdoor music generation from the establishment.

**4.12 Sexually Oriented Business**

- (A) *Classification.* Sexually oriented businesses are classified as follows:
  - (1) Adult arcade;
  - (2) Adult bookstores and adult video stores;
  - (3) Adult cabarets;
  - (4) Adult motion picture theaters; and

- (5) Adult theaters.

- (B) *Conditional use.* Sexually oriented businesses shall not be allowed in any zoning district except C-2 where they may be allowed as conditional uses subject to the following:

- (1) No sexually oriented business may be operated within 500 feet of:

- (a) A church;
- (b) A public or private school, pre-school or child care facility;
- (c) A public park.

- (2) No sexually oriented business may be operated:

- (a) Within 400 feet of a boundary of a residential zone or any residential use;
- (b) Within 400 feet of a residential zone or any residential use as measured by automobile travel distance from the exit of a sexually oriented business property to the property line or the residential zone or use;

- (3) No sexually oriented business may be operated within 1,000 feet of another sexually oriented business or within 200 feet of any room, building, premises, place or establishment that sells or dispenses alcohol or beer.

- (4) For the purpose of this subsection (1), measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district or residential lot.

**4.13 Tandem Lot Development**

- (A) *Where allowed.* Tandem lot development shall be permitted for single-family dwellings only and shall be a conditional use in all districts where single-family dwellings are permitted. The development of one tandem lot behind another tandem lot shall be prohibited.

- (B) *Requirements.* Before any conditional use for tandem lot development shall be granted, the Planning Commission shall determine that:

- (1) Tandem lot development will not significantly reduce property values in the neighborhood. In determining whether property values will be significantly reduced, the Planning Commission shall consider the size of nearby lots in comparison with the proposed tandem lot or lots.
  - (2) The tandem lot will have access to a public street by way of a private drive with a minimum width of 12 feet of equal and uniform width. The tandem lot owner shall be responsible for maintaining said 12-foot private drive so that sanitation and emergency vehicles have safe access to the dwelling located on the lot. The tandem lot owner shall have title to, or a perpetual private easement in, the private drive. If the private drive intersects a paved street, the private drive shall be paved for a minimum distance of 18 feet from said intersection.
  - (3) The tandem lot, excluding the 12-foot private drive, will conform to the minimum lot width and lot area requirements of the zoning district in which it is located. Lot area calculations to determine whether a tandem lot meets minimum lot area requirements shall not include any portion of the lot having less than the required minimum width. No structure shall be placed on any portion of a tandem lot having less than the required minimum width.
- (C) *Setback.* Each tandem lot shall meet the setback requirements of the zoning district that it occupies.

#### 4.14 Wireless Communications Facilities

- (A) The following general requirements shall apply to all new wireless communications facilities.
- (1) *Noise requirements.* Equipment used in connection with a tower or antenna array shall not generate noise that can be heard beyond the site. This prohibition does not apply to air conditioning units no noisier than ordinary residential units or generator used in emergency situations where regular power supply for a facility is temporarily interrupted; provided that any permanently installed generator shall be equipped with a functional residential muffler.
  - (2) *Compliance with federal regulations.* Applicant shall comply with all applicable federal regulations. Proof of compliance shall be provided upon request of the City.

- (3) *Lighting and signage.*
    - (a) Wireless communications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Security lighting or motion-activated lighting may be used around the base of a tower and within the wireless communication facility, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or rights-of-way.
    - (b) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. No signs, symbols, identifying emblems, flags, or banners shall be allowed on towers.
- (B) *New towers.* New wireless communications towers shall meet the following requirements:
- (1) *Type of towers allowed.* New towers shall be limited to monopole type structures or alternative tower structures.
  - (2) *Tower or antenna height limitations.* Towers or alternative tower structures are permitted to a maximum height of 150 feet.
  - (3) *Fall zone.* The minimum distance from the base of any tower to any residential dwelling unit shall be the lower height or required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in writing to the construction of said tower. This setback is considered a "fall zone." In the event that an existing structure is proposed as a mount for a wireless communication facility, a fall zone shall not be required.
  - (4) *Camouflaging or stealth technology for new towers.* If the applicant demonstrates that it is not feasible to locate on an existing structure, towers shall be designed to be camouflaged to the greatest extent possible including, but not limited to, use of compatible building materials and colors, screening, landscaping, and placement within trees.
  - (5) *Color of towers.* To the extent that any antenna extending above the height of the vegetation immediately surrounding it, they shall be a neutral color, painted or unpainted, unless the FAA requires otherwise.

(6) *Information required to process new tower requests.*

- (a) Provide a map of the geographic area that your project will serve;
- (b) Provide a map that shows other existing or planned facilities that will be used by the wireless communication service provider who is making the application;
- (c) Provide a map that shows other potential stand alone locations for your facility that have been explored;
- (d) Provide a scaled site plan containing information showing the property boundaries, proposed tower, existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing and proposed structures and topography. The plan shall indicate proposed landscaping, fencing, parking areas, location of any signage and specifications on proposed lighting of the facility;
- (e) Describe why the proposed location is superior, from a community perspective, to other potential locations. Factors to consider in the community perspective should include: visual aspects, setbacks, and proximity of single-family residences;
- (f) Describe your efforts to co-locate your facility on one of the poles or towers that currently exists, or is under construction. The applicant should demonstrate a good faith effort to co-locate with other carriers. The Planning Commission may deny a permit to an applicant that has not demonstrated a good faith effort to provide for co-location. Such good faith effort includes:
  - (i) A survey of all existing structures that may be feasible sites for co-locating wireless communications facilities;
  - (ii) Contact with all other wireless communications facilities;
  - (iii) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location; and
  - (iv) Letter from tower owner stating why co-location is not feasible.

- (g) Describe how you will accommodate other antenna arrays that could co-locate on your facility. Describe how this accommodation will impact both your pole or tower, and your ground mounted facilities. Provide documentation of your provider's willingness to accommodate other providers who may be able to co-locate on your facility.

(7) *Structural integrity and inspections of towers.*

- (a) The applicant shall provide a certification letter that states the tower meets or exceeds design criteria and all local, state, and federal requirements regarding the construction, maintenance, and operation of the tower.
- (b) If a tower fails to comply with the requirements and criteria above and constitutes a danger to persons or property, then upon written notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such requirements and criteria. If the owner fails to bring such tower into compliance within 30 days, the city may terminate the owner's conditional use permit and/or cause the removal of such tower (at the owner's expense).
- (c) By making application hereunder, the applicant agrees to regularly maintain and keep in a reasonably safe and workmanlike manner all towers, antenna arrays, fences and outbuildings owned by applicant which are located in the city. The applicant further agrees to conduct inspections of all such facilities not less frequently than every 12 months. The applicant agrees that said inspections shall be conducted by one or more designated persons holding a combination of education and experience so that they are reasonably capable of identifying functional problems with the facilities.

(10) *Security fencing and anti-climbing device.*

Through the use of security fencing, towers and equipment shall be enclosed by wood board fencing not less than six feet in height. The tower shall also be equipped with an appropriate anti-climbing device. The facility shall place signs indicating "No Trespassing," "High Voltage," or other pertinent information on the outside of the fence, unless it is decided that the goals of

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this ordinance would be better served by waiving this provisions in a particular instance. Barbed wire fencing or razor wire shall be prohibited.

(11) *Vegetative screening requirements.* Wireless communications facilities shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both.

(12) *Setbacks from property lines.* Wireless communication facilities shall meet current setbacks as required by zoning.

(C) *Co-location.*

The Planning Commission, following an administrative review without the requirement of an issuance of conditional use permit, may approve the following antenna installation.

(1) *Locating on existing structures.* Installation of an antenna on an existing structure other than a tower (such as a building, sign, light pole, electric transmission tower and similarly scaled public utilities/facilities, water tower, or other free-standing nonresidential structure), provided that the addition of the antenna does not add more than 20 feet of height to the original structure.

(2) *Locating on existing tower not previously approved through §4.13.* Existing towers that do not have cell antennas or arrays may not add such capability without securing a conditional use. Antennas may be replaced by similar antennas at the same height and for the same basic usage as the antennas being replaced.

(3) *Locating on existing towers previously approved through §4.13.* Additional antennas may be placed upon any tower already approved through §4.13 so long as such additional antenna would not violate any requirements of the conditional use permit or other provisions of §4.13.

(4) *For the purpose of co-location,* the applicant must submit information from a licensed professional engineer certifying the capacity of the tower for additional providers and a letter of intent from the applicant indicating their intent to share space.

(D) *Other requirements.*

(1) *Wireless communications facilities placed on top of buildings.* When a wireless communications facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

(2) *Wireless communications facilities placed on sides of buildings.* Antennas which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

(E) *Exemptions.*

(1) *Personal use.* Towers for personal use which, including the height of all antenna arrays, do not extend more than 80 feet from the ground and shall meet the current setbacks as required by zoning.

(2) *Temporary structures.* Temporary structures designed to be used for not more than 14 days in connection with a special event or for any reasonable period of time in and immediately following an emergency, including without limitation those towers which are identified as "C.O.W.s" or "Cellular on Wheels."

(3) *Existing towers.* All existing towers may be replaced with the same type and height of tower structure as currently exists. All replacement towers shall comply with §4.13(A) and (B) regarding color of towers, structural integrity and inspections of towers, security fencing and anti-climbing device, and vegetative screening requirements. All existing guyed towers shall also be subject to the following conditions:

(a) A demolition permit shall be issued prior to a building permit being issued for the replacement tower;

(b) The demolition permit shall expire within 90 days and shall require the existing tower to be demolished within 90 days from issuance of the building permit for the replacement tower;

(c) The new tower shall be constructed as close as technically feasible to the existing tower;

(d) The replacement structure may be increased in width to a maximum of 36

inches. Existing guyed towers over 36 inches shall not be increased in width with a replacement tower.

- (4) *Emergency and utility towers and antennas.* Towers and antennas under 35 feet in height used for **9-1-1** services and utility monitoring (gas, water, sewer, traffic lights, etc.).
- (F) *Municipal profits from towers.* The City of Elm Springs should actively market its own property and existing structures as suitable co-location sites. As noted above, the review process is shortened and simplified when co-location on city property is submitted by applicant. An annual lease amount should be charged according to the fair market value of the location. In cases where the company no longer needs the tower, the city may require it to be removed.
- (G) *Abandoned antennas and towers.* At such time that a licensed carrier abandons or discontinues operation of a wireless communication facility, such carrier will notify the city of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that licensed carrier fails to give such notice, the wireless communications facility shall be considered abandoned upon such discontinuation of operations. Upon abandonment or discontinuation of use, the carrier shall physically remove the wireless communications facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
  - (1) Removal of antenna, equipment shelters and security barriers from the subject property;
  - (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations;
  - (3) Restoring the location of the wireless communications facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- (H) *Notification of change of ownership/operator.* Upon assignment or transfer of a conditional use permit, or any of the rights thereunder to a new wireless telecommunications operator, the owner or operator shall provide written notice within 30 days to the City.

**4.15 Revocation Or Change Of Conditional Use**

- (A) Upon receipt by the City of a written complaint by an Elm Springs resident that a holder of a conditional use has substantially violated or is violating any term or condition of the conditional use, the City shall investigate this complaint to determine if it is substantiated.
- (B) A letter outlining the violation shall be sent to the holder of the conditional use requiring immediate compliance with all conditions and terms of approval of the conditional use and noting the substantiated complaint.
- (C) If the City determines that the holder has violated the terms of the conditional use and failed to promptly and voluntarily correct its failures, the City shall refer the existing conditional use to the Planning Commission for its review. After a hearing for all interested persons, the Planning Commission may amend or add conditions to the conditional use, may revoke a conditional use for substantial violations of the existing terms and conditions of the conditional use, or may reaffirm that the holder has complied with all terms of its conditional use.
- (D) Except in extraordinary circumstances, the City shall not refer any alleged violations of a specific conditional use to the Planning Commission more often than once per year.

**4.16 Transit System Shelters**

- (A) *Intent.* Transit System Operators may apply for a conditional use permit to allow for the location of bus shelters in the right of way of public streets subject to the following conditions and requirements.
  - (1) Requirements for locating, constructing and maintaining a transit system bus shelter are as follows;
    - (a) The bus shelter conditional use permit application shall require a site plan illustrating the location and dimensions of the proposed structure, the street right of ways and any existing utility easements.
    - (b) The City may require that the transit system provide a cash or security bond in an amount approved by the City sufficient to cover the cost of removing the transit systems facilities or improvements.
    - (c) The City may require that the transit system provide a provision authorizing the City to remove, without liability, any part of a facility for which a permit has



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- been issued if there is a lawful need for the site or for access to the site.
- (d) The City may require the transit system to provide public liability insurance.
  - (e) The City may require that the transit system provide and pay for any necessary or essential traffic and safety studies.
- (2) The Planning Commission may issue a bus shelter conditional use permit based on the following findings;
- (a) The improvement or facility will not be located, extend onto, or intrude on the roadway or the sidewalk to such an extent as to impede the area needed for vehicular traffic or pedestrian use.
  - (b) The improvement or facility will not create a hazardous condition or obstruction of vehicular or pedestrian travel on the street or sidewalk.
  - (c) The design and location of the facility includes all reasonable planning to minimize the potential for injury or interference to the public in the use of the municipal street or sidewalk.
- (3) Additional bus shelter elements may be required to be installed and maintained by the Transit System Operator. These may include but shall not be limited to:
- (a) A concrete pad on which to locate the shelter and accompanying street furniture.
  - (b) An integrated or detached "wayfinding totem" to identify location and bus routes.
- (4) Signage. Only signage denoting the bus stop location, or language associated with city wayfinding shall be allowed on bus shelter structures.

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## CHAPTER 5: SUPPLEMENTARY ZONING REGULATIONS

### 5.01 Accessory Commercial Uses

Permitted accessory uses in RMF and MU Districts shall include accessory commercial uses of the types included in Unit 25 provided that:

- (A) *Convenience.* Such uses are located entirely within a multi-family dwelling or office building as an accessory use for the convenience of the occupants of said building.
- (B) *Gross floor area.* Do not occupy more than 10% of the gross floor area of the building in which located.
- (C) *Signs.* Have no signs or other advertising visible from outside the zoning lot on which located.
- (D) *Location.* Are located in or contiguous to the lobby of the principal building.
- (E) *Lobby entrance.* Have at least one lobby entrance.

### 5.02 Accessory Structures And Uses

Accessory Structures And Uses. Accessory structures and uses shall be subject to the applicable use conditions set forth in Zoning, Chapters 1 through 5, and to the following general conditions:

#### (A) Accessory structures in R-A Zoning District

- (1) *When erected.* For the R-A zoning district, there are no restrictions on when the accessory structure can be erected.
- (2) *Where erected.* For the R-A zoning district, the accessory structure can be located anywhere within the buildable area of the property within that zoning district.
- (3) *Size of accessory structure.* For the R-A zoning district there is no size limit for the area of an accessory structure. The structure will still be subject to the height requirements as defined in this chapter and in other sections of this code.
- (4) *Height.* For the R-A zoning district, the height of an accessory structure shall not exceed 40'.

#### (B) Accessory Structures in All Other Residential Zones

- (1) *When erected.* No accessory structure shall be erected on any property prior to the construction of the principal structure,

- (2) *Where erected.* The accessory structure shall be located to the rear of the principal structure.

- (3) *Size of accessory structure.* The accessory structure shall be 50% or less of the size of the principal structure including an attached garage. Any accessory structure requested that is greater than 50% the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with Chapter 4, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties.

- (i) *Exceptions.* If the principal structure is 1200 sf in size or less, then the maximum size of accessory structure is 600 sf unless a conditional use permit is obtained from the Planning Commission.

- (4) *Height.* No accessory structure shall exceed the lesser of the existing building peak height or the maximum height allowed in the Zoning District it occupies.

- (5) *Number of Accessory Structures.* Up to two accessory structures may be allowed on a single parcel as long as the sum of the square footage does not exceed the maximum allowed in section 3 above.

#### (C) Accessory Structures in All Commercial and Industrial Zones

- (1) *When erected.* No accessory structure shall be erected on any property prior to the construction of the principal structure
- (2) *Temporary Structures.* No temporary accessory structures will be allowed. Temporary structures are structures not on a permanent foundation and not connected to utilities.
- (3) *Permanent Structures.* Permanent structures shall be required to go through the Large Scale Development process and obtain approval by the Planning Commission. Permanent structures are constructed on a permanent foundation and connected to utilities.

#### (D) General Conditions for All Accessory Structures

- (1) *Separation.* Minimum separation from the principal structure shall be 15 feet as

measured from the outer edge of any eaves, porch covers or overhangs on both buildings.

- (2) *Planning Commission Review.* Any accessory structure exceeding 600 square feet in floor area shall be subject to review by the Planning Commission. The Planning Commission shall review the location, size, structural and exterior materials, and appearance and shall determine if the proposed building is appropriate and compatible considering, but not limited to the following: the visibility of the proposed structure; the compatibility with surrounding uses and structures; and the size relative to the lot and open space on which it will be located.
- (3) Prefabricated portable buildings and car ports shall be allowed if approved by the Building Official as structurally sound and is anchored to permanent footings or slabs. These buildings shall meet the requirements of this ordinance and the building setbacks for the zoning district it is constructed in.
- (4) All accessory structures shall be made and maintained structurally sound and weather proof. They shall be made with materials compatible and harmonious with existing buildings and presenting an appearance aesthetically consistent with its surroundings.
- (5) The accessory structures shall not be used as a residence, bedroom, or living quarters unless allowed under Chapter 5.15.
- (6) Open sheds, porches and lean-tos shall be permitted, provided the open side is not visible from the street Right-of-Way. The area of the lean-to does count towards the overall square footage of the accessory structure. The area of the lean-to shall not exceed 20% of the square footage of the total structure.
- (7) The Planning Commission reserves the right to deny a request for a conditional use permit for an accessory structure based on the nature of the structure, its use and compatibility with the surrounding properties. The Planning Commission may also base the approval of the request on additional conditions of approval at their discretion based on the intent of this code.
- (E) *Swimming pools.* Swimming pools shall not be located in any required front setback but may be allowed within side and rear setbacks.

**5.03 Accessory Residential Uses In Nonresidential Districts**

- (A) *Attached residential use.* Attached residential uses shall be permitted in the C-1, C-2, and I-1 zoning districts as a use by right. Density limitations for attached residential uses in such zoning districts shall be governed by a density of 4 units per acre.
- (B) *Detached residential dwelling.* A detached residential dwelling unit may be permitted in the C-1, C-2, and I-1 zoning districts as a conditional use. Density limitations shall be governed by §2.14(C). The building site and setback area must be separate and distinct from off-street parking spaces and setback areas required for the principal structure and shall include a minimum of 4,200 square feet of land area. The residential structure shall be located to meet required setbacks from exterior boundaries of the total tract. The property owner shall execute and record covenant provided that the residential structure shall not be sold separately from the principal structure; the covenant shall run with the land.

**5.04 Animals And Fowl**

- (A) It shall be unlawful for any person to permit or allow any domesticated animal or fowl to run at large within the corporate limits of the city.
- (B) Animals traditionally associated with the practice of livestock raising or farm animals, such as horses, goats, swine, chickens, cows and other such animals are not considered pets and are not permitted within any zoning district in the city limits, with the exception of R-A, Residential Agricultural or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Livestock are permitted uses by right, unless otherwise stated herein.
- (C) It shall be lawful for any person to keep, permit or allow any fowl within the corporate limits of the city in all Residential zones under the following terms and conditions:
  - (1) The principal use of the property shall be a single family dwelling. No fowl shall be allowed in multi-family complexes, including two-family and three-family dwellings.
  - (2) There shall be no outside slaughtering of fowl.
  - (3) All fowl must be kept in a secure, fenced enclosure constructed with a minimum area of 100 square feet. All hens shall be kept in the side or rear yard, and may not be permitted in the front yard area.

- (4) A chicken coop/roost area shall not be located closer than twenty-five (25) feet to any residential structure on an adjacent lot, and shall meet building setbacks.
- (5) Enclosures must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons.
- (6) The City may further restrict the use of fowl within residential districts if it causes a public nuisance or public health issue as defined in City Codes.
- (7) Roosters shall not be allowed in any residential zoning districts other than R-A.

(D) The above Section C is not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl kept in areas of the City which are zoned R-A, Residential Agricultural, or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Animal Husbandry are permitted uses by right.

(E) *Separation of use.* The following uses, where permitted, shall be conducted no nearer than the following stated number of feet to the boundary of a *Non-Agricultural Zoning District*, or to a dwelling *an adjacent property.*

<b>25 FEET</b>
Chicken Coop in Residential districts (from residential dwelling on adjacent lot)

<b>50 FEET</b>
Animal hospital; serving household pets and similar small animals
Boarding: breeding, raising, or boarding of household pets or similar small animals
Kennel
Egg farm

<b>100 FEET</b>
Animal hospital: serving livestock and similar animals
Boarding or training of horses
Dairy farm

<b>Poultry farm</b>
Farm: for raising cattle, goats, horses, sheep, rabbits and poultry

<b>200 FEET</b>
Hog raising
Livestock: <i>processing, feeding structures</i>

**5.05 Automobile Garages**

In any district where permitted, automobile garages shall be subject to the regulations set forth in Chapter 3 for Use Unit 18 for drive-in facilities and all appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 25 feet from any side or rear lot line in an A or R district.

**5.06 Automobile Wash Service**

Automobile wash service shall be subject to the provisions set forth in Chapter 3 for Use Unit 18 drive-in facilities. The following provisions shall also be required: Paved parking space on the lot for not less than five cars per washing lane shall be provided.

**5.07 Fences, Walls, And Vegetation**

Fences may be permitted for screening, security or for aesthetic purposes.

- (A) Fences, walls, and vegetation may be permitted in any required setback or any required setback area, or along the edge of any setback, provided the fence, wall, or vegetation does not materially impede vision, as determined by the City, of vehicular or pedestrian traffic.
- (B) Fences located in front of the principal façade of a building may be solid up to 30 inches in height. Any part of a fence which exceeds 30 inches in height shall not obstruct the view of the structure from the right of way. This excludes properties in the R-A zoning district.
- (C) Chain link fence is prohibited if closer to the right of way than the front of the structure.
- (D) Razor wire and/or barbed wire fences are prohibited if visible from the street right of way unless and except barbed wire fences that are used for agricultural purposes in the R-A zoning district.
- (E) Temporary construction fencing is allowed within setbacks and in the front of a structure where there is an active construction permit for the work being performed. The fencing cannot impede vision of vehicular or pedestrian traffic. The temporary fencing must be removed at the completion of

construction or if work ceases on the construction for 12 months.

**5.08 Garage/Yard Sales**

Garage and yard sales are permitted in any zoning district subject to the following conditions:

- (A) *Permit Required.* All garage and yard sales must have a garage sale permit obtained through the City Clerks Office.
- (B) *Frequency.* Garage sales shall not locate in one (1) location more than two (2) times per year.
- (C) *Term.* Garage sales may be held for a duration not to exceed three (3) consecutive days.
- (D) *Signs.* One on-site and three off-site temporary signs are allowed to be posted, however, posting may not occur more than two (2) days before the sale begins. Each sign shall not exceed 4.5 square feet in area. The off-site signs shall include address and date(s) of sale. All signs shall be removed by 8:00 a.m. on the day following the sale. Any such signs not so removed the following day, or located in public rights-of-way may be removed by city staff and for any such sign removed a collection fee maybe imposed.

**5.09 Height or Setback Regulations; Exceptions**

- (A) The height limitations contained in the Zoning Ordinance, Chapter 2, do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- (B) *Side Setbacks.* Zero lot line and common wall development. Side setbacks may be varied to permit common walls between townhouses. There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit for townhouses; but townhouses shall conform to the district densities, setback requirements, height regulations, parking and access requirements, and all other applicable city ordinances.

**5.10 Nonconforming Uses And Structures**

- (A) *Intent.*
  - (1) Within the districts established by this chapter or amendments that may later be adopted, if there exist lots, structure, uses of land and structures, and characteristics of use which are lawful before this chapter was

passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

- (2) It is not the intent of this section to prohibit the improvement of nonconforming residences by adding bath facilities or connecting to utilities.
  - (3) Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the district involved.
  - (4) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter by the addition of other uses of a nature which would be prohibited generally in the district involved.
  - (5) Should a residential structure within any zoning district be destroyed by any means and rebuilding is not commenced within one (1) year from the date of destruction, it shall not be reconstructed except in conformity with the provisions of this Zoning Ordinance.
- (B) *Nonconforming lots of record.*
    - (1) *Single-family dwellings.* In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that setback dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

- (C) *Nonconforming uses of land (or land with minor structures only).* Where at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by

this chapter, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

- (1) *Enlargement.* No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- (2) *Moving of use.* No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter.
- (3) *Cease of use.* If any such nonconforming use of land ceases for any reason for a period of more than 120 days, any subsequent use of such land shall conform to the regulations in which such land is located; and
- (4) *Additional structures.* No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

(D) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restriction on areas, lot coverage, height, setbacks, its location in the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) *Alterations.* No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity, provided, the following structures may be enlarged or altered as hereinafter provided:
  - (a) Nonconforming residential structures may be enlarged or altered by increasing the height of said structures.
  - (b) Carports in residential zones may be extended into the required setback if:
    - (i) The carport is setback at least 10 feet from the street right-of-way;
    - (ii) The carport is setback at least five feet from any interior side property line;

- (iii) The carport is setback at least 10 feet from the rear property line;
- (iv) The area below the roof is open on the sides; and
- (v) The carport does not materially obstruct vision.

- (c) In residential zones, detachable awnings which are not structurally a part of the building may be erected in any required front setback or rear setback if the awning does not project more than six feet. Detachable awnings which are not structurally a part of the building and which project no more than four feet may be erected in any required interior side setback.
- (d) In residential zones, porch roofs and open porches may extend into required setbacks by one foot on each side of the entry door to maximum depth of six feet in required front setbacks and rear setbacks and to a maximum depth of four feet in required interior side setbacks.

- (2) *Destruction.* Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (3) *Moving.* Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(E) *Repairs and maintenance.*

- (1) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10% of the current replacement cost of the nonconforming structure, or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.
- (2) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe, or unlawful due to lack of repairs and maintenance, and is



declared by any duly authorized official to be unsafe, or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt, except in conformity with the regulations of the district in which it is located, or as required by other ordinances.

- (G) *Conditional use provisions not nonconforming uses.* Any use which is permitted as a conditional use in a district under the terms of this chapter (other than a change through Planning Commission action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall be without further action considered a conforming use.

**5.11 Parking And Storage Of Certain Vehicles**

Automotive vehicles or trailers of any kind, or type without current license plates shall not be parked, or stored in any zones, except those allowing auto sales or salvage unless completely enclosed in buildings or carports connected to the principal structure. Disabled vehicles must be stored inside buildings except in zones allowing auto salvage.

**5.12 Structures To Have Access**

Every building hereafter erected or moved shall be located on a lot which has frontage on a public street; provided, the Planning Commission shall have the authority to waive this requirement where the property owner provides safe and convenient access for fire protection and sanitation vehicles. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

**5.13 Supplementary Use Regulations**

- (A) *Automobile garages.* In any district where permitted, automobile garages shall be subject to the regulations set forth in §3.01(R) for drive-in facilities and all appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line in a Residential District.
- (B) *Gasoline service stations.* A gasoline service station shall be subject to the following requirements:
  - (1) *Bulk and area.* Gasoline service stations shall be regulated by the bulk and area requirements of the district in which it is located and the following:

connection and similar equipment from all right-of-way lines	
Minimum setback of canopy covering pump island, compressed air connection and similar equipment from all right-of-way lines. (**Canopies shall not be considered a part of the building for determining building setbacks even if said canopies are attached to the principal structure.)	20 ft.

- (2) *Auto washing.* Washing of autos shall be within an enclosed structure.

- (C) *Retail liquor stores.* Retail liquor stores may be located in those zoning districts where such use is permitted, subject to the following conditions:

- (1) *Church/school/hospital.* No retail liquor store shall be located within 1000 feet of any church, hospital, or school house
- (2) *Residential zone.* No retail liquor store shall be located on any property two or more sides of which abut or are across the street from and perpendicular to property zoned residential

**5.14 Accessory Dwelling Units (ADU)**

- (A) *Purpose.* The purpose of the accessory dwelling unit ordinance is to authorize accessory dwelling units in certain zoning districts on lots already developed or that will be developed with single-family dwellings.
- (B) *Intent.* Planning Commission shall evaluate the following criteria for the review and approval of an accessory dwelling unit application:
  - (1) The property shall have infrastructure (water, sewer, gas, electric, etc.) that meets City standards to serve the accessory dwelling unit.
  - (2) A two-story accessory dwelling unit should generally limit the major access stairs, decks, entry doors, and major windows to the walls facing the principal dwelling, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard should be minimized. The design of the accessory unit should relate to the design of the principal residence and not visually dominate it or the surrounding properties.
- (C) *Permitted Zoning Districts:* Accessory dwelling units shall be exempt from the density requirements of the underlying zoning district and

Minimum setback of pump island, compressed air	25 ft.
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may be permitted on lots in the following Zoning districts:

- (1) R-A Residential Agricultural
- (2) RSF – 1 Residential Single Family – One Unit per Acre
- (3) RSF – 2 Residential Single Family – Two Units per Acre

(D) *Design Review and Approval.* All accessory dwelling units shall meet the following standards for approval by the Planning Commission. Prior to approval of an accessory dwelling unit, the Planning Commission shall find that:

- (1) *Maximum Square Feet and Number of Bedrooms.* The accessory dwelling unit shall not be greater than 1500 square feet of habitable space. Detached accessory dwelling units located above garage space shall be permitted so long as they meet the height requirement herein.
- (2) *Parking.* A minimum of one parking space shall be provided on-site for an accessory dwelling unit. Required parking for the accessory dwelling unit is in addition to the required parking for the principal dwelling unit.
- (3) *Maximum Number of Accessory Dwelling Units per Lot.* A maximum of one accessory dwelling unit shall be permitted for each lot.
- (4) *Maximum Occupancy of the Accessory Dwelling Unit.* A maximum of one family unit shall reside in an accessory dwelling unit.

(E) *Planning Commission Approval.* An applicant may request approval from the Planning Commission of a variance from the maximum requirements for size (square feet), height, and materials for an accessory dwelling unit, where unique circumstances exist and the effect will not adversely affect adjoining or neighboring property owners.

(F) *Existing Detached (Accessory) Dwelling Units.*

- (1) *Nonconforming Units.* Existing detached dwelling units that were not approved by the Planning Commission shall be considered nonconforming. An application for approval may be made to convert an existing nonconforming detached accessory dwelling unit to a conforming legal detached accessory dwelling unit, where the existing unit can meet the requirements herein. Where an existing nonconforming accessory dwelling unit exists as of the date of the

adoption of this ordinance that can not meet the requirements herein, the applicant may apply for a variance of the requirements stated.

(G) *Non-Conforming Structures.* Non-conforming structures may not be converted into an accessory dwelling unit unless a variance has been granted by the Board of Adjustment.

(H) *Violation.* Violation of the requirements herein shall be prosecuted to the maximum extent of the law.

### 5.15 Neighborhood Business

A. *Purpose.* These regulations are intended to mitigate the potential adverse impacts associated with businesses within residential areas by allowing businesses that are compatible with adjoining and surrounding residential uses. The following standards shall apply:

- a. Enhance and regulate the appearance of neighborhood commercial uses
- b. Protect adjoining properties from the potential adverse impacts associated with business uses adjacent to residences such as traffic, noise, appearance, lighting, drainage, and effect on property values
- c. Provide areas for off-street parking that will be appropriate in size, location and scale within residential areas

B. *Similar Uses Allowed.* When a use is not specifically listed as a permitted use in Use Unit 12 (Neighborhood Business), the use may be permitted if it is determined by the Planning Commission that the use is similar to other uses listed. In determining “similarity,” the Planning Commission shall make all of the following findings:

- a. The proposed use meets the purpose of this section and the goals and policies of the Future Land Use Plan.
- b. The proposed use shall be similar to the uses listed above considering use intensity and characteristics.

C. *Conditions for Approval.* The uses listed may be allowed as a permitted use and shall meet the following conditions.

- a. The proposed use shall not adversely affect local traffic conditions on the adjoining streets.
- b. New parking areas or lots, utility equipment and trash enclosures

shall be designed to have minimal visual impact to adjacent property owners and to the street. Screening of these elements shall be accomplished with plantings, walls, architectural elements, and/or fencing.

- c. One wall sign shall be allowed with a maximum area of eight square feet. The color of the sign shall be compatible with the colors of the structure, and only indirect external lighting is permitted.
- d. Hours of operation shall be limited to 6am to 9pm unless otherwise approved by the Planning Commission.
- e. All new or enlarged structures shall comply with the zoning requirements of the underlying district.

**D. Design Review. (if building is proposed)**

- a. a site plan drawn to scale showing location of parking, building footprint, all other improvements
- b. color elevation drawings of all sides of the structure, indicating the type of materials to be used on the exterior of the building, and proposed sign
- c. landscape plan showing the location of all proposed landscaping, size and species of plant material

**5.16 Outdoor Mobile Vendors**

A) *Purpose.* The purpose of this section is to facilitate and control the ability of mobile vendors and mobile vendor courts to operate while ensuring such use is compatible with nearby properties, fosters an aesthetically appealing streetscape and does not create a dangerous traffic condition.

(B) *Definitions.*

- (1) Food trucks. A type of mobile vendor which is a motorized and operationally self-contained single vehicle equipped with facilities for cooking and selling food.
- (2) Food trailers. A type of mobile vendor which is designed to be towed on public roads and having an enclosed area for storage, handling or preparation of food.
- (3) Other vendors. Mobile vendors are not limited to operating out of a food truck or trailer.
- (4) Mobile vendor court. An outdoor commercial center with three (3) or more mobile vendor stalls in a shared location.

(C) Mobile Vendor Permit Requirements. All mobile vendors shall meet the following requirements and submittals prior to approval:

- (1) Each application for a permit to conduct a mobile vendor business shall be accompanied by a \$35.00 permit review and processing fee. Mobile vendor permits shall be issued to the owner of the mobile vendor vehicle. This application will also serve as the vendor's business license that will be processed as such.
- (2) Application for a permit to conduct a mobile vendor business shall include the following items in a format acceptable to the Planning Commission:
  - (a) Name, address, contact information and signature of both the property owner and the mobile vendor requesting to locate on private property.
  - (b) A valid copy of all necessary permits required by state and county health authorities which shall be conspicuously displayed at all times during the operation of the business.
  - (c) For each location other than those permitted as part of a mobile vendor court, a detailed site plan roughly drawn to scale showing the location of the property lines, each mobile vendor location, building setback lines, vehicle parking spaces, the sidewalk location and any proposed dining or sitting areas.
  - (d) Written authorization, signed by the property owner or legal representative of record, stating that the mobile vendor is permitted to operate on the subject property for a specified period of time.
- (3) The mobile vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile vendors are not permitted to dispose of their trash in public trash receptacles.
- (4) The mobile vendor permit issued shall not be transferable in any manner.
- (5) The mobile vendor permit issued shall be conspicuously displayed at all times during the operation of the mobile vending business.
- (6) The proposed use must be a permitted use-by-right within the underlying zoning district unless exempt under this chapter.
- (7) Mobile vendors shall comply with the Federal Americans with Disabilities Act (ADA) requirements if the public has access to the interior of any mobile vending unit.
- (8) Mobile vendors shall be required to renew their permit on an annual basis following the same timeframe as a standards business license renewal. As part of the renewal

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process, vendors shall submit an updated copy of the health department permit. Failure to renew a permit will be cause for revocation by the City.

(D) Mobile Vendor Courts. Mobile vendor courts may be permitted administratively in appropriate zoning districts. A property owner may request a permit from the Planning Commission to develop a mobile court subject to the following standards:

- (1) The property owner has provided the City with a detailed site plan of the mobile vendor court showing dimensional relationships of the property lines, all proposed mobile vendor stall locations, building setbacks, vehicle parking, sidewalk location and proposed dining or sitting areas.
- (2) Site Improvement Requirements.
  - (a) Site Design. Sites shall be improved with a barrier between vehicular and customer service areas, including ordering and dining areas. The barrier may be implied or physical and constructed with landscaping elements; gated fencing; changes in ground surface texture, material or color; or similar treatments. Sites which are not already paved with gravel or another hard surface shall improve their parking areas with gravel in accordance with Parking Lot Standards.
  - (b) Sanitation. Adequate restroom facilities shall be provided either on-site or through a shared use agreement with a neighboring business. Portable toilets, if used, must be screened from view of the public. A minimum of one toilet is required for every three mobile vendors.
  - (c) Utilities. Above ground utility connections, including power cords, shall not interfere with pedestrian or vehicular safety and shall not be located in customer service areas or customer parking areas.
  - (d) Mobile vendor courts shall not have continuous curb cuts or exacerbate a dangerous pedestrian condition. New courts may close continuous curb cuts or improve pedestrian conditions with temporary materials subject to approval of the City Planning Commission. Acceptable materials include planters, plinths, benches, pavers, and other furniture. Temporary improvements installed by mobile vendor courts shall not reduce access for pedestrians with disabilities.

(E) *Residential Permits*. Permitted food trucks and trailers may operate in the following locations in

residential zoning districts for one calendar day, after which they must move to a new location.

- (1) Marked parallel parking spaces, which are not reserved for residential use and provided the parking space is not in front of a business selling similar food. Service to customers shall be only on the sidewalk side of the vehicle to maintain public safety.
  - (2) Hours of operation are restricted to between 7:00 a.m. and 11:00 p.m.
  - (3) Each address is limited to 4 residential mobile vendor permits per year.
- (F) Exemptions. The provisions of the Mobile Vendor ordinance do not apply to:
- (1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.
  - (2) The distribution of free samples of goods, wares and merchandise by any individual from his person.
  - (3) Fireworks sales.
  - (4) Children's lemonade stands.
  - (5) Temporary sales for non-profit entities that operate for less than five (5) consecutive days.
  - (6) Non-profit organizations that prepare and donate or give away food or services for free.
- (G) *Prohibited Conduct*. The following conduct is prohibited for mobile vendors:
- (1) Obstruct pedestrian or vehicular traffic flow.
  - (2) Obstruct traffic signals or regulatory signs.
  - (3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public system, radio, sound amplifier, or similar device to attract public attention.
  - (4) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
  - (5) Use or display any signage that is not in compliance with the Chapter 9: Signs.
- (H) Suspension and Revocation of Permit. Any permit issued under these regulations may be suspended or revoked by the City for any of the following reasons:
- (1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Commission.

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- (2) Conducting the business of mobile vending in a manner contrary to the conditions of the permit.
  - (3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or interfere with the rights of abutting property owners.
  - (4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations.
- (l) Notification of Suspension or Revocation. The City shall provide written notice of the suspension or revocation in a Brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor or the property owner of his/her right to appeal to the Planning Commission. Such notice shall be personally delivered, posted upon the mobile vendors' premises or mailed to both the address of the property owner and the address of the mobile vendor shown on the permit holder's application by certified mail, return receipt requested.

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CITY OF ELM SPRINGS ZONING ORDINANCE

**CHAPTER 6: DEVELOPMENT**

**6.01 Development Categories**

(A) *Property Line Adjustment.* A property line adjustment is a transfer or adjustment of a property line or lines between adjoining property owners which does not create a separate, new lot. A property line adjustment is not required to dedicate new utility easements or right-of-way.

(B) *Subdivision of Land.*

(1) *Lot Split.* When a property is to be subdivided into two, three or four lots, the application may be processed as a lot split. After the creation of more than four lots from an original parent tract in a five year period, any subsequent subdivision of the parent or resulting tracts is required to be processed as a preliminary/final plat, or concurrent plat. A lot split may be required to dedicate new easements or right-of-way, and may be combined with an easement plat.

(2) *Preliminary Plat.* When a property is to be subdivided into more than four lots, or when a parent or resulting tract has been subdivided three or more times and is proposed to be further subdivided, the application shall be processed as preliminary plat. A preliminary plat establishes the preliminary location of lot lines, streets, and utility infrastructure, and allows for the applicant to request construction plan approval and install required improvements.

(3) *Final Plat.* After completion of the required infrastructure (water, sewer, storm drainage, utilities, street improvements, etc.) for a preliminary plat, the owner/developer may submit an application for approval of the final plat. The final plat application may not be submitted until the construction of the infrastructure is substantially complete.

(4) *Concurrent Plat.* A concurrent plat combines the preliminary and final plat into one step. A concurrent plat is permitted when a property is to be subdivided into more than four lots, or when a parent or resulting tract has been subdivided three or more times and is proposed to be further subdivided, and the existing and new parcels do not require construction of new infrastructure.

(C) *Concept Plan.* When a developer intends to subdivide or develop land within the City or City's planning area boundary he/she may submit a concept plan to obtain feedback and

recommendations from City staff and the Planning Commission prior to submitting a fully engineered development plan for review.

(D) *Large Scale Development.* A Large Scale Development is generally intended for, but not limited to a non-residential, mixed use, or multi-family development on a site where subdivision of land is not proposed.

(1) *Excluded developments.* The following shall be excluded from the large scale development review process:

(a) *Single-family.* A single-family residence, an addition to a single-family residence, or an accessory structure for a single-family residence;

(b) *Additions.* An addition to an existing structure if the addition will not:

(i) Exceed 2,000 square feet; or

(ii) Require more than 4 additional parking spaces under the provisions of Chapter 8, Parking and Loading; or

(iii) Require a change in existing ingress or egress.

(E) *Modifications.*

(a) *Minor modifications.* The City may authorize minor modifications in an approved large scale development or subdivision of land. Minor modifications shall include, but not be limited to, substitutions of one approved structural type for another, minor variations in placement of buildings in such a way that the overall limits of approved floor area, open space or rooms per acre are not increased, and minor shifts in property line locations.

(b) *Major modifications.* In the event that a developer wishes to make major modifications to an approved development, such modifications shall be submitted to the Planning Commission in a form which compares the approved submission with the desired changes. After submission, the Planning Commission shall approve or disapprove the requested modifications.



## 6.02 Development Review Process

### (A) Application Submittal

(1) *Submittal.* All development applications shall be submitted to the City and will be processed for review.

(B) *Public Meetings.* Development applications are required to be processed through the Planning Commission.

### (C) Approval and Denial Criteria

(1) *Planning Commission Approval.* The following applications shall be approved by the Planning Commission, subject to the criteria listed below: Property Line Adjustment, Lot Split, Large Scale Development, Preliminary Plat, Final Plat, and Concurrent Plat.

(a) *Reasons for denial.* The Planning Commission may refuse to approve a Property Line Adjustment, Lot Split, Large Scale Development, Preliminary Plat, Final Plat, and Concurrent Plat for any of the following reasons:

(i) The plat or development plan is not submitted in accordance with the requirements of this chapter.

(ii) The proposed development would violate a city ordinance, a state statute, or a federal statute.

(iii) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this chapter.

(iv) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.

(v) Public water and sewer is not readily available to the property within the development, and the developer has made no provision for providing such service to the development.

(vi) The developer refused to comply with ordinance requirements or conditions of approval for on-site and off-site improvements.

(D) *Plat Recordation or Construction Plan Approval.* After obtaining approval by the Planning Commission the applicant shall follow the procedures set forth below in order to record the plat or obtain construction plan approval.

(1) *Property Line Adjustment, Lot Split, Final Plat, Concurrent Plat.* The applicant shall submit copies of the approved plats containing all required signatures to the City for final approval. The plats shall be recorded by the applicant and copies of the recorded plats provided to the City as required.

(2) *Preliminary Plat and Large Scale Development.* Receipt of the approval authorizes the applicant to proceed with:

(a) The preparation of plans, reports and specifications in accordance with City requirements including but not limited to:

(i) Street plans, profiles and specification accompanied by soil analyses and design calculations;

(ii) Storm drainage plans, profiles and specifications accompanied by soil analyses and design calculations; and

(iii) Water and sewer plans, profiles and specifications, accompanied by design calculations, to be reviewed and approved by City.

(iv) Final site plans, landscape plans, building plans and other plans, reports and specifications required by the City to obtain approval.

(b) Once all approvals that are required have been obtained, the applicant may proceed with site preparation and construction in accordance with the permitted plans.

### (E) Building Permits

(1) Before a building permit for a Large Scale Development is issued the developer shall:

(a) Obtain approval from the Planning Commission for the development.

- (b) Dedicate right-of-way in compliance with the City's Master Street Plan, and in compliance with the requirements for on or off-site improvements.
  - (c) Dedicate all easements necessary to serve the development as required by the utility providers and the City. This may be completed by easement plat or separate easement document(s), with approval of the City.
  - (d) On and off-site improvements. Construct or guarantee required on- and off-site improvements in accordance with Chapter 15.
  - (e) Complete applicable conditions of approval.
  - (f) Comply with all applicable zoning and development codes.
- (F) *Certificate of Occupancy*. No certificate of occupancy for a Large Scale Development shall be issued, and no Final Plat shall be signed for recordation until the following have been completed:
- (1) The requirements for on and off-site improvements have been completed, and maintenance bonds/guarantees deposited to City specifications.
  - (2) An "as built" plot plan has been approved by the City (where applicable) showing:
    - (a) The location of all buildings and the setback distance for said buildings from street right-of-way and adjoining property lines;
    - (b) The location of any freestanding signs and the setback distance of said signs from street right-of-way and adjoining property lines;
    - (c) The location, number, dimensions, and surfacing of all parking spaces and of all screens or fences; and
    - (d) The location and size of all water, sewer, storm sewer, gas, electric, telephone, and television cable lines.
    - (e) Public and private streets and driveways.
  - (3) The development has been inspected and approved by the Building Official, the Planning Commission and the Fire Marshal.

### 6.03 Plat Requirements

- (A) *Original plan drawings.* Plans shall be drawn in a legible manner, at a scale which best suits the size of the property being developed or platted. All plans shall be drawn at a standard engineering scale, and submitted in paper and/or digital form, as listed on the application.
- (B) *Plat information.* The following information shall be submitted to the Planning Commission for review and approval:
- (1) *General.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adi.	Lot Split	Large-Scale
Name, address, zoning and property lines of all property owners adjacent to the exterior boundaries of the project.	X	X	X	X	X	X
Name, address, telephone numbers of owner(s), developer(s) and project representatives	X	X	X	X	X	X
North arrow, scale (graphic and written), date of preparation zoning classification, and proposed use.	X	X	X	X	X	X
Title block located in the lower right hand corner indicating the name and type of project, scale, firm or individual preparing drawing, date and revisions.	X	X	X	X	X	X
Provide a complete and accurate legend	X	X	X	X	X	X
A vicinity map of the project with a radius of 1.5 miles from the project..	X	X	X	X	X	X
The location of all existing structures.	X	X	X	X	X	X

- (2) *Legal description.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adi.	Lot Split	Large-Scale
Written legal descriptions including area in square feet or acres that read clockwise	X	X	X	X	X	X
Boundary survey of the property	X	X	X	X	X	X
Provide a benchmark, clearly defined with an accuracy of 1/100'. This benchmark must be tied to USC & GS Datum.	X	X	X			X
Point-of-beginning from a permanent well-defined reference point. This P.O.B. shall be clearly labeled on the drawing.	X	X	X	X	X	X

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Curve data for any street which forms a project boundary.	X	X	X	X	X	X

(3) *Floodplain / floodways / wetlands.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Show 100-yr floodplain and/or floodway and based flood elevations. Reference the FIRM panel number and effective date.	X	X	X	X	X	X
Note regarding wetlands, if applicable. Note if Army Corps of Engineers determination is in progress.	X	X				X

(4) *Topographic information.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale, SJP, PZD	Concept Plat
Existing and proposed topographic information with source of the information noted.	X					X	
Spot elevations at grade breaks along existing road centerlines, gutter lines and top of curbs or edge of pavement.	X					X	
Contours of adjacent land within 100 feet of the project shall also be shown.	X					X	

(5) *Utilities – existing.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Show on the drawing all known on-site and off-site existing utilities and easements (dimensioned) and provide the structure's locations, and types, and note them as "existing" on the plat.	X	X	X	X	X	X
Existing easements shall show the name of the easement holder and the book and page number for the easement.	X	X	X	X	X	X

(6) *Utilities – proposed.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Show all storm sewer, sanitary sewer and drainage structures: a. Provide structure locations and types b. Provide pipe types and sizes	X	X	X			X
Sanitary sewer systems: a. Provide pipe locations, sizes, and types b. Manhole locations of rim and invert elevations.	X	X	X	X	X	X
Water systems, on or near the site: a. Provide pipe locations, types, and sizes b. Note the static pressure and flow of the nearest hydrant if requested. c. Show location of proposed fire hydrants and meters.	X	X	X	X	X	X
Underground or surface utility transmission lines: (Note: This category includes, but is not limited to Telephone, Electrical, Natural Gas, and TV Cable) a. Locations of all related structures (pedestals, poles, etc.) b. Locations of all lines (note whether the line is below or above ground) c. A note shall be placed where streets will be placed under the existing overhead facilities and the approximate change in grade for the proposed street.	X	X	X			X
State the width, location, and purpose of all proposed easements or rights of way for utilities, drainage, sewers, flood control, ingress/egress or other public purposes within and adjacent to the project.	X	X	X	X	X	X

(7) *Streets / right-of-ways / easements.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Street right-of-way lines clearly labeled. The drawing shall depict any future R.O.W. needs as determined by the AHTD and Master Street Plan. Future R.O.W. as well as existing R.O.W. and center lines should be shown and dimensioned.	X	X	X	X	X	X
The location, widths, grades, and names of all existing and proposed streets, alleys, paths, and other rights-of-way, whether public or private, within and adjacent to the project; private easements within and adjacent to the project; and the radius of each centerline curve. Private streets shall be clearly indicated and named.	X	X	X	X	X	X
A layout of adjoining property (within 300') in sufficient detail to show the effect of proposed and existing streets (including those on the master street plan), adjoining lots, and off-site easements. This information can be obtained from the Master Street Plan, Aerial Photos, and the City Plat Pages.	X	X	X			X

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
The location of all existing and proposed street lights (At every intersection, cul-de-sac & every 300' and associated easements to serve each light.)	X	X	X			X

(8) *Subdivision of land.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
The lot layout, the dimensions of each lot, number of each lot, total area in square footage or acreage to the nearest one-hundredth (1/100th) acre of each lot, and the approximate finish grade where pads are proposed for building sites. Lots shall be numbered consecutively for all phases. The total number of lots shall be indicated on the plat.	X	X	X	X	X	
For phased development, a plat showing all phases is required.	X	X				X

(9) *Site specific information.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Note any known existing erosion problems on-site or within 300' downstream of the property.	X					X
The location of known existing or abandoned water wells, sumps, cesspools, springs, water impoundments, and underground structures within the project.	X	X	X	X	X	X
The location of known existing or proposed ground leases or access agreements, if known. (e.g. shared parking lots, drives, areas of land that will be leased)	X	X	X	X	X	X
The location of all known potentially dangerous areas, including areas subject to flooding, slope stability, settlement, excessive noise, previously filled areas and the means of mitigating the hazards (abatement wall, signage, etc.).	X					X
For non-residential development, indicate the gross floor area, and if for multiple uses, the floor area devoted to each type of use.						X
The location and size of existing and proposed signs, if any.	X	X	X	X	X	X
Location, size, surfacing, landscaping, and arrangement of parking and loading areas. Indicate pattern of traffic flow; include a table showing required, provided, and handicapped accessible parking spaces.						X

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Location and width of curb cuts and driveways. Dimension all driveways and curb cuts from side property line and surrounding intersections.						X
Location of buffer strips, fences or screen walls, where required (check Code for specific requirements).	X	X				X
Indicate location and type of garbage service. Dimension turnaround area at dumpster location.	X					X
A description of commonly held areas, if applicable.	X	X				X
A written description of requested waivers or variances from any city requirement.	X	X	X	X	X	X
Show required building setbacks.	X	X	X	X	X	X
Preliminary grading and drainage plans and reports as required.	X					X

(10) *Other requirements.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Signature block certifying approval for recording.		X	X	X	X	

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale, SIP, PZD	Concurrent Plat
Signature block certifying ownership, title and dedication.		X	X	X			
Signature block certifying survey and accuracy.		X	X	X			

(11) *Easement plat.*

Prior to the issuance of a building permit for a large scale development, an easement plat shall be filed of record in the office of the circuit clerk dedicating all required easements and rights-of-way.

(C) *Signatures required.* The final plat or concurrent plat may be signed by any officer of the Planning Commission.

(D) *Number of plats.* The City may require additional copies of plats if the amount required by this chapter is not sufficient for distribution to the various committee members.

## **6.04 Required Infrastructure Improvements – Development in City Limits**

(A) *Generally.* Required of developer.

(1) *On and off-site improvements.* On-site improvements are adjacent to or within a project site; such as widening the street along the project street frontage, constructing interior streets and utilities, etc. Off-site improvements are not adjacent to a project; such as the extension of an off-site sewer line, off-site storm drainage improvements, or an off-site intersection improvement, etc.

(2) *Standards applicable.* Any required on or off-site improvements in the city shall be installed according to the city's standards. The developer shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the development.

(3) *Required Infrastructure Improvements.* The developer shall be required to install on and off-site improvements where the need for such improvements is created in whole or in part by the proposed development.

(4) *Planning Commission.* At the time the Planning Commission grants development approval, the Planning Commission shall determine whether the proposed development creates a need for off-site improvements and the portion of the cost of any needed off-site improvements which the developer shall be required to bear. In determining that portion of the cost of off-site improvements which the developer shall be required to bear, the Planning Commission shall consider the acreage within the proposed development as a percentage of

all the acreage which, when fully developed, will benefit from the off-site improvements; provided, the Planning Commission may use a different method of measurement if it determines that use of the acreage standard will not result in the developer bearing that portion of the cost which bears a rational nexus to the needs created by the development.

(5) *Determining necessity for off-site improvements.*

(a) When a proposed development has access to paved streets or roads only by way of substandard or unimproved roads or streets leading from the development to the paved streets or roads, the developer shall be responsible for contributing this proportionate share of the cost of improving the substandard access roads or streets to existing city standards. The developer's proportionate share of said costs shall be determined by the Planning Commission in accordance with the provisions of 6.04 above.

(b) When a proposed development has direct access to, or fronts on an existing road or street, which is below current standards, the developer shall be responsible for contributing his/her proportionate share of the cost of improving said street or road to existing city standards. The Planning Commission shall determine the developer's proportionate share of said costs in accordance with the provisions of 6.04 above.

(c) Off-site drainage improvements shall be required whenever a proposed development causes the need for such improvements.

(6) *Delayed Improvements.* The Planning Commission may determine a required on-site or off-site improvement shall be delayed or payment-in-lieu contributed instead in accordance with Chapter 15.

(7) *Variations.* A variance of off-site improvements may be granted in accordance with Chapter 13 Variations.

(8) *State highways.* The developer shall be required to dedicate sufficient right-of-way to bring those state highways which the Master Street Plan shows to abut or intersect the proposed development into conformance with the right-of-way requirements of the



Master Street Plan. The developer shall be required to install a sidewalk adjacent to that portion of a state highway abutting the proposed development; and provided that the Planning Commission may waive the sidewalk requirement prescribed by this subsection upon application by the developer and a determination by the Planning Commission that the topography of the proposed development where it abuts a state highway is such that installation of a sidewalk is not practical. Any other improvements required of the developer by the Planning Commission shall be coordinated with the Arkansas Highway and Transportation Department.

(B) *Minimum improvements by application type.* The property owner/developer shall be responsible for constructing the following minimum improvements.

(1) *Property Line Adjustment.* No improvements are required unless the action would create or exacerbate a nonconforming infrastructure situation such as cutting off a lot from public water, sewer, or street frontage. In such as case the property line adjustment may not be filed of record until the required infrastructure is first constructed to City specifications, or a variance or waiver is granted by the Planning Commission.

(2) *Lot Split.*

(a) *Dedication of right-of-way.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property into conformance with the right-of-way requirements of the Master Street Plan for said streets; provided, the Planning Commission may approve a lesser dedication in the event of undue hardship or practical difficulties.

(i) *Dedications.* The City Council accepts all streets and alleys located in Elm Springs that have been previously approved and accepted as dedications by the Elm Springs Planning Commission. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which have been approved by the Elm Springs Planning Commission.

(b) *Monuments and lot stakes.* The surveyor shall cause, preserve, and/or replace monuments and/or lot stakes

marking the corners of a parcel to be set in accordance with Section 3.2, general procedures, of the Arkansas Minimum Standards for Property Boundary Surveys and Plats.

(c) *Water, sewer, or street frontage.* Any lot that is created shall have adequate street frontage or street access that meets the minimum requirements of the zoning code, and access to public water and sewer as required by city and state code. If a lot split would create or exacerbate a nonconforming situation (such as cutting off a lot from public water, sewer, street frontage, or street access), the lot split may not be filed of record until the required easement is dedicated and/or the infrastructure is first constructed to City specifications, or a variance or waiver is granted by the Planning Commission.

(3) *Preliminary/Final/Concurrent Plat; Large Scale Development*

(a) Dedication of right-of-way.

(i) *On-site.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property and new streets proposed interior to the property, into conformance with the right-of-way requirements of the Master Street Plan for said streets, shall be approved by the Planning Commission; provided, the Planning Commission may approve a lesser dedication in the event of undue hardship or practical difficulties.

(ii) *Off-site.* Off-site right-of-way dedication may be required as needed to construct off-site street improvements that are required.

(iii) *Dedications.* The City Council accepts all streets in Elm Springs that have been previously approved and accepted as dedications by the Planning Commission. The City Council confirms the acceptance of all such streets dedicated by developers/owners to the city which have been approved by the Planning Commission.

(b) *Monuments and lot stakes.* The surveyor shall cause, preserve, and/or replace monuments and/or lot stakes

marking the corners of a parcel to be set in accordance with Section 3.2, general procedures, of the Arkansas Minimum Standards for Property Boundary Surveys and Plats.

(c) *Streets.*

- (i) *On-site.* Widening the street adjacent to the project frontage and construction of all interior streets to meet Master Street Plan standards. Street grading, base, and paving according to existing city standards and specifications as adopted by the City Council.
- (ii) *Off-site.* Street widening and/or new street construction off-site may be required to address traffic impacts based on the rough proportion and rational nexus of the impacts of the project. Street grading, base, and paving according to existing city standards and specifications as adopted by the City Council.
- (iii) *Private street name signs.* Where a structure is addressed on a private street or drive, the developer or property owner(s) shall be required to install, maintain, repair and replace all private street name signs. Any private street name sign existing at the time of passage of this ordinance shall be maintained, repaired and replaced as required by this section. Signs shall meet the standards of the Manual on Uniform Traffic Control Devices (MUTCD) and shall be installed at all street/drive intersections. Unless approved otherwise, all signs shall be retroreflective and utilize a white legend on a green background.
- (iv) *Public street signs.* Where a development is required to construct new public streets, the developer or property owner(s) shall be required to install all public street name signs and other traffic signs as required by the Manual of Uniform Traffic Control Devices.

(d) *Sidewalks.*

- (i) *On-site.* Sidewalks shall be installed along the property street frontage and along new interior streets according to existing city standards

and the Master Street Plan as adopted by the city Council.

- (ii) *Off-site.* Sidewalks may be required to be installed off-site based on the rough proportionality and rational nexus of the impacts of the development.

- (e) *Streetlights.* Standard 8,000 lumen streetlights (or equal alternative approved by the Planning Commission) shall be installed at each intersection or cul-de-sac and along one side of each street or cul-de-sac at intervals of no more than 300 feet; provided, streetlights of higher intensity may be required at intersections with collector streets or arterial streets. Developer are encouraged to utilize high-efficiency (LED or similar) streetlights where possible).

(f) *Grading and storm drainage system.*

- (i) The developer shall install storm drainage facilities, including drains, sewers, catch basins, and culverts necessary for the proper drainage of all surface water.
- (ii) All drainage facilities shall be so designed to serve the entire drainage area.
- (iii) All surface water drainage shall be transported to existing storm sewers, drainage facilities, or natural drainage ditches approved by the City.
- (iv) *Culverts and bridges.* Culverts and bridges shall be installed where needed in accordance with existing Arkansas State Highway Department standards and specifications.

(g) *Water supply.*

- (i) *Accessible public water supply.* When an approved public water supply is reasonably accessible, the developer shall install a system of water mains and shall connect to such supply so that each lot within the subdivision or development shall be provided with a connection to said public water supply. All connections shall be approved by the City. Individual service lines shall be installed, and individual

connections shall be made prior to the paving of the street, if possible.

- (ii) *Fire Hydrants.* Fire hydrants for residential subdivisions shall be installed so that the distance between two consecutive fire hydrants does not exceed 800 feet, and no lot is more than 400 feet from a fire hydrant. Fire hydrants for apartment complexes, commercial structures, and industrial structures shall be installed so that the distance between two consecutive fire hydrants does not exceed 600 feet; provided, the fire chief shall have the authority to require additional fire hydrants upon a determination that such additional fire hydrants are necessary to provide adequate fire protection.

(h) *Sanitary sewer system.*

- (i) *Public sanitary sewer accessible.* Where a public sanitary sewer is reasonably accessible, the developer shall connect with such sewer, and each lot within the subdivision or development shall be provided with a connection thereto. All connections shall be subject to the approval of the City. Individual service lines shall be installed, and individual connections shall be made prior to the paving of the street if possible.
- (ii) *Public sanitary sewer not accessible.* Where a subdivision, lot split, or other development is proposed to utilize either individual septic systems or an onsite wastewater treatment system the following is required:
  - a. Prior to the City signing a final or concurrent plat a letter from the Arkansas Department of Health is required indicating approval of the overall plan for the utilization of either onsite wastewater systems or individual septic permits.
  - b. Existing septic systems, sewage disposal fields (leach fields), alternate disposal fields required by state law and water wells on-site or off-site within 100 feet shall be shown on all

proposed subdivisions, lot splits, and development plans.

- c. *Community sewage systems.* The construction of community sewage systems or decentralized sewer systems shall be prohibited within the City unless expressly permitted by resolution of the City Council.

- (C) *Other infrastructure improvements.* Other infrastructure improvements may be required where the need for such improvements is created in whole or in part by the proposed development as determined by the Planning Commission.

### **6.05 Required Infrastructure Improvements – Development in Planning Area**

(A) *Required Infrastructure Improvements in Planning Area*

On and off-site improvements for development outside the City Limits and within the planning area are the same as for those developments within the City Limits as specified in Chapter 6.04.

### **6.06 Street Design And Access Management Standards**

- (A) *Intent.* These standards are intended to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements.
- (B) *Fitness for development.* Based on topographic maps, soil surveys prepared by the Department of Agriculture, drainage and information from the Future Land Use, the Planning Commission may require that steep grades, unstable soil and flood plains be set aside and not subdivided until corrections are made to protect life, health, and property.
- (C) *Applicability.* The standards set forth herein shall apply to land which is proposed to be developed or redeveloped where the creation of public streets are required, or proposed, or in which new or existing access is created or modified. Developments that create private streets shall utilize these standards as guidelines.
- (D) *Street design principles.*
  - (1) *Extensions.* All street extensions shall be constructed to Minimum Street Standards. Street extension stub-outs to adjacent

properties are required to meet block layout/connectivity standards unless existing development or physical barriers prohibit such.

- (2) *Substandard widths.* Developments that adjoin existing streets shall dedicate additional right-of-way to meet the Master Street Plan.
- (3) *Street names.* Names of streets shall be consistent with natural alignment and extensions of existing streets, and new street names shall not duplicate or be similar to existing street names. Developers shall coordinate the naming of new streets through the County.
- (4) *Pedestrian.* Pedestrian-vehicular conflict points should be controlled through signalized intersections and proven traffic calming design principles.
- (5) *Street standards.* All street requirements shall be met as set forth in the City of Elm Springs Master Street Plan and adopted Minimum Street Standards.

(E) *Block Layout / Connectivity.*

- (1) *Topography.* Local streets should be designed to relate to the existing topography and minimize the disturbance zone.
- (2) *Dead-end streets.* Dead end streets are discouraged and should only be used in situations where they are needed for design and development efficiency, reduction of necessary street paving, or where proximity to floodplains, creeks, difficult topography or existing barriers warrant their use. All dead end streets shall end in a cul-de-sac with a radius of 50 feet, or an alternative design approved by the City and the Fire Department. The maximum length of a dead end street (without a street stub-out) shall be 500 feet.

(F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto two public streets shall place a higher priority on accessing the street with the lower functional classification.

- (1) *Curb cut minimum distance from intersection or driveway.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the

edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb.

- (a) *Principal and Minor Arterial Streets.* Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along arterial streets shall be shared between two or more lots. Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from an intersection..
- (b) *Collector Streets.* Curb cuts shall be located a minimum of 100 feet from an intersection. When possible, curb cuts along collector streets shall be shared between two or more lots.
- (c) *Local and Residential Streets.* Curb cuts shall be located a minimum of 50 feet from an intersection. In no case shall a curb cut be located within the radius return of an adjacent curb cut or intersection. Curb cuts shall be a minimum of fifteen (5') feet from the adjoining property line, unless shared.
- (e) *Variance.* In order to protect the ingress and egress access rights to a street of an abutting property owner, a variance to the curb cut minimums shall be granted by the Planning Commission to allow an ingress/egress curb cut at the safest functional location along the property. Such a curb cut may be required to be shared with an adjoining parcel if feasible. If a parcel on the corner of an arterial or collector street provides such short frontage along a major street that there is no safe ingress/egress functional location on that street, the Planning Commission may deny the curb cut or may limit such curb cut to ingress or egress only.

- (2) *Speed.* All streets should be designed to discourage excessive speeds.

(G) *Non-conforming Access Features.*

(1) *Existing*. Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:

(a) When new access connection permits are requested;

(b) Upon expansion or improvements greater than 50% of the assessed property value or gross floor area or volume;

(c) As roadway improvements allow.

(H) *Easements*. Utility and drainage easements shall be located along lot lines and/or street right-of-way where necessary to provide for utility lines and drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.

## 6.07 Condition Of Acceptance

(A) The city shall not have any responsibility with respect to any street, or other improvements, notwithstanding the use of the same by the public, unless the street or other improvements have been accepted by the city.

(B) Prior to requesting final acceptance of streets and sanitary and storm sewers the developer shall furnish "as-built" drawings in reproducible form.

(C) The city shall, within 30 days after the public improvements have been offered for dedication to the city, accept the improvements, provided the improvements have been constructed in accordance with the requirements and conditions of this chapter and the specifications of the city. The developer shall furnish proof that all improvements are free of liens and debts.

## 6.08 Structures Not Allowed Within Public Easements

(A) No portion of any building, pool (in-ground or above ground) or other immovable structure shall be built within a public utility easement.

(B) *Walls*, brick or stone fences (with or without metal portions), monument or pole signs, and other difficult to move structures may only be built within public easements if permitted by the Planning Commission after receiving written approval by all utility providers that could access the easement. The written documentation shall

be filed of record in the County Circuit Clerk's office. Any related damage or relocation of utilities or the structure in the easement shall be at the owner/developer's expense. The owner shall be responsible at his or her own expense to promptly remove any permitted structure or portion of such structure within the easement if a utility company or the City needs access. A utility company or the City may remove such structure or portion of a structure itself to avoid delaying necessary installation, maintenance or repair work without liability to the property owner who may reinstall the permitted structure at his or her own expense once the installation, repair or maintenance work is finished.

(C) Readily movable fences (field fence, barbed wire, chain link, woodboard privacy, etc.) may encroach upon non-drainage public easements. Although the property owner is legally responsible to remove a fence blocking an easement, the City or utility company may remove such fence blocking an easement if access to the easement is necessary. The City or utility company will reinstall the fence to its approximate pre-removal condition after the maintenance, installation, removal or repair of mains or utility structures is finished. Neither the City nor any utility company shall be liable for damages to any property as a result of this subsection.

(D) No fences may be installed in any drainage easement if such installation could impede the drainage through the easement.

(E) No item may be installed within a public easement that could restrict the function, visibility, or access to a utility structure such as a manhole, meter, electrical, phone, or cable box, or other structure as may be built for utility function. No item shall be placed within three feet of a fire hydrant or in any way that may restrict visibility, access or use of the hydrant, which includes the clear space around the hydrant from which a pressurized hose may extend when in use.

## 6.09 Underground Utility Wires

(A) In the new residential developments requiring Planning Commission approval and new commercial developments all utility wires, lines, and/or cable in said developments utilized by electric and/or telecommunications companies shall be placed underground.

(B) *Waiver*. In case of hardships, (including but not limited to financial, geological, environmental, or regulatory) unique to the subject property, the Planning Commission may grant a waiver, on a permanent or temporary basis, to allow the erection, construction, installation, maintenance,

use or operation of poles and overhead wires and associated overhead structures.

(C) *Exemptions.* The following shall be exempt from the requirements of this section:

- (1) Overhead wires, supporting structures, and associated structures of a temporary nature which provide temporary service. A permit obtained from the City for said temporary service, addressing the nature and duration of said service, shall be required.
- (2) Existing lines of 12Kv and above.
- (3) A single power pole near the exterior boundary of a development shall be allowed to provide connections for underground service.

(D) Nothing herein shall be construed to usurp the authority of the Arkansas Public Services Commission and in all instances of conflict, the rules and regulations of said Arkansas Public Service Commission shall prevail.

**6.10 Commercial Design And Development Standards**

(A) *Purposes.*

- (1) To protect and enhance Elm Springs' appearance, identity, and natural and economic vitality.
- (2) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, and drainage.
- (3) To protect and preserve the scenic resources distributed throughout the city.
- (4) To preserve the quality of life and integrate the different zones and uses in a compatible manner.
- (5) To address the issues of traffic, safety, and crime prevention.
- (6) To preserve property values of surrounding property.
- (7) To provide good civic design and arrangement.

(B) *Applicability.* Commercial design and development standards apply to all commercial and office development.

(C) *Site development standards and Design elements for commercial structures.* The following site development standards and design

element guidelines for commercial structures shall apply when either new development or expansion of 25% of the existing building square footage occurs.

(1) The elements to avoid or minimize include:

- (a) Unpainted concrete precision block walls;
- (b) Square "boxlike" structures;
- (c) Metal siding which dominates the main facade;
- (d) Large blank, unarticulated wall surfaces;
- (e) Large out of scale signs with flashy colors.

(2) *Construction and appearance design standards for commercial structures.*

- (a) A commercial structure or development shall be designed to avoid or minimize the elements set forth in (1)(a) – (e) above.
- (b) A commercial development which contains more than one building should incorporate a recurring, unifying, and identifiable theme for the entire development site.
- (c) A development should provide compatibility and transition between adjoining developments.

**Design Element Guidelines, Commercial**

- (3) *Site coverage.* A maximum of 85% of the development site may be covered by the ground floor of any structure, parking lots, sidewalks, and private streets and drives or any other impermeable surface.
- (4) *Driveways.* Shared drives and cross access between properties shall be encouraged to be developed and undeveloped properties.
- (5) *Setback reduction.* Required building setbacks may be reduced in accordance with the following table where no off-street parking is provided in the remaining front setback. One-way drive aisles may be permitted within the setback.

C-1 and C-2 zones	From 50 feet to 10 feet
R-O zone	From 30 feet to 25 feet

- (6) *Maintenance of vegetation.* Vegetation, under the provisions of this section, shall be continuously maintained to conform to the requirements of this section.
- (7) *Fences.* The following types, height, and location of fences shall be prohibited:
- (a) *Razor and/or barbed wire.* Razor and/or barbed wire fences are prohibited if visible from the street right-of-way or a residence, unless and except barbed wire fences are used for agricultural purposes.
  - (b) *Chain link.* Chain link fence is prohibited if closer to the street than the front of the building. Residential uses are exempt from this requirement.
  - (c) *Height of fences in front of buildings.* Fences located in front of the primary structure may be solid up to 30 inches in height. Any part of a fence which exceeds 30 inches in height shall not obstruct the view of the primary structure from the right-of-way.
- (D) *Buffer Strips and screening.* When review of a development requires the construction and maintenance of a buffer strip, fence, or screen wall as a condition for initiating and subsequently continuing any use, such buffer strip, fence, or screen wall shall be constructed and maintained on the lot containing or proposed to contain such use, in accordance with provisions of this chapter. The purpose of the buffer strip shall be to provide separation and enclosure of uses; the purpose of the fence to enclose uses; the purpose of the screening wall to conceal uses.
- (1) *Landscaped area.* The buffer strip landscaped area shall consist of a strip of land at least 12 feet wide which shall be adequately landscaped entirely on the lot which is required to provide the buffer strip, and so located as to serve as an effective buffer between the use required to provide the buffer strip and other property for whose protection the buffer strip is required. The buffer strip shall extend along the full length of the boundary separating the zoning lot from such other property, or from the street, as the case may be.
  - (2) *Fence required.* Required fences shall be of a wood or chain link type (barbed wire not permitted) not less than six (6) feet high, constructed of good, substantial material, of first-class workmanship, and so erected as to resist wind pressure, ensure public safety, and present a neat, attractive uniform appearance.
- (3) *Screen required.* Screening shall mean a view obscuring fence, view obscuring berm, view obscuring architectural treatment, or view obscuring vegetation, or combination thereof, of sufficient height to prevent the view of the screened items from vehicular and pedestrian traffic on adjacent streets, and from residential property. Vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of planting.
- (4) Mechanical and utility equipment and trash enclosures shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:
- (a) *Mechanical and utility equipment.* All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting building. Mechanical and utility equipment over 30 inches in height shall meet building setbacks.
  - (b) *Trash enclosures.* Trash enclosures shall be screened with materials that are compatible with and complementary to the principal structure, with access not visible from the street.
- (5) Outdoor storage of material and equipment shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:
- (a) At the expense of the owner or lessee of the property, and in all zones, the following uses shall be completely surrounded by a view obscuring fence or by view obscuring vegetation, or a combination of the two, of sufficient height to prevent the view of the premises from vehicular and pedestrian traffic on adjacent streets: outdoor storage yards, including but not limited to, auto salvage yards, scrap metal yards, used furniture yard and garbage dumps.
  - (b) Where vegetation is used to meet the requirements of this subsection, the vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of

planting. If vegetation planted under this subsection does not become view-obscuring within two years, a view-obscuring fence shall be installed.

(c) *Exceptions:* The outdoor display of materials or equipment solely for sale or lease, such as automobiles, seasonal garden supplies, etc. shall not be required to be screened as set forth in subsection (a) above.

(6) *Non-residential adjacent to residential zones.* A view-obscuring fence or view-obscuring vegetation, or a combination of the two, shall be required between residential uses and all nonresidential uses (including access drives and parking lots for five (5) or more cars accessory to any use).

(7) *Mini-storage.* At the expense of the owner of the property, all storage units and storage yards for mini-storage created under Use Unit 38 shall be required to be screened by view obscuring vegetation when the storage yards or the storage units have common property lines with any residential use or zone and when they have frontage on any public street. Vegetation used for screening purposes shall be planted at a density sufficient to become view obscuring within two years from the date of planting and it shall be the responsibility of the property owner to maintain the screening throughout the life of the use of the property as mini-storage.

(E) *Design review.*

(1) *Submittals.* The following drawings, information, and plans shall be submitted to the Planning Commission for design review and approval with large scale development applications, when applicable.

(a) *Elevations.* Rendered elevation drawing of all facades showing adjoining context and a description of external building materials.

(b) *Materials sample.* A sample of exterior materials to be used for the proposed structure that indicates texture, color and type of materials.

(c) *Landscaping.* Proposed landscaping to be used as screening shall be shown on the landscape plan.

(2) *Build out.* Upon approval of a large scale development, or issuance of a building

permit, build-out of the project shall conform to the drawings, information, and plans approved.

(a) *Amendments.* Amendments to the drawings, information, and plans shall be submitted to the City. Amendments which are determined to be insignificant or minor may be approved by the Building Official. Significant amendment shall be approved by the Planning Commission.

(b) *Review.* Amendments shall be considered using the same standards as the initial design approval.

(c) *Noncompliance.* Failure to build-out the project according to the approved drawings, information, and plans, or approved amendments thereto, shall render the large scale development approval, or the building permit approval void.

(F) *Variances.* (See Chapter 13.)

## 6.11 Application For Building Permit

(A) *Application.* All applications for building permits shall be accompanied by plans in duplicate drawn to scale showing:

(1) The actual dimensions and shape of the lot to be built upon;

(2) The exact sizes and locations on the lot of buildings already existing, if any;

(3) The location and dimensions of the proposed building or alteration;

(4) The application shall include such other information as lawfully may be required, including:

(a) Existing or proposed building or alteration;

(b) Existing or proposed uses of the building and land;

(c) The number of families, housekeeping units, or rental units the building is designed to accommodate;

(d) Conditions existing on the lot; and

(e) Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this chapter.



- (f) Location of existing and/or proposed driveways.

(B) *Expiration of building permit.*

- (1) *Begin work.* If the work described in any building permit has not begun within 180 days after the date of issuance thereof, said permit shall expire. It shall be canceled by the building official and written notice thereof shall be given to the persons affected.
- (2) *Substantial completion.* If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereon, said permit shall expire and be canceled by the building official and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

## 6.12 Construction To Be As Provided In Application, Plans, And Permits

Building permits issued on the basis of plans and applications approved by the City authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.

## 6.13 Master Street Plan Setbacks

The city shall require the applicant/developer to establish a right-of-way setback line based on the right-of-way requirements for streets and highways designated by the Master Street Plan. Such setback line shall be considered the property line for such purpose of satisfying the requirements of development regulations. All building setbacks, required landscaping, parking lots, display areas, storage areas and other improvements and uses shall be located outside of such established setback area. The required width of setbacks, landscaped areas, buffers, and all other setback requirements shall be dimensioned from the established right-of-way setback line. The establishment of any new structure or other improvements within the right-of-way setback is prohibited.

## 6.14 Expiration Of Approved Plans And Permits

(A) *Applicability.* The provisions of this section apply to all of the following plans and permits:

- (1) Preliminary plats;

- (2) Conditional uses;
- (3) Large-scale developments;
- (4) Lot splits;
- (5) Grading permits;
- (6) Floodplain development permits.

(B) *Time limit.*

- (1) Tasks to be completed. All of the above-enumerated plans and permits are conditioned upon the applicant accomplishing the following tasks within one (1) year from the date of approval:
  - (a) For any renovation or new construction, receive all building permits for the project; and/or,
  - (b) For a lot split, record a deed or survey at the Washington or Benton County Circuit Clerk's Office, stamped for recordation by the City; and/or,
  - (c) Receive all permits and approvals required by City, County, State, and Federal regulations to complete construction of the development or project.
- (2) *Planning Commission Extension Within One Year.* Prior to the expiration of the one (1) year time limit, an applicant may request the Planning Commission to extend the period to accomplish the tasks by up to one (1) additional year. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit.
- (5) *Ordinance Amendments.* To receive approval of an extension, the applicant shall comply with all applicable zoning and development requirements that have been adopted subsequent to the original project approval.
- (6) *Variances.* Variances from applicable zoning and development requirements that have been adopted subsequent to the original project approval shall be reviewed by the Planning Commission prior to approval of the extension.
- (7) *Expiration.* If the required task(s) are not completed within one (1) year from the date of approval or during an allowed extension

period, all of the above-enumerated plans and permits shall be rendered null and void.

(C) *Three-year time limit.*

(1) *Tasks to be complete.* All of the above-enumerated plans and permits are also conditioned upon the applicant completing the project and receiving final inspection approval and/or a final Certificate of Occupancy permit within three (3) years from the date of issuance of a building permit or receipt of all permits and approval required to complete construction of the project.

(2) *Extensions.* Prior to the expiration of the three (3) year time limit, an applicant may request the Planning Commission to extend the three (3) year period to complete the project by up to one (1) additional year. The applicant has the burden to show good cause why the project could not reasonably be completed within the three (3) year time limit.

(3) *Expiration.* If the applicant fails to meet the requirements of subsection (C)(1) within three (3) years from the date of issuance of a building permit/receipt of all permits and approval required or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.

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## CHAPTER 7: STREETS AND SIDEWALKS

### 7.01 Miscellaneous Provisions

(A) *Rules and regulations governing street improvements.* Planning Commission is hereby authorized to prepare such rules and regulations in connection with the standardization of the design, construction, and maintenance of street and alley paving, including driveways, sidewalks, storm sewers, culverts and bridges, material, and construction methods, including approval of all such work, and for other matters and things in connection with the construction and maintenance of such work, which lie within the jurisdiction of the city, as to him/her shall deem proper, necessary, or expedient. Upon the preparation of such rules and regulations, they shall be submitted to the City Council and upon approval by the City Council, either by motion or resolution, such rules and regulations shall govern the design, construction and maintenance of street improvements as stated in this section. Such rules and regulations, when approved by the City Council, shall have the same force and effect as law.

(B) *Retaining walls near sidewalk or right-of-way.*

It shall be unlawful for any person to construct any retaining wall within two (2) feet of any sidewalk in the city or, if there is no sidewalk, within two (2) feet of the platted line of the city right-of-way, without first obtaining approval from the Planning Commission.

(C) *Gated streets not allowed in residential subdivisions.*

No residential subdivision or apartment complex shall be constructed with a gate across a street without prior express approval by resolution of the City Council that finds that security considerations favoring a gate outweigh aesthetic considerations and the city's policies in favor of connectivity, openness and neighborliness.

### 7.02 Intersections

(A) Streets shall be planned and designed to provide a safe system for present and prospective traffic.

(B) Proposed streets shall be planned in such a manner as to provide safe access to proposed lots.

### 7.03 Procedure For Closing Utility Easements And Street Rights-Of-Way

The procedure for closing of streets and alleys shall hereafter be as follows:

(A) *Information to City Clerk.* Petitioners shall present to the City Clerk in duplicate the following information before processing shall begin:

(1) *Petition/plat.* Petition to close and vacate street or alley, including a certified or copy of the plat on record in the Circuit Clerk's office.

(2) *Abstractor's certificate.* Abstractor's certificate of ownership.

(3) *Utilities comments.* Comments from owners or agents, of all utility companies concerning streets or alleys to be closed and its relationship to existing or planned utilities, with recommendations, as to what action should be taken.

(B) *Information to Planning Commission.* One copy of the above shall be presented by the City Clerk for review and recommendation of the Planning Commission.

(C) *Recommendation to City Council.* The recommendation of the Planning Commission shall be forwarded to the City Council.

(D) *Record with Circuit Clerk.* If an ordinance is adopted closing or vacating the street or alley, it shall be published and reported in the Circuit Clerk's office.

### 7.04 Occupation Of Streets And Highways By Public Utilities

Any public utility, as defined by state law, which occupies the streets, highways or other public places of the city under a franchise granted by the city or the state shall occupy said streets, highways or other public places subject to the following terms and conditions:

(A) *Written approval.* A public utility shall not erect or place any facility more than seven (7) feet inside the right-of-way line for any street without the prior written approval of the Mayor, who shall grant such approval only if he determines that the facility will not impair or obstruct present or future vehicular and pedestrian traffic.

(B) *Relocation.* Whenever public utility facilities which are located within a public right-of-way must be relocated in order not to impair or obstruct vehicular or pedestrian traffic on any new or existing street, highway, road, or sidewalk, the public utility shall be required to relocate its facilities within a reasonable time from receipt of written notice from the Mayor, and shall bear its own relocation costs; provided, where any project is funded with federal or state

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funds and said funds are received by the city for the purpose of reimbursing utility relocation expenses, the utility shall receive such reimbursement. This division shall not be construed as requiring a utility to relocate its facilities within or from a private easement without payment of just compensation.

(C) *Policies.* The following policies approved by Arkansas State Highway Commission, Minute Order 70-300 updated to the latest revision, shall apply to the accommodation and adjustment of utilities on street and alley right-of-ways within the city:

(1) *General criteria:*

- (a) *Underground utility construction.* Underground utility construction shall conform to all applicable codes, standards, and specifications.
- (b) *Depth.* The depth of bury for new or replacement utility installations shall be established by the utility on the basis of engineering and safety factors for the area; and in keeping with the degree of hazard or protection required for the line involved; provided, however, that the normal minimum depth of bury on all cross lines shall be 2 ½ feet below the low points of roadway cross section, or 3 ½ feet below the bottom of surfacing (top of subgrade), whichever gives the greater depth; and the normal minimum depth of bury on all parallel (longitudinal) lines shall be two (2) feet.
- (c) *Aboveground appurtenances.* Pedestals or other aboveground utility appurtenances shall be located at or near the right-of-way line well outside of the street maintenance operation area.
- (d) *City approval.* All proposed locations and utility designs shall be reviewed and subject to approval by the City to ensure that the proposed construction will not cause avoidable interference with existing or planned street facilities, or with street operation or maintenance.
- (e) *Expansion of underground utilities.* On both cased and uncased installations, particularly on crossings installed in advance of new street construction, consideration should be given by the utility for placing a spare conduit or duct to accommodate known or planned expansion of underground lines.

(f) *Underground installations.* The controls for pipelines as apply to encasements, conduits, appurtenances, installations, trenched and untrenched construction, and adjustments shall be followed, as applicable, on underground installation of electric power and communication lines.

(2) *Location and alignment:*

- (a) *Crossings.* Crossings should be located as near normal to the street alignment as practical.
- (b) *Underground crossings.* Conditions which are generally unsuitable or undesirable for underground crossings should be avoided. These include locations such as deep cuts; near footings of bridges retaining walls; across intersections at grade or ramp terminals; at cross drains where flow of water, drift, or stream bedload may be obstructed; within basins of an underpass drained by a pump; land in wet or rocky terrain where it would be difficult to attain minimum bury.

(3) *Cased and uncased construction:*

- (a) *Without protective conduit.* Where acceptable to both the utility and the City on minor streets, underground crossings may be installed without protective conduit or duct. Normally, such installations should be limited to open-trenched construction or to small bores for pipe, wire or cable facilities where soil conditions permit installation by boring a hole about the same diameter as the pipe or cable and pushing the pipe or pulling the cable through.
- (b) *Encased in protective conduit.* Where crossings of underground lines are encased in protective conduit or duct, the encasement shall extend a suitable distance (minimum where practical equal to the depth of bury) beyond the slope or ditch lines. On curbed sections, it should extend outside the outer curbs or sidewalk. Where appropriate, the encasement shall extend to the access control lines, to the outside of frontage roads, or to an indicated line that allows for future widening of the street.
- (c) *Other.* Consideration should be given to encasement or other suitable protection

for any pipe, wire or cable facilities with less than minimum bury, near the footings of bridges or other street structures, or near other locations where there may be hazard.

- (4) *Street design.* When plans for street improvement and development are formulated, utility line locations should be recognized and the street designed so as to minimize conflict with existing utilities.

### **7.05 Maintenance And Construction Policies**

The city's policies concerning and regarding the maintenance and construction of streets, curbs, gutters, and sidewalks shall be as follows:

- (A) *Maintenance.* The city shall maintain roadways in the city which have been accepted by the city as city streets, or which have come under the jurisdiction of the city by or through annexation.
- (B) *Priorities.* The following factors shall be considered in establishing priorities for roadway resurfacing and rebuilding:
  - (1) *Function.* The function of the street, that is, the streets which carry or are expected to carry heavy amounts of traffic shall have priority over lesser streets.
  - (2) *Condition.* The condition of the pavement, in general, roadways which are more deteriorated shall have priority over those streets of lesser deterioration. However those streets of lesser deterioration may have priority when it is determined that the benefits of resurfacing the roadways of lesser deterioration may be greater.
- (C) *Sidewalks.*
  - (1) *Repair/replacement.* Existing city sidewalks shall be repaired and replaced by the city, as needed.
  - (2) *Priorities.* In establishing priorities for sidewalk repair or replacement, the factors to be considered shall include, but not be limited to the following:
    - (a) The conditions of the sidewalk;
    - (b) The expected level of pedestrian traffic; and,
    - (c) The use of the sidewalk by school children.

### **7.06 Order Of City Council Or Permit Required**

No person shall begin to construct, reconstruct, repair, alter or grade any sidewalk, curb, curb-cut, driveway or street on the public streets, unless the same has been properly ordered by the City Council, or plans for such have been approved by the city as site improvements for a development, or a permit has been issued by the city's official charged with the administration of this chapter.

### **7.07 Application For Permit**

An applicant for a permit hereunder shall file with the city official an application showing:

- (A) Name and address of the owner, or agent in charge, of the property abutting the proposed work area;
- (B) Name and address of the party doing the work;
- (C) Location of the work area;
- (D) A plan or clear description of the work to be done;
- (E) Such other information as the city official shall find reasonably necessary to the determination of whether a permit should be issued hereunder.

### **7.8 Standards For Issuance Of Permit; Expiration And Removal**

- (A) The city official shall issue a permit hereunder when he/she finds:
  - (1) That the plans have been approved.
  - (2) That the work shall be done according to the specifications contained herein.
  - (3) That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of ingress to and egress from the property affected and adjacent properties.
  - (4) That the health, safety, and welfare of the public will not be unreasonably impaired.
- (B) Any permit issued shall expire three (3) months from the date of issue and may be renewed upon application.

### **7.09 Inspection Of Work; Replacement Of Rejected Work**

- (A) The city official shall make all necessary inspections before, during and after the

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construction of all sidewalks, paving, curbing and guttering to insure the work is being done in accordance with the plans and specifications. In the event any or part of any work is not done in a satisfactory manner or not in conformity with the plans and specifications, the city official shall notify the contractor and owner in writing of his/her nonacceptance of the work. All such rejected work shall be removed and replaced within 30 days of this notification.

- (B) Advance notification must be given the city official for inspections under this section.

7.10 Property Owner To Construct Sidewalk

- (A) Requirement. The owner of any property abutting a public street or highway shall construct a sidewalk in accordance with §7.11 of this code, along said street or highway upon the receipt of notice issued at the time a building or parking lot permit is issued. The sidewalk requirement may be waived by the Mayor or the Mayor’s designated representative if it is determined that the sidewalk construction is not feasible due to location or terrain.

7.11 Sidewalk and Driveway Specifications

- (A) Sidewalks.

- (1) Grades; establishment of property lines. All sidewalks, access ramps, and driveway approaches shall be constructed in grades as approved by the City. It shall be the responsibility of the owner to establish property lines by competent survey at his/her own expense.

- (2) Minimum width of sidewalks. The minimum width of sidewalks shall follow the guidelines of the Master Street Plan, of the Comprehensive Land Use Plan. In all cases, the effective width of the sidewalk shall be a minimum of 4 feet. Effective sidewalk width is the actual sidewalk width, less:

A shy distance of 2 feet where vertical barriers (walls, fences, signs, etc) greater than 3.5 feet in height are adjacent to the sidewalk and extend more than 4 feet in length parallel to the sidewalk. A shy distance of 1 foot is required for all other fixed obstacles.

- (3) Sidewalk distances from the curb. The sidewalk setback distance from the curb

shall follow the guidelines of the Master Street Plan.

- (4) Minimum distance between sidewalk and slopes. There shall be a minimum of one (1) foot between the sidewalk and the beginning of a slope as shown on the typical section detail.

- (5) Cement-concrete requirements. All sidewalks, access ramps, and concrete driveway approaches shall be constructed of a portland cement concrete mixture that includes at least 5.5 bags of cement per cubic yard and contains 4 to 7 percent air entrainment and that will produce a concrete of a compressive strength of 3,500 pounds per square inch after 28 days set under standard laboratory methods.

- (6) Minimum thickness of sidewalks and driveway approaches.

- (a) Sidewalks. The minimum thickness of sidewalks shall be four (4) inches with six-inch by six-inch 10-gauge reinforcing steel mesh. Any fill materials required for residential or commercial sidewalks shall consist of approved compacted material.

- (b) Residential driveway approaches. The minimum thickness of residential driveway approaches shall be six (6) inches with four inches of compacted base material or six-inch by six-inch 10-gauge reinforcing steel mesh.

- (c) Commercial driveway approaches. The minimum thickness of commercial driveway approaches shall be six (6) inches with six (6) inches of compacted base material or six-inch by six-inch 10-gauge reinforcing steel mesh.

- (7) ADA guidelines. Sidewalks shall conform to ADA guidelines.

- (8) Continuous through driveway approach. Sidewalks shall be continuous through driveways with an expansion joint at the edge of the sidewalk opposite the street.

- (9) Edge adjacent to street. The sidewalk edge adjacent to the street shall have at least one (1) inch deep grooved joint mark (cannot be a saw cut, however it can be a cold joint) to clearly define the sidewalk through the driveway and approach.

- (10) Sidewalk elevation. The back of sidewalk elevation shall be such that the slope from



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the back of sidewalk to the top of curb is 2%, unless otherwise approved by the City Engineer. This elevation shall be continuous through the driveway approach.

- (11) *Cross Slope.* Sidewalk cross slopes shall be a minimum of one (1) percent and a maximum of two (2) percent. Sidewalks that are to be constructed adjacent to the curb shall be so located at their intersection with the driveway approach the ADA requirement of the two (2) percent maximum cross slope is met.
- (12) *Joint material.* Wood shall not be acceptable in sidewalks for expansion joints. The joint material shall be asphalt impregnated fiberboard meeting the requirements of AASHTO M213, or other joint material meeting the requirements of the latest version of the Arkansas State Highway and Transportation Department Standard Specifications.
- (13) *Expansion joint.* Full depth expansion joints (four inches) shall be provided at intervals not greater than 50 feet, and where sidewalks abut drainage structures, retaining walls, building faces, and all other fixed objects. One-quarter depth (one inch) weakened plane joints, or saw-cut joints, shall be placed in sidewalk at regular intervals not greater than the width of the sidewalk. Maximum joint spacing shall not be greater than two times the thickness of the sidewalk. Saw joints shall be filled with self leveling sealant such as Sonneborn SL1 or equivalent.
- (15) *Materials.* The material used for sidewalk construction shall be Portland cement concrete having a broom finish.
- (16) *Edges.* All sidewalks shall have one-half (1/2) inch rolled edges.
- (17) *Removal/replacement.* Removal and replacement of broken sidewalks require vertical saw-cuts on both ends of the sidewalk being replaced.
- (18) *Curing compound.* All sidewalks and driveway approaches require the application of a concrete curing compound or the concrete is to be kept moist for seven (7) days.

(B) *Driveways*

- (1) *Driveway Permit.* A driveway permit shall be required for all new driveways constructed that connect to a public right of way.
- (2) *Curb removal.* Curb, if existing, shall be removed for full width of the drive approach.
  - (a) *Vertical curb cut.* Vertical curb cutting along the flow-line of the gutter is allowed.
  - (b) *No vertical curb cut.* If no vertical curb cut is made, complete curb and gutter removal is required.
- (3) *Concrete removal.* All concrete to be removed shall be saw-cut.
- (4) *Driveway approach.* The area remaining between the sidewalk and the flow-line of the gutter, called the approach to the driveway, shall slope up to the elevation of the sidewalk.
- (5) *Broken edges of saw-cuts.* Broken edges of saw-cuts caused by demolition require a new saw-cut to a clean edge.
- (6) *Driveway Width.* The maximum width of a residential driveway is 24' measured at the back of the apron. For commercial driveways, refer to Chapter 8, Parking and Loading.
- (9) *Driveway Culverts.*
  - (a) *Determining Size.* Driveway culverts, whether located within the public right of way or on private property shall be designed by a registered professional engineer. The Building Inspector may waive this requirement if they determine that the area draining to the culvert is small enough, or if the location of the driveway culvert would not cause any damage to adjacent property or public right of way in the event of a failure.
  - (b) *Minimum Size.* Driveway culverts shall be a minimum of 18" in diameter and shall have concrete surrounding the ends of the pipe to prevent crushing and erosion.
  - (c) *End Treatment.* Driveway culverts shall have concrete surrounding the ends of the pipe to prevent crushing and erosion.

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(C) *Access ramps.*

- (1) *ADA requirements.* Access ramps shall conform to ADA requirements, including detectable warning devices such as truncated domes.
- (2) *Sidewalk intersections.* Access ramps shall be installed at all sidewalk intersections with the street.
- (3) *Raised crosswalk.* The raised or built-up access ramp shall not be installed on public streets without the approval of the City.
- (4) *Minimum width.* The minimum width of a curb ramp shall be Forty-eight (48) inches. Sixty (60) inches is recommended, exclusive of flared sides.
- (5) *Slope.* The slope of the ramp shall not be greater than 8.33% (1:12).
- (6) *Slope of flared sides.* The slope of the flared sides shall not be greater than 10% (1:10).
- (7) *Broom finish.* Access ramps shall have a broom finish.

amount of repair to the excavation. The guarantee will be released upon acceptance of the repair work.

- (3) *Warranty.* The permittee shall warranty the materials and workmanship of the repairs for a period of one year.

- (4) *Standards.* Repair of the street or other public way shall be made to the following standards:

- (a) *Backfill.* All excavations shall be back filled with SB-2 material applied in eight (8) inch lifts.

- (b) *Lift.* Each lift shall be individually compacted.

- (c) *Asphaltic surface streets.* In the case of asphaltic surface streets, six inches (6") of Portland concrete shall be placed an allowed to core. The concrete shall have a layer of prime coat applied and followed by a minimum of three inches (3") of hot-mixed, hot-land asphaltic concrete placed to an elevation matching the existing finished grade.

- (d) *Portland concrete surface streets.* In the case of Portland concrete streets, all excavations shall be resurfaced with nine inches (9") of Portland concrete. Joint sealer shall be placed in the area between the repaired surface and the original surface.

- (e) *Asphaltic sealed streets/unpaved streets.* Asphaltic sealed streets or unpaved streets shall be resurfaced with a surface similar to that which existed before excavation.

**7.12 Excavations**

- (A) *Permit required.* It shall be unlawful for any person to make any excavation in any street, alley, sidewalk, road, highway, or other public way in the city without first obtaining a permit to do so from the Mayor, or his/her duly authorized representative. Such permit shall be granted only after written application has been filed. The fee for each permit shall be paid in advance. Provided, however, that utility companies franchised by the city shall be billed monthly for all permits granted during the previous month.

- (B) *Lights and guards.* Every person making an excavation as provided for in this chapter shall place and maintain lights and guards around the same for the protection of the public. Such lights and guards shall be subject to the approval of the Mayor.

(C) *Repairs of public property.*

- (1) *Cost.* Each person making an excavation under this chapter shall repair the street or other public way at his own expense, and under the direction and supervision of the Mayor or his/her duly authorized representative.

- (2) *Guarantee.* A guarantee in the form of cash deposit, bond or letter of credit shall be submitted to the City for the estimated

- (3) *Notice.* The permittee shall notify the City, prior to beginning such repair, of the time and manner of repair and obtain the approval of the City prior to beginning of such repair and afford the City the opportunity of being present during the progress of such repair until completed.

(D) *Street closings for excavation in excess of 24 hours.*

- (1) *Prohibited without approval of Mayor.* It shall be unlawful for any person to cause a street to be closed for more than 24 hours due to the making of an excavation without the prior written approval of the Mayor. In granting such approval, the Mayor shall impose time limits and such other reasonable conditions

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as are necessary to minimize any inconvenience or danger to the public.

- (2) *Exception.* This section shall not apply to emergency repairs.

## CHAPTER 8: PARKING AND LOADING

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## CHAPTER 8: PARKING AND LOADING

### 8.01 Purpose

The regulations of this section are intended to reinforce community standards and to promote safe and attractive parking lots for new, redeveloped, and expanded development within the city. The size, number, design, landscaping, and location of parking lots are regulated in order to:

- (A) Provide for the safe and orderly circulation of motor vehicles within parking lots;
- (B) Provide safe ingress and egress to parking lots from public and private streets;
- (C) Protect adjoining properties from the adverse impacts associated with parking lots such as noise, lighting, appearance, drainage, and effect on property values;
- (D) Provide adequate areas for off-street parking and storage of motor vehicles, while at the same time preventing over-supply of parking in mixed-use circumstances; and,
- (E) Enhance the appearance of parking lots in all zoning districts.

### 8.02 Parking Lot Construction Standards

- (A) *Permits and plan.* For parking lots containing five (5) or more spaces, building, and grading permits and site and grading plans shall be required prior to any initiation of work.
- (B) *Surfacing.* Parking lots shall be asphalt, semi-permeable soil pavers, or concrete, graded and drained to dispose of surface water into appropriate structures.
- (C) *Barriers.* Parking lots shall be provided with wheel guards or curbs so located that no part of a parked vehicle will extend into or over the sidewalks, property lines, or street right-of-way.
- (D) *Striping and marking.* Parking lots spaces shall be striped to indicate the location of the individual spaces, directional arrows shall be provided at the entrance of aisles and entry drives, and accessible spaces shall be marked meeting current Americans with Disabilities Act (ADA) requirements. Such striping and marking shall be in accordance with the Manual on Uniform Traffic Control Devices.

### 8.03 Accessibility

- (A) *ADA reference.* Accessibility for persons with disabilities in parking lots and building approaches shall be as required by the current ADA and as may from time to time be amended.
- (B) *Location and size.* Location and minimum stall size of accessible parking spaces, passenger loading zones, or valet parking facilities, when provided for public or governmental buildings and facilities, shall meet the standards adopted in the ADA.
- (C) *Buildings.* Accessibility guidelines (ADAAG) for buildings and facilities, Appendix A to 28 C.F.R. Part 36, or the current federal standard.
- (D) *Signage.* Accessible parking spaces for persons with disabilities shall be identified with signs in accordance with the current federal statute of the Americans with Disabilities Act (ADA). Curb ramps shall be provided in accordance with the Americans with Disabilities Act (ADA) wherever an accessible route crosses a curb in the parking lot.
- (E) *Minimum number of accessible spaces.* The following table shall be used to determine the minimum number of accessible parking spaces to be provided for persons with disabilities:

Total parking spaces in lot or garage	Minimum number of accessible spaces
1—25	1
26—50	2
51--75	3
76--100	4
101--150	5
151--200	6
201--300	7
301--400	8
401--500	9
501--1000	2% of total spaces
Over 1000	20 spaces + 1 space for each 100 spaces over 1000

- (F) *Facilities providing medical care.* Facilities providing medical care and other services for persons with mobility impairments shall provide accessible parking spaces as follows:
  - (1) *Outpatient facilities.* Outpatient units and facilities shall provide a minimum of 10% of the total number of parking spaces provided serving each such outpatient unit or facility, but in no event shall less than one such parking space be provided.

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(2) *Specialized facilities.* Units and facilities that specialize in treatment or services for persons with mobility impairments shall provide 20% of the total number of parking spaces provided serving each such unit or facility, but in no event shall less than one such parking space be provided.

(G) *Multi-family dwellings.* Multi-family dwellings containing four (4) or more dwelling units shall provide accessible parking spaces as follows:

(1) *Fair Housing Act reference.* Accessible parking shall be provided which meets the provision in the Final Housing Accessibility Guidelines, 24 C.F.R., Chapter 1, Subchapter A, Appendix II, of the Fair Housing Act of 1968, as amended, or the current federal standard.

(2) *Number of required accessible space.* Designated accessible parking shall be provided for at least two (2) percent of the dwelling units and at facilities such as swimming pools and clubhouses that serve accessible buildings. Additional designated accessible parking shall be provided on request of residents with disabilities, on the same terms and with the full range of choices that are provided for other residents of the development.

(3) *Visitor parking.* Accessible visitor parking that provides sufficient access to grade level entrances of multi-family dwellings is also required.

**8.04 Parking Lot Design Standards** (See: Illustration: Parking Dimension Factors)

(A) *Maneuvering.* Parking lots shall be designated, maintained, and regulated so that no parking or maneuvering incidental to parking will encroach into the areas designated for sidewalks, streets, or required landscaping except as provided for in §8.07(B)(2). Parking lots shall be designed so that parking can occur without moving other vehicles. Vehicles shall exit the parking lot in a forward motion.

(B) *Pedestrian access.* Pedestrian access shall be provided from the street to the entrance of the structure by way of designated pathway or sidewalk.

(C) *Compact spaces.* A maximum of 10% of the total spaces may be compact spaces. Compact spaces shall be marked either by marking on the pavement or by separate marker.

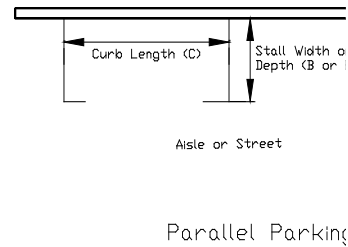
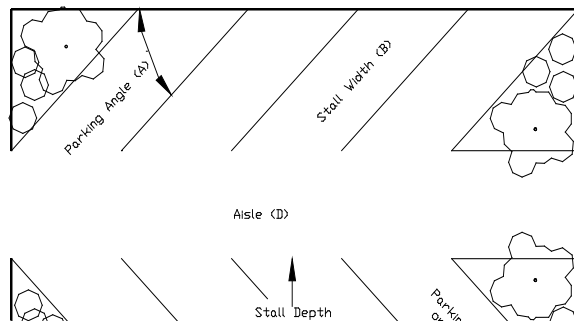
(D) *Dimensional requirements.* (See Table 1)

**TABLE 1**  
DIMENSIONAL REQUIREMENTS

Angle (A)	Type	Width (in ft.) (B)	Curb length (in ft.) (C)	One-way aisle width (in ft.) (D)	Two-way aisle width (in ft.) (D)	Stall depth (in ft.) (E)
0°	Standard	8	22.5	12	24	8
Parallel	Compact	7.5	19.5	12	24	7.5
30°	Standard	9	18	12	24	17
	Compact	7.5	15	12	24	14
45°	Standard	9	12.5	12	24	19
	Compact	7.5	10.5	12	24	16
60°	Standard	9	10.5	18	24	20
	Compact	7.5	8.5	15	24	16.5
90°	Standard	9	9	24	24	19
	Compact	7.5	7.5	22	24	15
	Motorcycle/Scooter	3	3	12-24	24	7.5 - 9

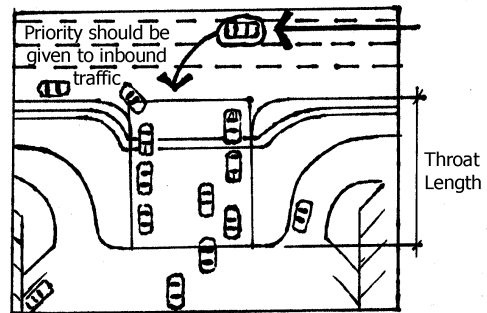
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DIMENSIONAL FACTORS



(E) Parking Lot Circulation.

(1) *Throat length.* The length of driveways or "throat length" shall be designed in accordance with the anticipated storage length for vehicles to prevent them from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation. General standards appear below, but these requirements may vary according to the project volume of the individual driveway. These measures generally are acceptable for the principal access to a property and are not intended for minor driveways. Variation from these standards may be permitted for good cause upon approval of the City.



(2) Drive-through facilities. All uses that include a drive-up window or are characterized by patrons remaining in their vehicles to receive service shall meet the following on-site stacking requirements in order to alleviate traffic congestions:

- (a) Restaurant, fast food: a minimum of four (4) spaces as measured from the drive-thru window
- (b) Vehicular washes: a minimum of two (2) spaces per car wash bay as measured from the bay.
- (c) Pharmacies and financial institutions: a minimum of four (4) spaces for one (1) drive-thru window, plus three (3) spaces for each additional drive-thru lane or automated teller machine (ATM), as measured from each drive-thru window.
- (d) Dry cleaning and laundry services: a minimum of two (2) spaces as measured from the drive-thru window.

**TABLE 2**  
GENERALLY ADEQUATE  
DRIVEWAY THROAT LENGTHS

Shopping Centers (Signalized)	>200,000 GLA* (800) spaces	200 ft.
Smaller Developments (Signalized)	<200,000 GLA*	75-95 ft.
Unsignalized Driveways	--	40-60 ft.

\*GLA-Gross leaseable area

*Commentary:* The throat lengths in Table 2 are provided to assure adequate stacking space within parking lot driveways for general land use intensities. This helps prevent vehicles from stacking into the thoroughfare as they attempt to enter the parking lot. High traffic generators, such as large shopping plazas, need much greater throat length than smaller developments or those with unsignalized driveways. The guidelines here for larger developments refer to the primary access drive. Reduced throat lengths may be permitted for secondary access drives serving large developments.

(3) *Entrances and internal aisle design for parking lots containing 9 or more parking spaces.* The driveway width into parking lots shall meet the following requirements:



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Parking Lots	
	Driveway Dimensional Requirement
One Way Access	12' Minimum – 16' Maximum
Two Way Access	2 Drive Lanes 10' Minimum Each – 24' Maximum Total Driveway Width
Collector/Arterial Streets	3 Drive Lanes - Maximum of 39'
Curb Radius	20' Collector and Arterial 15' Local

(a) *Entrances.*

- (i) *One-way access to parking lots.* If the driveway is a one-way in or one-way out, then the driveway width shall be a minimum of 12 feet and a maximum of 16 feet.
- (ii) *Two-way access to parking lots.* For two way access, the driveway width shall be a minimum 20 feet and a maximum width of 24 feet, unless otherwise required by the Fire Department.
- (iii) *Collector and Arterial Streets.* Driveways that enter collector and arterial streets may be required to have two outbound lanes (one for each turning direction) and one inbound lane for a maximum total driveway width of 39 feet.
- (iv) *Curb radius.* All driveways serving 9 or more parking spaces shall have a curb radius of 15 feet for curb cuts on local streets and a curb cut radius of 20 feet for collector, minor arterial and arterial streets.

(b) *Internal aisle design.*

- (i) Aisles shall be designed so that they intersect at 90 degrees with other aisles and driveways where practical.
- (ii) Aisles shall be designed to discourage cut-through traffic by use of landscape islands.
- (iii) Aisles shall conform to the dimensional requirements of §8.04(D).

- (c) *Waivers.* Development proposals which do not meet these standards may apply for waiver from these requirements subject to Planning Commission approval.

**8.05 Standards For The Number Of Spaces By Use**

(A) *Required parking.*

- (1) *Required number of spaces.* A proposed use shall conform to the established parking ratios listed in Table 3. The minimum number of spaces required for a use not specifically included in this section shall be as required for the most similar use listed or as otherwise determined by the Planning Commission utilizing reference standards. For all parking space requirements resulting in a fraction, the fraction shall be:
  - (a) rounded to the next higher whole number when the fraction is 0.5 or higher.
  - (b) rounded to the next lower whole number when the fraction is less than 0.5.
- (2) *Change of use - existing structure.* A change of use in an existing structure may be permitted if the use adequately meets the minimum parking ratio standards herein. A change of use shall not be penalized for existing parking spaces that exceed the required parking ratios included in this chapter.

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**TABLE 3**  
**PARKING RATIOS**  
 (Use/Required Spaces)

Residential

Single-family, duplex, triplex	2 per dwelling unit
Multi-family or townhouse	1 per bedroom

Commercial

Agricultural supply	1 per 500 sq. ft. of GFA
Amusement	1 per 200 sq. ft. of GFA
Auditorium	1 per 4 seats
Auto/motorcycle service stations	4 per each enclosed service bay
Bank	1 per 200 sq. ft. of GFA
Barber or beauty shop	2 per chair
Building/home improvement supply	1 per 500 sq. ft. of GFA
Coin-operated laundry	1 per 3 machines
Dry cleaning	1 per 300 sq. ft. of retail area and 1 per employee
Hotels and motels	1 per guest room, plus 75% of spaces required for accessory uses.
Furniture and carpet store	1 per 500 sq. ft. of GFA
Plant nursery	1 per 1,000 sq. ft. of indoor/outdoor retail area
Restaurants	1 per 100 sq. ft. GFA plus 4 stacking spaces per drive-thru window.
Retail	1 per 250 sq. ft. of GFA
Retail fuel sales with convenience stores	1 per 200 sq. ft. of retail FA; spaces at pump islands are counted toward this requirement
Retail fuel sales only	3 per each employee; spaces at pump islands are counted toward this requirement

Office

Medical/Dental office	1 per 250 sq. ft. of GFA
Professional office	1 per 300 sq. ft. of GFA
Sales office	1 per 200 sq. ft. of GFA

Public and Institutional Uses  
 Nonprofit Commercial

Art gallery, library, museum	1 per 1,000 sq. ft. of GFA
Auditorium	1 per 4 seats, provided only auditorium space is counted in determining parking
Child care center, nursery school	1 per employee plus on-site loading and unloading spaces at a rate of 1 per 10 children accommodated
Church/religious institution	1 per 4 seats in the main auditorium or 1 per 40 sq. ft. of assembly area, whichever provides more spaces
College auditorium	1 per 4 seats
College dormitory	1 per sleeping room
College or university	1 per 500 sq. ft. of classroom area
Community center	1 per 250 sq. ft. of GFA

Cooperative housing	1 per 2 occupants
Convalescent home, assisted living, nursing home	1 per 2 beds
Detention home	1 per 1,500 sq. ft. of GFA
Elderly Housing	1 per 2 units
Funeral homes	1 per 4 seats in main chapel plus 1 per 2 employees plus 1 reserved for each vehicle used in connection with the business
Government facilities	1 per 500 square feet of floor area
Hospital	1 per bed
Convalescent home	1 per bed
School--elementary and junior high	1 per employee plus 1 space per classroom
School--senior high	1 per employee plus 1 per 3 students based on design capacity, or 1 per 6 seats in auditorium or other places of assembly, whichever is greater
Zoo	1 per 2,000 sq. ft. of land area
All other public and institutional uses (only auditorium space shall be counted for churches, auditoriums, or group occupancy space)	1 per 4 occupants

Manufacturing/Industrial

Manufacturing	1 per 1,200 sq. ft. of GFA or one per employee, whichever is greater
Heavy industrial	1 per 1,200 sq. ft. of GFA
Extractive uses	Adequate for all employees, trucks, and equipment

Recreational Uses

Amusement park, miniature golf	1 per 1,000 sq. ft. of site area
Bowling alley	6 per lane
Commercial recreation	1 per 200 sq. ft. of GFA
Commercial recreation-large sites	1 per 1,000 sq. ft. of site area
Dance hall, bar or tavern	1 per 50 sq. ft. of GFA, excluding kitchen
Golf course	3 per hole
Golf driving range	1 per tee box
Health club, gym	1 per 150 sq. ft. of GFA
Regional or community park	2 per acre of accessible active and passive space
Neighborhood park	None
Private club or lodge	1 per 500 sq. ft. of GFA or 1 per 3 occupants based on the current adopted Standard Building Code whichever is greater
Riding stable	1 per acre; not required to be paved
Tennis court	2 per court
Theater	1 per 4 seats
All other recreational uses	1 per 4 occupants

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Warehousing and Wholesale

Warehousing	1 per 2,000 sq. ft. of GFA
Wholesale	1 per 1,000 sq. ft. of GFA
Center for collecting recycled materials	1 per 1,000 sq. ft. of GFA

(B) *On-street parking.* Permitted on-street parking spaces adjacent to a project frontage may not count toward the parking requirements for all development.

(C) *Off-street parking.*

(1) *Maximum number allowed.* Developments may utilize the following increases to the required spaces listed in Table 3 when the following standards are met:

(a) Developments may increase the number of off-street parking spaces by an additional 10% when alternative stormwater treatment techniques are utilized, such as:

- (i) Bioswales
- (ii) constructed wetlands
- (iii) pervious pavement
- (iv) other such techniques that aid in improving water quality and quantity as approved by the City

(b) Developments may increase the number of off-street parking spaces by an additional 5% when one (1), two-inch (2") caliper tree for every 10 additional parking spaces is planted on-site in addition to all other landscaping requirements.

(2) *Reductions.* Developments may utilize the following reductions to the required off-street parking ratios listed in Table 3 when the following standards are met:

(a) *Transit stops.* Properties located within a quarter (0.25) mile radius of a transit stop may further reduce the minimum off street parking requirements by up to fifteen percent (15%).

(b) *Motorcycle and scooter spaces.* Up to 10% of the required automobile parking spaces may be substituted with motorcycle/scooter parking at a rate of one motorcycle/scooter space for one automobile space.

(c) *Shared parking.* Parking requirements may be shared where it can be determined that the peak parking demand of the existing or proposed occupancy occur at different times (either daily or seasonally). Such arrangements are subject to the approval of the Planning Commission.

(i) *Shared parking between developments.* Formal arrangements that share parking between intermittent uses with nonconflicting parking demands (e.g. a church and a bank) are encouraged as a means to reduce the amount of parking required.

(ii) *Shared parking agreements.* If a privately owned parking facility is to serve two or more separate properties, then a "Shared Parking Agreement" is to be filed with the city for consideration by the Planning Commission.

(iii) *Shared spaces.* Individual spaces identified on a site plan for shared users shall not be shared by more than one user at the same time.

(3) Increases or reductions in excess of those identified herein shall be allowed only as a conditional use and shall be granted in accordance with Chapter 4, governing applications of conditional uses, procedures, and upon the finding that the increase or reduction is needed.

**8.06 Parking Lot Location Standards**

The location of all required and nonrequired parking lots shall meet the location requirements below. All conditional uses hereunder shall be granted by the Planning Commission in accordance with Chapter 4, governing applications of conditional uses; procedures.

(A) *Permitted locations by right.* Parking lots shall be located within the same zoning district as the use they serve. Required parking lots for uses allowed by right within a zoning district are allowed as a use by right in the same zoning district.

(B) *Permitted locations as a conditional use.*

(1) Parking lots located within residential zones which serve uses in nonresidential zones may be allowed as a conditional use by the Planning Commission.

- (2) Parking lots for uses allowed as conditional uses within residential zones must also be approved as a conditional use. A conditional use for a parking lot may be approved at the same time the use is approved or may be approved separately if additional parking lots are developed later.

The Planning Commission shall make a finding based upon the size, scale, and location of these activities that the proposed parking lot will not adversely affect adjacent residential uses or the residential character of the neighborhood.

- (C) *Off-site locations.* If off-street parking cannot be provided on the same lot as the principal use due to existing buildings or the shape of the parcel, parking lots may be located on other property not more than 600 feet distant from the principal use, subject to conditional use approval by the Planning Commission.

**8.07 Nonconforming Parking Lots**

All parking lots and/or parking areas which were in existence prior to the effective date of this ordinance may continue in a nonconforming state until such time as the following shall occur:

- (A) *Rehabilitation.* A building permit is granted to rehabilitate a structure on the property exceeding 50% of the current replacement cost of the structure. At such time, 50% of the existing parking lot use area shall be required to be brought into compliance with the provisions of this ordinance. This shall continue on a graduated scale in accordance with the percentage of rehabilitation cost; and/or
- (B) *Enlargement or reconstruction.* A building permit is granted to enlarge or reconstruct a structure on the property exceeding 10% of its existing gross floor area. At such time 10% of the existing parking lot and/or parking lot area shall be brought into compliance with the provisions of this section. This shall be on a graduated scale until reaching 100% of the required landscaping; and/or
- (C) *New curb cut.* A new curb cut permit is granted for the nonconforming parking lot. At such time the parking lot and/or parking area shall be required to be brought into compliance with the provisions of this ordinance.

**8.08 Off-Street Loading**

In all districts, accessory off-street loading berths, open or enclosed, shall be so arranged so that parking and maneuvering will occur on private property.

**8.09 Driveway And Parking Standards For Four (4) Or Less Parking Spaces**

- (A) *Purpose.* The purpose of this ordinance section is to promote the public health, safety and general welfare, to prevent the adverse impacts associated with excess parking.
- (B) *Applicability.* The following requirements shall apply to properties within single family districts ~~that require four (4) or less parking spaces~~ and properties within all zoning districts that are utilized for a single family detached home ~~requiring four (4) or less parking spaces~~. The regulations herein do not apply to motor vehicles located completely within or underneath garages or carports, ~~nor to properties zoned Residential Agricultural.~~
- (C) *Off-street Parking on City Street Right-of-Way.* The off-street parking of any motor vehicle, non-motorized recreational vehicle, boat or trailer shall be prohibited within the street right-of-way, which includes any sidewalk, greenspace or other area from the edge of the paved street through the width of the dedicated street right-of-way.
- (D) *Driveway Standards.*
  - (1) *Driveway Approach to Property Line.* The driveway approach shall extend to 20' from the edge of the paved street and shall be designed, permitted, and paved with concrete in accordance with §7.11 *Sidewalk and Driveway Specifications.*
  - (2) *Driveways Beyond the right of way into the Property.* Driveways beyond 20 feet into the property may be paved or unpaved and shall be clearly defined.
  - (3) All single family homes shall provide a minimum of two parking spaces, excluding spaces within a garage, outside of the city right of way.
  - (4) *Unpaved Streets.* These requirements are waived where the street to which the driveway connects is not paved.
- (E) *Driveway and Parking Area Maintenance Requirements.*
  - (1) *Paved.* Driveways and parking areas that are paved shall be maintained to prevent erosion onto adjacent properties and to prevent dirt,

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rock and other materials from entering the street.

- (2) *Unpaved*. Driveways and parking areas that are not paved shall be maintained to prevent erosion onto adjacent properties and to prevent dirt, rock and other materials from entering the street. Driveways and parking areas shall be constructed and maintained with adequate gravel, grasses, or other plants and/or landscaping materials to keep the area from becoming rutted, muddy and/or soil from being blown or washed away. If an unpaved driveway is not maintained and is identified as a violation of this provision, such driveway shall be immediately remedied by the property owner.
- (F) *Driveway Grading and Drainage*. The driveway shall be graded in such a way to dispose of surface water into appropriate structures.
- (G) *Maximum Driveway Width*. Driveway width shall be limited to 24 feet measured at the right of way.
- (H) *Loop, Circle, and Multiple Driveways*. Loop, circle and multiple driveways on a single property shall be allowed so long as a 30 foot separation between the drives is maintained, as measured from the interior edges of the curb cuts, subject to other restrictions for driveway separations in the code.
- (I) *Exemptions*. The following exemptions to this ordinance section shall be permitted:
  - (1) *Temporary Parking*. Temporary driveways or parking lots approved by the Planning Commission.
  - (2) *Special Parking Exception Permits*. A property owner that can prove special exception to the limitation on number of motor vehicles permitted on a single family property may present evidence to the Planning Commission to apply for a Special Parking Exception Permit. Such cases may include hobbyist vehicles or motor vehicle collections, an all-related family in residence, or other special circumstances deemed suitable by the Planning Commission wherein the circumstance meets the purpose and intent of the ordinance. If the Planning Division approves the special exception permit, a permit will be issued for the address, indicating additional vehicles are permitted to be parked on the property

## CHAPTER 9: SIGNS

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## CHAPTER 9: SIGNS

### 9.01 General Regulations

- (A) *Permit required.* It shall be unlawful for any person to erect, repair, alter, relocate or keep within the city any sign or other advertising structure except as exempted herein without first obtaining a sign permit from the City Building Official.
- (B) *Illuminated signs.* All illuminated signs shall, in addition, be subject to the provisions of the electrical code, and the permit fees required thereunder.
- (C) *Fees.* Every applicant, before being granted a permit hereunder, shall pay to the City the permit fee set forth in Chapter 16.
- (D) *Maintenance of premises.* All freestanding signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

### 9.02 Permit Application/Issuance

- (A) *Application.* Applications for sign permits shall be made upon forms provided by the City and shall contain or have attached thereto the following information:
  - (1) *Applicant identification.* Name, address and telephone number of the applicant.
  - (2) *Location.* Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
  - (3) *Position.* Position of the sign or other advertising structure in relation to nearby buildings or structures.
  - (4) *Blueprints/drawings.* Two blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.
  - (5) *Person erecting structure.* Name of person, firm, corporation, or association erecting structure.
  - (6) *Consent of owner.* Written consent of the owner of the building, structure, or land to which or on which the structure is to be erected.
  - (7) *Electrical permit.* Any electrical permit required and issued for said sign.

Application requesting electrical permit for proposed sign must accompany sign application.

- (B) *Issuance of sign permit.* It shall be the duty of the Building Official or designee, upon the filing of an application for an sign permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure and sign are in full compliance with all the requirements of this chapter and all other laws and ordinances of the city, he shall issue the sign permit. If the work authorized under a sign permit has not been completed within six (6) months after date of issuance, the said permit shall become null and void.
- (C) *Appeals of Sign Permit Denials.* All decisions and interpretations of the Building Official under this Chapter shall be considered final administrative actions for the purpose of the appeals. All appeals shall be heard by the Planning Commission.

### 9.03 Exemptions

Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with certain applicable provisions of this chapter. The exemptions shall apply to the requirement for a sign permit. No sign permit shall be required for the erection of the following signs which are hereby authorized to be erected in compliance with the listed conditions:

- (A) *Professional name plates.* Professional name plates erected flat on walls of building and not exceeding four (4) square feet of display surface area.
- (B) *Building construction signs.* One on-site building construction sign on each construction site in any zoning district, provided that maximum display surface area shall be eight (8) square feet or less in Residential zoning districts: 32 square feet or less in other zoning districts.
- (C) *Real estate signs.* On a lot in any district, there may be erected one on-site unanimated real estate sign while the lot is for sale. Provided further, such signs shall be limited to wall signs, freestanding signs or platform signs; and freestanding signs or platform signs shall be set back a minimum of 10 feet from the street. Real Estate signs shall be removed within 72 hours following the closing (sale) of the property on which it is located. The permitted illumination and maximum display surface area for a real estate sign shall be as follows:



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District	Permitted Illumination	Area (Sq. Ft.)
RA	Nonilluminated	32
R, R-O	Nonilluminated	8
P-1, C and I	Illuminated	32

(D) *Home occupation signs.* Home occupation signs erected flat against the wall and not exceeding three (3) square feet.

(E) *Memorial signs, name signs.* Memorial signs or tables, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

(F) *Traffic signs, etc.* Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary, emergency or nonadvertising signs as may be approved by the City Council.

(G) *Posting bills, repainting signs.* Posting of bills on signs, repainting of signs, or the changing of letters or numbers on signs designed for changeable lettering or numbering which were legally erected and maintained for such purposes.

(H) *Time and temperature displays.* Time and temperature displays without advertising matter, may change their illuminated time and temperature displays as often as reasonably necessary to provide accurate and convenient information to observers without being considered to be in violation.

(I) *Banners.* Public event, special sales event, and election campaign banners (not to exceed 3' x 30') and election campaign signs may be installed under the following terms and conditions:

(1) *Election campaign banners and signs.*

(a) *Residential zones including, R-O and R-A.* The owner of a residentially zoned parcel may install one large election campaign sign of up to 32 square feet no more than sixty days prior to (and to be removed within 7 days following) the election to which the sign applies.

(b) *All other zones.* The owner of a parcel may install one large election campaign sign of up to 32 square feet no more than sixty days prior to (and to be removed within three days following) the election to which the sign applies. If the parcel has more than 100 feet of frontage on a street, the owner may

install one large campaign sign per hundred feet of frontage and may substitute and install an election campaign banner for an allowed special sales event banner no more than two weeks prior to (and to be removed within three days following) the election to which the banner applies.

(c) All districts. Sixty (90) days prior to a general or primary election, a property owner may display one political sign (not to exceed eight square feet) for each candidate, referendum or initiative issue the property owner wishes to support. All such signs, except those relating to a candidate in a run-off election, shall be removed within 7 days of the general or primary election. All remaining political signs except the sign allowed in subsection (1) shall be removed within three (3) days of the run-off election.

(2) *Special sales event banner.* In Commercial zones, a commercial retail business may advertise a special sales event by installing a special sales event banner on its property at least 40' from the street right of way and no higher than 30' above street level for a total display time of no more than ten days, no more than one time a year.

(3) *Public event banners.* Nonprofit organizations and government entities may install public event banners under the following conditions:

(a) In order to notify or invite the public to attend a public festival or event sponsored by the nonprofit organization or government entity, this organization may install a public event banner on its property at least 20' from the street right of way or on the building's facade and no more than 30' above the street for a total display time of no more than fourteen days six times a year.

(J) *Signs located in buildings.* Any sign located within a building that is not visible to the public outside said building is exempt from all regulations in this chapter.

(K) *Signs on windows.* Signs painted on or affixed to glass surfaces of windows or doors and pertaining to the lawful business conducted therein are exempt from the permit requirement, but are considered a wall sign to determine allowable square footage. No signs affixed to a window and visible outside shall flash or fluctuate illumination.

(L) *Directional identification and informational signs.* Directional, identification, and informational signs; provided such signs shall be limited to wall and freestanding signs with a maximum of four (4) square feet of display surface area. Notwithstanding the restrictions on the location and number of freestanding signs prescribed by this chapter, one freestanding sign not exceeding four (4) square feet in display surface area shall be permitted at each entrance or exit on a lot or parcel to identify such entrance or exit and to encourage the use of motor vehicle seatbelts, subject to the following restrictions.

- (1) *Traffic hazard.* No such sign shall be erected which would create a traffic hazard.
- (2) *Seat belt sign.* Any words or symbols encouraging the use of seatbelts shall face the interior of the lot or parcel on which the sign is located and shall not face the street.
- (3) *Advertising.* No advertising or commercial logos may be incorporated into the sign.

(M) *Collection boxes.* Collection boxes for charitable or nonprofit organizations containing no commercial advertising and located on private property in any Commercial or Industrial zoning districts.

(N) *Subdivision signs.* In any district, one temporary subdivision identification sign indirectly illuminated, not to exceed 50 square feet in area per surface may be erected at any principal entrance to a subdivision, provided that in no event shall such sign remain for more than six (6) months within 50 feet of a dwelling in a R district occupied as a dwelling.

(O) *Fuel price informational signs.* In any district, signs advertising the price of motor vehicle fuel sold from a fuel pump located on the premises shall be permitted, subject to the following conditions:

- (1) *Price.* Only one fuel price informational sign shall be permitted per fuel pump.
- (2) *Size.* Fuel price informational signs shall be limited in size to an area of 216 square inches.
- (3) *Stationary.* Each fuel price informational sign shall be affixed directly and firmly to a fuel pump and shall be stationary.
- (4) *Other locations.* Nothing herein shall be construed as to prohibit the advertisement of fuel prices on any other sign meeting the requirements of this chapter.

(5) *Sign faces.* Only one two-faced, or two one-faced, self service/full service signs not exceeding four (4) square feet in display surface area shall be permitted at each pump island.

(P) *Fences and scoreboards in city parks.* Signs may be permitted on baseball/softball fences and scoreboards in city parks.

#### **9.04 Sign Identification**

Every sign or other advertising structure hereafter registered shall show the sign permit number in a conspicuous place thereon which is visible to the inspector and is readable by the inspector from the ground.

#### **9.05 Sign Removal**

In the event a business ceases operation for a period of time in excess of 60 days, the sign permit holder or the property owner shall immediately remove any sign identifying or advertising said business or any product sold thereby and any non-conforming sign supporting structure. A conforming sign supporting structure need not be removed unless a determination is made by the Building Official that the unoccupied sign structure is a traffic hazard or a substantial detriment to nearby businesses or residents such that the structure's removal is necessary to end a public nuisance.

#### **9.06 Noncommercial Signs**

Anywhere a commercial sign is permitted by this code, a noncommercial sign may be placed on or substituted for such sign.

#### **9.07 Placing Signs On Public And Private Property**

(A) *Placing signs on public property.*

(1) *Agencies of government.* No signs other than signs placed by agencies of government shall be erected on any public property; provided, directional signs may be erected upon the city's street name signposts, or upon traffic signposts under the following conditions:

- (a) *Public facility/ out-of-town patrons.* The signs direct the reader to the location of a public facility attended principally by out-of-town patrons, to a facility operated by a nonprofit entity and attended principally by out-of-town patrons, to a facility relating to the public health, safety, or welfare, or to scenic or historic trails;

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- (b) *Cost.* The entire cost of the signs is borne by the entity requesting the signs;
- (c) *Installation.* The signs are installed at locations where they would not constitute a traffic hazard.
- (d) *Traffic control devices.* The signs conform to the manual on uniform traffic-control devices; and
- (e) *Directional signals.* The maximum number of directional signs permitted under this section shall be seven (7) for each entity; provided, the limitation provided hereby shall not apply to signs directing the reader to scenic or historic trails.

(2) *Nonprofit organizations.* Nonprofit organizations shall be allowed to place temporary signs of a noncommercial nature on public property for the purpose of directing the general public to the location of an event or activity which promotes the general public welfare. The placement of such temporary signs shall be subject to the following conditions:

- (a) *Display surface area.* The maximum display surface area of each sign shall not exceed fifteen (15) square feet;
- (b) *Number of signs.* No more than three (3) signs directing the general public to such an event or activity shall be placed on public property at the same time by one such organization;
- (c) *Organization name.* Each such sign shall identify the nonprofit organization by name;
- (d) *Temporary sign.* No such temporary sign shall be placed on public property for more than five (5) successive days;
- (e) *Location/approval.* The location of each such sign shall be approved by the Building Official or designee to ensure that the signs will not constitute a traffic hazard;
- (f) *Permit/number of signs.* The organization applies for, and is issued, a sign permit; one permit may authorize installation of up to three (3) signs pursuant to the provisions of this division; and
- (g) *Temporary signs.* No such organization shall install, or be issued a permit to

install a temporary sign on public property pursuant to the provisions of this division more often than six (6) times within a 12-month period.

**9.08 Prohibited Signs**

- (A) *Spot lights and beacons.* It shall be unlawful for any person to continue in operation or erect any attraction device or sign which contains a beacon of any type and/or contains a spot light providing direct illumination to the public.
- (B) *Fluctuating illumination.* It shall be unlawful for any person to erect additional attraction devices or signs or to continue in operation an attraction device or sign which flashes, blinks, or is animated. Illumination of attraction devices or signs located in the city that fluctuates in light intensity shall be prohibited. Electronic message boards using flashing, intermittent or moving light or lights are prohibited, provided, however, that electronic message boards displaying only time and/or temperature for periods of not less than 30 seconds are permitted. Electronic message boards may change their message every three hours without violating the prohibition of flashing or blinking.
- (C) *Portable swinger or temporary attraction sign boards.* It shall be unlawful for any person to continue to display or erect any portable swinger, "A" frame, sandwich, or temporary attraction sign board in the city, except under the following conditions:
  - (1) One (1) freestanding, "A" frame sandwich / menu board for a single permitted eating establishment may be permitted on a commercially zoned lot or on the adjacent private sidewalk in front of the respective business for the duration of the business' hours of operation. The temporary sign shall be removed and placed inside after business hours.
  - (2) The sign shall be placed such that the sidewalk remains ADA compliant.
  - (3) The permitted sign shall only advertise for the adjacent eating establishment, and is to be utilized for display of menu items or advertised specials. The sign may not be utilized for product placement or to advertise for other commercial or business establishments.
  - (4) The size of the sign shall be limited to 36" tall by 24" wide.
  - (5) No sign may be displayed or erected that swinges, rotates, flashes, fluctuates, or is

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illuminated, or in any other manner that would violate the provisions of this chapter.

- (D) *Revolving, rotating, or moving signs.* It shall be unlawful for any person to erect or to continue using any sign on the exterior of which revolves, rotates or otherwise moves, in whole or part.
- (E) *Signs that constitute a traffic hazard.* No sign or other advertising structure as regulated by this chapter shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the wording, position, shape, or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device.
- (F) *Use of vehicle as sign.* It shall be unlawful to use a vehicle or a trailer as a sign in circumvention of this chapter.
- (G) *Off-Site Signs.* It shall be unlawful to erect any off-site sign.
- (H) *Roof Signs.* Roof signs shall not be permitted.
- (I) *Placing signs on private property.* No signs shall be placed on any private property without the consent of the owner thereof.
- (J) *Placing signs on trees.* No signs shall be placed or painted on any tree within the city's right-of-way or property.
- (K) *Placing signs on utility poles.* No signs shall be placed on any utility pole except for utility identification or similar purposes.

**9.09 Sign Illumination**

Direct illumination by incandescent light bulbs shall be restricted to light bulbs rated at 150 watts or less.

**9.10 On-Site Freestanding Signs**

On-Site Freestanding signs shall be permitted to be erected in the city subject to the following:

Only one (1) freestanding sign shall be permitted on a lot, except where otherwise described herein. It shall be unlawful to erect any off-site freestanding sign or any freestanding sign that does not meet the sign type, size, display surface area, setback, height, or illumination as described herein.

- (A) *Pole Signs.* The following regulations pertain to signs identified as "pole signs". It shall be unlawful to erect any pole sign which total height is greater than 17.5 feet, unless further limited herein, above the level of the street upon which the sign faces; provided the pole supported sign may be increased in height one-half (1/2) foot for every foot of additional setback beyond the required 15 feet from the right-of-way with a

maximum height of 30 feet. On-Site pole signs shall be permitted to be erected in the city subject to the following:

- (1) *R-A District.*
  - (a) *Number of signs.* Only one (1) pole sign shall be permitted at an agricultural or permitted business located on one (1) or more adjoining lots.
  - (b) *Display surface area.* The maximum display surface area shall not exceed 16 square feet.
  - (c) *Illumination.* Sign may be illuminated by indirect illumination only.
  - (d) *Setback from right-of-way.* Sign shall be setback 35 feet from street right-of-way and 25 feet from any R or R-O District.
- (2) *RSF Districts.* Except pursuant to §9.03, pole signs shall be prohibited and no pole signs shall be erected in RSF Districts of the City.
- (3) *RMF, R-O, P and MU Districts.*
  - (a) *Number of signs.* Only one (1) on-site freestanding sign shall be permitted on a lot or at a business operating on two or more adjoining lots.
  - (b) *Display surface area.* The maximum display surface area shall not exceed four (4) square feet;
  - (c) *Setback from right-of-way.* The sign shall be setback a minimum of 15 feet from street right-of-way.
  - (d) *Setback from adjoining property.* The sign shall be setback a minimum of 25 feet from the boundary of any RSF District and 15 feet from all other zoning districts.
  - (e) *Height.* The height of the sign shall not be greater than six (6) feet above the level of the street upon which the sign faces.
  - (f) *Illumination.* The sign shall be illuminated by indirect illumination only.
- (4) *C, and I Districts.*

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- (a) *Number of signs.* Only one (1) pole sign shall be permitted on a lot, at a shopping center, or at a mall; provided only one on-site pole sign shall be permitted for any business operating on two or more adjoining lots.
  - (b) *Display surface area and setback from right-of-way.* The display surface area shall not exceed 10 square feet and shall be setback 15 feet or more from the right-of-way; provided, the display surface area may be increased two (2) square feet for each one (1) foot of additional setback from the right-of-way beyond 15 feet; provided further, the maximum display surface area for a sign which is setback from the street right-of-way 40 feet or more shall be 75 square feet.
  - (c) *Setback from adjoining property.* Setback shall be a minimum of 25 feet from the boundary of any adjoining property.
- (B) *Monument sign.* The following regulations pertain to signs identified as "monument signs", which are freestanding signs whose entire base is in contact with and supported by the ground.
- (1) *Number of signs.* Where a monument sign is permitted, only one (1) sign shall be erected on a lot or at a business operating on two (2) or more adjoining lots.
  - (2) *Display surface area.*
    - (a) *RSF Districts. Prohibited on individual lots.*
    - (b) *MU and RMF Districts.* The display surface area shall not exceed 16 square feet.
    - (c) *R-A and P Districts.* The display surface area shall not exceed 32 square feet.
    - (d) *R-O Districts.* The display surface area shall not exceed 50 square feet.
    - (e) *C, and I Districts.* The display surface area shall not exceed 75 square feet.
  - (3) *Setback from right-of-way.* The sign shall be setback a minimum of 10 feet from the right-of-way.
  - (4) *Setback from adjoining property lines.* The sign shall be setback a minimum of 25 feet from the boundary of any RSF district and 15 feet from all other zoning districts.
  - (5) *Height.* The maximum height of a sign shall be six (6) feet from the surrounding grade.
- (C) *Joint identification sign.* The following regulations pertain to signs identified as joint identification signs:
- Joint identification signs must provide area for the display of a minimum of two (2) person(s) or business(s) and may be located at no more than two (2) remote entrance locations, as approved by the Building Official. The permit applicant shall provide a recorded legal document as approved by the Building Official indicating ownership and responsibility for maintenance of sign and subject to the following:
- (1) *R-A, RSF, RMF, P, and MU Districts.* Prohibited.
  - (2) *R-O District.* Monument joint identification sign permitted only.
    - (a) *Display surface area.* Display surface area shall not exceed 50 square feet.
    - (b) *Setback from right-of-way.* Signs shall be setback a minimum of 10 feet from the right-of-way.
    - (c) *Setback from adjoining property.* Setback shall be a minimum of 10 feet from adjoining non-residential property and 25 feet from adjoining residential property.
    - (d) *Height.* The maximum height of a sign shall be six (6) feet from the surrounding grade.
  - (3) *C, and I Districts.*
    - (a) *Monument.* The following regulations apply to a monument joint identification sign, whose entire base is in contact with and supported by the ground:
      - (i) *Multi-tenant building containing 37,500 square feet or less of leasable tenant space:*
        - a. *Display surface area and setback from right-of-way.* Display surface area shall not exceed 75 square feet and the sign shall be setback 10 feet or more from the right-of-way.
        - b. *Height.* The maximum height of a sign shall be six (6) feet above the level of the surrounding grade.

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- (ii) Multi-tenant building containing more than 37,500 square feet:
  - a. *Display surface area.* Display surface area shall not exceed 75 square feet; provided the display surface area of a joint identification signs may be increased one additional square foot per 500 square feet of gross leaseable building area over 37,500 square feet, as approved by the Building Official. Total display surface area shall not exceed 300 square feet.
  - b. *Height and setback from right-of-way.* The maximum height of the sign shall be six (6) feet above the level of the surrounding grade when setback 10 feet or more from the right-of-way; provided, the maximum height of the sign may increase to 10 feet above the surrounding grade when setback 20 feet or more from the right-of-way.
  - c. *Setback from adjoining property.* Signs shall be setback a minimum of 25 feet from the boundary of any adjoining property.
- (b) *Pole.* The following regulations apply to pole-mounted joint identification signs:
  - (i) *Display surface area and setback from right-of-way.* The display surface area shall not exceed 10 square feet and shall be setback 15 feet or more from the right-of-way; provided, the display surface area may be increased two (2) square feet for each one (1) foot of additional setback from the right-of-way beyond 15 feet; provided further, the maximum display surface area for a sign which is setback from the street right-of-way 40 feet or more shall be 75 square feet.
    - a. *Exception.* Display surface area shall not exceed 75 square feet, provided the display surface area of joint identification signs may be increased one additional square foot per 500 square feet of gross leaseable building area over 37,500 square feet, as approved by the Building Official. Total display surface area shall not exceed 300 square feet.
  - (ii) *Setback from adjoining property.* Signs shall be setback a minimum of 25 feet from the boundary of any adjoining property.
  - (iii) *Height.* The height of a sign shall be a maximum of 17.5 feet, provided the pole-mounted sign may be increased in height one-half (1/2) foot for every foot of additional setback beyond the required 15 feet from the right-of-way with a maximum height of 30 feet.
- (D) *Area signs.* The location of the fence, wall, or other structure which will contain the area identification sign must be approved by the Building Official, which will approve such structure upon the criterion of traffic safety sight lines. Area signs shall not be located within the Master Street Plan right-of-way.
  - (1) *R-A, RSF, MU, P, and R-O Districts.*
    - (a) *Number of signs.* Areas with one entrance may not have more than one sign. Areas with more than one entrance may not have a sign at more than two locations.
    - (b) *Display surface area.* An area sign with display on one side located on each side of an entrance street may be substituted for a single sign with display on both sides. The display surface area shall not exceed 32 square feet.
  - (2) *C, and I Districts.*
    - (a) *Number of signs.* Areas with one entrance may not have more than one sign. Areas with more than one entrance may not have a sign at more than two locations.
    - (b) *Display surface area.* An area sign with display on one side located on each side of an entrance street may be substituted for a single sign with display on both sides. The display surface area shall not exceed 75 square feet.

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(E) *Bulletin Boards.* The following regulations pertain to signs identified as “bulletin boards”, which are erected for the purposes of announcing events which are held on the premises:

- (1) *RSF Districts.* Where a conditional use permit has been approved for a charitable, educational, or religious institution or a public body within these districts, the following limitations shall apply:
  - (a) *Number of signs.* Only one on-site bulletin board shall be permitted on a lot or for a use operating on two or more adjoining lots.
  - (b) *Display surface area.* Monument sign only, with a display surface area not to exceed 16 square feet.
  - (c) *Setback from right-of-way.* The bulletin board shall be setback a minimum of 10 feet from the street right-of-way.
  - (d) *Setback from adjoining properties.* The sign shall be setback a minimum of 25 feet from the boundary of any RSF district and 15 feet from all other zoning districts.
  - (e) *Height.* The height of the bulletin board shall not be greater than six (6) feet above the level of the street upon which the sign faces.
  - (f) *Illumination.* Electronic message boards shall be prohibited.

**9.11 Projecting Signs**

- (A) *Sidewalks.* It shall be unlawful to erect any projecting sign that projects from the wall of a building upon which it is erected a distance of more than two-thirds of the width of the sidewalk (in those instances where there is a sidewalk next to the building) or within two feet of street right-of-way (in those instances where there is no sidewalk next to the building); provided, no projecting sign shall project more than six (6) feet from the wall of the building upon which it is erected.
- (B) *Location.* Projecting signs shall be located on the vertical surface of a building and shall not be higher than the eave or rafter line, whichever is higher. Projecting signs shall clear the sidewalk grade level below the sign by a minimum of eight (8) feet.
- (C) *Display surface area.* The display surface area of a projecting sign shall not exceed 16 square feet. Only one (1) projecting sign per business shall be permitted and a projecting sign shall not

be permitted on property which has a freestanding sign.

- (D) *Off-site.* Off-site projecting signs shall be prohibited in all zoning districts.
- (E) On-site projecting signs shall be prohibited in the R-A, RSF, and RMF zoning districts.

**9.12 Wall Signs**

Wall signs shall not project more than 18 inches from the surface upon which they are mounted. The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground. The allowable display surface area of a wall sign is determined by the wall on which it is located.

- (A) *MU and RSF Districts.* Where a conditional use permit has been approved for a nonresidential use within these zoning districts, the following limitations shall apply:
  - (1) *Number of signs.* Limit of one (1) on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street. In no case shall a business have more than one wall sign on any one wall.
  - (2) *Display surface area.* Display surfaces of each sign shall not exceed 8 square feet.
  - (3) *Illumination.* The color of the sign shall be compatible with the colors of the structure, and only indirect external lighting is permitted.
  - (4) *Exceptions:*
    - (a) *Home Occupations.* Signage for a home occupation in an RSF districts shall be prohibited except where it is required by the applicable licensing board, subject to proof of said requirement.
- (B) *RMF Districts.*
  - (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street. In no case shall a business have more than one wall sign on any wall.
  - (2) *Display surface area.* Display surfaces of each sign shall not exceed 16 square feet.
- (C) *R-A, R-O, and P Districts.*

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- (1) *Number of signs.* Limit of two on-site wall signs per business per building. In no case shall a business have more than one wall sign on any wall.
- (2) *Display surface area.* The display surface area of a sign shall not exceed 16 square feet where the wall adjoins a residential land use, or 50 square feet where the wall adjoins a nonresidential land use, or street right-of-way.

(D) *C, and I Districts.*

- (1) *Number of signs.*
  - (a) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.
  - (b) *Multiple tenants.* Where a building houses more than one business, each business shall be entitled to a maximum of one wall sign per business on each wall of the building, with a maximum of four (4) total wall signs per business per building. In no case shall a business have more than one wall sign on any wall.
- (2) *Display surface area.*
  - (a) *Single tenant.* The display surface area shall not exceed 20% of the first 1000 square feet of wall area and 5% of any additional wall area.
  - (b) *Multiple tenants.* Where a building houses more than one business, the display surface area of each tenant's allowable wall sign(s) shall not exceed 150 square feet. Furthermore, the display surface area for all wall signs on any one wall may not exceed 20% of that total wall area.

(E) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.



## CHAPTER 10: GRADING

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## CHAPTER 10: GRADING

### 10.01 Intent

- (A) It is the city's intent to safeguard the health, safety, and welfare of Elm Springs citizens by implementing standards and procedures for the physical alteration of land. It is not the city's intent to supersede federal or state regulations such as, but not limited to, the Occupational Health & Safety Act.
- (B) The purpose of this chapter is to control grading, clearing, filling, and cutting (or similar activities) which alone or in combination cause landslides, flooding, degradation of water quality, erosion and sedimentation in storm sewer systems and water storage basins. It is also the intent of this chapter that through the implementation of the guidelines and regulations contained herein, the existing scenic character and quality of the neighborhood and city as a whole not be diminished.

### 10.02 General Requirements

- (A) *Protection.* Persons engaged in land alteration activities regulated by this chapter shall take measures to protect public and private properties from damage by such activities.
- (B) *Site conditions.* Development shall generally conform to the natural contours of the land, natural drainage ways, and other existing site conditions.
- (C) *Adjacent properties.* All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such development. More specifically, new development may not unreasonably impede water runoff from higher properties nor may it unreasonably channel water onto lower properties.
- (D) *Restoration.* Land shall be revegetated and restored as close as practically possible to its original conditions so far as to minimize runoff and erosion are concerned.

### 10.03 Permits Required/Exceptions

- (A) *Permit required.* No grading, filling, excavation, or land alteration of any kind shall take place without first obtaining:
- (1) A grading permit pursuant to this chapter except as specified in §10.03(B);
  - (2) An Arkansas Department of Environmental Quality Stormwater Construction Permit and

incorporated Stormwater Pollution Prevention Plan, if required by state law.

- (B) *Exceptions where no grading permit is required.* Grading permits are not required for the following:
- (1) *Excavation below finish grade.* Excavations below finished grade for basements, swimming pools, hot tubs, septic systems, retaining walls under 4 feet in height, and like structures authorized by a valid building permit.
  - (2) *Cemetery graves.* Cemetery graves.
  - (3) *Refuse disposal.* Refuse disposal sites controlled by other regulations.
  - (4) *Single-family/duplex.* Construction of one single-family residence, or duplex not located within the 100 year flood plain.
  - (5) *Building additions.* Building additions of less than 2,000 square feet where associated land alteration activities are not beyond the scope of what is necessary to construct said addition and are not located within the 100 year flood plain.
- (C) *Grading permit application and approval.* No grading permit shall be issued until the grading plan, endorsed by a registered architect, landscape architect, or engineer, is approved by the City. A separate permit shall be required for each site; it may cover both excavations and fills. Grading permits may be issued jointly for parcels of land that are contiguous, so long as erosion control measures are in place until project completion. Any application for a required grading permit under this chapter shall be submitted concurrently with the calculations for drainage such is required by §12.03.
- (D) *Permit posted.* A copy of the grading permit shall be posted at or near the street right-of-way line and shall be clearly visible from the street.

### 10.04 Minimal Erosion Control Requirements

If exempt under 10.03, a grading permit is not required. However, exempt as well as non-exempt activities shall be subject to the following minimal erosion and sedimentation control measures.

- (A) *Natural vegetation.* The potential for soil loss shall be minimized by retaining natural vegetation wherever possible.

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(B) *Stabilization.* A record of the dates when grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated shall be included in the erosion and sediment control plan. Except as provided in (1) and (2) below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.

(1) Where the initiation of stabilization measures by the 14<sup>th</sup> day after construction activity temporarily or permanently ceases is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

(2) Where construction activity will resume on a portion of the site within 21 days from when activities ceased, (e.g. the total time period that construction activity is temporarily ceased is less than 21 days) then stabilization measures do not have to be initiated on that portion of the site by the 14<sup>th</sup> day after construction activity temporarily ceased.

(3) Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, and preservation of mature vegetation and other appropriate measures.

(C) *Intermittent/perennial streams.* No intermittent or perennial stream, including a 25 foot perimeter strip measured from the top of the bank, shall be graded, developed, channeled, or physically altered unless adequate guarantees are made for erosion and sedimentation control both during construction and post construction. Likewise, cuts or fills shall be setback sufficiently from intermittent and perennial streams and other stormwater drainage systems to guarantee that there will be no damage from erosion or sedimentation. Final erosion and sedimentation control measures shall be approved by the City.

(D) *Excavation material.* Excavation material shall not be deposited in or so near streams and other stormwater drainage systems where it may be washed downstream by high water or runoff. All excavation material shall be stabilized immediately with erosion control measures.

(E) *Fording streams.* Fording of streams with construction equipment or other activities which destabilize stream banks shall not be permitted.

(F) *Debris, mud, and soil in public streets.* Debris, mud and soil shall not be allowed on public streets but if any debris, mud, or soil from development sites reaches the public street it shall be immediately removed via sweeping or other methods of physical removal. Debris, mud, or soil in the street may not be washed off the street or washed into the storm drainage system. Storm drainage systems downstream of a development site should be protected from debris, mud, or soil in the event that debris, mud, or soil reaches the drainage system.

### 10.05 One-Time Approvals

(A) *Stockpiling materials.* One-time approval may be obtained by public or private entities for the stockpiling of fill material, rock, sand, gravel, aggregate, or clay at particular locations, subject to Zoning, Chapters 1 through 6.

### 10.06 Land Alteration Requirements

(A) *Grading plan evaluation.* Grading and drainage plans shall be evaluated by the City for conformance with the minimal erosion control requirements of §10.04 and the following requirements.

(B) *Requirements varied.* Variances of this chapter's requirements may be approved by the City. The extent to which variations may be made will depend on the soil types encountered, planned slopes, planned vegetation, and investigative engineering reports. In no case shall the City waive or modify any of the minimum erosion control requirements as given in §10.04.

(C) *Cut or fill slopes.*

(1) *Finish grade.* Cut or fill slopes shall have a finish grade no steeper than 33% (3.00 horizontal to 1 vertical), unless otherwise approved by the City.

(2) *Maximum length.* The maximum length of any cut or fill slope without a terrace (as described in 10.06 (D) below) shall be 100 feet as measured along the ground. The terrace shall be at least six feet (6') wide.

(3) *Existing topography.* Cut or fill slopes shall be constructed to eliminate sharp angles of intersection with the existing terrain and shall be rounded and contoured to blend with the existing topography.

(4) *Setback requirements.* The following setback requirements shall be reviewed by the City for purposes of assessing safety,

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stability, and drainage problems: (See illustrations).

are not needed to protect property, utilities, or the integrity of property lines.

(a) *Setback from top or toe of cut or fill.* Buildings shall be setback from the top or toe of a cut or fill in accordance with Zoning, Chapters 1 through 6; or the approved grading and drainage plan, whichever is greatest.

(b) *Setbacks from property lines.* The required setback of retaining walls, cut slopes, and fill slopes from property lines shall be as given in the illustrations. Property lines may be filled over or cut if a grading plan for the cut or fill is submitted jointly by the owner of both properties or with written permission from the adjacent property owner and if no utility easements are involved. If utility easements are involved, approval is required as given in (c) below in addition to the joint submittal requirement.

(c) *Setbacks from the edge of an easement.* The required setback of retaining wall, cut slopes, and fill slopes from the edge of easements shall be as given in the illustrations. Where no utilities are present in an easement, or where utilities are planned to be relocated, and where such action is approved by all utilities, in writing, then easements may fall within a cut or fill section.

(d) *Setbacks from structures.* The required setback of retaining walls, cut slopes, and fill slopes from structures shall be as given in the illustrations. If a structure forms an integral part of the retaining wall, then the setbacks do not apply to that structure.

(e) *Calculating setbacks.* For the purpose of calculating setbacks, any cut or fill section which is on a slope of one to one or greater shall be considered a retaining wall.

(f) *Administrative variance.* Setbacks from easement lines and structures may be varied administratively by the City if geotechnical and/or structural information is provided that in the opinion of the City justifies the variance.

(g) *Additional information required.* The City may require further geotechnical and/or structural information to show that setbacks greater than those given

(D) *Cuts.*

(1) *Vertical height.* Cuts shall be limited to 10 feet in vertical height unless information demonstrating slope stability, erosion control, and drainage control is provided together with a re-vegetation plan. For nonsolid rock cuts, terraces shall be required for cuts greater than 10 feet in height. It is recommended that terracing be at a maximum ratio of one foot of horizontal terrace for every foot of vertical surface.

(2) *Maximum vertical cut.* In solid rock, as determined by geotechnical and engineering data approved by the City, the maximum vertical cut shall be 30 feet.

(3) *Fill material.* In no case shall a cut be allowed primarily for the purpose of obtaining fill material to a different site.

(E) *Fills.*

(1) *Rocks/fill.* All imported fill shall be free of rocks greater than 12 inches in diameter and any detrimental organic material or refuse debris.

(2) *Compaction.* Fill shall be placed and compacted as to minimize sliding or erosion of soil. Fill compaction shall equal the compaction of undisturbed, adjacent soil, except fills covered by Building Regulations, , or other structural fills. The City may require soil tests during compaction work or upon its completion at the expense of the permittee.

(3) *Grade.* Fill shall not be placed on existing slope with a grade steeper than 15% (6.67 horizontal to 1 vertical) unless keyed into steps in the existing grade and thoroughly stabilized by mechanical compaction.

(4) *Vertical height.* Fills shall be limited to 10 feet in vertical height unless information demonstrating slope stability, erosion control, and drainage control is provided together with a re-vegetation plan.

(5) *Terraces.* Terraces shall be required for fills greater than 10 feet in height. It is recommended that terracing be at a maximum ratio of one foot of horizontal terrace for every foot of vertical surface.

(F) *Erosion and sedimentation control.*

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(1) *Permanent improvements.* Permanent improvements such as streets, storm sewers, curb and gutters, and other features for control of runoff shall be scheduled coincidental to removing vegetative cover from the area so that large areas are not left exposed beyond the capacity of temporary control measures.

(2) *Phased Construction.* The area of disturbance onsite at any one time shall be limited to 20 acres. An additional 20 acres (a maximum of 40 acres of disturbance at any one time) may be stripped with the permission of the City in order to balance cut and fill onsite. No additional area may be open without the permission of the City until the previously disturbed areas have been temporarily or permanently stabilized.

(3) *Stockpiling of top soil.* Top soil shall be stockpiled and protected for later use on areas requiring landscaping. All storage piles of soil, dirt or other building materials (e.g. sand) shall be located more than 25 feet from a roadway, drainage channel or stream (from top of bank), wetland, and stormwater facility. The City may also require top soil stockpiles to be located up to fifty (50) feet from a drainage channel or stream, as measured from the top of the bank to the stockpile, for established TMDL water bodies; streams listed on the State 303(d) list; an Extraordinary Resource Water, Ecologically Sensitive Waterbody, and/or Natural and Scenic Waterbody, as defined by Arkansas Pollution Control and Ecology Commission Regulation No. 2; and/or any other uses at the discretion of the City.

Topsoil piles surfaces must be immediately stabilized with appropriate stabilization measures. Stabilization practices may include: temporary seeding (i.e. annual rye or other suitable grass), mulching, and other appropriate measures. Sediment control measures such as silt fence shall be provided immediately for stockpiles and remain in place until other stabilization is in place. Storm drain inlets must be protected from potential sedimentation from storage piles by silt fence or other appropriate barriers.

(4) *Existing vegetation.* Every means shall be taken to conserve and protect existing vegetation.

(5) *Re-vegetation.* Re-vegetation shall be required to meet the following performance standards (sediment controls shall remain in

place until re-vegetation is established) unless otherwise allowed by the City:

(a) *Topsoil.* A minimum of 4 inches of topsoil shall be required to be either existing or installed in areas to be re-vegetated. Any application of topsoil and seeding under the drip line of a tree should be minimized to 3 inches so as not to damage the trees root system.

(b) *Zero to 10% grade:* Re-vegetation shall be a minimum of seeding and mulching. Said seeding shall provide complete and uniform coverage that minimizes erosion and runoff in no more than two growing seasons.

(c) *10:1 up to 4:1 grade:* Re-vegetation shall be a minimum of hydro-seeding with mulch and fertilizer, sod, or groundcover. Said planting shall provide complete and uniform coverage in no more than two growing seasons.

(d) *4:1 to 3:1 grade:* The slope shall be covered with landscape fabric and hydro-seeded with mulch and fertilizer, or staked sod, or groundcover. Said planting shall provide complete and uniform coverage in no more than two growing seasons.

(e) *More than 3:1 grade:* Any finish grade over 3:1 shall be stabilized with one or more of the following:

- 1) Retaining walls;
- 2) Cribbing with landscape fabric;
- 3) Terracing with groundcover;
- 4) Riprap;
- 5) Staked Sod (up to 2:1 slope)

If Cribbing, Terracing, or Riprap is used, the slope's stability and erodibility must be equivalent to or better than its predevelopment state.

(6) *Permanent erosion control.* The developer shall incorporate permanent erosion control features at the earliest practical time. Temporary erosion control measures will be used to correct conditions that develop during construction that were unforeseen during the design stage, that are needed prior to installation of permanent erosion control features, or that are needed temporarily to control erosion that develops during normal construction projects, but are not associated with permanent control features on the project.

(G) *Required retaining wall and rock cut design.*

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- (1) *Design/inspection.* Any retaining wall more than four feet in height shall be designed by a registered professional engineer, and shall be field inspected by the design engineer. The design engineer shall provide proof of inspection and certify that the wall was constructed in conformance with the design. The City may require retaining walls less than four feet in height to be designed by a professional engineer.
- (2) *Investigation/report.* All proposed rock cuts and any cut or fill 10 feet or greater will require a geotechnical investigation and a formal report submitted by a registered professional engineer qualified to make such investigations.
- (3) *Safety railings.* Safety railings may be required on any retaining wall 2.5 feet or higher. The decision as to whether to require safety railing shall be based on potential pedestrian and public access to the retaining wall and applicable building codes. This requirement for safety rails shall also apply to vertical or near vertical rock cuts and to steep (greater than 3:1) cut or fill slopes.

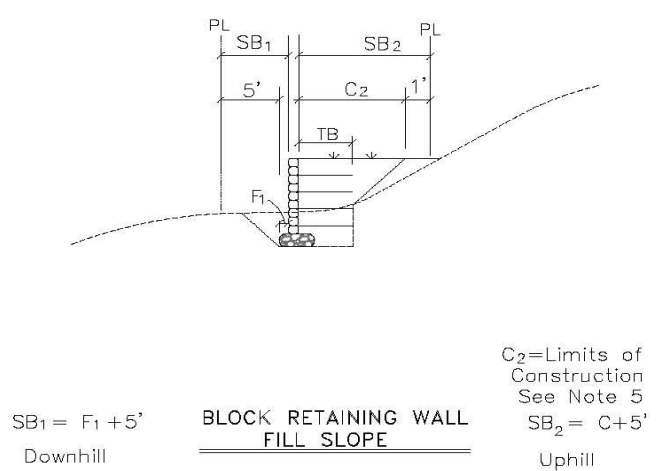
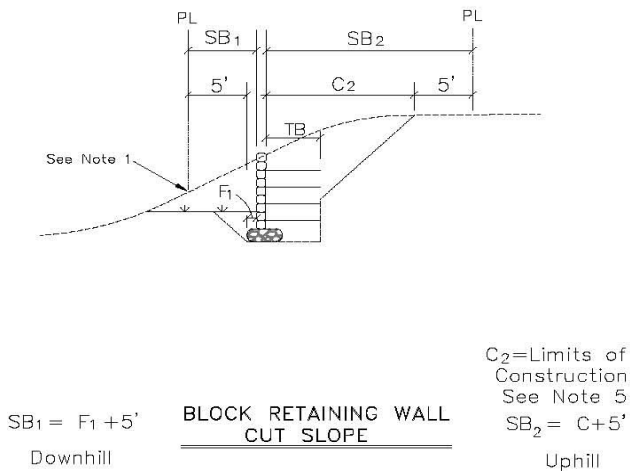
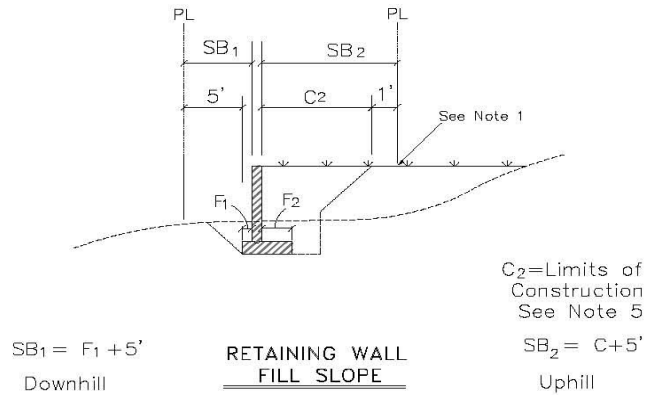
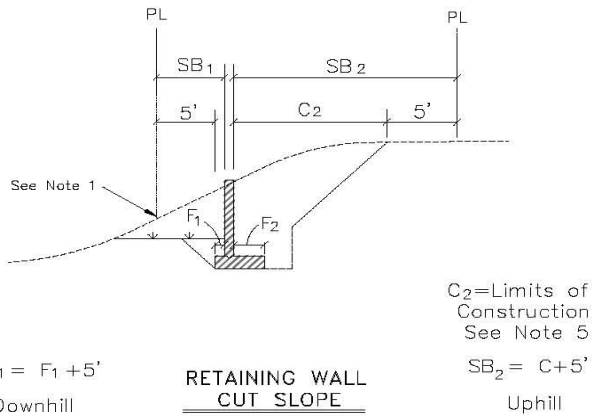
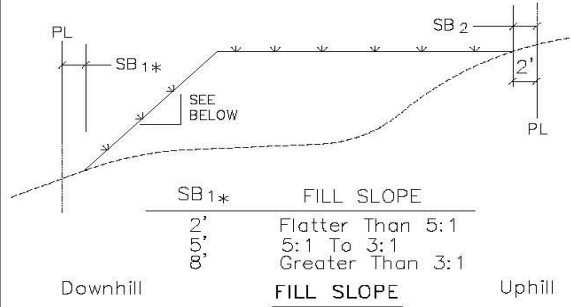
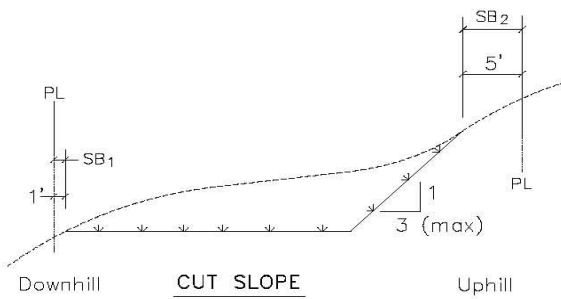
CITY OF ELM SPRINGS ZONING ORDINANCE

**LEGEND**

-----	EXISTING GROUND
PL	PROPERTY OR EASEMENT LINE
***	PROPOSED GROUND
---	CONSTRUCTION LIMITS
SB1	MINIMUM SETBACK FROM PROPERTY LINE DOWNHILL
SB2	MINIMUM SETBACK FROM PROPERTY LINE UPHILL
TB	TIE BACK
S	SLOPE
F1	FOUNDATION DOWNHILL
F2	FOUNDATION UPHILL
C1	LIMITS OF CONSTRUCTION-DOWNHILL
C2	LIMITS OF CONSTRUCTION-UPHILL

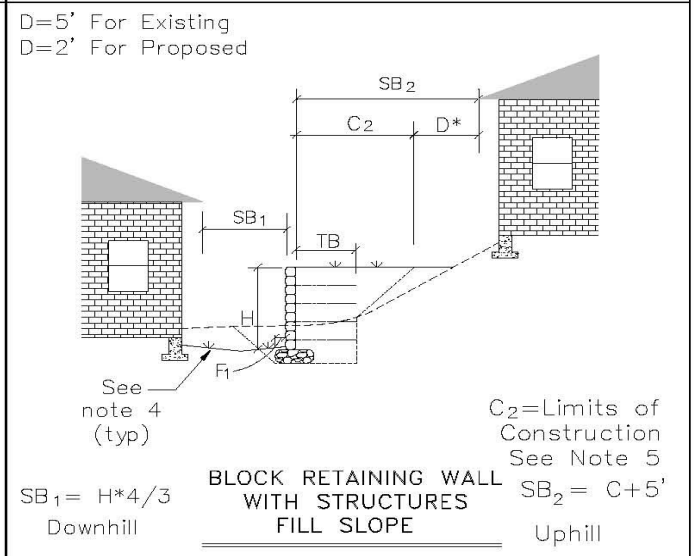
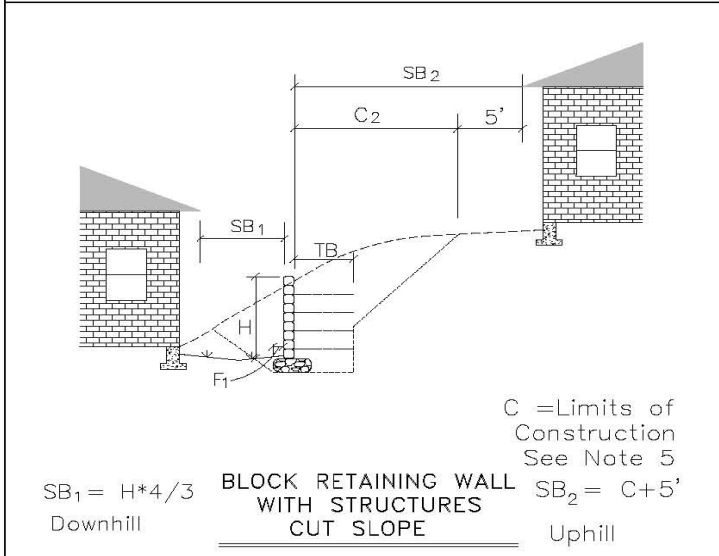
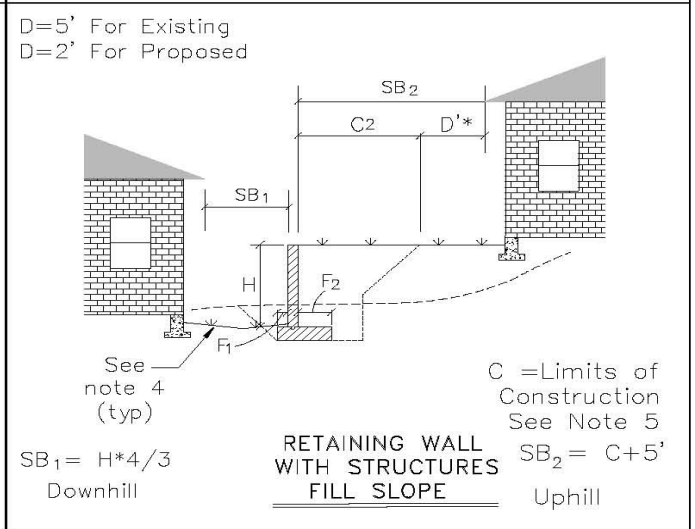
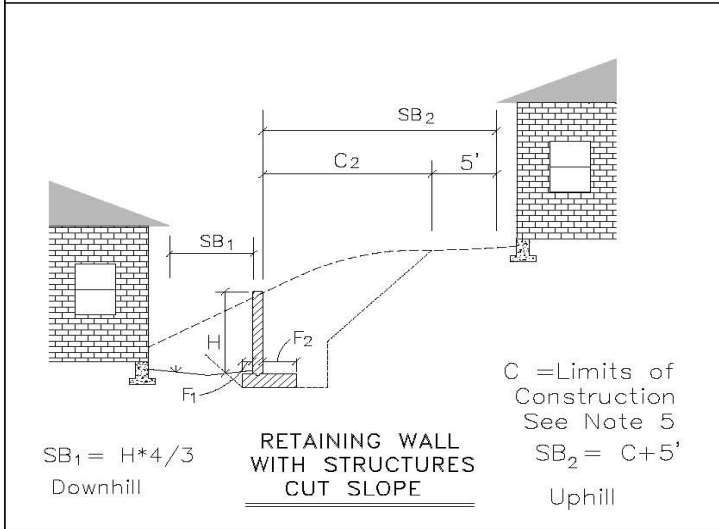
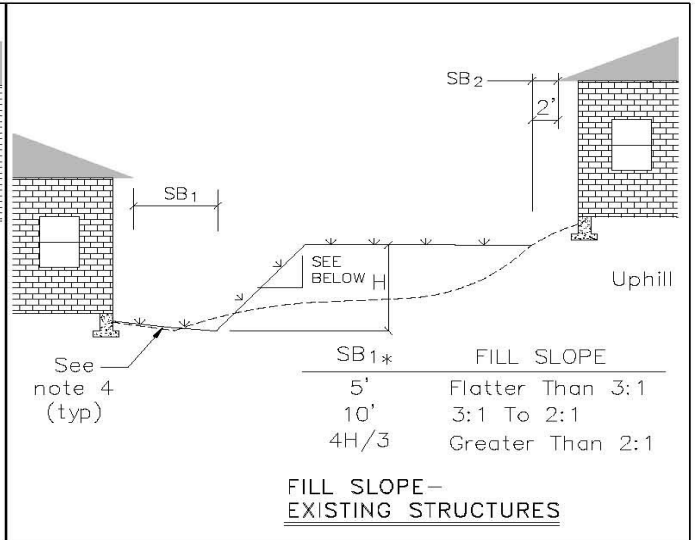
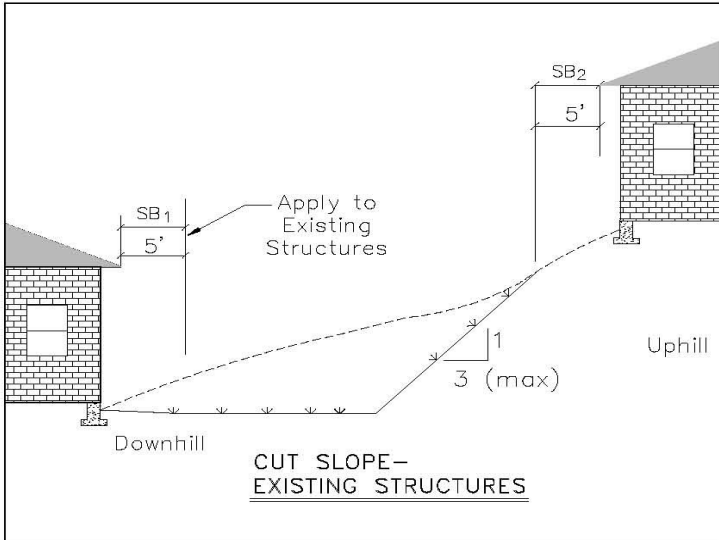
**NOTES**

1. WRITTEN PERMISSION FROM ADJACENT PROPERTY OWNER IS REQUIRED TO FILL OR EXCAVATE OVER EXISTING PROPERTY LINES.
2. CONSTRUCTION LIMITS INDICATED ARE FOR INITIAL CONSTRUCTION; RECONSTRUCTION; OR MAINTENANCE OF THE STRUCTURE IN THE FUTURE.
3. REVIEW ZONING & BUILDING SETBACK REQUIREMENTS, DEFER TO WHICHEVER MAY BE GREATER.
4. MINIMUM SLOPE AND DISTANCE FROM THE STRUCTURE PER STATE BUILDING CODE MUST NOT BE VIOLATED.
5. REFER TO THE OSHA TECHNICAL MANUAL SECTION 5 CHAPTER 2 FOR SOIL TYPES AND SLOPE EXCAVATION TO DETERMINE THE LIMITS OF CONSTRUCTION.





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**10.07 Grading and Drainage Plan Specifications**

(A) *Grading plan.* The applicant shall prepare a grading and drainage plan as follows:

- (1) *Site plan.* Site plan at a scale no smaller than one inch equals 50 feet, showing property lines; vicinity map; name of owner, developer and adjacent property owners.
- (2) *Existing grades.* Existing grades shall be shown with dashed line contours and proposed grades with solid line contours. Grading and Drainage plans shall be required to show both the proposed grade and the undisturbed area. Contour intervals shall be a maximum of two feet. Spot elevations shall be indicated.
- (3) *Designation of grade.* Areas with 0 to 10%, 10 to 15%, 15 to 20% and more than 20% grade shall each be identified in a distinguishing manner.
- (4) *Identify land to be disturbed.* Land areas to be disturbed shall be clearly identified.
- (5) *Engineer/architect.* Seal of a registered engineer, architect, or landscape architect certifying that the plan complies with this chapter.
- (6) *Cuts and fills.* All cuts and fills, including height and slope, shall be clearly shown on the plan.
- (7) *Streets and rights-of-way.* Location and names of all existing or platted streets or rights-of-way within or adjacent to tract and location of all utilities and easements within or adjacent to the property shall all be indicated.
- (8) *Lot/building, etc. identification.* The proposed location of lots, buildings, streets, parking lots and parks, playgrounds or green space shall be indicated. Also to be indicated is any existing or proposed building within 100 feet of the site.
- (9) *Soil type.* Soil types shall be identified according to the Unified Soil Classification System.
- (10) *Natural features.* Location of natural features such as drainage ways, ponds, rock outcroppings, and tree cover. Indication of 100 year floodplains as defined by FEMA.

- (11) *Streets and drainage ways.* Profiles and cross sections for proposed streets and drainage ways.
- (12) *Acreage/zoning.* Total acreage and zoning classification.
- (13) *Surface water.* Provisions for collecting and discharging surface water.
- (14) *Underground utilities.* Profiles and cross sections of streets, drainage systems, and underground utilities, if they are necessary to clarify the grading plan in terms of potential erosion or runoff, or if the grading on site has the potential of disturbing the utility line.
- (15) *Treatment of slopes and benches.* The method of treatment for all slopes and benches shall be indicated.
- (16) *Natural vegetation preservation.* Proposals for preserving natural vegetation and description of re-vegetation or other permanent erosion control strategy.
- (17) *Runoff/sedimentation.* Specification of measures to control runoff and sedimentation during construction indicating what will be used such as straw bales, silt dams, brush check dams, lateral hillside ditches, catch basins, and the like.

**10.08 Grading Plan Submittal**

- (A) *Preliminary grading plan.* A preliminary grading plan shall be submitted at the time of preliminary plat submission for subdivisions or plat submission for large scale development, whichever is applicable.
- (B) *Final grading plan.* No subdivision may be finalized, nor large scale development plat approved before a final grading plan has been submitted to the City and approved.
- (C) A copy of the Stormwater Pollution Prevention Plan (SWPPP) is required to be submitted with the grading plan for sites one acre or larger.

**10.09 Approval**

Approval of a grading and drainage plan is contingent on meeting all the requirements of this ordinance plus any set of varied requirements approved by the Planning Commission.

**10.10 Discovery Of Historic Resources**

Whenever, during the conduct of grading any historical, pre-historical, or paleontological materials are discovered, grading shall cease and the City shall be notified.

### **10.11 Certificate Of Occupancy**

All re-vegetation and grading and drainage plan improvements shall be in place before a certificate of occupancy shall be issued. When a property owner has finished building construction but has yet to install plant material, said owner may apply for a temporary certificate of occupancy. In evaluating whether or not to grant a temporary certificate of occupancy, the City shall consider weather conditions and temporary stabilization measures.

### **10.12 Owner Responsibility**

The property owner shall be responsible both for his or her employees and for all contractors and subcontractors from the onset of development until the property is fully stabilized. If property is transferred anytime between the onset of development and at the time it is fully stabilized, all responsibility and liability for meeting the terms of the chapter shall be likewise transferred to the new property owner.

### **10.13 Enforcement**

(A) *Stop-Work Order; Revocation of Permit*

In the event that any person holding a grading permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may suspend or revoke the grading permit.

(B) *Violation and Penalties*

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$ 250.00 for each offense. Each day a violation is allowed to exist shall constitute a separate offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

## CHAPTER 11: FLOOD DAMAGE PREVENTION CODE

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## CHAPTER 11: FLOOD DAMAGE PREVENTION CODE

### 11.01 Purpose

- (A) The purpose of this ordinance is to promote the public health, safety and general welfare, to prevent adverse impacts from any floodplain development activities, and to minimize public and private losses due to flooding events in identified Special Flood Hazard Areas. This ordinance advances the stated purpose through provisions designed to:
- (1) Protect human life and health;
  - (2) Protect natural floodplains against unwise development;
  - (3) Eliminate adverse impacts of necessary floodplain development;
  - (4) Protect, restore and maintain the chemical, physical, and biological integrity of the water resources;
  - (5) Reduce pollutants in surface waters by filtering, settling, and transforming pollutants in runoff;
  - (6) Stabilize the banks of streams to reduce erosion and the downstream transport of sediment and nutrients;
  - (7) Maintain tree canopy to shade streams, reduce water temperatures, promote desirable aquatic organisms resulting in ecological integrity with improved fishing, greater scenic value and recreational opportunity;
  - (8) Minimize expenditure of public monies on flood control projects;
  - (9) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (10) Minimize prolonged business interruptions due to flooding events;
  - (11) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in Special Flood Hazard Areas;
  - (12) Minimize future flood blight areas to help maintain a stable tax base;
  - (13) Provide for notice to potential buyers when property is in a Special Flood Hazard Area;
  - (14) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (B) This ordinance uses the following methods to accomplish the stated purpose:
- (1) This ordinance restricts or prohibits structures or uses in Special Flood Hazard Areas that adversely impact health, safety or property during flooding events;
  - (2) This ordinance requires protection against flood damage for structures or uses vulnerable to floods at the time of initial construction, or after substantial improvement of the structure, or after substantial damage has occurred;
  - (3) This ordinance controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation and transport of flood waters;
  - (4) This ordinance controls floodplain development (structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities) which may increase flood damage by increasing flood elevations, flood water velocities, or flood discharge patterns;
  - (5) This ordinance regulates the construction of flood barriers which unnaturally divert floodwaters or which may adversely impact other lands.

### 11.02 Definitions

Unless specifically defined below, words or phrases used in this Code have their common usage meaning to give the most reasonable application to this Code.

Additional definitions for floodplain management terms can be found at Part §59.1 of 44 CFR.

*44 CFR (Emergency Management and Assistance – National Flood Insurance Program Regulations)* Parts 59-75 contain Federal regulations upon which local floodplain managements are based

*44 CFR § 65.12* – contains the section of the Federal regulations which involves revision of flood insurance rate maps to reflect base flood elevations caused by proposed encroachments.

## CITY OF ELM SPRINGS ZONING ORDINANCE

*"100-year flood"* is any flood with a 1% chance of occurring in any given year. The term is misleading, because of its statistical derivation. A "100-year flood" may occur many times in any given 100-year period, or it may not occur at all in 100 years.

*"500-year flood"* is any flood with a 0.2% chance of occurring in any given year. As with the 100-year flood, this term is also misleading, because of its statistical derivation. A "500-year flood" may occur many times in any given 500-year period, or it may not occur at all in 500 years.

*"Accessory Structures"* are structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

*"Adverse impact"* means any negative or harmful effect.

*"AE Risk Zones"* are special flood hazard areas where detailed studies have determined base flood elevations.

*"AH Risk Zones"* are special flood hazard areas characterized by shallow flooding with ponding effects (where floodwaters accumulate in depressions and linger until absorbed or evaporated).

*"AO Risk Zones"* are special flood hazard areas characterized by shallow flooding with sheet flow (where floodwaters flow in a broad, shallow sheet rather than through a narrow channel).

*"A Risk Zones"* are special flood hazard areas without detailed studies, where base flood elevations have not been determined.

*"Appeal Board"* means a person or persons specifically designated to render decisions on variance applications and floodplain management complaints.

*"Automatic"* entry and exit of floodwaters means that the water must be able to enter and exit with no intervening action from a person.

*"Base flood"* is the flood profile used as the basis for the NFIP regulations. The Federal government has selected the 1% chance flood as the base flood.

*"Basement"* is any enclosed area that is below grade on all four walls.

*"BFE"* is the acronym for Base Flood Elevation.

*"Buoyancy"* is the upward force exerted by water. Buoyancy can cause underground tanks to float free and can lift structures off foundations.

*"Certificates of Compliance"* are formal documents issued by floodplain administrators certifying that completed projects comply with the requirements of the local Code.

*"CFR"* is the acronym for the Code of Federal Regulations. The Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. The Federal regulations pertaining to the national Flood Insurance Program are found in title 44, Emergency Management and Assistance.

*"Clearing"* is the act of cutting timber or shrubs from an area

*"Commercial business park"* is typically an area of offices or light industrial usage, although retail, service, or industrial usage is sometimes included in supporting roles. For example, a commercial business park or office complexes may also include restaurants which service these offices.

*"Concrete deadman anchors"* are heavy steel rods embedded in buried sections of concrete, used to secure items in place under tension.

*"Covenant"* is a clause in a contract that requires one party to do, or refrain from doing, certain things. A covenant frequently appears as a restriction that a lender imposes on a borrower.

*"Crawlspace"* is a type of structural foundation where the space beneath the lowest floor is typically not deep enough to allow a person to stand and not all four walls are below grade.

*"Critical Facilities"* include: Governmental facilities that are considered essential for the delivery of critical services and crisis management (such as data and communication centers and key governmental complexes); facilities that are essential for the health and welfare of the whole population (such as hospitals, prisons, police and fire stations, emergency operations centers, evacuation shelters and schools); mass transportation facilities (such as airports, bus terminals, train terminals); lifeline utility systems (including potable water, wastewater, oil, natural gas, electric power and communications systems); high potential loss facilities (such as nuclear power plants or military installations); hazardous material facilities (such as industrial facilities housing or manufacturing or disposing of corrosives, explosives, flammable materials, radioactive materials and toxins).

*"D Zones"* areas in which the flood hazard has not been determined, but may be possible

## CITY OF ELM SPRINGS ZONING ORDINANCE

*"Daylighting"* is to remove a stream, creek or natural drainage way or other waterway from an underground pipe and restore the waterway to open air.

*"Deed restriction"* refers to a clause in a deed that limits the future uses of the property in some respect. Deed restrictions may impose a vast variety of limitations and conditions, for example, they may limit the density of buildings, dictate the types of structures that can be erected, prevent buildings from being used for specific purposes or even from being used at all.

*"Development"* broadly means any manmade change in improved or unimproved real estate. It includes, but is not limited to, construction, reconstruction, or placement of a building, or any addition or substantial improvement to a building. "Development" also includes the installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than 180 consecutive days. The installation of utilities, construction of roads, bridges, culverts or similar projects are also "developments." Construction or erection of levees, dams, walls, or fences; drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface are "developments." Storage of materials including the placement of gas and liquid storage tanks are "developments," as are channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters. "Development" does not include maintenance of existing buildings and facilities, maintenance of existing drainage ditches, resurfacing of roads, gardening, plowing, or similar practices that do not involve filling, grading, or construction of levees.

*"Development Permit"* refers to the permit required for placing a "development" in the floodplain.

*"Elevation Certificate"* refers to FEMA form 81-31, which for the purposes of this Code must be properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.

*"Erosion"* is the process of soil removal by moving water.

*"Existing Structure"* means, for floodplain management purposes, a structure which is in place before any reconstruction, rehabilitation, addition, or other improvement takes place.

*"Existing Manufactured Home Park or Subdivision"* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and

either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

*"Expansion to an Existing Manufactured Home Park or Subdivision"* - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*"Federal Emergency Management Agency"*, or FEMA, is the Federal agency responsible for administering the National Flood Insurance Program.

*"FEMA"* is the acronym for the Federal Emergency Management Agency.

*"Fill"* refers to the placement of natural sand, dirt, soil, rock, concrete, cement, brick or similar material at a specified location to bring the ground surface up to a desired elevation.

*"FIRM"* is the acronym for Flood Insurance Rate Map.

*"Flood Fringe"* refers to the portion of the 100-year floodplain which is outside the floodway

*"Flood Insurance Rate Map"* (or "FIRM") *The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway. Unless otherwise stated, it shall be the latest regulatory FIRM including any effective letters of map revision that has been adopted by FEMA.*

*"Flood Insurance Study"* (or "FIS") is the official report provided by FEMA. It contains flood profiles, floodway tables, engineering methods, and other descriptive and technical data.

*"Floodplain"* refers to any land area susceptible to inundation by floodwaters from any source. For the purposes of this Code, floodplain refers to the land area susceptible to being inundated by the base flood.

*"Floodplain Management"* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

*"Flooding events"* are general or temporary conditions of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or from the unusual and rapid accumulation or runoff of surface waters from any source.



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*"Floodplain Administrator"* refers to the community official designated in the local Flood Damage Prevention Code as responsible for the Code's administration.

*"Floodplain Development Permit"* is a permit issued by the local Floodplain Administrator and is required before beginning any development in an area designated as a Special Flood Hazard Area on the community's FIRM.

*"Floodproofing"* is a combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate the risk of flood damage.

*"Floodproofing Certificate"* refers to FEMA form 81-65, which for the purposes of this Code must be properly completed by a Professional Engineer or Architect licensed to practice in the State of Arkansas.

*"Floodway"* or *"Regulatory Floodway"* refers to a stream channel and the land to either side of the stream channel that must remain undeveloped and open in order to allow floodwaters to pass without increasing the base flood elevation more than a designated height. For the purposes of this Code, the height is one foot (1 ft.). Severe restrictions or prohibitions are imposed on development within the floodway.

*"Flow-through openings"* are openings specifically designed to allow floodwaters to flow into and out of enclosed spaces, minimizing the danger of foundation or wall collapse from lateral hydrostatic pressure.

*"Functionally dependent use"* is a use that requires a location or construction contrary to the requirements of the Code. Shipyards and docks are the most common examples of "functionally dependant uses," but in Arkansas, water and wastewater treatment facilities are often constructed on normally prohibited sites. Another example of a functionally dependant use might be an addition to a manufacturing facility with precision equipment which must align with existing equipment in a pre-existing, pre-FIRM building. Variances may be granted for functionally dependant uses.

*"Grade"* means the surface of the ground.

*"Grading"* means to smooth the surface of the ground, typically with heavy construction equipment.

*"Highest Adjacent Grade"* (HAG) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*"Historical Structure"* means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior or;
  - b. Directly by the Secretary of the Interior in states without approved programs.

*"Hydrodynamic forces"* are the forces and stresses associated with moving water, including impacts from objects carried in the water.

*"Hydrostatic flood forces"* are the forces and stresses associated with standing floodwaters.

*"Lacustrine Flooding"* is flooding associated with a lake.

*"Lateral forces"* are the horizontal hydrostatic forces associated with standing water. Water exerts an equal force in all directions, and as little as three feet of standing water can generate sufficient lateral force to collapse a foundation or wall.

*"Lowest floor"* refers to the lowest floor of the lowest enclosed area (including basement). For a typical slab-on-grade construction, the elevation of the lowest floor is the top of the first floor of the house. For a typical basement foundation construction, the elevation of the lowest floor is the top of the basement floor. For a typical crawlspace foundation construction, the elevation of the lowest floor is the top of the first floor of the house. For typical split-level constructions, the elevation of the lowest floor is the top of the first living area floor – the garage floor is not the lowest floor as long as there are no living areas in the garage and it is used solely for storage, parking vehicles and entry to the house. The elevation of the lowest floor of a manufactured home, however, is the bottom surface of the lowest floor joist.

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*"Manufactured Homes" or Structures* are modular in nature and are constructed elsewhere and transported to another site for placement, assembly, or reassembly.

*"Manufactured Home Park or Subdivision"* means a parcel (or contiguous parcels) of land subdivided into two or more manufactured home lots for rent or sale.

*"Mean Sea Level"* (MSL) means, for the purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's FIRM are referenced.

*"Mixed Use Structures"* are structures with both a business and a residential component, but where the area used for business is less than 50% of the total floor area of the structure.

*"New Construction"* means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

*"New Manufactured Home Park or Subdivision"* - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

*"No Adverse Impact principle"* is a principle of restricting or prohibiting land development that does harm or "adversely affects" someone else's property or land.

*"Nonresidential Structures"* are structures used only for commercial or public purposes, such as businesses, schools, churches, etc...

*"No-Rise Certificates"* are formal certifications signed and stamped by a Professional Engineer licensed to practice in the State of Arkansas, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase in flood levels within the community during the occurrence of a base flood event.

*"Piers"* are columns of masonry or other structural material (commonly cement blocks stacked up to support a manufactured home), usually rectangular, used to support other structural members.

*"Pilings"* are steel tubes driven to rock or a suitable soil bearing layer and connected to the foundation of a structure.

*"Ponding"* is a flooding effect where floodwaters accumulate in shallow depressions and linger until absorbed or evaporated.

*"Recreational vehicles"* means a vehicle which is:

- (i) built on a single chassis;
- (ii) 400 square feet or less when measured at the largest horizontal projections;
- (iii) designed to be self-propelled or permanently towable by a light duty truck; and
- (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*"Risk Zones"* categorize special flood hazard areas into groupings by the specific risk of flooding. Zones A, AE, AO, and AH are Special Flood Hazard Areas. See "X Risk Zones" in this section.

*"Riverine flooding"* is flooding associated with a river or stream channel.

*"RV"* is the acronym for recreational vehicle.

*"Screw augers"* are any type of anchor that twists into the soil, typically to a depth of 4 feet or more. They are not suitable for securing manufactured homes against floodwaters because saturated grounds often soften and fail to hold the anchor in place.

*"Section 404 Wetlands Permit"* is a permit required under Section 404 of the Clean Water Act for the discharge of dredged and fill material into any surface water of the United States. The US Army Corps of Engineers issues Section 404 permits.

*"SFHA"* is the acronym for Special Flood Hazard Area.

*"Shallow flooding"* means a depth of less than 3 feet.

*"Slab anchors"* are anchors where the hook of the anchor is wrapped around a horizontal rebar in the slab before the concrete is poured.

*"Special flood hazard areas"* are geographical areas identified on FEMA flood maps as being at-risk for flooding. The maps further categorize these areas into various flood risk zones A, AE, AH, and AO.

*"Start of Construction"* includes substantial improvement and means the date the building permit

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was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*“State Coordinating Agency”* is the agency that acts as a liaison between FEMA and a community for the purposes of floodplain management. The Arkansas Natural Resources Commission is the State Coordinating Agency for Arkansas.

*“Stream channels”* are depressed natural pathways through which water of any quantity routinely flows.

*“Structural development”* is a development that includes the placement or construction of a structure.

*“Structure,”* for the purposes of floodplain management, refers to any building with two or more rigid walls and a fully secured roof on a permanent site or to any gas or liquid storage tank that is principally above ground.

*“Substantial damage”* is damage of any origin where the cost to restore a structure to its original undamaged state would equal or exceed 50% of the market value of the structure before any damage occurred. In determining whether substantial damage has occurred, estimators must use standard contractor and materials costs. There are no exceptions for homeowners who make their own repairs or for discounted or free raw materials.

*“Substantial improvement”* is any reconstruction, remodeling, addition or improvement to a structure with a cost equaling or exceeding 50% of the market value of the structure before any improvement. Improvements to correct identified violations of local health, sanitary or safety Codes are not substantial improvements, regardless of the cost, as long as they are the minimum improvement necessary to bring the structure up to Code. Alterations to historical

structures are also exempted, as long as the improvement does not affect the structure’s official status of “historical structure.”

*“Top of bank”* is the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

*“Uses vulnerable to floods”* are simply any land or structural uses that may be negatively affected by a flood.

*“Variance”* is a formal, written permission from the Appeals Board to construct or develop in a way that is inconsistent with the requirements of this Code. The variance only deals with this Code – the Appeals Board has no authority to waive any other governmental requirement, and has no say in the cost of flood insurance.

*“Violation”* - means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Code is presumed to be in violation until such time as that documentation is provided.

*“Watercourse alteration”* refers to any change that occurs within the banks of a watercourse.

*“Water Surface Elevation”* - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

*“X Risk Zones”* are a special group of insurance risk zones. One type, shown as non-shaded areas on FEMA issued flood maps, indicates a zone where flooding is not expected to occur. The second type, shown as shaded areas of FEMA flood maps, indicates a flood hazard area that is expected to be affected by the 500-year flood, but not by the 100-year base flood.

### 11.03 Applicability

The ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Elm Springs.

A. The Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas of Elm Springs in the current scientific and engineering report entitled “The Flood Insurance Study (FIS) for Benton County dated January 25, 2024, and “The Flood Insurance Study (FIS) for Washington County dated January 25, 2024, with an effective Flood Insurance Rate

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Map (FIRM) dated January 25, 2024.

B. These Special Flood Hazard Areas are subject to periodic flooding events that result in loss of life and property, pose health and safety hazards, disrupt commerce and governmental services, and cause extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

C. These periodic flooding events are exacerbated by the cumulative effect of floodplain developments which cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately floodproofed or otherwise unprotected structures or uses vulnerable to floods into Special Flood Hazard Areas. Such structures or uses are inherently hazardous to other lands because of their adverse impact on flooding events.

**11.04 Compliance**

Constructing, locating, substantially altering or changing the use of any structure or land after the effective date of this ordinance requires full compliance with the provisions of this ordinance and all other applicable regulations.

**11.05 Administration**

(A) Designation of the Floodplain Administrator - The Mayor, or his designee, is hereby appointed to act as the Floodplain Administrator.

(B) Duties & responsibilities of the Floodplain Administrator - It is the duty and responsibility of the Floodplain Administrator or his designee to:

- (1) Obtain accreditation each year as required by A.C.A. §14-268-106 through the State Coordinating Agency, which is the Arkansas Natural Resources Commission.
- (2) Administer and implement the provisions of this Code and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) as they pertain to floodplain management
- (3) Review applications for Floodplain Development Permits to:
  - (a) Evaluate proposed projects for reasonable safety from flooding;
  - (b) Evaluate proposed projects for conformance with No Adverse Impact principles;

- (c) Ensure that all other permits necessary (including Section 404 Wetlands Permits as required by the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) for proposed projects are obtained from the appropriate government agency prior to issuing a Floodplain Development Permit; and
  - (d) Ensure that proposed projects conform to the applicable provisions of this Code.
- (4) Approve or deny applications for Floodplain Development Permits on the basis of:
- (a) The proposed development's compliance or non-compliance with the provisions of this Code;
  - (b) The expected flood elevation, flood water velocity, flood duration, rate of rise and sediment transport of the floodwaters expected at the proposed development site;
  - (c) The proposed development's potential to adversely impact life and property by changing flooding patterns, changing erosion rates, or being swept onto other lands by flood waters;
  - (d) The proposed development's susceptibility to flood damage;
  - (e) The proposed development's compatibility with existing and planned community development;
  - (f) The proposed development's accessibility by ordinary and emergency vehicles during flooding events;
  - (g) The anticipated costs of providing governmental services to the proposed development during and after flooding events, including maintenance and repair of streets, bridges, facilities and public utilities such as sewer, gas, electrical and water systems;
  - (h) The proposed development's functionally dependent use;
  - (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed development; and
  - (j) The relationship of the proposed use to the comprehensive plan for that area.

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(5) Interpret the exact location of the boundaries of Special Flood Hazard Areas whenever a mapped boundary appears to be different from actual field conditions. (The sole purpose of this interpretation is to determinate the applicability of the provisions of this Code to the proposed project.) *The following shall apply to the use and interpretation of FIRMs and data:*

(a) *Where the development area lies in whole or in part of a Special Flood Hazard Area as shown on the effective map*

(b) *Where Base Level Engineering is available, Base Level Engineering data shall be reviewed and reasonably used in FEMA-identified Special Flood Hazard Areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified Special Flood Hazard Areas.*

(1) *Base flood elevations and floodplain boundaries delineated by Base Level Engineering shall take precedence over base flood elevations and floodplain boundaries delineated by FIRMs and in Flood Insurance Studies if the Base Level Engineering shows increased floodplain boundaries and/or higher base flood elevations.*

(2) *Base flood elevations and designated floodway boundaries on FIRMs and in Flood Insurance Studies shall take precedence over base flood elevations and floodway boundaries delineated by Base Level Engineering if the FIRMs and/or Flood Insurance Studies show reduced floodway widths and/or lower base flood elevations.*

(6) Notify adjacent communities and the State Coordinating Agency, which is the Arkansas Natural Resources Commission, a minimum of 60 days prior to any alteration or relocation of a watercourse and submit evidence of all such notifications to FEMA.

(7) Ensure that the flood carrying capacity within an altered or relocated portion of a watercourse is not diminished, and that the alteration or relocation does not adversely impact any other lands.

(8) Obtain, review and reasonably utilize, whenever the current Flood Insurance Study

or current Flood Insurance Rate Map does not provide base flood elevation data, any base flood elevation data and floodway data available from any Federal, State or other source. The Floodplain Administrator may obtain such data by requiring the applicant to submit it in conjunction with a Floodplain Development Permit application. (The sole use of this data is the administration of the provisions of this Code.)

(9) Inspect floodplain developments as necessary to ensure construction is in accordance with the application data that formed the basis for the decision to issue the Floodplain Development Permit.

(10) Issue Certificates of Compliance.

(11) Maintain all records and documents pertaining to this Code for public inspection.

**11.06 Establishment Of Development Permit**

A Floodplain Development Permit is required for all structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations or any other development in a Special Flood Hazard Area to ensure conformance with the provisions of this Code.

**11.07 Permit Procedures**

(A) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard.

(B) The documentation required with each Application for a Floodplain Development Permit, and the specific provisions of this Code applicable to the proposed development, are dependant upon the type of development proposed and the Risk Zone of the proposed development site. §11.10(A) contains standards for all developments in all Risk Zones. §11.11 contains standards for specific development types in specific Risk Zones.

(C) The decision of the Floodplain Administrator to approve or deny issuance of a Floodplain Development Permit is subject to appeal to the

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designated Appeal Board. Within Elm Springs, Arkansas the designated Appeal Board is the Planning Commission.

### 11.08 Variances

Applicants may submit petitions for variances per the requirements of §13.04

### 11.09 Appeals

- (1) Within the City of Elm Springs, Arkansas the Planning Commission is the designated Appeal Board.
- (2) The Appeal Board will consider an appeal only with allegations of an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Code.
- (3) Upon consideration of the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.
- (4) Appeal Board decisions are binding only upon the requirements of this Code, and have no bearing on the decision of any lending institution to require the purchase of flood insurance or on the rate determination of such insurance.
- (5) Any time the Appeal Board issues a variance, it must provide the applicant with a formal written warning of an increased risk of flood damage due to removal of restrictions designed to lessen such risks. The notice must also warn of a corresponding increase in the cost of flood insurance, since the cost of such insurance will be commensurate with the increased risk.
- (6) Aggrieved parties may appeal any decision of the Appeal Board to a court of competent jurisdiction.

### 11.10 Provisions For Flood Hazard Reduction

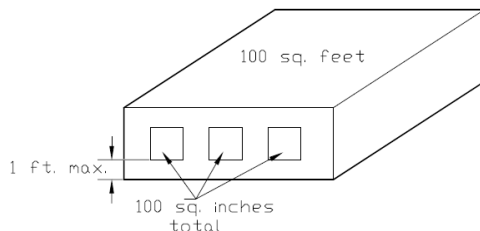
- (A) General Standards. The following standards apply to all developments in Special Flood Hazard Areas, regardless of the type of proposed development or the Risk Zone of the proposed site.

- (1) All new and substantial construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All critical facilities constructed or substantially improved in Special Flood Hazard Areas (SFHA) must be constructed or modified to exceed 500-year flood protection standards or located outside the SFHA.
- (5) The placement or construction of all new structures must be in full compliance with the provisions of this Code.
- (6) For the purposes of this Code, all mixed-use structures are subject to the more stringent requirements of residential structures.
- (7) A substantial improvement or substantial damage to an existing structure triggers a requirement to bring the entire structure into full compliance with the provisions of this Code. The existing structure, as well as any reconstruction, rehabilitation, addition, or other improvement, must meet the standards of new construction in this Code.
- (8) Any improvement to an existing structure that is less than a substantial improvement requires the improvement, but not the existing structure, to be in full compliance with the provisions of this Code.
- (9) All manufactured homes to be placed within a Special Flood Hazard Area on a community's FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

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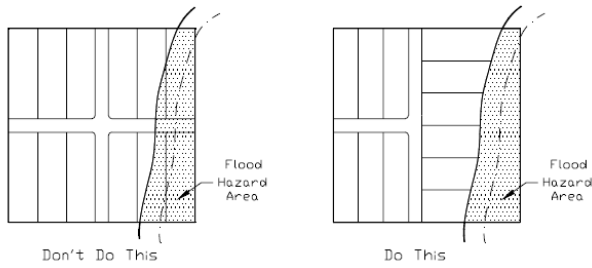
Screw augers or expanding anchors will not satisfy the requirement of this provision.

- (10) The design or location of electrical, heating, ventilation, plumbing, and air conditioning equipment for new structures, or for any improvements to an existing structure, must prevent water from entering or accumulating within the components during base flood events.
- (11) The design of all new and replacement water supply systems must minimize or eliminate infiltration of floodwaters into the system during base flood events.
- (12) The design of all new and replacement sanitary sewage systems must minimize or eliminate infiltration of floodwaters into the system during flooding events, and must prevent sewage discharge from the systems into floodwaters.
- (13) The placement of on-site waste disposal systems must avoid impairment to, or contamination from, the disposal system during base flood events.
- (14) Construction of basement foundations in any Special Flood Hazard Area is prohibited.
- (15) New construction and substantial improvements, with fully enclosed areas (such as garages and crawlspaces) below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - (a) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (b) The bottom of all openings shall be no higher than 1 foot above grade.
  - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (16) The placement of recreational vehicles (RV) in Special Flood Hazard Areas must either
  - (a) be temporary, as demonstrated by the RV being fully licensed, being on wheels or a jacking system, attached to the site only by quick disconnect type utilities and security devices, having no permanently attached additions, and being immobile for no more than 180 consecutive days; or else
  - (b) meet all provisions of this Code applicable to manufactured home structures.
- (17) All proposals for the development of a residential subdivision, commercial business park or manufactured home park/subdivision must have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (18) All proposals for the development of a residential subdivision, commercial business park or a manufactured home park/subdivision must include an adequate drainage plan to reduce exposure to flood hazards.
- (19) All proposals for the development of a commercial business park or a manufactured home park/subdivision must include an adequate evacuation plan for the escape of citizens from affected nonresidential structures during flooding events.
- (20) Standards for Subdivisions: Applications for preliminary, final, and/or concurrent plat approval shall
  - (a) Identify the special flood hazards areas, including delineation of floodways and the elevation of the base flood.
  - (b) All final plats shall provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood, the final pad elevation shall be verified by a registered professional engineer, or surveyor, and provided to the Floodplain Administrator.
  - (c) To the extent practicable, lot boundaries shall be made to coincide with natural and pre-existing man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon in

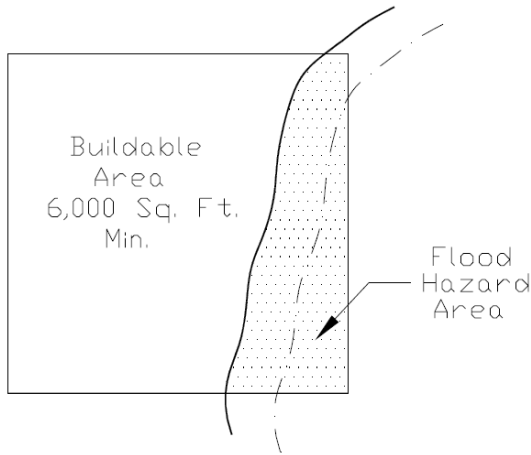


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only by altering such drainage ways.  
(See illustration: Figure 3).



Any lot platted so that a portion of the lot lies in a special flood hazard area shall contain a minimum of 6,000 square feet of buildable area, including setbacks, outside the special flood hazard area, or if it contains less than 6,000 square feet of buildable area, it shall be platted to contain a minimum of one acre. Any lot platted so that the entire lot lies in a special flood hazard area shall contain a minimum of one acre. (See illustration: Figure 4)



(d) For subdivisions partially located in special flood hazard areas, minimum lot area requirements may be waived by the Planning commission to allow the platting of lots to be clustered outside the special flood hazard area, the density permitted for the zoning district to be averaged over the entire parcel, provided a permanent conservation easement is granted to the city, a land trust, or the property owners association to ensure that the area of special flood hazard will remain undeveloped.

(e) In any area that is located outside a special flood hazard area, but where a

stream is located, no building or fill may be located within a distance of the stream bank equal to two and one-half the width of the stream measured from top of bank to top of bank, or 25 feet on each side, whichever is greater.

(f) In all areas designated as a Zone A on the FIRM where a detailed study has not been completed to specify the floodway and base flood elevations, no building or fill shall be located within a distance of two and one-half times the width of the stream measured from the top of the bank to the top of bank, or 25 feet on each side, whichever is greater.

(i) Provided, the applicant may choose if not required by other provisions of this chapter, to provide a detailed hydrologic and hydraulic study which delineates the floodway, 100-year floodplain boundary, and base flood elevations. At such time a study is provided and adopted by ordinance, the applicant shall meet all requirements for areas designated with floodway, 100-year floodplain, and base flood elevations.

(ii) If, for some reason, the property owner believes the FIRM to be inaccurate, a letter of map amendment may be submitted to FEMA. If the boundaries of the floodplain are amended by FEMA, setbacks will be enforced pursuant to the amendment.

**11.11 Risk Zone Specific Standards**

In addition to the General Standards, the following standards apply to specific development types in specific Risk Zones. Risk Zones listed in this Code that do not appear on the current FIRM are not applicable.

(A) In AE Risk Zones: Special Flood Hazard Areas with base floods determined

(1) For Residential Structures in Zone AE:

(a) For all new residential structures, the top surface of the lowest floor must have an elevation 2 feet or more above the published BFE. This elevation must be documented on an Elevation Certificate properly completed by a Professional



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Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.

- (b) For all substantial improvements or substantial damage to existing residential structures, the entire structure becomes subject to the requirements of a new residential structure.
- (c) For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.

(2) For Nonresidential Structures in Zone AE:

- (a) All new commercial, industrial or other nonresidential structures must either:
  - (i) have the lowest floor (including basement) elevated 2 feet or more above the base flood level or
  - (ii) be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below an elevation of 3 feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - (iii) A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a Floodproofing Certificate that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
- (b) For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire

structure becomes subject to the requirements of a new nonresidential structure.

- (c) For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.

(3) For Manufactured Homes in Zone AE:

- (a) All manufactured homes that are placed or substantially improved on sites:
  - (i) outside of a manufactured home park or subdivision,
  - (ii) in a new manufactured home park or subdivision,
  - (iii) in an expansion to an existing manufactured home park or subdivision, or
  - (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 2 feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (b) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of §11.11(A)(3)(a) of this section be elevated so that either:
  - (i) the lowest floor of the manufactured home is 2 feet or more above the base flood elevation, or
  - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation

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system to resist flotation, collapse, and lateral movement.

(iii) For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.

(iv) For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.

(c) *When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.*

(B) Floodways - High risk areas of stream channel and adjacent floodplain

(1) Developments in regulatory floodways are prohibited, unless:

(a) A No-Rise Certificate, signed and stamped by a Professional Engineer licensed to practice in the State of Arkansas, is submitted to demonstrate through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed development would not result in any increase in flood levels within the community during the occurrence of a base flood event; or

(b) All requirements of 44 CFR § 65.12 are first met.

(2) No Manufactured Home may be placed in a regulatory floodway, regardless of elevation height, anchoring methods, or No-Rise Certification.

(C) In AH or AO Risk Zones - Special Flood Hazard Areas of shallow flooding

(1) For Residential Structures in Zones AH or AO:

(a) All new residential structures must be constructed with the top surface of the lowest floor elevated 2 feet or more above the published BFE, or 2 feet above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.

(b) For all substantial improvements or substantial damage to existing residential structures the entire structure becomes subject to the requirements of a new residential structure.

(c) For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure

(2) For Nonresidential Structures in Zones AH or AO:

(a) All new commercial, industrial or other nonresidential structure must either:

(i) have the top surface of the lowest floor elevated 2 feet or more above the published BFE, or 2 feet or more above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM, with documentation on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas; or

(ii) be floodproofed such that the structure, together with attendant utility and sanitary facilities be designed so that below 3 feet or more above the published BFE in Zone AH, or 3 feet or more above the base specified flood depth in an

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AO Zone, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

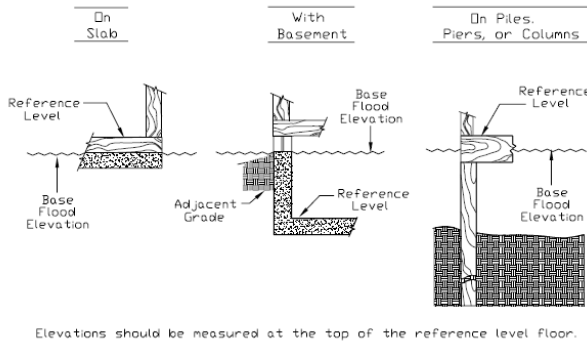
- (b) For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.
  - (c) For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.
- (3) For Manufactured Homes in Zones AH or AO:
- (a) All manufactured homes that are placed or substantially improved on sites:
    - (i) outside of a manufactured home park or subdivision,
    - (ii) in a new manufactured home park or subdivision,
    - (iii) in an expansion to an existing manufactured home park or subdivision, or
    - (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 2 feet or more above the published BFE, or 2 feet or more above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - (b) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of §11.11 (C)(3)(a) of this section be elevated so that either:
    - (i) the lowest floor of the manufactured home meets the elevation standard of §11.11 (C)(3)(a)(iv), or
    - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - (c) For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
  - (d) For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.
- (4) Where FEMA has not established a regulatory floodway in Zones AH or AO, no Floodplain Development Permit may be issued unless a detailed engineering analysis is submitted along with the application that demonstrates the increase in base floodwater elevation due to the proposed development and all cumulative developments since the publication of the current FIRM will be less than 1 foot.
- (5) Require adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
- (D) In "A" Risk Zones - Special Flood Hazard Areas with no base flood elevations determined
- (1) In Zone A, The applicant or the applicant's agent must determine a base flood elevation prior to construction. The BFE will be based on a source or method approved by the local Floodplain Administrator.
  - (2) For Residential Structures in Zone A:

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- (a) For all new residential structures, the top surface of the lowest floor must have an elevation 2 feet or more above the BFE. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.
  - (b) For all substantial improvements or substantial damage to existing residential structures, the entire structure becomes subject to the requirements of a new residential structure.
  - (c) For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.
- (3) For Nonresidential Structures in Zone A:
- (a) All new commercial, industrial or other nonresidential structures must either:
    - (i) have the lowest floor (including basement) elevated {2 feet or more} above the base flood level or
    - (ii) be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below an elevation of 3 feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
    - (iii) A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a Floodproofing Certificate that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
  - (b) For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.
  - (c) For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.
- (4) For Manufactured Homes in Zone A:
- (a) All manufactured homes that are placed or substantially improved on sites:
    - (i) outside of a manufactured home park or subdivision,
    - (ii) in a new manufactured home park or subdivision,
    - (iii) in an expansion to an existing manufactured home park or subdivision, or
    - (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 2 feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - (b) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of §11.11(D)(4)(a) of this section be elevated so that either:
    - (i) the lowest floor of the manufactured home is 2 feet or more above the base flood elevation, or

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- (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - (c) For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
  - (d) For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.
- (5) Base flood elevation data and a regulatory floodway, utilizing accepted engineering practices, shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided.
- (1) Issue Stop Work Orders on non-compliant floodplain development projects;
  - (2) Request that FEMA file a 1316 Action (Denial of Flood Insurance) against non-compliant properties; and
  - (3) Take any other lawful action necessary to prevent or remedy any instance of non-compliance with the provisions of this ordinance.
- (C) It is hereby declared to be a misdemeanor to violate or fail to comply with any provision of this ordinance.
- (D) Any person found guilty in the District Court of violating this ordinance is subject to the penalties set forth in the Elm Springs Code of Ordinances.



**11.12 Enforcement**

- (A) Flood hazards are reduced by compliance with the provisions of this code. Accordingly, enforcement of this ordinance discourages non-compliance and is a recognized mechanism for flood hazard reduction.
- (B) The Floodplain Administrator must enforce the provisions of this ordinance and is authorized to:

**CHAPTER 12: STORMWATER MANAGEMENT, DRAINAGE AND  
EROSION CONTROL**

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## CHAPTER 12: STORMWATER MANAGEMENT, DRAINAGE AND EROSION CONTROL

### 12.01 Intent

(A) *Intent.* It is the intent of this chapter to protect, maintain, and enhance the health, safety, and general welfare of the citizens of the City of Elm Springs by:

- (1) Preventing increases in the magnitude and frequency of stormwater runoff to prevent increases in flood flows and associated hazards and costs.
- (2) Controlling soil erosion and sedimentation to minimize soil deposition in streams and other receiving water bodies and storm drainage systems.
- (3) Requiring surface and stormwater management practices that comply with requirements of this chapter.
- (4) Promoting the development of stormwater facilities that are aesthetically desirable.

(B) *Findings of fact.* The City Council finds that uncontrolled stormwater runoff from developed land adversely affects the public health, safety, and welfare because:

- (1) *Impervious surfaces / runoff.* Impervious surfaces increase the quantity and velocity of surface runoff, which reduces percolation of water through soil and increases erosion and flooding.
- (2) *Collection and conveyance of stormwater.* Improper stormwater collection and conveyance adversely affects property and increases the incidence and severity of flooding, which can endanger property and human life.
- (3) *Erosion.* Increased erosion leads to sedimentation in stormwater management systems, which decreases the system's capacity
- (4) *Future problems.* Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.

### 12.02 Adoption Of Drainage Criteria Manual

The City Council hereby adopts by reference the *Springdale Drainage Criteria Manual*, prepared for the City of Springdale, and as may be amended from time to time. All technical procedures and design

standards contained therein shall have the same force and effect as if printed word for word in this chapter.

### 12.03 Permits Required

(A) *Applicability.* This chapter shall apply to all land within the corporate limits of the City of Elm Springs. No person may subdivide and develop, change to a more intensive land use, construct or reconstruct a structure, or change the size of a structure, or conduct grading, clearing, or filling activities without first obtaining a stormwater management, drainage and erosion control permit (hereinafter referred to as a "drainage permit") from the city, except as specified in §12.03(C) and §12.03 (D) below.

(B) *Permit application.* Any application for a drainage permit shall be submitted according to §12.05 below, and shall be submitted concurrently with the application for a grading permit, if such grading permit is required by § 10.03. The drainage permit applications shall include at the time of submission the calculations required by §12.05(B)(7). The application also shall state whether or not detention is required, and shall provide the basis for that conclusion, utilizing the performance criteria set forth in §12.07 below. The City shall make the final determination regarding detention.

(C) *Exceptions where no drainage permit is required.* Drainage permits are not required for the following:

- (1) *Single-family/duplex.* One single-family residence or duplex. A drainage permit is not required. See Section 170.12 for building permit submittal requirements.
- (2) *Existing commercial/industrial.* Existing commercial and industrial structure where additional structural improvements are less than 2,000 square feet.
- (3) *Maintenance.* Maintenance or clearing activity that does not change or affect the quality, rate, volume, or location of stormwater flows on the site, or runoff from the site.
- (4) *Agriculture.* Bona fide agricultural pursuits, for which a soil conservation plan has been approved by the local Soil and Water Conservation District.



- (5) *Emergency.* Action taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms, or other hazards.

- (D) *Compliance with chapter provisions.* Although a specific permit is not required for these particular circumstances, this exception does not exempt the owner/developer/builder from complying with the pollution prevention and erosion and sediment control provisions of this chapter.

**12.04 Drainage Permit Conditions**

Each permit issued shall be subject to the following conditions.

- (A) *Area.* The development, including associated construction, shall be conducted only within the area specified in the approved permit.
- (B) *Execution.* Activities requiring a drainage permit shall not commence until the drainage permit is approved. The approved drainage permit shall be on file with the city and a copy on file with the contractor for review and inspection upon request.
- (C) *Inspections.* A schedule of inspections to be carried out during the construction phase of permitting shall be established as conditions to the permit.
- (D) *Duration.*
  - (1) Unless revoked or otherwise modified, the duration of a drainage permit issued pursuant to this chapter shall be one year.
  - (2) If the permitted project discharge structure is not completed prior to expiration, the drainage permit duration can be extended to cover the project duration, subject to approval of the City.
- (E) *Maintenance.* Maintenance activities, as specified in the approved maintenance plan, shall be executed routinely, with scheduled reporting to the City.
- (F) *Modifications.* If the activity authorized by the permit is not completed according to the approved schedule and permit conditions, the City shall be notified. For revisions resulting in a schedule extension of more than 30 days, or if deviations from the permit conditions are expected to occur, approval of a permit modification is required by the City.
- (H) *Special.* Any additional special conditions, as deemed appropriate by the City, shall be

established to address specific project needs or circumstances.

**12.05 Drainage Permit Application**

A storm water management, drainage, and erosion control permit application shall be submitted to the City using appropriate forms as provided by the city. A permit application shall contain sufficient information and plans to allow the City to determine whether the project complies with the requirements of this chapter. The specific items to be submitted for a permit application shall be in the form and follow the procedures as described in the *Drainage Criteria Manual* checklist. Submittal information and plans shall include, but not be limited to the following:

- (A) *Applicant identification.* Applicant information, including the name, address, email, and telephone number of the owner and developer, and proof of ownership of the property to be permitted. In addition, the legal description of the property shall be provided, and its location with reference to such landmarks as major water bodies.
- (B) *Plan.* Stormwater management, drainage and erosion control plan, shall include, but not be limited to the following:
  - (1) *Aerial photograph.* Aerial photograph of the project vicinity, covering the project area and the total lands that contribute runoff.
  - (2) *Topographic map.* Topographic map of the project area showing the location and elevation of benchmarks, including at least one benchmark for each control structure.
  - (3) *Land use map.* Land use map showing both current and proposed conditions for the drainage area that contributes runoff.
  - (4) *Soils and vegetation map.* Soils and vegetation map displaying the most recent U.S. Soil Conservation Service information and encompassing both the project area and the drainage area that contributes runoff.
  - (5) *Grading, drainage, paving, building drawings.* Proposed grading, drainage, paving, and building drawing(s) showing details of proposed grading, drainage, paving, and buildings.
  - (6) *Erosion and sediment drawings.* Erosion and sediment control drawing(s) and specifications identifying the type, location, and schedule for implementing erosion and sediment control measures, including appropriate provisions for maintenance and disposition of temporary measures.

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- (7) *Technical report.* Technical report, prepared by a registered professional engineer, describing the assumptions, calculations, and procedures used for determining compliance with the performance criteria established by this chapter.
- (8) *Maintenance report.* Maintenance report (text and drawings), prepared by a registered professional engineer, describing the activities and schedule required to operate and maintain the permitted facilities until accepted by the city.

### 12.06 Submission, Review, And Approval Of Plans

- (A) *General.* The stormwater management, drainage, and erosion control plans shall be prepared by the engineer of record, who is a licensed professional engineer of the State of Arkansas.
- (B) *Preliminary stormwater and drainage plan.* Preliminary stormwater management, drainage, and erosion control plans and accompanying information as described in the *Drainage Criteria Manual* shall be submitted at the time of the preliminary plat, replat, lot split, building permit, site improvement plan, large scale development, and/or development improvements are submitted.
- (C) *Final stormwater management, drainage, and erosion control plan.* Following the preliminary stormwater management, drainage, and erosion control plan review, the final stormwater management drainage, and erosion control plan shall be prepared for each phase of the proposed project as each phase is developed. The final plan shall constitute a refinement of the concepts approved in the preliminary stormwater, drainage, and erosion control plan, with preparation and submittal of detailed information as required in the *Drainage Criteria Manual*. This plan shall be submitted at the time construction drawings are submitted for approval.
- (D) *Review and approval of final stormwater management, drainage, and erosion control plans.* Final stormwater management, drainage, and erosion control plans shall be reviewed by the City. If it is determined according to present engineering practice that the proposed development will provide control of stormwater runoff in accordance with the purposes, design criteria, and performance standards of these regulations and will not be detrimental to the public health, safety, and general welfare, the City shall approve the plan or conditionally approve the plan, setting forth the conditions thereof.

- (E) *Off-site improvements.* If it is determined that offsite drainage improvements are required, and that such specific off-site drainage improvements are consistent with the city's current and established priorities, then cost sharing will be in accordance with "Required Off-site Improvements." If the city is unable, or unwilling, to contribute its share of the off-site costs, the developer shall have the option of:
  - (1) *Developer's expense.* Building the off-site improvements at his/her own expense;
  - (2) *Detention.* Providing detention so as to match downstream capacities; or
  - (3) *Delay project.* Delaying the project until the city is able, or willing, to share in the off-site costs.

### 12.07 Performance Criteria

- (A) *Storm water management, drainage, and erosion control plan.* Stormwater management, drainage, and erosion control plans shall be prepared in accordance with performance standards that have been structured to achieve the purposes and objectives of this chapter as well as to ensure that the quality and quantity of runoff after development is not substantially altered from predevelopment conditions.
- (B) *Performance criteria.* Except as otherwise provided in this chapter, a development must be designed, constructed, operated, and maintained to comply with the following performance criteria:
  - (1) *Flood Damage Prevention Code.* Provisions for floodplain management criteria shall be consistent with those contained in Chapter 11, the Flood Damage Prevention Code.
  - (2) *Peak discharge.* The post-development peak rate of surface discharge must not exceed the existing discharge for the 100 year, 24 hour storm, the 10 year, 24 hour storm, and the 2 year, 24 hour storm, unless other discharge limits are deemed applicable for a specific site by the City.
  - (3) *Low Impact Development.* Use of Low Impact Development design strategies, to attenuate lesser storms and more closely mimic predevelopment hydrology is encouraged.
  - (4) *Direct Discharge.* Direct Discharge of a pipe into streams and/or floodways is not allowed. A stilling basin or other structure that will collect sediment, trash, etc and that will reduce the likelihood of erosion in the receiving stream due to discharge from the

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pipe shall be installed at pipe discharges into streams and/or floodways.

and sedimentation controls, and other protective devices.

- (5) *Erosion and channel stability.* All stormwater management systems shall be evaluated based on their ability to prevent erosion and sedimentation of the receiving waters and adverse impacts on the site's natural systems. The design engineer shall consider the on-site and downstream effects of the peak discharges and shall design both the permanent and the construction phase of the stormwater management system in a manner that will not increase flooding, channel instability, or erosion downstream when considered in aggregate with other developed properties and downstream drainage capacities.
- (6) *Drainage into wetlands and floodways.* Areas defined as "wetlands" and "floodways" by the appropriate federal agencies shall be protected from adverse changes in runoff quantity and quality from associated land development.

- (C) *Approved Entities for Perpetual Maintenance Agreements.* All stormwater management structures or systems approved in compliance with this chapter but not dedicated to the City shall have adequate easements to permit the city to inspect and, if necessary to take corrective action should the responsible entity fail to properly maintain the system. Maintenance of all other stormwater management structures and systems approved in compliance with this chapter and not dedicated to the City shall be accomplished by the legal entity responsible for maintenance, which may include an approved entity as identified in the following:

- (1) *Special districts and public entities.* An active water control district, drainage district, public utility, or a special assessment district;
- (2) *Developer or property owner.* A developer or property owner who provides a Stormwater Management Practices Maintenance Agreement with the City; or,
- (3) *Property owner association.* Property owner associations able to comply with the following provisions:
  - (a) The association provides a Stormwater Management Practices Maintenance Agreement through which it assumes full responsibility for stormwater management systems operation and maintenance.
  - (b) The association has sufficient powers to operate and maintain the stormwater management system, establish rules, assess members, contract for services, exist perpetually and, if dissolved, to provide alternative operation and maintenance services.

**12.08 Maintenance Responsibility**

- (A) *Dedication.* Those stormwater management systems approved in compliance with this chapter that will function as a part of the stormwater management conveyance system shall be dedicated to the City. All areas and/or structures to be dedicated to the City must be dedicated by plat or separate instrument and accepted by the City.
- (B) *Perpetual Inspections and Maintenance Agreements.* The City shall require a Stormwater Management Practices Maintenance Agreement, for systems not dedicated to the City, of all entities for stormwater management conveyance systems and structures in the stormwater management plan for their proposed development. The City shall require the following set of documents and agreements prior to stormwater systems and structures approval:

- (1) *Agreement of Maintenance Responsibility.* The owner of the property on which the stormwater systems structures have been installed shall agree to undergo ongoing inspections, and document maintenance and repair needs.
- (2) *Agreement to Maintain Stormwater Systems and Structures.* The owner of the property on which stormwater systems and structures have been installed shall agree to maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion

- (D) *Right-of-Entry for Inspection.* The Stormwater Management Maintenance Agreement shall provide for the City to enter the property at reasonable times and in a reasonable manner for the purpose of inspecting stormwater systems and structures.

- (E) *Failure to Maintain.* If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement the City shall give written notice requesting corrective action. If the conditions described in the Failure to Maintain notice are not corrected within 10 days after such notice is given, the mayor, or his duly authorized representative, is hereby authorized to enter upon the property and do

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whatever is necessary to correct or remove the conditions described, in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property and the city shall have a lien against such property for such costs.

(1) *Enforcement of the Lien.* The lien herein provided for may be enforced and collected in either one of the following manners:

(a) The lien may be enforced at any time within 18 months after work has been done, by an action in circuit court; or

(b) The amount of the lien herein provided may be determined at a hearing before the City Council held after 30 days written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then only after publication of notice of such hearing in a newspaper having a bona fide circulation in Washington or Benton County for one insertion per week for four consecutive weeks; the determination of the City Council shall be subject to appeal by the property owner in circuit court; and the amount so determined at said hearing, plus ten percent penalty for collection, shall be by the City Council certified to the tax collector of the county, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three percent thereof, when so collected shall be paid to the city by the county tax collector.

(c) In case the owner of any lot or other real property is unknown or his whereabouts is not known or he is a nonresident of this state, then a copy of the written notice hereinabove referred to shall be posted upon the premises and before any action to enforce such lien shall be had, the City Clerk shall make an affidavit setting out the facts as to unknown address or whereabouts or non-residence, and thereupon service of the publication as now provided for by law against nonresident defendants may be had, and an attorney ad litem may be appointed to notify the defendant by registered letter addressed to his last known place of residence if same can be found.

(F) Removal and modification of Stormwater Systems and Structures. Stormwater systems

and structures may only be modified or removed with the approval of the City, who shall determine whether the stormwater system or structure does not function as a part of the stormwater management system. The applicant may be required to provide supporting data and calculations that justify the removal of the stormwater systems or structures.

### 12.09 Drainage Permit Processing

(A) *Application.* Stormwater management, drainage, and erosion control permit applications shall be submitted to the city for review, processing, and approval. Applicants may schedule a pre-application conference with the city to discuss a proposed project before submitting the application.

(B) *Issuance.* If the City determines that the permit application submittal is in compliance with all provisions of this chapter, a permit may be issued. If the City determines that the permit submittal does not conform with all provisions of this chapter, permit issuance shall be denied and a written statement as to the reasons for the denial shall be provided to the applicant.

### 12.10 Stormwater Discharges From Construction Activities

(A) *General Requirements for Construction Sites.*

(1) *Construction Site.* A construction site is a site with activity that would result in the creation of a new stormwater management system, including the building, assembling, expansion, modification, or alteration of the existing contours of the property; the erection of buildings or other structures, any part thereof; or land clearing.

(2) *Owner Responsibility.* The owner of a site of construction activity shall be responsible for compliance with the requirements of this chapter.

(3) *Erosion And Sediment Control.* Best Management Practices (BMPs) shall be implemented to prevent the release of airborne dust and waterborne sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Streets and storm inlets must be kept clean at all times and free of loose rock, mud, debris and trash. Specific inlet protection measures may be necessary, as long as they do not interfere with vehicular traffic.

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Mud on streets must be physically removed and not washed into inlets.

- (4) *Construction Sites Requiring Storm Water Pollution Prevention Plans.* Erosion and sediment control systems must be installed and maintained per a state approved Storm Water Pollution Prevention Plan before the beginning of construction and until slope stabilization and/or vegetation is established.
- (5) *Construction Exits.* A stabilized exit is required on construction sites. The exit shall be of sufficient size and material to prevent material from tracking onto the streets. If there is an existing curb, loose material such as fill dirt or gravel shall not be used to ramp up to it from the street. Temporary wooden ramps in front of curbs are acceptable.
- (6) *Concrete Truck Wash Areas.* No washing of concrete trucks or chutes is allowed except in specific concrete wash pits located onsite. Proper runoff and erosion controls must be in place to retain all concrete wash water.
- (7) *Dewatering.* All rainwater pumped out of sumps and depressions on construction sites should be clear and free of sediment, and must discharge to a sedimentation pond, sediment bag, or settling tank in such a manner as to not cause additional erosion problems.
- (8) *Storage of Materials.* Public streets and sidewalks shall not be used for temporary storage of any containers or construction materials, especially loose gravel and topsoil. In addition to on-street storage being a violation of this chapter, all liability for any accidents and/or damages due to such storage will be the responsibility of the owner of the stored materials.
- (9) *Dirt and Topsoil Storage.* All storage piles of soil, dirt or other building materials (e.g. sand) shall be located more than 25 feet from a roadway, drainage channel or stream (from top of bank), wetland, and stormwater facility. The City may also require storage piles to be located up to fifty (50) feet from a drainage channel or stream, as measured from the top of the bank to the stockpile, for established TMDL water bodies; streams listed on the State 303(d) list; an Extraordinary Resource Water, Ecologically Sensitive Waterbody, and/or Natural and Scenic Waterbody, as defined by Arkansas Pollution Control and Ecology Commission Regulation No. 2; and/or any other uses at the discretion of the City.

Topsoil piles surfaces must be immediately stabilized with appropriate stabilization measures. Stabilization practices may include: temporary seeding (i.e. annual rye or other suitable grass), mulching, and other appropriate measures. Sediment control measures such as silt fence shall be provided immediately for stockpiles and remain in place until other stabilization is in place. Storm drain inlets must be protected from potential sedimentation from storage piles by silt fence or other appropriate barriers.

- (10) *Franchise and Private Utilities.* The property owner or main contractor onsite will be responsible for restoring all erosion and sediment control systems and public infrastructure damaged or disturbed by underground private or franchise utility construction such as water and sewer service leads, telephone, gas, cable, etc. Erosion and sediment control systems must be immediately restored after each utility construction.
  - (11) *Post-Construction Compliance.* Upon completion of permitted construction activity on any site, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of this chapter in the course of maintenance, reconstruction or any other construction activity on the site.
- (B) *Construction Sites Requiring an Approved Stormwater Pollution Prevention Plan (SWPPP).* For all construction sites where construction on a site will disturb soil or remove vegetation on one (1) or more acres of land during the life of the construction project, a Stormwater Pollution Prevention Plan (SWPPP) for the project must be implemented by the construction site owner as follows:
- (1) The site owner bears the responsibility for implementation of the SWPPP and notification of all contractors and utility agencies on the site.
- (C) *Stormwater Pollution Prevention Plans.* Preparation and implementation of Stormwater Pollution Prevention Plans for construction activity shall comply with the following:
- (1) Implementation
    - (a) *Installation and Maintenance.* BMPs shall be installed and maintained by qualified persons. The owner or their representative shall provide upon the

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City's request a copy of the SWPPP on site and shall be prepared to respond to unforeseen maintenance requirements of specific BMPs.

- (b) A qualified inspector (provided by the owner/developer/builder) shall inspect disturbed areas of the construction site and areas used for storage of materials that are exposed to precipitation that have been finally stabilized, and locations where vehicles enter or exit the site. BMPs must be observed to ensure proper operation. Inspectors must inspect for evidence of, or the potential for, pollutants entering the stormwater conveyance system. Discharge locations must be inspected to determine whether BMPs are effective in preventing significant impacts to waters of the State, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. The inspections must be conducted at least once every seven (7) calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater as measured at the site or generally reported in the vicinity of the site. A rain gauge must be maintained on-site.

A report shall be prepared for each inspection summarizing the scope of the inspection; name(s), title(s) and qualifications of personnel making the inspection; the date of the inspection; amount of rainfall and days since last rain event, BMPs on-site; observations relating to whether BMPs are in working order and whether maintenance is required (when scheduled and completed); the locations and dates when major construction activities begin, occur, or cease; and the signature of the inspector. The reports shall be retained as part of the stormwater pollution prevention plan for at least three (3) years from the date the site is finally stabilized and shall be made available upon request to the City.

- (c) *Modifications.* Based on inspections performed by the owner or by authorized City personnel, modifications to the SWPPP will be necessary if at any time the specified BMPs do not meet the objectives of this chapter. In this case, the owner/developer/builder or authorized representative shall meet

with authorized City personnel to determine the appropriate modifications. All modifications shall be completed within seven (7) days of the referenced inspection, except in circumstances necessitating more timely attention, and shall be recorded on the owner's copy of the SWPPP.

(D) *Requirements for Utility Construction*

- (1) Utility agencies shall be responsible for compliance with the requirements this chapter.
- (2) Utility agencies shall develop and implement Best Management Practices (BMPs) to prevent the discharge of pollutants on any site of utility construction within the City. In addition, the City may adopt and impose BMPs on utility construction activity.
- (3) Utility agencies shall implement BMPs to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately.
- (4) Prior to entering a construction site or subdivision development, utility agencies shall have obtained from the owner a copy of any SWPPPs for the project. Any disturbance to BMPs resulting from utility construction shall be repaired immediately by the utility company in compliance with the SWPPP.

**12.11 1 & 2 Family Residential Requirements**

- (A) *1&2 Family Residential* All residential lots must maintain properly installed erosion and sediment control measures from the beginning of construction until slope stabilization and/or vegetation is established in order to prevent silt and sediment from going offsite or into the street.
- (B) A building permit application shall contain sufficient site drainage information to determine whether the construction will provide positive drainage to an appropriate location (public right of way or drainage easement).

**12.12 Stormwater Pollution Prevention**

**(A) Prohibitions**

- (1) Illicit discharges are prohibited. An illicit discharge is a storm drain that has measurable flow containing pollutants and/or pathogens. No person shall discharge anything but uncontaminated stormwater, into the storm drainage system. Common stormwater contaminants include trash, yard waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
- (2) Illicit connections are prohibited. Illicit connections are any drain or conveyance which allows an illicit discharge to enter the storm drainage system. This prohibition includes illicit connections made in the past, regardless of whether the connection was permissible at the time of connection.
- (3) No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.

**(B) Exemptions.** The following non-stormwater discharges are acceptable and not a violation of this chapter:

- (1) A discharge authorized by an NPDES permit other than the NPDES permit for discharges from the MS4;
- (2) Uncontaminated waterline flushing and other infrequent discharges from potable water sources;
- (3) Infrequent uncontaminated discharge from landscape irrigation or lawn watering;
- (4) Discharge from the occasional non-commercial washing of vehicles within zoned residential areas;
- (5) Uncontaminated discharge from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains;
- (6) Uncontaminated groundwater;
- (7) Diverted stream flows and natural riparian habitat or wetland flows;
- (8) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.

- (9) Any other non-stormwater discharge determined by the City to meet the standards and objectives of this chapter.

**(C) Requirements Applicable to Certain Discharges**

- (1) *Private Drainage System Maintenance.* The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
- (2) *Minimization of Irrigation Runoff.* Concentrated flow of irrigation water to the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
- (3) *Cleaning of Paved Surfaces Required.* The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this chapter. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Code. Material shall not be swept or washed into the storm drainage system. This section does not apply to pollutants discharged from construction activities.
- (4) *Maintenance of Equipment.* Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
- (5) *Materials Storage.* In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
- (6) *Pesticides, Herbicides and Fertilizers.* Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.
- (7) *Open Drainage Channel Maintenance.* Every person owning or occupying property through which an open drainage channel passes shall prevent trash, debris, excessive

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vegetation, and other obstacles from their property from entering the drainage channel.

- (D) *Release Reporting and Cleanup.* Any person responsible for a release of materials which are or may result in illicit discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.
  
- (E) *Authorization to Adopt and Impose Best Management Practices.* The City may adopt and impose a Best Management Practices Manual and requirements identifying Best Management Practices for any activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.



**CHAPTER 13: VARIANCES**

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## CHAPTER 13: VARIANCES

### 13.01 General Requirements

All applications for variances shall be submitted in writing to the person responsible for administration of the referenced section.

### 13.02 Zoning Regulations

Certain variances of the zoning regulations may be applied for as follows:

(A) *General regulations.* A variance shall not be granted unless and until an application demonstrates:

- (1) *Special conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or building in the same district.
- (2) *Deprivation of rights.* That literal interpretation of the provisions of the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning regulations.
- (3) *Resulting actions.* That the special conditions and circumstances do not result from the actions of the applicant.
- (4) *No special privileges.* That granting the variance requested will not confer on the applicant any special privilege that is denied by Zoning, Chapters 1 through 5, to other lands, structures, or building in the same district.
- (5) *Nonconforming uses.* No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(B) *Consideration by the Planning Commission.* Applications for variances of the following shall be considered by the Planning Commission.

- (1) *Access to structure.* The Planning Commission shall have the authority to waive the requirement that every building hereafter erected or moved shall be located on a lot which has frontage on a public street when the property owner provides safe and convenient access for fire protection and sanitation vehicles.

(2) *Building height variance in all zoning districts.*

- (a) The Planning Commission shall have the authority to grant a variance to allow a proposed structure to exceed building height limits in all Zoning Districts in those instances where, owing to special conditions and circumstances, literal enforcement of the building height restrictions would result in unnecessary hardship or the applicant can show that the additional height requested will not adversely affect adjoining or neighboring property owners.
- (b) The Planning Commission may prescribe appropriate conditions and safeguards to ensure any variance will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(C) *Consideration by the Board of Adjustment.*

- (1) *Bulk and area.* Applications for variances of bulk and area requirements shall be considered by and may be approved by the Board of Adjustment.
- (2) *Public hearing.* A public hearing shall be held.
- (3) *Findings.* The Board of Adjustment shall make the following findings:
  - (a) *Minimum variance.* That the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  - (b) *Harmony with general purpose.* The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of zoning, Chapters 1 through 5, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  - (c) *Conditions and safeguards.* In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the zoning regulations.

(d) *No variance allowed.* Under no circumstances shall the Board of Adjustment grant a variance to allow use not permissible under zoning in the district involved, or any use expressly, or implication prohibited by the terms of the zoning regulations in said district.

(4) *Vote.* The concurring vote of a majority of the members present shall be necessary to decide in favor of the applicant on any matter upon which it is required to pass or to effect any variation in the application.

### 13.03 Sign Regulations

*Consideration by the Planning Commission.* The Planning Commission shall not grant any variance of Chapter 9, Signs, unless and until an applicant demonstrates:

- (A) *Special conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or building in the same district.
- (B) *Deprivation of rights.* That literal interpretation of the provisions of the sign regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the sign regulations.
- (C) *Resulting actions.* That the special conditions and circumstances do not result from the actions of the applicant.
- (D) *No special privileges.* That granting the variance requested will not confer on the applicant any special privilege that is denied by Chapter 9, Signs, to other lands, structures, or building in the same district.
- (E) *Nonconforming uses.* No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- (F) *Time Limitation.* Any variance granted shall automatically be revoked if the applicant does not comply with the terms of the variance within 90 days from the granting thereof; and, the applicant shall be required to comply with the literal provisions of Chapter 9, Signs.
- (G) *Prohibited.* The Planning Commission shall not permit as a variance any sign the erection of which or the continuance of which is prohibited by Chapter 9, nor shall any variance be granted to allow a greater number of signs than specifically set forth therein.

*Content Neutrality; Restrictions.* The Planning Commission shall not take into account the content of any message sought to be displayed on the sign when determining whether to grant a variance. Variances can only be granted for setbacks, area, height, the proposed on-site location of the sign, or other technical requirements, and shall not exceed 15% of the Code requirement.

### 13.04 Floodplain Regulations

*Consideration by the Planning Commission.* Applications for variances of the floodplain regulations shall be considered by the Planning Commission.

- (A) Applicants must submit petitions for variances directly to the Planning Commission.
- (B) Variances may only be issued:
  - 1) if showing a good and sufficient cause;
  - 2) granting of the variance will not result in any adverse impact upon other lands;
  - 3) if granting of the variance will not result in any additional threats to public safety;
  - 4) if granting of the variance will not result in extraordinary public expense;
  - 5) if granting of the variance does not create a nuisance, cause fraud on or victimization of the public, or conflict with existing laws or ordinances;
  - 6) if granting of the variance will not result in increased flood heights or an increase in expected flood velocities;
  - 7) if the requested variance is the minimum necessary, considering the flood hazards, to afford the necessary relief; and
  - 8) upon determination that the requested variance is necessary to avoid an extraordinary hardship to the applicant.
- (C) Variances may not be issued for developments inside a regulatory floodway unless
  - 1) all requirements of 44 CFR §65.12 are first met; or
  - 2) the following requirements are met:
    - a. a No-Rise Certificate signed and sealed by a Professional Engineer licensed to practice in the State of

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Arkansas is submitted to document that no increase in the base flood elevation would result from granting a variance for the proposed development;

- b. protective measures are employed to minimize damages during flooding events; and
  - c. the variance does not result in any adverse impact to other lands.
- (D) Examples of developments for which variance petitions may be appropriate include but are not limited to
- 1) the new construction of, or substantial improvement to, a structure on a lot of 1/2 acre or less in size that is surrounded by contiguous lots with existing structures constructed below the base flood elevation;
  - 2) for the reconstruction, rehabilitation or restoration of an historical structure, provided that:
    - a. the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure; and
    - b. the variance is the minimum necessary to preserve the historic character and design of the structure.
  - 3) the new construction of, substantial improvement to, or other development necessary to conduct a functionally dependent use, provided that:
    - a. the criteria outlined in Article 2, Section E, (3) and (4) and Article 2, Section F are met, and
    - b. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

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## CHAPTER 14: NOTIFICATION AND PUBLIC HEARINGS

### 14.01 General Requirements/ Information

- (A) *Purpose.* Notification is to be provided for public hearings in accordance with the requirements herein. The purpose of providing notification of public hearings is to ensure that all applications comply with state statutes and that affected or interested property owners are notified of the action being considered.
- (1) The applicant shall be responsible for public notification as required herein. In calculating the time period for public notification the day of publishing, posting, or mailing shall be counted toward the total number of days required. The day of the hearing shall not be counted toward this total.
  - (2) The degree of accuracy required for the information contained in these public notices shall be that of substantial compliance with the provisions of this section.
  - (3) In the event the applicant does not provide notice as required herein, the requested application may not be considered until all notification requirements are met.
- (B) *Written Notice.* Notice shall include the following information, unless specific requirements herein provide otherwise:
- (1) The applicant shall mail a written notice of the hearing by certified mail to the address of each adjacent landowner as such address is shown in the records of the Washington and/or Benton County Assessor's Office. Adjacent landowners include those across street rights-of-way.
  - (2) Notice shall include the following information, unless specific requirements herein provide otherwise:
    - (a) *Project description.* Brief written description of the project or request, project type, and location.
    - (b) *Use.* The proposed use of the property.
    - (c) *Zoning.* Current zoning.
    - (d) *Size.* Acreage of project.
    - (e) *Density/Intensity.* Include number of residential units and/or square feet of nonresidential use(s), as applicable.
    - (f) *Public hearing.* Time, date, place, and location of public hearing.
    - (g) *Name.* The property owner's and/or the developer's name.
    - (h) *Review location.* City of Elm Springs 479-248-7323, 289 Jayroe Ave., Elm Springs, AR 72728.
- (3) By the revision submittal prior to the hearing, the applicant shall provide the following to the City:
- (a) alphabetical list of the landowners receiving notification;
  - (b) map showing the landowners' relationship to the site;
  - (c) copy of the notice sent to the landowners; and
  - (d) certificates of mailing.
- (4) In the event that the applicant fails to mail a notice to an adjacent landowner or otherwise fails to comply with the written notice required in this section, the adjacent landowner may waive such notice by submitting a written waiver to the City Division prior to the hearing or by appearing at the hearing.
- (C) *Posted Notice.* The applicant shall post a notice on the land for which the use is requested.
- (1) The notice shall consist of at least one (1) sign adjacent to the street, unless otherwise determined by the City. The sign shall be placed in a visibly prominent location no more than ten (10) feet from the street, and shall not impede the vision of drivers or pedestrians.
  - (2) In the event the City determines a sign cannot be placed adjacent to such street and be visible to the public or that there is no adjacent public or private street open for travel, the City may require an alternate location for a sign.
  - (3) Additional signs may be required by the City, especially in the case of properties with multiple street frontages, to ensure nearby property owners are well-informed.
  - (4) Signs shall be made available to the applicant by the City. A \$50 fee per sign shall be remitted by the applicant.



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- (D) *Who may be heard.* Any person desiring to be heard at a public hearing may appear in person, by agent, or by attorney.
- (E) *Additional notification required.* In the event a project is tabled and a date for the new public hearing is not set at a public meeting, all notification requirements shall again be required pursuant to this chapter.

**14.02 Development**

Notification of public hearings for development applications shall occur as follows:

- (A) *Public hearing required.* A public hearing shall be held at the meeting of the Planning Commission, in accordance with the established bylaws of the Planning Commission.
- (B) *Applicability:* Development applications include, for the purpose of notification, preliminary plats, concurrent plats, and large scale developments. If an application does not require a public hearing, notification is not required.
- (C) *Notice of public hearing.* The applicant shall provide the following notice:
  - (1) *Who gets notice.* Notice of the proposed development shall be given to all adjacent landowners.
  - (2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:
    - (a) *Written notice.* Written notice shall be provided at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
    - (b) *Posted Notice.* The applicant shall post notice at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.

**14.03 Annexation And Zoning Map Amendments (Rezoning)**

Notification of public hearings for annexation petitions and zoning map amendments shall occur as follows:

- (A) *Public hearing required.* Upon receipt of a petition for an annexation or an amendment to the zoning map, the Planning Commission shall hold a public hearing on the proposed amendment.
- (B) *Notice of public hearing.* The applicant shall provide the following notice:

- (1) *Who gets notice.* Notice of the proposed annexation or zoning map amendment shall be given to all adjacent landowners.
- (2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:
  - (a) *Written notice.* Written notice shall be provided at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
  - (b) *Posted Notice.* The applicant shall post notice at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
  - (c) *Published Notice.* Notice of public hearing shall be given by the city by publishing a notice in a newspaper of general circulation in the city, at least one time, at least fifteen (15) days prior to Planning Commission.

**14.04 Conditional Use Permit**

Notification of public hearings for conditional use permits shall occur as follows:

- (A) *Public hearing required.* A public hearing shall be held by the Planning Commission for consideration of a conditional use permit.
- (B) *Notice of public hearing.* The applicant shall provide the following notice:
  - (1) *Who gets notice.* Notice of the proposed conditional use permit shall be given to all adjacent landowners.
  - (2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:
    - (a) *Written notice.* Written notice shall be provided at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
    - (b) *Posted Notice.* The applicant shall post notice at least fifteen (15) days prior to the Planning Commission meeting. Proof of notice shall be provided as required by this chapter.
- (C) *Special Uses.* The following conditional use permits require more stringent notification. Applicants applying for consideration of the

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following uses must meet the following additional notification criteria:

- (1) Dance halls; Facilities emitting odors and facilities handling explosives; wireless communication facilities; carnival, circus, amusement park or similar temporary open-air enterprise; manufactured and mobile homes; outdoor music establishments; sexually oriented business;
- (a) Who gets notice. All landowners within 500 feet of the boundary line of the property on which the use is proposed.

**14.05 Accessory Structures**

- (A) *Public hearing required.* A public hearing shall be held at the meeting of the Planning Commission, in accordance with the established bylaws of the Planning Commission.
- (B) *Notice of public hearing.* The applicant shall provide the following notice:
  - (1) *Who gets notice.* Notice of the proposed accessory structures shall be given by the applicant to all persons owning property adjacent to the subject. Adjoining property notification forms with responses shall be submitted to the City with the accessory structure application.
  - (2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:
    - (a) *Written notice.* Written notice shall be provided at least fifteen (15) days prior to the Planning Commission meeting. Proof of notice shall be provided as required by this chapter.

**14.06 Vacations Of Rights-Of-Way And Easements**

- (A) *Public hearing required.* The City Council shall hold a public hearing, after receiving a recommendation by the Planning Commission, on applications requesting vacation of rights-of-way or easements.
- (B) *Notice of public hearing.* The applicant shall provide the following notice:
  - (1) *Who gets notice.* Notice of the proposed vacation shall be given by the applicant to all persons owning property adjacent to a utility easement and all property owners adjacent to or within the same block as a public right-of-way. Adjoining property notification forms

with responses shall be submitted to the City with the vacation application.

- (2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:
  - (a) *Written notice.* Written notice shall be provided at least fifteen (15) days prior to the Planning Commission meeting. Proof of notice shall be provided as required by this chapter.
  - (b) *Posted Notice.* The applicant shall post notice at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
  - (c) *Published Notice.* Notice of the City Council hearing shall be published, by the City Clerk, in a newspaper of general circulation in the city prior to the City Council hearing.

**14.07 Board of Adjustment**

Notification of public hearings for zoning variances and appeals shall occur as follows:

- (A) *Public hearing required.* Upon receipt of a petition for a variance or appeal of staff decisions/interpretations concerning Zoning, Chapters 1 through 6, the Board of Adjustment shall hold a public hearing.
- (B) *Notice of public hearing.* The applicant shall provide the following notice:
  - (1) *Who gets notice.* Notice of the proposed variance or appeal shall be given to all adjacent landowners.
  - (2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:
    - (a) *Written notice.* Written notice shall be provided at least fifteen (15) days prior to the meeting of the Board of Adjustment. Proof of notice shall be provided as required by this chapter.
    - (b) *Posted Notice.* The applicant shall post notice at least fifteen (15) days prior to the meeting of the Board of Adjustment. Proof of notice shall be provided as required by this chapter.

#### **14.08 Manufactured Homes And Manufactured Home Parks**

- (A) Whenever the enforcement officer determines that there are reasonable grounds to believe that there has been a violation of any provision of city code or any regulation adopted pursuant thereto, he/she shall give notice of such alleged violation to the owner of the park and to the person to whom the operator's permit was issued, as hereinafter provided.
- (B) Such notice shall:
- (1) Be in writing;
  - (2) Include a statement of the reasons for its issuance;
  - (3) Allow a reasonable time for the performance of any act it required;
  - (4) Be served upon the owner and the operator; provided, that such notice or order shall be deemed to have been properly served upon such owner or operator when a copy thereof has been sent by certified mail to their last know address, or when they have been served with such notice by any other method authorized or required by the laws of the state; and,
  - (5) Contain an outline of remedial action, which, if taken, will effect compliance with the provisions of city code and with regulation adopted pursuant thereto.

#### **14.09 Fire Prevention Code**

*Blasting.* In addition to the requirements and regulations provided in the Fire Prevention Code, the applicant for a blasting permit shall notify all residential property owners located within 200 yards of a blasting site. Notification may be personal contact, or by written notice left at the residence and shall contain the dates of any blasting activity.

## CHAPTER 15: BONDS AND GUARANTEES

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CITY OF ELM SPRINGS ZONING ORDINANCE

## CHAPTER 15: BONDS AND GUARANTEES

### 15.01 Guarantees In Lieu Of Installed Improvements

(A) *Subdivisions.* The Planning Commission may approve a subdivision final plat prior to the installation of the final pavement if all other required improvements have been substantially completed as determined by the City after the final inspection, provided the developer deposits with the city, or provides the following in an amount equal to 150% of the estimated cost of the uncompleted improvements as determined by the City Engineer:

- (1) *Currency.* U.S. currency;
- (2) *Bond.* A performance/surety bond; or
- (3) *Letter of credit.* An irrevocable letter of credit from a bank, or banking institution doing business in this state which is a member of the Federal Deposit Insurance Corporation.

(B) *Large Scale Developments.* The Planning Commission may approve an office, residential, commercial, or industrial Large Scale Development plan prior to the installation of the required improvements; however, no building permits may be issued until one of the following has occurred:

- (1) *Complete.* All of the required improvements have been completed; or
- (2) *Deposit.* The developer deposits with the city or provides the following in an amount equal to 150% of the estimated cost of the uncompleted improvements as determined by the City .
  - (a) *Currency.* U.S. currency;
  - (b) *Bond.* A performance/surety bond; or
  - (c) *Letter of credit.* An irrevocable letter of credit from a bank, or banking institution doing business in this state which is a member of the Federal Deposit Insurance Corporation.

(C) *Remedies.* The city has the following options if the improvements have not been constructed after 270 days:

- (1) *Deposit of U.S. currency.*
  - (a) *Construct improvements.* Construct the remaining improvements using the U.S. currency. Any balance remaining after the improvements have been

constructed shall be returned to the developer; or

- (b) *Hold currency.* Continue to hold the U.S. currency until the developer completes the required improvements. After the City certifies that the improvements have been complete, the entire deposit shall be returned to the developer.

(2) *Irrevocable letter of credit.*

- (a) *Call letter of credit.* Call the irrevocable letter of credit and use the proceeds to construct the remaining improvements. Any balance remaining after the improvements have been constructed, shall be returned to the developer; or

- (b) *Amend letter of credit.* Amend the irrevocable letter of credit or require the developer to provide another irrevocable letter of credit for any uncompleted improvements in an amount equal to 150% of the estimated cost of remaining improvements as determined by the City. After the City certified as to which improvements have been completed, the guaranteed amount for any completed improvements may be returned to the developer.

(3) *Performance/surety bond.*

- (a) *Terms of bond.* The surety shall be notified and the parties shall proceed under the terms of the bond, or

- (b) *Amend bond.* Amend the performance/surety bond, or require the developer to provide another performance/surety bond for any uncompleted improvements in an amount equal to 150% of the estimated cost of remaining improvements as determined by the City.

### 15.02 Excavation In Public Rights-Of-Way

*Cash bond.* No person shall make any excavation of a street or public right-of-way unless a cash bond is first deposited with the city for the purpose of guaranteeing repair and replacement of said street or public right-of-way. Said cash bond shall be in an amount equivalent to the estimated cost of properly repairing and replacing said street or public right-of-

way, as determined by the Mayor, or his duly authorized representative.

### 15.03 Maintenance

- (A) Installed improvements. An acceptable guarantee shall be provided in the amount of 25% of the total contract price of the public improvements including sewer, streets, sidewalks and the stormwater management drainage system against defects in workmanship and materials for a period of two years from the date of acceptance of such improvements. The guarantee shall be filed with the City prior to the acceptance of the improvements by the City. A walk-through shall be performed at the end of the two-year period and all deficiencies corrected prior to the release of the bond.
- (B) Erosion and sediment control. For developments in excess of five (5) acres, an acceptable guarantee shall be provided at the time of the issuance of the drainage permit in the amount of 100% of the total cost to install the approved erosion & sediment control plan to insure the continuation of the proper maintenance of the plan. The guarantee shall remain in place until permanent stabilization has been achieved for the development site.

### 15.04 Grading; Bonds/Sureties

The building official may require bonds or other sureties in such form and amounts as may be deemed necessary to assure the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.

### 15.05 Off-Site Improvements/Delays

- (A) *Proportionate share.* If the Planning Commission determines that a needed off-site improvement cannot be built until future development occurs, the developer shall pay to the city an amount determined by the Planning Commission, in accordance with the standards prescribed in §6.04, to be the developer's proportionate share of the cost of said off-site improvements as of the date of final plat or large scale development approval.
  - (1) The city shall deposit said money into an interest bearing escrow account until such time as the off-site improvement is constructed and shall provide for payment of interest on said amount at the rate of 10% per annum, or the maximum rate allowable under Arkansas law, whichever is lower.
  - (2) If the off-site improvement is not constructed within five (5) years from the date of the first payment into the escrow account by a

developer, the Planning Commission shall hold a public hearing, after notification to all affected property owners, to determine the disposition of all money in the escrow account. Following the public hearing, the Planning Commission may:

- (a) Determine that the off-site improvement is still necessary and feasible, and can be built within a reasonable time, in which case the escrow account shall be continued for a period specified by the Planning Commission; or
  - (b) Determine that the off-site improvement is not necessary, or will not be feasible, or that insufficient development has occurred to render the improvement likely in the foreseeable future, in which case the Planning Commission shall refund the monies to the then current owner of the land for which such fee was paid with interest since the date of payment. Interest shall be based on a five percent (5%) annual rate.
  - (c) With the written consent of a majority of the property owners who have purchased lots in the subdivision(s) and the developer(s), direct that money in the escrow account be utilized for a different purpose which will specifically benefit the neighborhood.
- (B) *Bill of Assurance/performance bond.* The developer may, with approval of the City Council, guarantee payment of said amount so determined by executing a bill of assurance, or performance bond in a form approved by the City Attorney.

Bills of Assurance and/or performance bonds shall meet the following requirements:

- (1) Bills of assurance shall be filed of record and shall be a covenant running with the land.
- (2) Bills of assurance, or performance bonds, shall obligate the landowner to pay the city the amount so determined by the Planning Commission within 10 days from receipt of written notice from the city.

### 15.06 Sidewalks

In lieu of issuing a notice as set forth in §7.10, the City may accept a bill of assurance executed by the property owner to guarantee installation of the sidewalk within three months from receipt of notice from the mayor. The property owner's obligation under the bill of assurance shall be a covenant running with the land, and the form of the bill of assurance shall be approved by the city attorney.

## CHAPTER: 16 FEES

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CITY OF ELM SPRINGS ZONING ORDINANCE

**CHAPTER 16: FEES**

**16.01 Fees/Schedule**

(A) *Fees.* Fees shall be imposed, as set forth below, to cover the cost of public notices and such other expenses as may be incurred in connection with processing of applications, plan reviews, amendments, permits, variances and other matters pertaining to the code.

(1) An alderman may present a resolution to the City Council to waive, or reduce development permit fees otherwise required by this chapter. If the reduction, or waiver would serve the public interest, alleviate an unfair burden upon an applicant, or be beneficial to the city as a whole, the City Council may grant such reduction, or waiver of permit fee.

(B) *Fee schedule.*

(1) *General.* Unless specific fees are set forth below, the City Council shall, by resolution, establish a schedule of fees and a collection procedure. The schedule of fees shall be posted in the City Clerks Office.

(2) *Signs.*

(a) *Signs.* For each sign or other advertising structure regulated by Chapter 9; \$10.00 plus \$1.00 per square foot of sign face.

(b) *Windblown signs.* \$10.00.

(c) *Sign variance.* Filing fee: \$75.00

(3) *Development.*

Preliminary Plat	\$500.00
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Final Plat	\$400.00
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Lot Split	\$125.00
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Large Scale Development	\$500.00
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(4) *Grading Permit*

Grading Permit	\$50.00
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(5) *Zoning.*

Rezoning	\$200.00
Conditional use	\$100.00
Variance:	
Before any violation has occurred	\$100.00
After any violation has occurred	\$200.00

(6) *Vacations.*

Filing fee	\$100.00
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(7) *Street Excavation/Boring*

Excavation/Boring Permit	\$100.00
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(8) *Business License.*

(a) *Fees.* The fee for a business license shall be \$35 / year. For the first year, the fee will be prorated for the month that the business license application is approved.

(b) *Exceptions.* The business shall be exempt from the business license fee if the business is registered as a Non-profit Organization (501(c)(3)).

(9) *Building permits.*

(a) *General fees.* The following general provisions shall apply to all permits, including but not limited to building, electrical, gas, mechanical and plumbing; and shall apply in addition to the fees and requirements set forth in each separate code.

(i) *Permit fees.*

a. *Emergency, investigative and after hour(s).* In addition to the permit fee, an emergency fee for after hours inspection, investigations and emergency inspections shall be \$25.00 per inspection.

b. *Work without permit.* Where work for which a permit is required is started prior to obtaining said permit, the fees herein specified shall be doubled. Payment of such double fee shall not relieve any persons from fully complying with the requirement of any code in the execution of the

CITY OF ELM SPRINGS ZONING ORDINANCE

work nor from any other applicable penalties.

- c. *Re-inspection.* For each re-inspection for correction of violations and/or if installation is not ready for requested inspections the fee shall be \$50.00.

- (c) *Building permit.* Residential Building Permit fees shall be \$90.00 or \$.90/sf, whichever is greater. The maximum residential building permit fees shall be as follows:

Agricultural Use	\$500.00
Residential Single Family	\$5,000.00
Duplex, Tri-Plex and Quad Plex Multi-Family	\$7,500.00
Multi-Family Greater than 4 Units	\$15,000.00

Non-Residential Building Permit fees shall be \$90.00 or \$.45/sf, whichever is greater.

Additional building permit fees apply as follows:

Certificate of completion	\$15.00
C of O--existing building and/or change of occupancy use	\$10.00
Demolition permit	\$50.00
Footing/foundation only	\$50.00
Remodel permit	\$25.00
Moving permit	\$50.00
Permit extension	\$50.00
Commercial Plan review fee	50% of Building Permit Fee

- (c) *Electrical.*

- (i) *Electrical permit fees.* Fees for permit shall be paid to the city, as follows:
  - a. First four meters, new or replacement, \$25.00
  - b. For each additional meter on a building, \$5.00
  - c. \$0.50 per outlet, and \$10.00 per inspection with electrical wiring in concrete.
  - d. Neon tube lighting shall be \$10.00 for each transformer.

- e. A minimum fee for any electrical permit shall be \$50.00.

- (d) *Gas.*

- (i) *Gas permit fees.* Fees for gas permit shall be paid to the city, as follows:

- a. First five fixtures for \$50.00 plus \$2.00 for each additional fixture.

- (ii) *Exceptions.* Gas ranges/ovens, domestic clothes dryers, and space heaters not required to have a vent are exempted and gas permits are not required to connect these appliances to an existing gas outlet in an existing piping system.

- (e) *Mechanical permit fees.* Fees for a mechanical permit shall be paid to the city as follows:

Minimum permit fee for the first unit	\$40.00
Additional units greater than 1/2 horse power	\$15.00
Fractional horse power mechanical exhaust	\$10.00
Gas vent per unit	\$15.00

- (f) *Plumbing.*

- (i) *Plumbing permit fees.* Fees for plumbing permits shall be paid to the city, as follows:

- a. First five fixtures for \$25.00, plus \$1.75 for each additional fixture, and

- b. \$25.00 for each inspection required for plumbing under slab.

- (g) *Pool permit.* Pool permit fees shall be \$90.00 or \$.30/sf, whichever is greater.