



Table of Contents

ARTICLE 100 Purpose.....	2
ARTICLE 200 Definitions.....	5
ARTICLE 300 Administration	39
ARTICLE 400 Zoning District Regulations.....	61
ARTICLE 500 Off Street Parking and Loading	77
ARTICLE 600 Non-Conformities	89
ARTICLE 700 Supplemental Zoning District Regulations.....	93
ARTICLE 800 Landscaping, Screening, and Buffering.....	113
ARTICLE 900 Fencing.....	128
ARTICLE 1000 Signs.....	133
APPENDIX A: Table of Permitted Uses	149

AMENDMENTS:

Amended by Ordinance	Publication Date	Effective Date
2014-04	April 2, 2014	May 2, 2014
2013-16	December 25, 2013	January 24, 2014
2013-15	December 25, 2013	January 24, 2014
2013-13	December 4, 2013	January 3, 2014
2013-05	April 3, 2013	May 3, 2013
2012-12	October 10, 2012	November 9, 2012
2011-17	December 28, 2011	December 28, 2011
2011-04	June 1, 2011	July 2, 2011
2010-11	November 3, 2010	December 4, 2010
2010-10	September 1, 2010	October 2, 2010
2009-23	December 9, 2009	January 2010

ARTICLE 100 Purpose

Section 100.01. Title.....	3
Section 100.02. Authority.....	3
Section 100.03. Purpose.....	3
Section 100.04. Jurisdiction.....	3
Section 100.05. Nature and Application.....	4

Section 100.01. Title

(Ord. 2009-23, 1/8/10)

The title of this ordinance shall be known as the “Zoning Ordinance of the City of Bella Vista, Arkansas.” The ordinance shall consist of the text written herein as well as the map titled ‘Zoning District Map’ which delineates individual districts within the corporate City limits.

Section 100.02. Authority

(Ord. 2009-23, 1/8/10)

These regulations are adopted under the authority conferred on the City of Bella Vista by the General Assembly of the State of Arkansas by A.C.A. § 14-56-401 et seq.

Section 100.03. Purpose

(Ord. 2009-23, 1/8/10)

- (A) The general purpose of this ordinance is to develop and protect the various elements of the Comprehensive Plan which includes the Land Use Plan, the Subdivision Regulations, the Master Street Plan and other current and future elements of the regulations of the City of Bella Vista, Arkansas. In doing so, the ordinance promotes, in accordance with present and future needs, the safety, health, and general welfare of the citizens.
- (B) Specifically, this ordinance supports the provisions of the Land Use Plan which provides:
- (1) Efficiency and economy in the process of development;
 - (2) The appropriate and best use of land;
 - (3) Convenience of traffic and circulation of people and goods;
 - (4) Safety from fire and other dangers;
 - (5) Adequate light and air;
 - (6) Healthful and convenient distribution of population;
 - (7) Good civic design and arrangement;
 - (8) Adequate public utilities and facilities; and
 - (9) Other considerations deemed necessary.

Section 100.04. Jurisdiction

(Ord. 2009-23, 1/8/10)

The provisions of the ordinance shall apply to all land and structures within the corporate limits of the City of Bella Vista, Arkansas, as they now or may hereafter exist. This ordinance shall also apply to any land annexed into the city limits for whatever reason after the adoption of this ordinance.

Section 100.05. Nature and Application

(Ord. 2009-23, 1/8/10)

For the purposes hereinbefore stated, the City has been divided into zoning districts in which the regulations contained herein will govern lot coverage; the height, area, bulk, location and size of buildings; open space and the uses of land, buildings and structures. In interpreting and applying the provisions of this Zoning Ordinance, these requirements contained herein shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare. After the adoption of this ordinance, the use of any land within the ordinance's jurisdiction shall conform completely with its provisions, except as may be hereinafter set forth.

ARTICLE 200 Definitions

Section 200.01. Interpretations6
Section 200.02. Definitions of Terms and Uses6

Section 200.01. Interpretations

(Ord. 2009-23, 1/8/10)

- (A) When dealing with this Ordinance, the following rules of interpretation shall be applied, except when the context clearly requires otherwise.
- (1) Words used in the present tense shall include the future tenses. Words in the singular number include the plural, and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise.
 - (2) The word “shall” is mandatory and not discretionary. The word “may” is permissive.
 - (3) The particular shall control the general.
 - (4) The text of this ordinance shall control, in cases where the text differs in meaning or implication from any chart, graph, illustration, or table.
 - (5) The words “building” and “structure” are synonymous and include any part thereof.
 - (6) The word “Person” shall include individuals, firms, corporations, associations and any other similar entities.
 - (7) The words “parcel” and “tract” may be used interchangeably.
 - (8) The word “City” means the areas of jurisdiction of the City of Bella Vista, Arkansas.
 - (9) All public officials, bodies and agencies to which reference is made are those of the City of Bella Vista, Arkansas.
 - (10) All yards required by this ordinance shall be open and unobstructed by structures from the lowest level of the lot to the sky, except as specifically regulated herein.
 - (11) The word “permitted” or words “permitted by right” means permitted without meeting the requirements for a conditional use permit or site plan.

Section 200.02. Definitions of Terms and Uses

(Ord. 2009-23, 1/8/10; Ord. 2010-10, 10/2/10; Ord. 2012-12, 11/09/12; Ord. 2013-13, 1/3/14; Ord. 2014-04, 5/2/14)

For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Where any words are not defined, the standard dictionary definition shall apply. In addition some definitions listed restrict and define the meaning and intent of permitted uses set forth in this ordinance.

- A -

“Abutting”: Having property or district lines in common. Since zoning district lines fall to the center line of a street, alley, or waterway, lots which appear physically separated abut at said district line.

“*Access*”: The way or means by which a piece of property is approached or entered.

“*Accessory Building*”: See “Building, Accessory.”

“*Accessory Use*”: A use that is clearly incidental to, or customarily found in connection with, and on the same lot as, the main use of the premises. When “accessory” is used in the text, it shall have the same meaning as accessory use.

“*Accessory Dwelling*”: See “Dwelling, Accessory.”

“*Addition*”: Any construction which increases the size of the building such as a porch, attached garage or carport, or a new room or wing.

“*Adult Day Care Center*”: An institution maintained and conducted, certified by the State, under public or private auspices which cares for more than two (2) adults who require such care because of age, affliction or limited capacity and who are apart from their own family or relatives during a part of the day.

“*Agricultural Products Processing*”: A facility which involves the operation(s) of processing, preparing or packaging agricultural products which are not grown on the site.

“*Agriculture*”: Farms and general farming, including horticulture, floriculture, dairying, livestock and poultry raising, farm forestry and other similar enterprises or uses, but no farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals, except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one (1) year immediately prior thereto and for the use and consumption of persons residing on the premises.

“*Alley*”: A public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

“*Alter*”: To change the size, shape, outline, intent or type of sign.

“*Alterations*”: Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders the consummated act of which may be referred to herein as “altered” or “reconstructed.”

“*Animal, Domestic or Household*”: Animals which usually do not induce fear or apprehension by persons encountering said animal due to size or reputation; which have a tendency to voluntarily return to the domicile after escape, and which do not fall under the definition of farm animal, exotic animal, game animal or animal wild by nature. Customarily kept by humans for companionship, including but not limited to dogs, cats, birds, rabbits, hamsters, mice, and turtles.

“*Animals, Farm*”: Animals normally maintained for the purpose of producing a food supply (i.e. bovine, swine, turkeys, chickens, rabbits, etc.) and animals of burden which reduces farm and/or rancher toiling, (i.e. mule, donkey, horse, oxen). Customarily raised in an agricultural, rather than urban, environment, for profit on farms and has the potential of causing a nuisance if not properly maintained. This definition does not include “hobby chicken” which is separately defined.

“Animal, Exotic”: Animals that are not usually found running at large within the natural areas of the State of Arkansas; that do not meet the definition of household/domestic animals or farm animals; that are not usually considered as a food supply or animal of burden in the United States, and which close relative or parentage are usually imported from another country.

“Animal, Game”: Animals which are normally wild by nature, provide citizens with a portion of food for consumption, and are usually hunted under a license issued by the State of Arkansas.

“Animal, Wild by Nature”: Animals which normally fall within the category of scavenger or predator; may instill fear and apprehension in persons of normal sensitivity, when encountered; require extraordinary precautions to prevent escape, and will not usually voluntarily return to the domicile after escape.

“Animal Breeder”: Any person who maintains an unaltered (unsterilized) dog or cat and breeds such animal for any consideration of profit, fee, or compensation.

“Animal Clinic or Hospital (Enclosed)”: A facility without outside runs for the diagnosis and treatment of pets and other animals including but not limited to dogs, cats, birds and horses. All boarding of animals is within an enclosed structure and is incidental to clinic or hospital use.

“Animal Grooming Establishments”: Any care or service provided to the exterior of an animal to change its looks or improve its comfort, but does not mean the treatment of physical diseases or deformities.

“Animal Shelter or Kennel”: A public or commercial facility including outside runs for enclosure of animals, especially stray or unlicensed pets, or for pets being boarded for short periods of time, with five (5) or more animals.

“Antenna”: Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes and omni-directional antennas, such as whips but not including satellite earth stations.

“Applicant”: Any person, firm, or corporation applying for permits or other approvals required by this chapter.

“Apartment”: See “Dwelling, Multi-family.”

“Apiary”: The assembly of one or more colonies of bees at a single location.

“Apiculture”: The maintenance of bees in hives or colonies for the production of honey and related products.

“Area”: The amount of land surface in a lot or parcel of land.

“Area Requirement”: The yard, lot area, width of lot, height of structure, and parking requirements as set forth for a specific zone in this ordinance.

“Arena/Auditorium”: A facility or closed area used for large public gatherings for viewing sports events, musical programs, public speeches or ceremonies. The allowed uses include but are not limited to arenas, auditoriums, fairgrounds, and stadiums.

“Authorized Agent”: A person or persons authorized by the landowner to act on his behalf.

“Auto Auction”: A facility for the sale of automobiles to the highest bidder.

“Auto Painting or Body Rebuilding Shop”: A facility for restoring auto bodies, painting or refinishing.

“Auto Parts and Accessory Sales”: A facility having auto parts, accessories and tools for sale.

“Automobile or Motorcycle Display, Sales or Service”: A facility for display, service and sale of new or used automobiles, motorcycles, recreational vehicles, and trailers.

- B -

“Banner”: A temporary sign constructed of a lightweight material, such as cloth, canvas, fabric, or flexible plastic, either enclosed in a frame or mounted to allow movement caused by the atmosphere.

“Bar, Lounge, or Tavern”: An establishment, the primary activity of which is the sale and consuming on premises, of alcoholic and non-alcoholic beverages, where food service is secondary.

“Basement”: A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground.

“Bed and Breakfast”: An owner occupied dwelling unit that contains no more than five (5) guest rooms where short-term lodging, with or without meals is provided for compensation. Short-term lodging shall be defined as lodging for a period not to exceed twenty-one (21) days.

“Beekeeper”: A person who owns or has charge of one or more colonies of bees.

“Beekeeping Equipment”: Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

“Billboard”: A type of freestanding sign which exceeds the height and square footage requirements for the district in which it is located, and which promotes or advertises commodities, goods, or services available at a location other than where the sign is located, including those signs whose message space is available for lease, rent, or hire.

“Board”: The word “Board” shall mean the Board of Zoning Adjustment.

“Boat House”: An accessory building or structure especially designed for the storage of boats, normally smaller water craft for sports or leisure use, typically located on open water such as a lake or river. Boat houses do not include accessory dwellings or other structures with dwelling units.

“Body of water”: Any significant accumulation of water including, but not limited to, lakes, reservoirs, ponds, rivers, and streams.

“Breeding Facility”: A structure or facility used for the purpose of breeding two or more litters of puppies or kittens within any twelve month period. A facility that keeps animals commercially and has open runs, outside play areas, or any areas where animals are kept or left outside.

“Buffer”: A strip of land established to protect one type of land use from another. A buffer is landscaped and kept in open space. The term buffer zone may be used more broadly to describe any area that separates two unlike zoning districts.

“Buildable Area”: The space remaining for construction on a lot after the minimum area requirements (yards, setbacks, coverage) have been met.

“Building”: Any structure including a roof supported by walls, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property and forming a construction that is safe and stable; the word building shall include the word structure.

“Building, Accessory”: An accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this Ordinance) located on the same lot as, the use of the main building or principal use of the land. If the building otherwise qualified as an accessory building is attached to the main building by a common wall or roof, such building shall be considered a part of the main building.

“Building, Attached”: A building which shares a continuous roof with another adjacent building located on the same lot.

“Building, Detached”: A building having no roof in common with another building located on the same lot.

“Building Façade”: The area of a single building elevation which encompasses all of such elevation from ground or grade level to the top, and from one side to the other side of the building.

“Building Height”: The vertical distance measured from the average elevation of the finished grade of the lowest floor of the building to the highest point of the structure, exclusive of chimneys, ventilators, or other extensions above the roof line that are not intended for occupancy or internal usage by persons.

“Building Material Sales”: A facility for the sale of materials and hardware to be used for the construction, renovation, remodeling or other alterations of primary or accessory buildings.

“Building, Principal”: A building or structure in which is conducted the principal use of the lot on which it is located. In any residential district, any dwelling shall be deemed to be the principal building on the lot.

“Building Setback”: A line drawn on plats and other property description maps delineating the area within which a structure can be built.

“Bulk Storage of Highly Flammable Materials”: A facility for the storage of chemicals, gases or liquids which are subject or could be caused to ignite or explode.

“Bus or Truck Storage or Garage”: A facility in which currently licensed buses or trucks are stored or repaired.

- C -

“Canopy Roof”: A permanent, decorative porch or walkway cover other than an awning which is attached to a building or supported by columns extending to the ground.

“Carport”: A structure attached or made a part of the main structure, and which is open to the weather on at least two sides, intended for the use of sheltering motor driven vehicles.

“Car Wash”: A facility for washing or steam cleaning passenger automobiles (including a self-service operation), operating either as a separate facility or when installed and operated in conjunction with another use, and which installation includes equipment customarily associated with a car wash and is installed solely for the purpose of washing and cleaning automobiles.

“Cemetery or Mausoleum”: A place or ground designated for burial of the deceased.

“Certificate of Occupancy”: Official certification that a premise conforms to provisions of the Zoning Ordinance and Building Code and may be used or occupied.

“Chicken, Hobby”: Fowl that are being raised on non-agricultural lots as a hobby instead of as a farming operation. Hobby chickens are used for the production of eggs, garden fertilizer, meat production or as pets for non-commercial purposes.

“City”: The City of Bella Vista, Arkansas.

“Clinic (Medical, Dental, Optical)”: A facility for examining, consulting with, and treating patients; including offices, laboratories and outpatient facilities, but not including hospital beds for overnight care or treatment.

“Club”: An organization of persons for special purposes for the promulgation of sports, arts, sciences, literature, politics or the like, but not operated for profit. Also see “Lodge”.

“Collocation”: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

“Colony or Hive”: An aggregate of bees consisting principally of workers, but having, when perfect, one queen and at time many drones, including brood, combs, honey and the receptacle inhabited by the bees.

“Child Care Facility”: Any child care facility is considered commercial in nature when the facility cares for five (5) or more children under the age of 16 years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation, provided, however, this definition shall not include public or private schools

organized, operated or approved under the laws of this state, custody of children fixed by a court of competent jurisdiction, or to children related by blood or marriage within the third degree to the custodial persons. These uses include but are not limited to:

Commercial Day Care Center	Nursery School
Kindergarten	Pre-School

“Commission”: The Bella Vista Planning Commission.

“Common Usable Open Space”: That portion of land or an area of water or a combination of land and water within the site designated and designed and intended for use and enjoyment of residents and owners, and easily accessible for all the residents. Common open space may contain such complementary structures and improvements as are necessary and appropriate.

“Community Welfare and Health Center”: A community service facility where social, recreational, welfare, health, medical, or child care assistance is provided for a public, quasi-public, tax exempt, church or municipal agency. Also see “Mental Health Center”.

“Comprehensive Plan”: The City of Bella Vista’s long-range development policies for the area subject to urbanization in the foreseeable future and which includes, among other things, the Master Land Use Plan, the Master Street Plan, and any current or future Subdivision and Zoning Ordinances.

“Conditional Use”: A use permitted in one or more districts as defined by this ordinance upon approval by the Planning Commission, but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible with other existing or permissible uses in the same district or districts, and to assure that such uses shall not be detrimental to the public interest.

“Conditional Use Permit”: The documented evidence or authority granted by the Planning Commission to locate a conditional use at a particular location.

“Contractor Maintenance Yard”: An open storage yard for supplies and operational equipment, but not constituting a junk or salvage yard that includes a buffer and is only located in a commercial zone.

“Convalescent/Maternity/Nursing Home”: A facility providing care and minor treatment under the direction of a physician licensed by the State of Arkansas or a facility providing services to patients for the purpose of achieving rapid recovery. It may furnish basic provisions of food and laundry. It may also provide health care and minor treatment under direction of physician for pregnant woman until the birth of the child. These uses include but are not limited to: convalescent home, maternity home, institution for aged or children, and nursing home.

“Convenience Store”: A retail commercial establishment, not exceeding 2,500 square feet in gross floor area, supplying a limited range of food items, magazines, toiletries, and tobacco products to meet the day-to-day needs of residents in the immediate neighborhood and which may or may not include fuel sales.

“Conveyance”: Any public or privately owned vehicle, method or means of transporting people, bicycles, motorized or non-motorized vehicle, handcart, pushcart, lunch wagon or any other device or thing, whether or not mounted on wheels.

“Corner Lot”: See “Lot, Corner.”

“Country Club, Private Membership”: An area of ten (10) acres or more, containing a golf course and a clubhouse available only to the membership. Such a club may contain as adjacent facilities a private club and dining room, swimming pool, tennis courts and similar service and recreation facilities.

“Coverage”: The lot area covered by the buildings including all overhanging roofs except where otherwise specifically designated.

“Curb Cut”: Any access to a vehicular use area from any right-of-way of any street, road, or highway.

“Crematory”: A building fitted with the proper appliances for the purposes of the cremation of the deceased and includes everything incidental or ancillary thereto.

- D -

“Dance Hall”: Any building, premises, pavilion, or place of business wherein dancing is permitted, conducted or engaged in by the public in general, including but not limited to private clubs as defined by ordinance and/or the laws of the state of Arkansas, either for profit or not.

“Day Care Center”: See “Child Care Facility.”

“Dbh”: abbreviation for diameter at breast height.

“District”: Any section, sections, or divisions of the City of Bella Vista for which the regulations governing the use of land, buildings, and premises, or density, bulk, height, and area of buildings and other structures are uniform.

“District, Conservation”: Any land within the city limits of Bella Vista where recreational and open space uses are located. Conservation Districts include P-1 as well as other categories listed in Section 400.02(A)(1)

“District, Commercial”: Any land within the city limits of Bella Vista where retail businesses that provide personal goods and services are located. Commercial Districts include C-1, C-2, C-3, and C-4 categories as well as others listed in Section 400.02(A)(4).

“District, Industrial”: Any land within the city limits of Bella Vista where light manufacturing, assembly and accessory warehousing for products which present low risk of objectionable environmental influences are located. Industrial Districts include I-1 and I-2 categories as well as others listed in Section 400.02(A)(5).

“District, Non-Residential”: Any land within the city limits of Bella Vista where single-family dwellings, town homes, manufactured housing, recreational, and open space uses are not located.

“District, Residential”: Any land within the city limits of Bella Vista where single-family dwellings, town homes, and manufactured housing is located. Residential Districts include R-E, R-1, R-2, R-3, and R-MF categories as well as others listed in Section 400.02(A)(3).

“Dock”: An accessory structure or group of structures involved in the handling of water craft, usually on or close to a shore, created by construction protruding into an existing open body of water such as a lake or river or by excavation within what would otherwise be dry land. Docks do not include accessory dwellings or other structures with dwelling units.

“Dockside Recreational Improvement”: An accessory structure, ancillary to a boat house or dock, used for recreational purposes built on or close to a shore of open water such as a lake or river. Dockside recreational improvements do not include accessory dwellings or other structures with dwelling units.

“District”: Any section, sections, or divisions of the City of Bella Vista for which the regulations governing the use of land, density, bulk, height, and coverage of buildings and other structures are uniform.

“Drive-Through”: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle, rather than within the building or structure.

“Duplex/Two Family Dwelling”: See “Dwelling, Two-Family”.

“Dwelling”: Any building, or portion thereof, which is designed for used as living quarters for one or more families, but not including house trailers, mobile homes, travel trailers, or other recreation vehicles.

“Dwelling, Accessory”: A separate dwelling unit that is either attached or detached from a structure the primary use of which is single-family, commercial or industrial.

“Dwelling, Attached”: Adjoining dwelling units, each of which is separated from the others by one or more un-pierced common walls extending from ground to roof.

“Dwelling, Detached”: A dwelling having open space on all sides.

“Dwelling, Single-Family”: A detached residence primarily designed for or occupied by one family only.

“Dwelling, Two-Family”: A residence designed for or occupied by two families only with separate housekeeping and cooking facilities for each.

“Dwelling, Modular”: See “Modular Home.”

“Dwelling, Manufactured”: See “Manufactured Home.”

“Dwelling, Multi-Family”: A residence designed for or occupied by three or more families with separate housekeeping and cooking facilities for each.

“Dwelling, Townhouse or Row House”: Two (2) or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and shall be owned by one (1) family.

“Dwelling Units”: One or more connected rooms established for owner occupancy, rental or lease, and physically separate from any other rooms or dwelling units in the same structure and containing independent cooking and sleeping facilities.

“Dwelling, Zero Lot Line”: A single detached dwelling unit that is constructed on a side property line of said lot; such that the wall located on the side property line should be “blank” with no openings of any type allowed.

- E -

“Easement”: A right-of-way or parcel of land specified or set aside for a specific use, normally used for access, utilities, and other public or private usages given by the owner or land to another party, the City or the public.

“Eave”: The weather protective overhanging lower edge of a roof.

“Efficiency Unit”: A dwelling unit that contains living, sanitation, sleeping, and cooking facilities, but not a separate bedroom for sleeping, for not more than two (2) adults.

“Erected”: Built, constructed, altered, reconstructed, moved upon or any physical operations on the premises which are required for the construction, excavation, fill, drainage and the like shall be considered a part of erection.

“Essential Services”: The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

“Establishment for Care of Alcoholic, Narcotic or Psychiatric Patients”: An establishment offering residence for outpatient treatment to alcoholic, narcotic or psychiatric patients. Also see “Community Welfare Center”.

“Excavation”: Any breaking of ground, except common household gardening and ground care.

- F -

“Family”: One or more persons related by blood, marriage or adoption, or a group of not more than five (5) unrelated persons living together and subsisting in common as a single, non-profit housekeeping unit utilizing only one kitchen. A family may include domestic servants employed by said family.

Farm: A parcel of land used for the growing or raising of agricultural products including related structures thereon.

“Fence”: A barrier constructed to provide privacy or visual separation between one ownership and another.

“Floodplain Regulations”: Provisions of the City of Bella Vista Flood Damage Prevention Code.

“Floor Area”: Means total gross area on all floors as measured to the outside surfaces of the exterior walls, excluding crawl spaces, garages, carports, breezeways, attics without floors and open porches, balconies and terraces.

- G -

“Garage Apartment”: A dwelling unit for one family that is erected above a private garage, or part of it on the same level.

“Garage, Private”: An accessory building or part of a main building used for storage purposes only for not more than four (4) automobiles, or for a number of automobiles which does not exceed one and one-half (1 1/2) times the number of families occupying the dwelling unit to which such garage is accessory whichever number is the greater.

“Garage, Public or Repair”: A building in which are provided facilities for the care, servicing, repair, or equipping of motor driven vehicles.

“Gasoline or Service Station”: Any building, structure, or land used primarily for the dispensing and sale of fuels, oils, accessories, or minor maintenance and repair services but not including painting, body work, or major repairs.

“Golf Course”: A facility providing private or public golf recreation services and support facilities, excluding miniature golf facilities.

“Goods, wares, merchandise”: Shall include but not be limited to fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, appliances, wearing apparel, jewelry, ornaments, art work, cosmetics and beauty aids, health products, medicines, household needs or furnishings, food of any kind, whether or not for immediate consumption, confections or drinks.

“Government Services”: Buildings or facilities owned or operated by government entities and providing services for the public, excluding utilities and recreational services. Typical uses include administrative offices of government agencies (local, state, and federal) and utility billing offices.

“Grade”: The top surface elevation of lawns, walks, drives or other improved surface after completion of construction or grading operation.

“Greenhouse or nursery”: An establishment primarily engaged in the raising and retail sale of horticultural specialties such as flowers, shrubs, and trees, intended for ornamental or landscaping purposes. Also, a facility for growing and selling plants, shrubs or trees and other articles or implements which are involved in the transportation, installation and maintenance of landscaped areas.

“Green Space”: areas that are devoid of hard or impervious surfaces such as building, driveways, sidewalks. Green space includes lawns, landscaping beds, and other natural vegetations but excludes areas utilized for storm water detention or retention.

“Ground Coverage Ratio”: Means the percentage of lot area included within the outside lines of the exterior walls of all buildings located on the lot, except garages and carports in Districts R-1 and R-2 and including the area of porches, decks, patios, breezeways, balconies, and bay windows, except patios not more than six (6) inches above grade.

“Gross Acreage”: The total acreage of the proposed development including areas designated for internal streets and other public facilities.

“Group Residential”: The use of a site for occupancy by groups of more than five (5) persons, not defined as a family. Typical uses include residence halls, and boarding or lodging houses.

- H -

“Hauling and Storage Company”: A facility for warehousing, transferring or keeping goods.

“Hazardous Material Storage”: A facility or outdoor area used to store materials which are poisonous, noxious, and otherwise are hazardous to the health of the general public. The facility may be used to store such things as acids, oils, chemicals, etc. prior to use or may be a permanent storage area for waste chemicals, etc. These uses include but are not limited to petroleum products storage.

“Health Studio or Spa”: A facility other than a regularly licensed hospital, operating for a profit to promote physical fitness or weight control, and where manipulated massage or manipulated exercises are practiced upon the human body by anyone not a duly licensed physician or chiropractor, whether with or without use of mechanical or therapeutic devices.

“Height”: The vertical distance as measured through the highest point in the structure from the ground floor.

“Home Occupation”: A non-residential use carried on within a dwelling, which is clearly subordinate to the residential use and which does not outwardly change the residential character of the use, lot or structure.

“Hospital”: An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, and central service facilities and staff offices. These uses include but are not limited to: general hospital, health center restricted to mental, narcotics or alcoholic patients, and ambulance service.

“Hotel/Motel”: A structure designed, used or offered for residential occupancy for any period less than one month, including tourist homes and motels but not including hospitals or nursing homes. A temporary abiding place containing six or more guest rooms or units furnishing customary hotel services such as linen, maid service, service and the use of, and upkeep of furniture.

“Household cleaning services”: A service for cleaning independent households, including carpet cleaning, housecleaning, window cleaning.

- I -

“Industrial Cleaning Plant”: A facility for the cleaning of commercial or industrial bulk items from retail or wholesale operations.

“Industrial Uses Not Listed (Enclosed)”: Any completely enclosed industrial use which is not specifically listed in this ordinance.

“Inoperable Vehicle”: Any vehicle, automobile, motorcycle, or boat that does not have a current license and/or is in a state of disrepair so that it cannot operate as intended.

“Interior Parking Lot Landscaping”: planting areas within and adjacent to parking areas.

- J -

“Junk or Salvage Yard”: Any parcel of land or building for the which the principal or accessory use is the storing, keeping, dismantling, collection, salvaging, buying or selling of (1) scraps or discarded pieces of metal, paper, rags, tires, bottles, furniture and other materials, (2) inoperable, wrecked, scrapped, ruined or discarded automobiles, automobile parts, machinery or appliances. A junk or salvage yard shall not include premises on which such uses are conducted entirely within a completely enclosed building, nor shall a junk or salvage yard include premises used primarily for the sale or storage of operable automobiles or for the overhaul or full repair thereof, so long as no inoperable junk or wrecked automobile remains outside more than thirty days. Any premises on which there remains outside, more than thirty (30) days, an inoperable, partially dismantled, wrecked, or junked automobile, shall be deemed for the purpose of this ordinance, a junk or salvage yard.

- L -

“Laboratory, Dental or Medical”: A laboratory which provides bacteriological, biological, medical, prosthetic, x-ray pathological and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises except the custom fabrication of dentures.

“Laboratory, Manufacturing”: Operations involving the compounding of products such as perfumes, pharmaceuticals and the development and assembly of instruments and similar items.

“Laboratory, Research”: A building or part of a building devoted to the testing of any product or animal (including humans) for the purposes of providing written research reports on the results and utilizing those results to produce a new or improved product, medicine, or to better determine how animals function. No manufacturing is conducted on premises except for experimental or testing purposes.

“Lattice tower”: A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

“Light Fabrication and Assembly Process”: The manufacture and assembly of items not involving an excessive generation of noise, odor, vibration, dust or hazard.

“*Livestock*”: Animals that are kept or raised for use or pleasure, especially farm animals; does not include “wild animals” or “exotic animals”. See also “Animal Farm”. Livestock includes, but is not limited to:

1. The species *Equus caballus* (domestic horse)
2. The species *Equus asinus* (asses/donkeys)
3. The species *Bos Taurus* (cattle)
4. The subspecies *Ovis ammon aries* (sheep)
5. The species *Capra hircus* (goats)
6. The subspecies *Sus scrofa domestica* (swine)
7. Domesticated races of the species *Gallus gallus* or *Meleagris gallopavo* (poultry)
8. Domesticated races of the species *Oryctolagus cuniculus* (rabbits) and
9. All captive-bred members of the families *Anatidae* (ducks) and *Columbidae* (doves and pigeons)

“*Lodge or Fraternal Organization*”: A private, nonprofit organization whose primary purpose is to promote the fellowship of its members and may conduct business associated with philanthropy or civic awareness. Also see “Club”.

“*Lot*”: A parcel of land, legally defined in a recorded deed or a recorded plat, fronting on a public dedicated right-of-way or other approved private drive. The lot shall not be divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of use or structure. Said lot shall establish one building site and comply with all subdivision rules and regulations of the City.

“*Lot Area*”: The total horizontal area included within the lot.

“*Lot, Corner*”: A lot which has an interior angle of less than 180 degrees at the intersection of two streets lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees.

“*Lot Coverage*”: The percentage of lot area occupied by the ground area of principal and accessory buildings on such lot.

“*Lot Depth*”: The horizontal distance between the front lot line and the rear lot line measured at right angles or radial to the centerline of the street.

“*Lot, Double Frontage*”: A lot which runs through a block having frontage on two nonintersecting streets.

“*Lot Frontage*”: That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

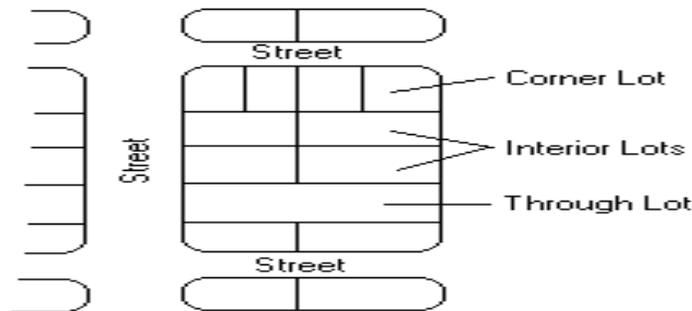
“*Lot, Interior*”: A lot other than a corner lot.

“*Lot Lines*”: The lines bounding a lot as defined herein:

- A. *“Front Lot Line”*: In the case of an interior lot, that line separating said lot from the street. In the case of a corner lot, or double frontage lot, “front lot line” shall mean that line separating said lot from that street which is designated as the front street in the plat and/or in the application for a building permit.
- B. *“Rear Lot Line”*: That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet long farthest from and parallel to the front lot line and wholly within the lot.
- C. *“Side Lot Lines”*: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is an exterior side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

“Lot of Record”: A parcel of land that is a lot in a subdivision recorded on the records of the Benton County Circuit Clerk’s Office, or that is described by a metes and bounds description which has been so recorded prior to the Subdivision Regulations in effect, or lots exempt from those regulations.

“Lot Widths”: The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; measurements shall be made at the front building setback.



“Lumens”: A unit of measurement of the amount of brightness that comes from a light source. Lumens define “luminous flux,” which is energy within the range of frequencies perceived as light.

- M -

“Manager/Caretaker Residence”: A person or persons whose permanent residence is in a multi-family complex, hotel/motel, business or special area of a private home for the purposes of managing the grounds and buildings and/or for security purposes.

“Manufactured Home”: A detached single-family dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. This Code means the standard for construction, design and performance of a manufactured home as set forth in the Code of Federal Regulations, Title 24, Part 3280, 3282, 3283, and 42 USC 5401, ET SEQ, as mandated in the United States of America and as administered by the United States Department of Housing and Urban Development.

“Manufactured Home Park”: A parcel of land which has been designed or improved or is intended to be utilized for occupancy by one or more manufactured homes and which conforms to the provisions of this ordinance.

“Manufactured Home Sales”: A facility for the sale of manufactured home residences.

“Manufacturing, Hazardous”: A facility and surrounding yard designed primarily for the preparation, production and distribution of objectionable materials such as chemicals, explosives, etc. Further, the production of such materials may create noxious odors or gases objectionable to businesses and residences. This may include manufacturing products from raw materials. Such uses include but are not limited to:

Abattoir	Aerosol containers filled
Animal and marine fat and oils manufacturing or processing	Animal bones, offal or waste; assembly, incinerator, processing or utilization
Arsenals	Chemicals compounding or packaging
Coal preparation	Creosoting or similar processing
Explosives manufacture, storage warehousing or wholesaling	Fireworks manufacture and storage
Flammable gasses or liquids storage, warehousing, or wholesaling	Foundry
Mineral preparation; non-metallic	Ore reduction
Paint, enamel, lacquer, turpentine, or varnish manufacturing	Paper manufacturing or processing
Production of crude petroleum, natural gas natural gas liquids	Recycling and reclamation
Rendering of animals	Rubber products; natural or synthetic manufacturing
Tanning of hides and skins	Tar or tar products manufacturing or processing

“Manufacturing, Intensive”: A facility operations and surrounding yard designed to produce or assemble products in a clean and quiet manner such as appliances, vehicles, etc. These manufacturing facilities do not create excessive demands for sewage, water, gas electricity, etc. Uses include but are not limited to:

Air conditioning and heating equipment manufacture	Batching or mixing plant, asphaltic or Portland cement, concrete, mortar or plaster
Beverages, non-alcoholic manufacture	Brick, tile, clay or ceramic manufacture
Compounding of cosmetics, toiletries, drugs, and pharmaceutical products	Dry cleaning and dyeing plant
Electronic equipment assembly and manufacture	Freight depot, railroad or truck freight forwarding service
Glass or glass products manufacturing	Orthopedic or medical supplies manufacturing

Instrument and meter manufacturing	Railroad equipment storage or maintenance
Railroad freight terminal	Scrap or waste materials handling
Scrap steel cutting on contract basis	Sign painting
Steel products; fabrication and assembly	Venetian blind, window shade, and awning manufacture

“Manufacturing, Light”: A facility and surrounding yard designed to provide an area for wholesaling, storage, packaging, display, distribution, and those retail uses accessory to the operations and for light manufacturing, assembling and fabrication without creating a nuisance of odor, noise, dust, vibrations, etc. Uses include but are not limited to:

Baked goods, candy, bread, dairy and ice cream manufacturing	Book bindery
Bottling works, all beverages	Brooms and brushes manufacturing
Electrical equipment assembly	Furniture manufacturing
Ice plant, dry or natural	Industrial cleaning plant
Jewelry manufacturing	Leather goods fabrication
Mattresses; rebuilding or renovating	Outdoor advertising plant
Processing and manufacturing that by reason of operation is not a nuisance in respect to odor, noise, dust, and vibration	Vending machine sales, rental, repair and manufacturing
Wood distribution	Wood or lumber processing

“Massing”: Massing is multiple rows of alternating plant materials with a combination of trees and shrubs.

“Mausoleum”: A mausoleum is a building with places for entombment of the deceased.

“Maximum Area”: Maximum area is the area of one side of the sign, measured as height by width.

“Measurable Area”: The area within the outer boundaries of standard geometrical shapes, primarily squares, rectangles, and circles, containing and defined by the extreme reaches of information or graphic parts of the signs.

“Medical Appliance Fittings and Sales”: A facility specializing in special purpose devices related to medical treatment.

“Mental Health Center”: A hospital or clinic where the primary activity is the treatment and care of persons suffering from mental or emotional disorders. Also see “Community Health Center”.

“Minimum Landscaped Open Space”: The percentage of lot area which must be maintained in grass or other living vegetation.

“Mining”: A tract of land where various minerals, ore, etc. are extracted from under the earth that may also include a distribution area for truck/rail loading of ore and materials. Uses include but are not limited to: Exploration for minerals, Extraction of sand, gravel, clay, quarrying of rock , Mining of coal, metal ores and non-metallic minerals other than fuels

“Mini-Warehouse Storage”: One (1) or more permanent structures, meeting applicable City building requirements, which contain separate storage units or cubicles that are intended to be leased by members of the public.

“Mobile Home”: A movable or portable structure built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, which is larger than three hundred twenty (320) square feet, and designed to be used as a year round residential dwelling unit.

“Modular Home”: A dwelling unit constructed in accordance with the standards set forth in the City of Bella Vista Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

“Monopole”: A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

“Motor Freight Terminal”: A facility for freight loading and freight storage.

“Motor Vehicle”: Includes all forms of motor vehicles, bicycles, skateboards, wagons, carts, trailers and any other constructed or manufactured device utilized for carrying and moving property or persons along public right-of-ways.

“Multi-Family Dwelling”: See “Dwelling”.

“Municipality”: The City of Bella Vista, Arkansas.

- N -

“Nonconforming structure”: A structure, or portion thereof, lawfully existing at the time these regulations became effective, or as amended, which does not comply with the setback, height, or other development standards applicable in the district in which the structure is located.

“Nonconforming use”: Any structure or land lawfully occupied by a use at the time these regulations, or any amendment thereto, became effective, which does not conform to the use or area regulations of the district within which it is located.

-O-

“Office, General”: A place/structure/facility where a particular type/kind of business is transacted or a service supplied such as a public office, business headquarters, etc., but not to include the occupation, retail sales, transfer of manufactured goods or storage of commodities. Uses include but are not limited to:

Addressing, duplicating, mailing lists, stenographic telephone messages and similar	Advertising agency
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office services,	
Employment service	Clinic: dental, medical or osteopathic, chiroprapist, pharmacy, optical,
Offices: administrative, executive, general, professional, research, governmental	Computer, data processing or similar service
Mail order house: catalog office	

“Office, Warehouse”: A facility combining office and warehouse functions in a single structure.

“Open Porch”: A porch which has no side or front walls, screens or other enclosures, except structural roof supports where a roof is provided.

“Open Space”: Land devoted to conservation or recreational purposes and/or land designated by a municipality to remain undeveloped.

“Ordinary High Water Mark”: A point where the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation, or other easily recognized characteristic. The line will be relatively constant with time and should not change appreciably as lake levels change.

“Ordinance”: The Zoning Ordinance which includes both Zoning Map and Zoning Regulations.

- P -

“Park”: A recreational area characterized by open space typically utilized for outdoor sports and other leisure activities.

“Park, Mini”: A park that is one (1) acre or less in size with specialized facilities that serve a limited population. It may include a playground and passive areas for adults. A mini-park typically does not have parking facilities.

“Park, Neighborhood”: A park that is between one (1) and five (5) acres in size with a service area of one-half (1/2) to one (1) mile. Facilities may include playing fields, playgrounds, shelters and restrooms to accommodate active recreation. Parking is typically provided.

“Park, Community”: A park that is between 10 and 400 acres in size serving the residents of Bella Vista. It may consist of both active and passive recreation facilities including tennis courts, ball fields, pools, basketball courts, soccer fields, picnic areas, trails, and volleyball courts.

“Parking Facility”: Any area subject to wheeled traffic, including access areas used for parking except for single family or two family developments. All open areas and open spaces on the land which are designated, used, required or intended to be used for parking, maintenance, service, repair, circulation, or operation of vehicles, including automobiles, buses, trailers, trucks, boats, and motorcycles. Includes areas used or intended to be used for driveways to such vehicular use areas, but does not include improvements to public roads, streets, highways, and alleys. Uses include but are not limited to:

Automobile parking or storage as principle use	Garage or parking for commercial or public utility vehicles
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Parking commercial lot or garage	Public off-street parking lot
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“Parking Space”: An area of definite length and width, exclusive of drives, aisles or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

“Parking Space, Off-Street”: A space for the parking of a motor driven vehicle within a parking lot and having a permanent means of access to a street right-of-way without requiring passage through another parking space.

“Pedestrian Accommodations”: To provide continuous pedestrian travel, segregated from vehicular traffic, within the subdivisions and developments.

“Person”: An individual, proprietorship, partnership, corporation, association or other legal entity.

“Perimeter Landscaping”: a peripheral planting strip along rear and side lot lines that separates uses.

“Pet Shop”: A commercial establishment or facility which regularly sells pets such as dogs, cats, birds, rodents, reptiles and/or fish to the general public.

“Petroleum Products, Storage and Wholesale”: A facility for the storage and sale of petroleum products.

“Photography Studio”: A facility for taking and processing pictures, not a bulk processing plant.

“Places of Public Assembly”: A meeting place for more than thirty-five (35) persons to which the public or membership group are assembled regularly or occasionally including but not limited to schools, churches, theaters, auditoriums, funeral homes, stadiums, and similar places of assembly.

“Planning Commission”: The Planning Commission of the City of Bella Vista, Arkansas.

“Plant Nursery”: See “Greenhouse or Nursery”.

“Pretreatment System”: A septic system component that reduces the amount of potential pollution to a body of water by significantly reducing Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) from home wastewater; such components reduces residential strength effluent to levels that conform to a Class I National Sanitation Foundation (NSF) Standard 40 Residential Wastewater Treatment Unit.

“Principal Building”: See “Building, Principal.”

“Principal Use”: The use which fulfills the primary function of an establishment, institution, household or other entity.

“Private Club”: Any association, person, firm, partnership or corporation, key club, bottle club, locker club, pool club, or any other kind of club or association excluding the general public from its premises or place of meeting or congregating or operating or exercising control over any other place where persons are permitted to drink alcoholic beverages other than private homes.

“Public Utility”: Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telegraph, transportation of water or cable television.

“Public Way”: All areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

“Publicly-Owned Service Facility”: A facility providing a service to the general public and paid for through public funds such as a police or fire station, postal facility, etc. Allowed uses include but are not limited to:

Art gallery, museum or similar public use	Civil defense and related activities facilities
Community center: public	Community welfare or health center
Flood control works	Fire protection and related activities facility
Highway or street maintenance garage, yard or similar facility	Library, private, non-profit and public
Police protection and related activities facility	Postal service facility
Public buildings	Water filtration plant, pump station, elevated storage, treatment plant or reservoir

“Pushcart or Handcart”: Any wheeled vehicles approved by the Planning Commission in accordance with these regulations designed for carrying property and for being pushed by a person without the assistance of a motor vehicle.

- R -

“Receive-Only Antenna”: An antenna less than 50 feet in height privately owned and operated including privately owned satellite dishes.

“Reclassification”: An amendment to or a change in the Zoning Ordinance reflecting a change or revision or modification of the Zoning District Boundary Map.

“Recreational facilities, indoor”: Any indoor facility providing active or passive recreational opportunities to the general public including, but not limited to, the following uses:

Bowling alley	Billiard or pool parlor
Exercise facility	Indoor courts and fields, including tennis, racquetball, soccer
Indoor swimming pool	Skating rink

“Recreational facilities, outdoor”: Any tract of land providing active or passive recreational opportunities to the general public including, but not limited to, the following uses:

Baseball/softball fields	Batting cages
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Driving range	Day camp
Golf course	Miniature golf course
Skate parks	Soccer fields
Swimming pool	Tennis court

“Recreational Vehicle”: A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. The basic entities are: travel trailers, truck campers, and motor homes.

“Recreational Vehicle Parks”: A lot of land upon which two (2) or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

“Recreational Vehicle Site”: A plot of ground within a recreational vehicle park intended for the accommodation of a recreational vehicle, tent, or other individual camping unit on a temporary basis.

“Recycling and Reclamation”: A facility for receiving, sorting, storing and reconditioning appliances, building materials, and any other salvaged or reclaimed materials.

“Religious Facilities”: A place of worship and religious training and including accessory housing facilities such as a rectory. A place where persons regularly assemble for religious worship, which is used only for such purpose and those accessory activities as are customarily associated therewith. Uses include, but are not limited to:

Church, synagogue or temple, including Sunday School facilities	Convent or monastery or novitiate
Parish house, parsonage or rectory	Religious retreat facility

“Residence:” See also “Dwelling.” A building or part of a building containing one or more dwelling units or rooming units. However, residences do not include:

- A. Such transient accommodations as transient hotels, motels, tourist homes, or similar establishments, or
- B. Dormitories, fraternity or sorority houses, monasteries or convents, or similar establishments containing group living or sleeping accommodations; or
- C. Nurses’ residences, sanitariums, nursing homes, convalescent homes, rest homes, or other sleeping or living accommodations in community facility buildings or portions of buildings used for community facility uses.

“Residential District”: Any land within the city limits of Bella Vista, Arkansas, zoned as R-E, R-1, R-2, R-3, and R-MH.

“Residential Occupancy”: Means those activities customarily conducted in living quarters in an urban setting. This excluding activities resulting in noise which constitutes a nuisance in a residential area, and activities which involve the storage, visible from off the lot, of motor vehicle parts, machinery or parts, junk or scrap materials.

“Restaurant”: Is a lot upon which food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises whether or not entertainment is offered, and includes establishments commonly known as grills, cafes, drive-through and any fast food establishment permitting consumption on the premises.

“Restaurant, Drive-in”: Any restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages or other food, served directly to, or permitted to be consumed by, patrons in automobiles or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site, outside the main building.

“Retail and Service, General”: A facility or group of facilities whose main use is the distribution and sale of products and/or services to the general public. In the general retail sales area facilities are grouped to serve persons traveling by vehicular means. Uses include but are not limited to:

Antique store	Apparel and accessory store
Department store	Direct selling organization: retail
Fur sales, repair and storage	Garden supply store
Glass or glass products sales	Gunsmith shop
Household appliance store	Medical appliance fittings and sales
Office equipment: sales and service	Radio, phonograph, television or other household goods store
Sales, service, repair or rental of business machines service	Secondhand store
Sewing machine shop	Shoe sales and repair
Sporting goods store	Toy store

“Retail and Service, High Impact”: A facility and surrounding yard providing sale of retail products or personal services to the general public. Such facilities are generally located along major highways and are designed to serve people in automobiles. Special display and outdoor storage requirements may be required. Uses include but are not limited to:

Aircraft parts: sales, service rental or repair, including air frames & engines	Armored car service
Auctioneer	Secondhand automotive parts, accessories, battery & tire dealer
Automatic merchandising establishment	Bicycle store
Construction equipment repair, sales or storage	Contractor (general or heavy construction) facilities other than office

Contractor (special trade) facilities other than office	Custom ceramic products manufacturing
Driving school, private	Dry cleaning plant limited to 7000 sq. ft. of floor space
Farm equipment: sales, service, rental, supplies and repair	Monument sales
Repair service limited to equipment	Swimming pool: sales and service
Tattoo studio	Taxicab garaging & maintenance
Tool & equipment rental	Tool sharpening
Wholesale establishment: floor sample stock	Wholesale establishment: stock unlimited

“Retail and Service, Restricted”: An enclosed facility or group of facilities providing for the sale of retail products or personal service enterprises. These facilities are typically designed to serve surrounding residential neighborhoods. Uses include but are not limited to:

Architect, artist, and engineer retail supplies	Bakery or confectionary shop
Barber or beauty shop	Bookstore
Camera and photographic supply store	Catering service
Clothing, custom dress making or altering	Cigar, tobacco and candy store
Drugstore or pharmacy	Dry cleaning, pickup or self-service
Dry goods store	Florist shop
General store; general merchandise store	Gift, novelty, or souvenir shop
Handcraft, ceramic sculpture or similar Artwork sales	Health studio or spa
Hobby shop	Ice vending machine establishment
Jewelry: sales and repair	Laundry, self-service and pickup station, laundry, laundromat
Locksmith, key shop	Music, musical instruments or phonograph record store
Newsstand	Picture framing
Photography studio	Stationery store,
Travel agency	Variety store
Video store	

- S -

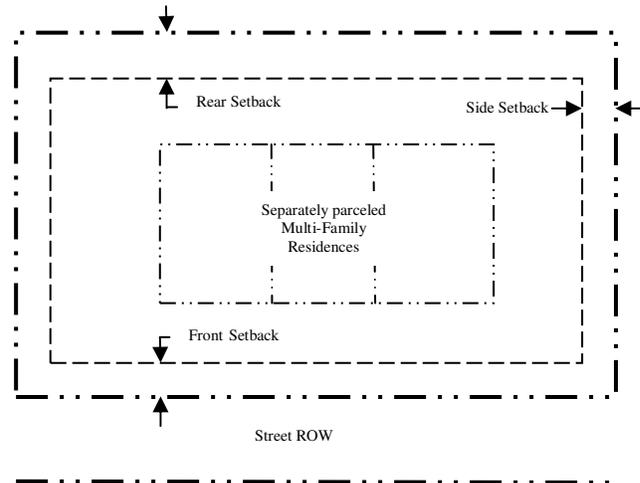
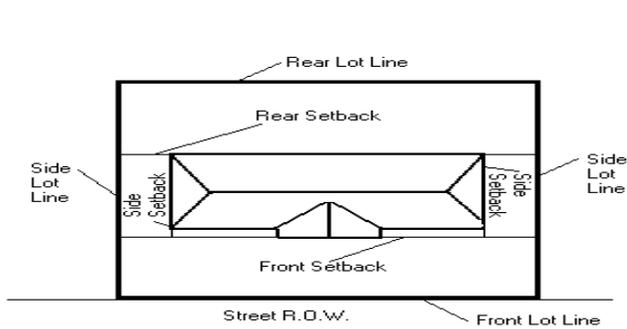
“School Facilities”: Structures and/or tracts of land used for the conduct of educational activities. May also be an educational institution licensed by the State of Arkansas, except as parochial, denominational,

or charitable school or institution which provides a basic academic education comparable to that provided in the public schools of the State, or one that provides special training or care suitable to persons with above average intelligence or defective, delinquent, or dependent persons such as retarded, dyslexia, autistic, or brain damaged persons. Uses include but are not limited to:

- A. College, junior college, professional school: public or equivalent private
- B. School private: barber, beauty, business, commercial art, correspondence, stenographic, public or private
- C. Private, school or kindergarten or institution for special education
- D. School secondary: public or private
- E. School: commercial, trade or craft
- F. Studio: art, drama, speech, dance, music, ceramics
- G. School elementary: public or private

“Service Station”: A facility for furnishing fuels and lubricating oils or materials for use in operation and maintenance of motor vehicles.

“Setback”: The required distance between every structure and any lot line on the lot on which it is located, except in multi-family residential zones where building structure footprints are separately parceled from surrounding land. In such a case, said lot lines constituting the building structure footprint shall not be considered.



“Sexually Oriented Business”: An adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, or adult theater.

“Shelter for Abused Persons”: A residence for a limited number of persons providing temporary shelter for a person physically or mentally abused by family or other persons.

“Shelter for the Homeless”: A place with authorized supervision granting temporary relief for displaced persons and/or families. Such place may or may not provide on-site meals but furnishes a safe haven for people.

“Shelter, Temporary”: A residence for a limited number of persons providing temporary shelter for a person physically or mentally abused by family or other persons or a place with authorized supervision granting temporary relief for displaced persons and/or families. Such place may or may not provide on-site meals but furnishes a safe haven for people.

“Sidewalk”: All that area legally open to the public used as a pedestrian public way between the curb line and the legal property line of the abutting property.

“Sidewalk Vendors”: Any person, traveling by foot, wagon, vehicle or any other type of conveyance from street to street carrying, conveying, or transporting goods, wares or merchandise and offering and exposing them for sale, or making sales and delivering articles to purchasers, or who without traveling from place to place, exhibits, displays, sells or offers for sale such products from a wagon, handcart, pushcart, motor vehicle, conveyance or from his person while on the public ways of the City of Bella Vista. A “vendor” also includes any street vendor, hawker, huckster, itinerant merchant or transient vendor. This definition does not include a door-to-door peddler or solicitor.

“Sign”: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, pictures, trade names or trade marks by which anything is made known; such as are used to designate an individual, a commodity, a firm, an association, a corporation, a profession, a business, a service, or a product, which are visible from any public street or right-of-way and designed to attract attention. “For Sale” and “For Rent” signs shall be deemed signs within the meaning of this definition, but the term “sign” shall not include the flag, a pennant or insignia of any nation, state, city, or other political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event, that are used for a public purpose in the public interest. A sign shall not include any of the foregoing located within a building, except for illuminated signs within show windows.

Directional, warning or other signs posted by public officials in the course of their public duties are specifically excluded for the purpose of this Ordinance. Neither directional, warning, nor other signs posted by public officials in the course of their public duties, nor merchandise or materials being offered for sale shall be construed as advertising signs for the purpose of this Ordinance.

“Sign, Animated”: See Sign, Fluctuating Illumination.

“Sign, Area”: The sign area is measured by finding the area of an imaginary rectangle, circle or triangle which fully encloses the sign message, including background and logos but not including supports or braces. For multi-faced signs, sign area shall be computed from the vantage point which gives a view of the largest amount of sign area. If two (2) identical signs are back to back, and are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one of the faces.

“Sign, Awning”: A sign which is a part of a fabric or other non-structural awning.

“Sign, Bulletin”: A sign erected by a church, school, institution, or public agency on its premises for announcements and is of a temporary nature.

“Sign, Canopy”: A sign on or attached to any overhead protective structure that is constructed in such a manner as to allow pedestrians and vehicles to pass under.

“Sign, Changeable Copy”: Any sign where letters or numbers displayed on the sign can be changed periodically on the sign to display different messages.

“Signs, Changeable Copy, Electronic”: Signs on which alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed surface composed of electronically illuminated or mechanically driven changeable segments.

“Signs, Changeable Copy, Manual”: Signs on which alphabetic, pictographic, or symbolic informational content can be changed or altered by manual means.

“Sign, Commercial”: A sign which directs attention to a service, product, profession, business, or entertainment conducted, sold, or offered on the same lot.

“Sign, Construction”: A sign which identifies architects, engineers, contractors and other individuals or firms involved with construction on the premises, the name of the building or development, the intended purpose of the building, and /or the expected completion date. This sign is of a temporary nature.

“Sign, Directional”: Any sign that guides one to a specific destination.

“Sign, Door”: A sign which is attached to, painted on, or etched onto or into a door. A sign in a window which is part of a door is a door sign for the purposes of this section.

“Sign, Fluctuating Illumination”: Signs, or any means of advertising, with the illusion of movement by means of a preprogrammed repetitious sequential switching of action in which illuminated elements of the sign are turned off or on to visually simulate the impression of motion characteristic of chasing, running, blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns.

“Sign, Freestanding”: A sign which is not attached to a building and is securely affixed to the ground by one or more poles or posts with open space between the bottom of the sign and the ground.

“Sign, Garage Sale”: Any temporary, promotional sign for the occasional (i.e., not on-going) sale of personal household goods, typically displayed in a residential area or on the property of a non-profit organization.

“Sign, Height”: The height of a sign shall be the vertical distance from normal grade to the highest point of the sign. Any berm, filling or excavating solely for the purpose of locating the sign, shall be computed as part of the sign height.

“Sign, Incidental”: An on-premise sign giving information or direction for the convenience and necessity of the public such as “entrance”, “exit”, “no admittance”, “telephone”, “ parking”, etc.

“Sign, Identification”: Is a sign that is commercially made, such as: building numbers, addresses, private parking signs, no trespassing signs, or dangerous animal signs.

“Sign, Marquee”: A sign used to identify a theater, assembly hall, or auditorium or a sign projecting over the entrance of a building.

“Sign, Maximum Area”: Maximum area is the area of one side of the sign, measured as height by width.

“Sign, Monument”: Any sign mounted to a solid base support at ground level with no open space between the bottom of the sign and the ground.

“Sign, Noncommercial”: A sign which is not an on-premise or off-premise sign and which carries no message, statement, or expression related to the commercial interests of the sign owner, lessee, author or other person responsible for the sign message. Noncommercial signs include but are not limited to: signs expressing political views, religious views or signs of non-profit organizations related to their tax-exempt purposes.

“Sign, Obsolete”: A sign relating to or identifying a business or activity which has not been conducted on the premises for six (6) months, or to a transpired election or event, or to a political party or non-profit organization that no longer exists; in addition, the structure for a sign that is not allowed under this ordinance if such structure cannot be used for a legal use or does not comply with the height, size, or other physical requirements of the ordinance, or a sign which has missing or broken panels, broken or damaged supports or frame, or otherwise displays inadequate maintenance, dilapidation, obsolescence or abandonment.

“Sign, Off-Premise, Off-Site Sign”: A sign that directs attention to a business, profession, event, entertainment, product, or service that is located, offered or sold somewhere other than on the premises.

“Sign, On-Premise or On-Site”: A sign which advertises or directs attention to a business, commodity, or service conducted, offered, or sold on the premises, or directs attention to the business or activity conducted on the premises.

“Sign, Political”: A sign that is for the purpose of advertising a particular political person, position, and/or election.

“Sign, Portable”: Any sign not permanently attached to the ground or other permanent structure, including but not limited to; signs with attached wheels; converted to A- or T- frame signs; menu and sandwich board signs; gas, air or hot air filled displays; signs attached or painted on vehicles parked and visible from the right-of-way, unless said vehicle is used as a vehicle in the normal day-to-day operations of the business.

“Sign, Projecting”: A sign forming an angle with a building, which extends from the building, and is supported by it.

“Sign, Public”: A sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information and direct or regulate pedestrian or vehicular traffic.

“Sign, Roof”: A sign lower than the roof peak of the building to which it is attached. Signs attached to the lower slope of a roof or attached to a parapet wall above a flat roof are considered wall signs. Signs on mansard or canopy roofs are considered wall signs.

“Sign, Suspended”: A sign which is attached to the underside of a horizontal plane or arm and is supported by the horizontal plane.

“Sign, Temporary”: Any sign which is intended for temporary use or which is not permanently mounted and is intended for a designated period in time.

“Sign, Wall”: Any sign, other than a projecting sign or a banner sign, which is attached to or painted on any wall of any building. This definition shall not include freestanding walls. A sign attached to the lower slope of a mansard or canopy roof, or a sign affixed to or forming an awning or a canopy, shall be considered a wall sign for purposes of this ordinance, notwithstanding the fact that certain portions of such a sign may project more than twelve (12) inches. For purposes of this section only, a “wall” shall include any permanent architectural extension of a wall, including parapets, even if such extension projects beyond or above the enclosed portions of the building.

“Sign, Windblown”: Any flag, pennant, balloon, spinner, or blimp.

“Sign, Window”: Any sign which is not a temporary sign and which is attached to, painted on or etched into a window or which is displayed within twelve (12) inches of the window and is legible from outside the window.

“Sight Triangle”: a triangular area formed by a diagonal line connecting two points on intersecting rights-of-way, measured thirty-five (35) feet along each pavement edge starting at the intersection point.

“Single Family Dwelling”: See “Dwelling.”

“Site Plan Review”: The process whereby the Planning Commission and/or staff review the site plans and maps of a developer to assure that they meet the stated purposes and standards of the Zoning Ordinance and Subdivision Regulations.

“Slaughterhouse”: A facility for the slaughtering of animals; processing and refining of their byproducts; and prepared for distribution; activities may include packing, treating, storage or sale of the product on the premises.

“Solid Waste Disposal”: The entire process of storage, collection, transportation, processing, and disposal of solid wastes by any city, authority, county or any combination thereof, or by any person engaging in such a process as a business. Uses include but are not limited to solid waste disposal and garbage or trash: assembly, incineration or processing.

“Special Event”: Any occasion including but not limited to fairs, shows, exhibitions, city-wide celebrations, and festivals taking place within a specifically defined area of the city of Bella Vista.

“Stable (Commercial)”: A facility which boards or rents horses to the public but does not include a sales barn, auction or similar trading activity.

“Stand”: Any showcase, table, bench, rack, handcart, pushcart, stall or any other fixture or device that is used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise upon a sidewalk.

“Story”: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

“Story, Half”: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half-story containing independent apartment or living quarters shall be counted as a full story.

“Street”: Any public thoroughfare which affords the principal means of access to abutting property.

“Street Frontage”: Street frontage shall be considered separately for each street the lot fronts, measured by property lines.

“Street Frontage Buffer”: A planting area parallel to a public street right-of-way.

“Street, Intersecting”: Any street which joins another street at an angle, whether or not it crosses the other.

“Structure”: Anything constructed or erected for human occupancy and/or entrance, the use of which requires location on the ground or attached to something having a location on the ground.

“Structural Alterations”: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial changes in the roof or in the exterior walls.

- T -

“Telecommunication”: The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

“Temporary Uses”: Land uses that are not permanent in nature and often include, but are not limited to, carnivals, circus, tent revivals, real estate sales offices, construction facilities and Christmas tree stands.

“Theater, Indoor”: A facility for showing motion pictures to an audience inside an enclosed structure.

“Theater, Outdoor”: A facility arranged so that patrons can view the screen and receive the sound in the privacy of their cars, or while seated outside.

“Throat Length”: The distance between the paved edge of street and the parking lot served by a driveway.

“Transportation Facilities”: Facilities providing surface transportation for the general public. These may or may not be publicly-owned. Uses include but are not limited to: Bus station, truck, bus, train terminals, and taxicab stand or dispatching station.

“Travel Trailer”: An object designed for accommodation intended and used exclusively for travel, recreation and vacation and which is capable of being drawn or propelled by a motor vehicle or is self-propelled and includes tent trailers or similar transportable accommodation, but does not include a mobile home.

- U -

“Unimproved Lot”: A parcel of land upon which primary or accessory structures have not been built.

“Use”: A purpose to which land is committed.

“Use Area”: A zone established for a certain type of use such as commercial or residential.

“Utility Facility”: A facility, either open or enclosed, where a utility may store equipment or materials not in use or waiting for use. A station, which is subsidiary to a central station and at which a utility from the central station, is converted or passed on to another area. Uses include but are not limited to:

Electric generating plant	Electric regulating substation
Electric utility maintenance facility	Gas pressure control station
Gas utility maintenance facility	

- V -

“Variance”: A device which grants a variation from the literal provisions of the Zoning Ordinance in instances where strict enforcement of the ordinance would cause undue hardship due to circumstances unique to the individual property under consideration.

“Vehicle”: Every device in, upon, or by which a person or property may be transported or drawn upon a street or sidewalk, including, but not limited to, devices moved by human power.

“Vehicle Salvage”: Any establishment maintained, used or operated for the storing, keeping, dismantling, salvaging, buying or selling of inoperable, wrecked, scrapped, ruined, or dismantled or discarded automobiles, auto parts, trucks, machinery, or appliances.

- W -

“Wall”: One of the sides of a room or building connecting floor and ceiling or foundation and roof.

“Warehouse or Wholesaling”: A facility for commodities stored or wholesaled.

“Water’s Edge”: For stationary bodies of water, such as lakes, pond, and reservoirs, the water’s edge is demarked by the ordinary high water mark for the body of water. For moving bodies of water, such as rivers and streams, the water’s edge is defined by top of the water course’s embankment.

“Water Treatment Plant and Related Facilities”: A facility for the systematic collection and treatment and dispersal of water.

“Wireless communications antenna”: The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

“Wireless communications equipment shelter”: The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

“Wireless communications facility”: A land use facility that transmits and/or receives electromagnetic signals for the purpose of transmitting analog or digital voice or data communications. It includes antennas, microwave dishes, horns and other types of monopoles, or similar structures supporting said equipment, equipment buildings, shelters or cabinets, and other accessory development. Wireless communication facility includes personal wireless services as defined in the Federal Telecommunication Act of 1996, and as subsequently amended. Wireless communication facility shall not include the following: federally licensed amateur radio stations and facilities used exclusively for receive -only antennas.

“Wireless communications tower”: A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

- Y -

“Yard”: An open space at grade between a building and the adjoining lot line, unoccupied and unobstructed by a portion of a structure from the ground upward, except where otherwise specifically provided in this ordinance that the building or structure may be located in a portion of a yard required for main buildings. In measuring a yard for the purpose of determining the width of the side yard, the depth of the front yard, or the depth of the rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

“Yard, Exterior”: Any yard which is adjacent or parallel to a public or private street.

“Yard, Interior”: Any yard which does not run adjacent to or parallel with a public or private street.

“Yard, Front”: The required area of open space extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the nearest point of the main building or of any open, unenclosed porch or paved terrace as measured from the exterior face of the building foundation.

“Yard, Rear”: The required area of open space extending across the full width of the lot between the rear most main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such building.

“Yard, Side”: The required area of open space between the main building and the side lot line, extending from the front yard or front lot line, where no front yard is required, to the rear yard, the width of which shall be the least distance between the side lot line and the nearest point of the main building.

- Z -

“Zero Lot Line”: See “Dwelling, Zero Lot Line.”

“Zoning District”: A section of the City designated in the Zoning Ordinance text in which requirements for the use of land and building and development standards are prescribed.

“Zoning District Boundary”: That boundary line which separates unlike zoning districts.

ARTICLE 300 Administration

Section 300.01. Enforcement.....	40
Section 300.02. Fees	40
Section 300.03. Planning Commission.....	40
Section 300.04. Board of Adjustment.....	40
Section 300.05. Building Permits	41
Section 300.06. Conditional Uses.....	42
Section 300.07. Violations and Penalties.....	46
Section 300.08. Zoning Ordinance Amendments.....	47
Section 300.09. Appeals to City Council.....	50
Section 300.10. Variances.....	51
Section 300.11. Severability	56
Section 300.12. Repeal of Conflicting Ordinances.....	57
Section 300.13. Emergency Clause	57
Section 300.14. Conversion of Previous Zoning Districts.....	57
Section 300.15. General Notification Requirements	57
Section 300.16. Sign Enforcement.....	57

Section 300.01. Enforcement

(Ord. 2009-23, 1/8/10)

- (A) The Zoning Ordinance shall be enforced by the Mayor or his designee. It shall be a violation of this ordinance for any person to erect, alter, move or improve any building or structure until a building permit has been obtained under the regulations of this ordinance.

Section 300.02. Fees

(Ord. 2009-23, 1/8/10)

- (A) *Establishment of Fee Schedule.* The City Council of the City of Bella Vista, Arkansas shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, appeals and other matters pertaining to this ordinance, by resolution. The schedule of fees shall be posted in the City Administrative office and may be altered or amended only by the City Council.
- (B) *Fee to be paid in full.* Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 300.03. Planning Commission

(Ord. 2009-23, 1/8/10)

- (A) The Planning Commission was established pursuant to Ordinance 2007-05.

Section 300.04. Board of Adjustment

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

- (A) *Creation and Appointment.*

(1) There is hereby created a Board of Zoning Adjustment.

(2) *Membership.*

- (a) The Board of Zoning Adjustment shall consist of seven (7) members.
- (b) All members shall be qualified electors residing in the City and shall not hold any other municipal office or appointment. All Board members serving at the time of passage of these amendments shall serve the remainder of their respective terms.
- (c) All members shall be appointed by the Mayor and approved by the City Council.

(3) *Terms.*

- (a) *Initial.* Members shall, in the initial appointment, serve terms as follows: One (1) member for a term of one (1) year; two (2) members for a term of two (2) years; and two (2) members for a term of three (3) years.
- (b) After the initial appointment, members shall serve terms for three (3) years. All terms shall expire on October 1st of each year.

- (c) Appointments to fill vacancies shall be for unexpired terms only.
 - (d) In the event of the death, resignation, or removal of any member before the expiration of his term, a successor shall be appointed by the Mayor to serve his unexpired term.
 - (e) There shall be no limit to the number of times a member may be reappointed to the Board of Zoning Adjustment.
 - (f) Positions on the Board, created by these amendments, will serve a term until October 1, 2014. Terms for these positions are the initial appointment will serve a term as provided in §300.04(A)(3)(b).
- (4) *Removal.* A member of the Board of Zoning Adjustment, once qualified, can thereafter be removed during his term of office only for cause on a majority vote of the City Council.
- (B) *Organization.* The Board of Zoning Adjustments shall elect officers, adopt rules of conduct, set meeting times, keep minutes, and decide a quorum as provided under State statute.
- (C) *Powers and Duties.* The Board of Zoning Adjustment shall have all the powers and duties prescribed by law and by this Ordinance, which are more particularly described as follows:
- (1) *Appeal of Interpretation.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Planning and Code Enforcement Department, who has enforcement powers in the enforcement of this Zoning Ordinance. The Board may affirm or reverse, in whole or in part, said decision of the administrative official.
 - (2) *Variances.* To hear and decide requests for variances from the literal provisions of the Zoning Ordinance in instances where strict enforcement of the ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the ordinance.
 - (3) *Determination of Zoning District Boundaries.* In addition to the powers and duties specified above, the Board of Zoning Adjustment shall also have the powers and duties to hold public hearings and to interpret Zoning District boundaries where uncertainty exists as to the boundaries of the Zoning Districts or when the street or property lines existing on the ground are at variance with those shown on the Zoning District Map.

Section 300.05. Building Permits

(Ord. 2009-23, 1/8/10)

- (A) Whenever any structure or building is to be erected or structurally altered, including but not limited to modular or manufactured structures, a building permit shall be obtained from the Mayor or his designee. All plans submitted must be completed by a registered architect or engineer.
- (B) *Plans.* Every applicant for a building permit shall furnish the following information:

- (1) A plot plan, drawn to scale, showing the exact size, shape and dimension of the lot to be built upon;
 - (2) The exact size and location on the lot of all existing buildings and structures, or the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected or moved;
 - (3) The size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities;
 - (4) All easements on the lot.
- (C) *Declaration.* A declaration of the existing and intended use of each existing and proposed building or structure on the lot, and the number of families and housekeeping units which each existing building is designed to accommodate, and which each existing and proposed building is designed to accommodate, shall be included.
- (D) *Additional Information.* Additional information relating to proposed improvements needed to determine compliance with these regulations shall include but not be limited to topography, utility location, drainage, easements, sewage disposal, and proof of water availability.
- (E) *Survey.* A survey, prepared by an engineer or surveyor registered in the State of Arkansas, of the boundaries of the lot on which the improvement is proposed to be located, shall be required by the Planning Commission.
- (F) *Filing.* A record of such application and plats shall be kept in the City Administrative office, and is subject to review by the Planning Commission.

Section 300.06. Conditional Uses

(Ord. 2009-23, 1/8/10; Ord. 2010-10, 10/2/10)

- (A) *General Purpose.* The purpose of this section is to define the concept of conditional uses, to establish standards by which the Planning Commission shall evaluate conditional uses, and to set forth procedures for processing conditional uses.
- (B) *Description.*
- (1) A conditional use is a use that conforms to the intent of the Zoning District in which it is located, or the subdivision regulations for a specific area and is generally allowable. The use may represent potential problems, however, with respect to its impact on neighboring property or to the City as a whole. For this reason, it requires a careful review of its location, design, configuration, and spatial impact to determine the desirability of allowing it on a particular site.
 - (2) The conditional use process must not allow an applicant to secure a use variance as a means to circumvent the intent of the Zoning Ordinance or the Subdivision regulations. Building configurations, footprints, and outlines shall be compatible with other uses permitted for the respective district. Whether a proposed use is appropriate in a particular location depends upon a careful evaluation of the impact on the neighborhood and the City. This evaluation shall be

done by the Planning Commission which will weigh conditions and proposed methods to ameliorate those impacts made by the applicant. A Conditional Use permit is not transferable.

(C) *Table of Permitted Uses.* Where the letter 'C' appears for certain uses in the Appendix A - Table of Permitted Uses, the use may be permitted subject to approval by the Planning Commission of a Conditional Use Permit.

(D) *Procedure.*

(1) *Application.* An application shall be filed by the property owner or his agent, with the Planning and Code Enforcement Department in accordance with current policies and procedures. Said application shall be filed pursuant to the Bella Vista Development Calendar. Such applications shall show the location and intended use of the site and include a general statement as to the intent of the use. Applications may be obtained from the City Administrative office. A general graphic representation of what is proposed shall be submitted as well and shall include all the following:

- (a) The location, size, and use of buildings, signs, land and improvements;
- (b) The location, size and arrangement of parking space, loading space, driveways and street access;
- (c) Proposed screening and landscaping along with a topography map;
- (d) Drainage and run-off and its effects on each neighboring property;
- (e) The use of adjoining property;
- (f) A scale indicator, north arrow and vicinity map; and
- (g) Any additional information needed by the Planning Commission because of conditions peculiar to that development.

(2) *Public Notification.*

- (a) *Published Notice.* The Applicant shall publish a notice of public hearing in a newspaper of general circulation in the City, at least one (1) time fifteen (15) days prior to the hearing. This public notice must include:
 - (i) The conditional use sought;
 - (ii) The location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice);
 - (iii) The time, date, place, and location of the public hearing;
 - (iv) *Name.* The property owner's and / or developer's name; and

- (v) *City Contact Information.* Information by which a conditional use may be reviewed by interested parties.
- (b) *Written Notice.*
 - (i) The applicant shall be required to notify, by certified mail with return receipts requested and/or by petition, all property owners within four hundred feet (400') of the property of his intention to apply for a conditional use no less than fifteen (15) days prior to the public hearing. If the applicant is unable to determine the adjacent property owners, Planning and Code Enforcement staff may assist identifying them.
 - (ii) The written notice shall contain the following information:
 - (a) The conditional use sought by the applicant;
 - (b) The location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice);
 - (c) The time, date, place, and location of the public hearing;
 - (d) *Name.* The property owner's and / or developer's name; and
 - (e) *City Contact Information.* Information by which the conditional use may be reviewed by interested parties.
 - (iii) The postmarked certified receipts and/or petitions shall be submitted to the Planning and Code Enforcement Department staff pursuant to the Bella Vista Development Calendar along with:
 - (a) A map showing the location of the property in question as well as the owners within four hundred feet (400') of the property; and
 - (b) A letter from the petitioner certifying that the map shows a complete list of those property owners.
- (c) *Posted Notice.*
 - (i) The applicant shall post a sign on the property for which the variance is being sought at least seven (7) days prior to the date of the public hearing. Additional signs are required in the case of properties with multiple street frontages.
 - (ii) Sign(s) shall be in plain view of and easily readable from a public or private street. In the event that the Planning and Code Enforcement Department determines that 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 Planning and Code Enforcement Department may require an alternate location for a sign.

(iii) Such sign(s) shall be clearly visible and legible, unobstructed to the passing general public, and posted on or near the existing front property line not later than seven (7) days prior to the public hearing. The sign shall be a minimum of sixteen (16) square feet in size and shall comply with the sign requirements contained in the Conditional Use application.

(iv) Sign(s) shall contain the following information:

(a) The words, “Notice of Public Hearing” and “Conditional Use”;

(b) *Project Title*. The commonly used name of the project;

(c) *Public Hearing*. The time, date, place, and location of the public hearing;

(d) *Name*. The property owner’s and / or developer’s name; and

(e) *City Contact Information*. Information by which the conditional use may be reviewed by interested parties.

(3) *Staff Review*. The Planning and Code Enforcement Department staff shall review the proposed conditional use and report to the Planning Commission on its relation to and probable effect on the surrounding area as well as its compliance with the requirements of this Ordinance and shall make recommendations to the Planning Commission.

(4) *Public Hearing*. The Planning Commission shall hold one (1) or more public hearings thereon. The Planning Commission shall review conditional use applications at its regularly scheduled meetings, at which time interested persons may appear and offer information in support of, or against, the proposed conditional use.

(5) *Planning Commission*.

(a) *Action*. The Planning Commission may approve, approve with conditions, or disapprove a conditional use request based on findings of fact with regard to the standards set forth in Subsection E – Standards for Approval, below.

(b) *Conditions*. The Planning Commission may impose conditions and restrictions upon the premises benefited by a Conditional Use Permit as may be necessary to reduce or minimize any injurious effects of the conditional use. Such action may be necessary to ensure that the conditional use is compatible with surrounding property to better carry out the intent of this Ordinance. Once a Conditional Use Permit is granted and utilized, all conditions pertaining to such authorization shall become immediately operative. Such conditions may include time limits for exercise of such authorization. Conditions may also require that utilization commences within a reasonable time. The violation of any condition so imposed shall constitute grounds for revocation of the Conditional Use Permit.

(E) *Standards for Approval*. In carrying out the purpose of this section, the Planning Commission consideration shall include, but not be limited to, the following development standards and design

specifics. Whether these standards are appropriate shall be determined at the discretion of the Planning Commission for each specific conditional use location.

- (1) The proposed use shall be so designated, located and operated so that the public health, safety and welfare will be protected.
 - (2) The proposed land use shall be compatible with other area properties located nearby.
 - (3) The proposed use shall be in compliance with the provisions of Section 300.06, Conditional Uses.
 - (4) The proposed use shall be in conformance with all applicable provisions stated in this Ordinance for the district in which the use is to be located. The use shall facilitate public convenience at that location.
 - (5) The proposed conditional use shall be in conformance with all off-street parking and loading requirements of this Ordinance and ingress and egress and pedestrian ways shall be adequate.
 - (6) Safeguards limiting noxious or offensive emissions, including lighting, noise, glare, dust and odor shall have been addressed in the proposed use application.
 - (7) Landscaping and screening of the proposed use shall be in accordance with Ordinance regulations.
 - (8) Proposed use signage shall be in accordance with the provisions of the Sign Ordinance.
 - (9) Open space located on the proposed conditional use, if a non-residential property, shall be maintained by the owner/developer.
 - (10) The size and shape of the site, including size, shape and arrangement of proposed structures shall be in keeping with the intent of this Ordinance.
 - (11) The Planning Commission shall in no case authorize less than minimum requirements of the Ordinance relating to height, area, setbacks, parking or landscaping.
 - (12) The Planning Commission shall not permit any use in a zone as a conditional use that is not permitted under the Zoning Ordinance or that defies the intent of that district.
- (F) *Amendments.* Amendments to a conditional use permit shall follow the same process as the original Conditional Use procedures.
- (G) *Building Permit.* No building permit shall be issued except in conformance with the provisions of this section.

Section 300.07. Violations and Penalties

(Ord. 2009-23, 1/8/10)

A violation of this ordinance shall be deemed a misdemeanor and shall be punishable as set forth in the Municipal Code.

Section 300.08. Zoning Ordinance Amendments

(Ord. 2009-23, 1/8/10; Ord. 2010-10, 10/2/10)

- (A) *Authority.* The City Council shall have the authority to enact amendments to the text or map of the Zoning Ordinance in accordance with the provisions of this section. Such action may be initiated by the City Council, on the recommendation of the Planning Commission or on petition from a property owner. Before action is taken in regard to any amendment of the Ordinance, the Planning Commission or its staff, shall review the case and give a recommendation. However, nothing in this section shall be construed to limit the City Council's authority to recall the ordinances and resolutions by a vote of the majority of the Council.
- (B) *Guidelines for Decision Making.* The City Council may consider several recommendations and planning documents when attempting to make a decision on the granting of an amendment. Such guidelines may be derived from recommendations from the Planning Commission or the planning staff; use of provisions of the any existing, Master Street Plan, Land Use Plan, Capital Improvements Plan, or Community Facilities Plan; as well as any other document created to provide required public facilities necessary to protect the public interest. A disapproval by the City Council of an amendment shall be final for one (1) year and the same application may not be reinitiated until the expiration of that deadline.
- (C) Procedure for Amendments - Property Owners.
- (1) *Application.* An application giving the legal description of the property involved and both the current and requested zoning classification for the property shall be submitted to the Planning Commission by the owner or his agent pursuant to the Bella Vista Development Calendar. The petition shall also include a statement and diagram explaining why the proposed changes will not conflict with the surrounding land uses. The owner shall submit a complete written legal description of the property with the application.
- (2) *Public Notification and Hearing.* The Planning Commission shall hold a public hearing on the proposed amendment.
- (a) *Published Notice.* The Applicant shall publish a notice of public hearing in a newspaper of general circulation in the City, at least one (1) time fifteen (15) days prior to the hearing. This public notice must include:
- (i) The rezoning being sought;
- (ii) The location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice);
- (iii) The time, date and place of the public hearing;
- (iv) *Name.* The property owner's and / or developer's name; and

(v) *City Contact Information.* Information by which a conditional use may be reviewed by interested parties.

(b) *Posted Notice.*

(i) The applicant shall post a sign on the property for which the zoning amendment is being sought at least seven (7) days prior to the date of the public hearing. Additional signs are required in the case of properties with multiple street frontages.

(ii) Sign(s) shall be in plain view of and easily readable from a public or private street. In the event that the Planning and Code Enforcement Department determines that 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 Planning and Code Enforcement Department may require an alternate location for a sign.

(iii) Such sign(s) shall be clearly visible, unobstructed to the passing general public, and posted on or near the existing front property line not later than seven (7) days prior to the public hearing. The sign shall be a minimum of sixteen (16) square feet in size and shall comply with the sign requirements contained in the Zoning Amendment application.

(iv) Sign(s) shall contain the following information:

(a) The words, “Notice of Public Hearing” and “Rezoning Request”;

(a) *Project Title.* The commonly used name of the project;

(b) *Public Hearing.* The time, date, place, and location of the public hearing;

(c) *Name.* The property owner’s and / or developer’s name; and

(d) *City Contact Information.* Information by which a variance can be reviewed by interested parties.

(c) *Written Notice.*

(i) The applicant shall be required to notify, by certified mail with return receipts requested and/or by petition, all property owners within four hundred feet (400’) of the property of his intention to apply for a zoning amendment no less than fifteen (15) days prior to the public hearing. If the applicant is unable to determine the adjacent property owners, Planning and Code Enforcement staff may assist identifying them.

(ii) The written notice shall contain the following information:

(a) The rezoning sought by the applicant;

(b) The location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice);

- (c) The time, date, place, and location of the public hearing;
 - (d) *Name*. The property owner's and / or developer's name; and
 - (e) *City Contact Information*. Information by which the conditional use may be reviewed by interested parties.
- (iii) The postmarked certified receipts and/or petitions shall be submitted to the Planning and Code Enforcement Department staff pursuant to the Bella Vista Development Calendar along with:
- (a) A map showing the location of the property in question as well as the owners within four hundred feet (400') of the property; and
 - (b) A letter from the petitioner certifying that the map shows a complete list of those property owners.
- (3) *Planning Commission Action*.
- (a) *Approval*. Following the public hearing, the proposed amendment may be approved, approved with conditions or disapproved, by a majority vote of the Planning Commission and recommended for adoption by the City Council, with reasons for recommendation stated in writing. No petition shall be reviewed by the City Council without a report from the Planning Commission on the case.
 - (b) *Denial*. If the Planning Commission disapproves a proposed amendment, the applicant may appeal to the City Council in accordance with Section 300.09, Appeals to City Council.
 - (c) *Forward to City Council*. Following approval by the Planning Commission, the petition shall be sent to the City Council for action. A petitioner may withdraw the request for an amendment any time prior to action by the City Council.
 - (d) *Re-consideration*. No application for a zoning amendment shall be considered an additional time by the Planning Commission if it is within one (1) year from date of final disapproval of a proposed amendment. The resubmission shall meet all requirements for a rezoning request and must be a request for a different rezoning.
- (4) *City Council Action*. The City Council by majority vote, may adopt the recommended amendment submitted by the Planning Commission or may return the proposed amendment to the Planning Commission for further study and recommendation. If the City Council does not concur with the recommendation of the Planning Commission, either as first submitted or as submitted after re-study, the City Council may, by majority vote, amend this ordinance by granting the request for amendment in full or in modified form. However, nothing in this section shall be construed to limit the City Council's authority to recall the ordinances and resolutions by a vote of a majority of the Council.

(D) *Procedures for Amendments - City Council*.

- (1) *Emergency.* The City Council may act upon a request to amend this Ordinance when an emergency exists which threatens the health, safety, welfare, or morals of the citizens of the City. An amendment may be made under this section upon the approval of two-thirds (2/3) of the entire City Council.

(E) *Procedures for Amendments - Planning Commission.*

- (1) *Initiation.* The Planning Commission may, from time to time, either upon request by one (1) or more of its members, the Mayor or his designee, the Planning Department Staff, by direction of the City Council, or in the course of its normal planning activities, consider amendments or additions to the Zoning Ordinance.
- (2) *Studies.* The Planning Commission shall, by directing the Mayor or his designee or on its own, prepare a work program and make studies, including the preparation of maps, to support its decisions regarding possible amendments.
- (3) *Revision.* If the proposed amendments are not consistent with other City Plans, the Planning Commission shall first consider and adopt any necessary changes to existing City plans.
- (4) *Public Hearing.* The Planning Commission shall hold a public hearing to consider amendments to the Zoning Ordinance and amendments to any other City plan, if required.
- (5) *Notification.* Changes in zoning classifications initiated by the Planning Commission shall be considered comprehensive changes affecting the entire city and no individual notifications shall have to be made. A map indicating the proposed changes shall be available in the City administrative office at least fifteen (15) days prior to the public hearing, for interested citizens and property owners.
- (6) *Planning Commission Action.* Following a public hearing, the proposed plans may be recommended as presented, or in modified form, by a majority of the Planning Commission.
- (7) *City Council Action.* Following the adoption of recommended changes to Ordinances or Plans, the Commission shall certify such to the City Council for adoption.

Section 300.09. Appeals to City Council

(Ord. 2009-23, 1/8/10)

- (A) *Notice of Appeal.* Any decision by the Planning Commission regarding a rezoning or conditional use permit may be appealed to the City Council. In order to make an appeal, the aggrieved party shall file a Notice of Appeal with the City Clerk within thirty (30) days of the Planning Commission's final action. The Notice of Appeal shall be filed on forms and in a format prescribed by the Planning Commission. As a minimum however, the applicant shall provide the following information:
 - (1) Summary of any reasons provided by the Planning Commission concerning the decision made in the case;

- (2) Reasons why the applicant of the appeal contends that the Planning Commission erred in its decision;
 - (3) Reasons why the applicant of the appeal believes that the public health, safety, welfare, and morals would be better served if the Planning Commission's action were reverse; and
 - (4) Any new and pertinent information bearing on the case which may not have been available or have been overlooked by the Planning Commission or which may have come to light following the meeting at which the Planning Commission made its decision.
- (B) *City Council Action.* Appeals to the City Council shall be de novo (brand new); however, they shall first be considered on the record of the public hearing and Planning Commission meeting at which the original case was heard and the original decision made. Based on this review, the City Council may affirm the Planning Commission's decision, reverse it, or send the case back to the Planning Commission for further study and re-certification. If new information is placed before the Council that, in the opinion of the Council, would affect the Planning Commission's decision, the Council may refer the case back to the Planning Commission for further study, including the new information, and recertification.

Section 300.10. Variances

(Ord. 2009-23, 1/8/10; Ord. 2010-10, 10/2/10)

(A) *Application.*

- (1) *Written Application.* All variance requests shall be made to the Board of Zoning Adjustment pursuant to the Bella Vista Development Calendar after a decision has been rendered by the Director of Planning and Code Enforcement or his or her designee. Every appeal or application shall refer to the specific provision of the Ordinance involved and shall exactly set forth:
 - (a) The interpretation that is claimed;
 - (b) The use for which the permit is sought; and
 - (c) The details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted.
- (2) *Scale Drawing.* Each applicant shall submit, pursuant to the Bella Vista Development Calendar, a scale drawing showing the requested variance along with all relevant information, including the exceptional condition or situation of the property which causes the exceptional practical difficulty or undue hardship for which relief is being sought.
- (3) *Submittal.* The appeal or application shall be filed with the Director of Planning and Code Enforcement who shall forthwith transmit to the Board all papers constituting the record upon which the action being appealed from was taken.

(B) *Administrative Review of Minor Modifications.*

- (1) *Applicability.* The Director of Planning and Code Enforcement may grant minor modifications from the requirements of these regulations in compliance with the following standards:
 - (a) Parking in C-1, C-2, C-3, C-4, I-1, and I-2 may be reduced up to ten percent (10%).
 - (b) Height of a wall or fence may be increased up to twenty-five percent (25%), but in no case shall a minor modification allow a fence greater than eight (8) feet in height.
 - (c) Height of a building may be increased up to ten percent (10%).
 - (d) In residential zoning districts, maximum lot coverage may be increased by a maximum of five percent (5%).
 - (e) In residential zoning districts, side building setbacks may be reduced by two feet (2') so long as a minimum of ten feet (10') of separation is maintained between all structures. The roof line edges are included in this minimum separation.
 - (f) In residential zoning districts, front building setbacks may be reduced so long as a minimum of twenty feet (20') is maintained between the right-of-way and the closest point of the structure to provide for adequate vehicular parking.
- (2) Any requests for modifications which exceed the limitations set forth above in Subsection 1 and all other requests for modifications of the requirements of these regulations require the filing of a variance in accordance with standards of this section.
- (3) *Review.*
 - (a) Upon receipt of a completed minor modification application and the currently adopted fee for such applications, the Director of Planning and Code Enforcement shall review the request and issue a written decision regarding the application.
 - (b) *Findings.* The Director of Planning and Code Enforcement may approve and / or modify, in whole or in part, with or without conditions, only after making all of the following findings:
 - (i) Special circumstances apply to the property such as size, shape, topography, location, or surroundings;
 - (ii) Granting the minor modification will not be detrimental to the public health, safety, or welfare or be injurious to other property or improvements in the vicinity and in the zoning district in which the property is located;
 - (iii) The minor modification does not exceed the standards set for in 300.10(B)(1) or allow a use or activity not otherwise authorized by the regulations governing the subject property;
 - (iv) The minor modification is in conformity with the intent and purpose of these regulations; and

(v) The minor modification does not, in any way, alter the applicant's obligation to comply with other applicable statutes, ordinances, laws, or regulations.

(4) *Precedents.* The granting of a minor modification is not grounds for granting other minor modifications for the same or differing purposes.

(5) *Burden of Proof.* The applicant bears the burden of proof and must support each of the required findings.

(6) *Exercise of Approval.* A minor modification must be exercised within one hundred twenty (120) days from the date of approval or the minor modification becomes null and void.

(7) *Revocation.* The Director of Planning and Code Enforcement may revoke a minor modification if:

(a) The grantee has not substantially exercised the rights granted by the minor modification;

(b) The minor modification was obtained by misrepresentation or fraud;

(c) The applicant ceases or suspends work on the improvements authorized pursuant to the minor modifications for six (6) or more consecutive months;

(d) The improvement authorized pursuant to the minor modification violates any applicable statute, ordinance, law, or regulation;

(e) The improvement permitted by the minor modification is detrimental to the public health, safety, or welfare, or constitutes a nuisance.

(C) *Public Notice and Hearing.*

(1) *Published Noticed.*

(a) The Board shall fix a reasonable time for the public hearing of an appeal, cause public notice to be given of the time and place thereof by the Applicant, as well as due notice to interested parties, and shall decide same within a reasonable time.

(b) Said public notice shall be published by the applicant at least once, not less than fifteen (15) days preceding the date of such hearing, in a newspaper of general circulation in the City.

(c) The published notice shall include the following information:

(i) The particular location of the property on which the appeal is requested, including a legal description and an address (if no address is available, a description which is clear to the average lay person will suffice);

(ii) A brief statement of what the appeal consists;

(iii) *Public Hearing.* The time, date, place, and location of the public hearing;

- (iv) *Name*. The property owner's and / or developer's name; and
- (v) *City Contact Information*. Information by which a variance can be reviewed by interested parties.

(2) *Posted Notice*.

- (a) The applicant shall post a sign on the property for which the variance is being sought at least seven (7) days prior to the date of the public hearing. Additional signs are required in the case of properties with multiple street frontages.
- (b) Sign(s) shall be in plain view of and easily readable from a public or private street. In the event that the Planning and Code Enforcement Department determines that 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 Planning and Code Enforcement Department may require an alternate location for a sign.
- (c) Such sign(s) shall be clearly visible, unobstructed to the passing general public, and posted on or near the existing front property line not later than seven (7) days prior to the public hearing. The sign shall be a minimum of sixteen (16) square feet in size and shall comply with the sign requirements contained in the Variance Request application.
- (d) Sign(s) shall contain the following information:
 - (i) The words, "Notice of Public Hearing" and "Variance Request";
 - (ii) *Project Title*. The commonly used name of the project;
 - (iii) *Public Hearing*. The time, date, place, and location of the public hearing;
 - (iv) *Name*. The property owner's and / or developer's name; and
 - (v) *City Contact Information*. Information by which a variance can be reviewed by interested parties.

(3) *Written Notice*.

- (a) The applicant shall be required to notify, by certified mail with return receipt requested and / or by petition, all property owners within four hundred (400) feet of the property of his intention to apply for a variance no less than fifteen (15) days prior to the public hearing. If the applicant is unable to determine the adjacent property owners, Planning and Code Enforcement staff may assist identifying them.
- (b) The written notice shall contain the following information:
 - (i) The particular location of the property on which the appeal is requested, including a legal description and an address (if no address is available, a description which is clear to the average lay person will suffice);

- (ii) A brief statement of what the appeal consists;
 - (iii) *Public Hearing*. The time, date, place, and location of the public hearing;
 - (iv) *Name*. The property owner's and / or developer's name; and
 - (v) *City Contact Information*. Information by which a variance can be reviewed by interested parties.
- (c) The postmarked certified receipts and / or petitions shall be submitted to the Planning and Code Enforcement staff pursuant to the Bella Vista Development Calendar along with:
- (i) A map showing the location of the property in question as well as the owners within four hundred (400) feet of the property; and
 - (ii) A letter from the petitioner certifying that the map shows a complete list of those property owners.

(4) *Public Hearing*.

- (a) At a public hearing any party may appear in person, by agent, or by attorney.
- (b) Public hearings may be adjourned from time to time, and, if the time and place of the adjourned meeting be publicly announced when the adjournment is made, no further notice of such adjourned meeting need be published.

(D) *Findings*.

- (1) A variance from the terms of this Zoning Ordinance shall not be granted by the Board of Zoning Adjustment unless and until the applicant demonstrates that:
- (a) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;
 - (b) Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Ordinance;
 - (c) Special conditions and circumstances do not result from the actions of the applicant;
 - (d) Granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Ordinance to other lands, structures, or buildings in the same district.
- (2) *Grounds*. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

- (3) *Minimum Use.* The Board of Zoning Adjustment shall further make a finding 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 land, building or structure.
 - (4) *Neighborhood Harmony.* The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Zoning Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - (5) *Conditions.* In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable.
 - (6) *Violations.* Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Ordinance.
 - (7) *Uses.* Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Ordinance in said district.
- (E) *Effect of Appeal.* An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certifies to the Board of Zoning Adjustment, that, by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or a court of record on application, and notice to the person from whom the appeal was taken.
- (F) *Time Limit on Permits.* No order permitting the use of a building or premises, or the alteration or erection of a building shall be valid for a period longer than one hundred twenty (120) days. Such use must be started or established or the erection or alteration is started within such period and proceeds to completion in accordance with the terms of a building permit.
- (G) *Fee.* The fee for any appeal or application to the Board of Zoning Adjustment shall be established by the City Council and subject to periodic change. Fees are non-refundable.
- (H) *Appeals from Board of Adjustment.* Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Zoning Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of Arkansas.
- (I) *Reconsideration.* If a variance request is disapproved, it shall not be reconsidered by the Board of Zoning Adjustment within one year from the date of denial of the variance request. The resubmission must meet all requirements for a variance request and shall be a different variance request.

Section 300.11. Severability

(Ord. 2009-23, 1/8/10)

- (A) If any portion of this Ordinance shall be held to be invalid or unconstitutional, the remainder of the Ordinance shall not thereby be invalid, but shall remain in full force and effect.

Section 300.12. Repeal of Conflicting Ordinances

(Ord. 2009-23, 1/8/10)

- (A) Any ordinance now in effect that conflicts with any provision of this Ordinance is thereby amended, held to be invalid and to have no effect to the extent of the conflict.

Section 300.13. Emergency Clause

(Ord. 2009-23, 1/8/10)

- (A) Whereas no emergency exists for the immediate taking effect of this Ordinance, therefore, the same shall be in full force and effective one month from and after its passage.

Section 300.14. Conversion of Previous Zoning Districts

(Ord. 2009-23, 1/8/10)

- (A) The zoning classifications or districts which were in existence before the City of Bella Vista was incorporated are hereby converted into the zoning classifications or districts which are created and established herein.

Section 300.15. General Notification Requirements

(Ord. 2010-10, 10/2/10)

- (A) The applicant shall be responsible for public notifications 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 herein. The day of the hearing shall not be counted toward this total.
- (B) The degree of accuracy required for the information contained in these public notices shall be that of substantial compliance with the provisions of the applicable sections. Substantial compliance for these public notices shall be determined by the Director of Planning and Code Enforcement.
- (C) 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.

Section 300.16. Sign Enforcement

(Ord. 2012-12, 11/09/12)

- (A) *Unlawful Activity.* It shall be unlawful for any person to place, erect, repair, replace, alter, or relocate a sign in the City of Bella Vista except in accordance with the provisions of this Article 1000 of this Code. Unless exempted herein, a sign permit must be obtained from the Planning and Code Enforcement Department before erection, relocation, or altering any sign in the City of Bella Vista.
- (B) *Administrator.*
- (1) The Planning and Code Enforcement Department is authorized to process applications for permits and variances, and enforce and carry out all provisions of this ordinance.

- (2) The Department is further authorized to establish procedures consistent with this function.
- (3) Department personnel are empowered, upon presentation of proper credentials, to enter or inspect any building, structure, or premises in the City for the purpose of inspection of a sign and its structural and electrical connections and appurtenances to ensure compliance with all applicable codes and ordinances. Such inspections shall be carried out during business hours unless an emergency exists.

(C) *Permits.*

(1) *Application for a Sign Permit.*

- (a) *Application.* The applicant shall complete the Sign Permit Application provided by the Planning and Code Enforcement Department.
- (b) *Fee.* The applicant shall pay the fee designated by the City Council at time of application.
- (c) *Drawings.* The applicant shall provide a scaled drawing of the sign including sign height, width, depth, area, design, content, color, dimensions, and materials composed of, as well as the design and dimensions of any measures used to support the sign or used to affix the sign to a wall, window or the ground.
- (d) *Site Plan and Landscaping.* The applicant shall provide a scaled site plan showing the location of the sign on the property or building including street right-of-way and property lines. For wall signs, building face shall be dimensioned.
- (e) *Materials List.* The applicant shall provide a list of materials used to construct the sign.
- (f) *Plan.* A plan of the landscaped area with the name, quantity, and spacing of plant materials shall be included as a part of the sign permit application.
- (g) *Additional.* Any additional information needed by the Planning and Code Enforcement Department.

(2) *Review and Approval.* After a review of the application by the Planning and Code Enforcement Department shows that the sign meets all requirements including zoning, electrical, and the Arkansas Fire Prevention Code requirements, the applicant shall receive a permit to erect or install the approved sign(s).

(3) *Expiration.* Permanent sign permits issued under the provisions of Article 1000 shall become null and void if construction or installation authorized by the permit is not commenced within thirty (30) days from the date of such permit or if the construction or installation is abandoned for a period of thirty (30) days at any time after the construction or installation is commenced. Before any recommencement of construction or installation can begin and be recommended, a permit extension fee shall be paid or a new permit shall be secured for the unfinished portion of the installation as required by the Planning and Code Enforcement Department.

- (4) *Exemptions from Permit Fees.* The Mayor may exempt all or part of the applicable permit fees if the reduction or waiver would serve the public interest or be beneficial to the City as a whole.
- (5) Responsibilities of Permit Applicants.
 - (a) It shall be the responsibility of the permit applicant or his authorized representative to give notice to the Department when an installation is ready for inspection. All work must be ready for inspection before the inspection is requested.
 - (b) It shall be the responsibility of the permit applicant or his authorized representative to provide ready access to the premises where the requested inspection is to be made.
- (6) *Certificate of Completion.* All permanent signs shall be issued a Certificate of Completion upon a final inspection by the Department reveals that all approved plans have been followed and any conditions of the permit have been completed.
- (7) *Extension of Permit.* The Director of Planning and Code Enforcement may grant one (1) thirty (30) day extension to the sign permit.
- (8) *Successors.* Valid sign permits may be assignable to a successor of the business provided the sign is in conformance with current ordinances.
- (9) *Minor Alterations.* Any alteration in sign locations resulting from unexpected conditions on site must be approved by the Planning and Code Enforcement Department.
- (10) *Revocation of Permits.* The Director of Planning and Code Enforcement or designee may revoke a sign permit if a sign is found to be in violation of this ordinance.

(D) *Inspections and Violations.*

- (1) If, upon inspection, a violation of the sign ordinance exists, the Department shall issue a written notice or administrative order to the alleged violator. The notice or order shall specify those sections of Article 1000 which the individual may be in violation of, shall state the manner in which to correct the violation, and shall state the timeframe in which to correct the violation.
- (2) If, upon inspection, the Department finds that a temporary sign is obsolete, abandoned or structurally, materially, or electrically defective in such a way that it endangers the public or is in violation of the provisions of Article 1000, the Department shall issue a written order to the owner of the sign and occupant of the premises, if they are not the same person, stating the nature of the violation and requiring them to remove the sign within three (3) days from the date of the order.
- (3) If, upon inspection, the Department finds that a permanent sign is obsolete, abandoned or structurally, materially, or electrically defective in such a way that it endangers the public, the Department shall issue a written order to the owner of the sign and occupant of the premises, if they are not the same person, stating the nature of the violation and requiring them to remove the endangerment immediately and to repair or remove the sign within thirty (30) days of the date of the order.

- (4) In cases of emergency, the Department may cause the immediate removal of a dangerous or defective sign without notice, and by any means deemed acceptable. Signs removed in this manner must present a hazard to the public safety as defined in the local building or traffic codes.
- (5) In cases of illegal signs placed in the public right-of-way, the Department may cause immediate removal of the sign without notification of the owner of the sign.

(E) *Removal of Signs by the Planning and Code Enforcement Department.*

- (1) The Department may cause the removal of signs for failure to comply with the written orders of removal or repair after following the notification procedures outlined above.
- (2) After removal or demolition of the sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs as certified by the Department.
- (3) If the amount specified in the notice is not paid within sixty (60) days of the notice, it shall become an assessment as a lien against the property of the sign owner, and will be certified as an assessment against the property together with a ten percent (10%) penalty for collection in the same manner as the real estate taxes.
- (4) The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless documented facts to the contrary are brought to the attention of the Department, as in the case of a leased sign.
- (5) For purposes of removal, the definition of sign shall include all embellishments and structures designed specifically to support the sign.
- (6) The Department may suspend or revoke an issued permit for any false statement or misrepresentation of fact in the application.

(F) *Penalties.* Any person or entity who fails to comply with the provisions of Article 1000 after a notice or administrative order from the Department may be subject to a fine of not less than \$250 nor more than \$1000 per week, with each week a violation continues constituting a separate offense.

ARTICLE 400 Zoning District Regulations

Section 400.01. Zoning District Map.....	62
Section 400.02. Classification of Districts.....	62
Section 400.03. General Provisions	63
Section 400.04. Table of Permitted Uses.....	65
Section 400.05. Application of District Regulations	66
Section 400.06. Conservation District	66
Section 400.07. Agricultural District	68
Section 400.08. Residential Districts	69
Section 400.09. Commercial Districts	72
Section 400.10. Industrial Districts.....	75

Section 400.01. Zoning District Map

(Ord. 2009-23, 1/8/10)

- (A) *Official Zoning Map.* This Ordinance consists of a map and text. The City of Bella Vista shall maintain the official Zoning District Map in the City administrative office or at a convenient location designated by the Mayor. Although copies of the map or portions thereof may be distributed to the public in paper or digital form, the official Zoning Map consists of the paper copy signed by the Mayor and designated as such, as may be amended by ordinance adopted by the City Council.
- (B) *Boundary of Districts.* The boundaries of the zoning districts are hereby established as shown on the map entitled Zoning District Map of Bella Vista, Arkansas as may be amended by ordinance adopted by the City Council, which is part of this Ordinance and which is on file in the Office of the City Clerk.
- (C) *Interpretation of District Boundary.* Where due to scale, lack of detail or illegibility of the zoning map, there is uncertainty, contradiction or conflict as to location of any zoning district boundary as shown on the Zoning District Map, the Mayor or his designee shall make an interpretation of the map upon request of any person. Any person in disagreement with any such interpretation may appeal such interpretation to the Board of Zoning Adjustment. All City Commissions, Boards or personnel interpreting the zoning map or deciding any appeal, shall apply the following standards:
- (1) Zoning district boundary lines are intended to follow lot lines, or be parallel to or perpendicular thereto, or along the centerlines of alleys, streets, right-of-way or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.
 - (2) Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
 - (3) Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
 - (4) In un-subdivided property, the district boundary lines on the maps accompanying and made part of this Ordinance shall be determined by use of scale contained on such map.
 - (5) Where a zoning district boundary is indicated as approximately following city limits, the boundary shall be determined as such.
 - (6) If, after all of the previously stated rules have been applied, uncertainty shall exist as to exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of zoning ordinances and amendments in the City as well as other relevant facts. The Board of Zoning Adjustment, upon motion, shall interpret and determine the location of said boundaries based on the above-mentioned guidelines.

Section 400.02. Classification of Districts

(Ord. 2009-23, 1/8/10)

(A) This Ordinance classifies and regulates the use of land, buildings, and structures within the city limits of Bella Vista, Arkansas as hereinafter set forth. For the purpose of promoting the health, safety, and welfare of the inhabitants by dividing the city into zones and regulating therein the use of the land and the use and size of buildings as to height and number of stories, the coverage of land by buildings, the size of yards and open spaces, density of population and location of buildings. Zoning districts shall be designated as follows:

(1) *Conservation.*

(a) P-1, Open Space

(2) *Agricultural.*

(a) A-1, Agricultural

(3) *Residential.*

(a) R-E, Residential Estate

(b) R-1, Residential, Single Family

(c) R-2, Residential, Two-Family

(d) R-3, Residential, Multi-Family

(e) R-MH, Residential, Manufactured Home

(4) *Commercial.*

(a) C-1, Neighborhood Commercial District

(b) C-2, Light Commercial District

(c) C-3, Central Commercial District

(d) C-4, Shopping Center District

(5) *Industrial.*

(a) I-1, Light Industrial

(b) I-2 Heavy Industrial

Section 400.03. General Provisions

(Ord. 2009-23, 1/8/10; Ord. 2011-17, 12/28/11; Ord. 2013-05, 5/3/13; Ord. 2014-04, 5/2/14)

(A) *Architectural Features.* Certain architectural features may project into required yards as follows:

- (1) Cornices, canopies, eaves, or other architectural features, may project a distance not to exceed three (3) feet.
 - (2) Fire escapes may project a distance not exceeding four and one-half (4 1/2) feet from the exterior wall of the building.
 - (3) An uncovered stair and necessary landings may project a distance not to exceed three (3) feet, provided such stair and landing shall not extend above the entrance floor of the building except for a railing not exceeding three (3) feet in height.
 - (4) Bay windows, balconies, and chimneys may project a distance not exceeding three (3) feet provided that such features do not extend across the setback line.
- (B) *Building Separation.* Unless stipulated elsewhere, a minimum of ten (10) feet shall separate all detached buildings on a common lot.
- (C) *Computing Density.* When computing gross density of a tract of land, all common open space may be used in said calculation.
- (D) *Cul-de-Sacs.* For lots situated on cul-de-sacs or curves, a forty (40) foot minimum street frontage is acceptable provided that the required condition of minimum lot width at the setback line is met as measured along the radius.
- (E) *Lot Width.* Lot width is measured at the building setback.
- (F) *Lot Size.* Minimum lot size requirements shall not be interpreted as prohibiting the construction of a single-family residential dwelling unit on a lot that was legally platted and recorded before the adoption of these regulations. For lots that are rendered nonconforming, the necessity of obtaining a variance from such created nonconformity shall not be required as a condition of issuance of a building permit, provided all setback and other requirements can be met.
- (G) *Modular Homes.* Modular, panelized and pre-cut homes may be situated in A-1, R-E, R-1, R-2, R-3 and R-MH districts provided that they are constructed in accordance with state and local building codes. Such homes may not be located on lots where deed restrictions or protective covenants do not allow.
- (H) *Setbacks.*
- (1) In cases where plats were recorded prior to adoption of this Zoning Code that have building setbacks, enforceable setbacks shall be as stated on the plat of the subdivision.
 - (2) In the absence of any recorded plats containing building setbacks, the setbacks requirements contained herein shall prevail.
 - (3) For Residentially zoned parcels that are adjacent and under the same ownership, side setbacks may be eliminated entirely for the purpose of constructing over, under, or across, the building setback lines and property lines of adjoining parcels under the same ownership, a building for human occupancy (the "Principal Building"); accessory buildings, including but not limited to

garages, shop buildings, swimming pools, and gazebos; driveways; accessory infrastructure such as septic systems and leach fields; or other improvements associated with the primary structure contingent upon the owner filing a Notice of Structural Encroachment of Property Line with the Benton County Circuit Clerk and providing a file marked copy of same to the Planning and Code Enforcement Department prior to the City's issuance of a Certificate of Occupancy.

- (4) For multi-family residentially zoned parcels in which townhomes are constructed as of the date of the enactment of this provision, front or side setbacks are eliminated only for purposes of the construction of covered parking/driveway areas between the townhome structure and the city right-of-way. For all other purposes, setback requirements contained herein shall prevail.
- (5) Any deviation from the conditions above shall require applicants to seek a variance in accordance with the policies set forth in the Section 300.10 Variances.

(I) *Utilities.* Utility facilities, using land or an unoccupied building requiring less than one thousand (1,000) square feet of site area, are exempt from minimum lot size requirements of all districts. Utility facilities shall be maintained in good condition and will be located within the utility easement.

(J) *Setbacks along Bodies of Water.* Lots or parcels with access to bodies of water shall have at least twenty-five (25) foot setback from the water's edge in which no primary and accessory structures may be built, except as provided in §700.21.

Section 400.04. Table of Permitted Uses

(Ord. 2009-23, 1/8/10)

(A) *Location and Description.* The Table of Permitted Uses is located in Appendix A. Further clarification of each use appears in the Article 200, Definitions.

(B) *Permitted Uses.* Where the letter "P" appears on the line of a permitted use and in the column of a district, the use is permitted in that district subject to the provisions of:

- (1) Article 500 Off-Street Parking, Loading and Access Management; and
- (2) Article 700 Supplemental Zoning District Regulations.

(C) *Conditional Uses.* Where the letter "C" appears, this use may be permitted subject to acquiring a conditional use permit as set forth in the Section - Conditional Uses.

(D) *Prohibited Uses.* Where neither "P" nor "C" appears in a district column, the use is not permitted in the district.

(E) *Uses Not Listed.*

- (1) When a use is proposed that is not listed in the Table of Permitted Uses, the Mayor or his designee shall recommend the appropriate districts that the use may be located in, based on land

uses that are similar in size, bulk, and traffic generation. If the applicant does not agree with this interpretation, he may appeal the interpretation to the Board of Zoning Adjustment.

- (2) If the Mayor or his designee fails to make an interpretation for the use in question, then the application shall be handled as a proposed amendment to the Zoning Ordinance and shall be processed in accordance with the Article 300 Administration.

Section 400.05. Application of District Regulations

(Ord. 2009-23, 1/8/10)

- (A) The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.
- (B) No building, structure or land shall hereafter be used or occupied and no building, 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 is located.
- (C) No building or other structure shall hereafter be erected or altered:
 - (1) To exceed the height or bulk regulations of the district;
 - (2) To occupy a greater percentage of lot area;
 - (3) To have narrower or smaller rear, front, and/or side yards or any other open spaces that are herein required or in any other manner be contrary to the provisions of this ordinance; and
 - (4) To accommodate a greater number of families than as specified in all districts.
- (D) No part of a yard or other open spaces or off-street parking or loading space required in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
- (E) No lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth in these regulations. Lots created after the effective date of this ordinance shall meet the minimum requirements established by this ordinance.
- (F) All territory, which may hereafter be annexed to the City of Bella Vista, Arkansas, shall be considered to be in District A-1 until the territory is rezoned as provided herein or unless provided for in the annexing ordinance.

Section 400.06. Conservation District

(Ord. 2009-23, 1/8/10)

- (A) *General Description and Purpose.* The recreational open space district is designed to protect and enhance vital natural resources such as floodplains, streams, wetlands, exceedingly steep topography, woodlands and wildlife habitat. Further, this district serves to maintain a buffer between incompatible land uses, and to restrict development in areas not suitable for or capable of sustaining development, while allowing certain uses which are not detrimental to the land.

(B) *Bulk and Area Regulations.*

(1) *Lot and Area Requirements.*

- (a) At least seventy percent (70%) of the parcel area shall be left undeveloped as green space.
- (b) No more than fifteen percent (15%) of the parcel area may be dedicated to open space containing parking areas.
- (c) Maximum lot coverage shall be five percent (5%) of the parcel area.

(2) *Green Space Calculations.*

- (a) Land areas with the following characteristics must be included in the green space area calculations for (1)(a) above:
 - (i) The 100-year floodplain and floodway;
 - (ii) Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
 - (iii) Open bodies of water over five thousand (5,000) square feet in area;
 - (iv) Riparian zones of at least fifty (50) feet from the top of bank along all perennial and intermittent streams;
 - (v) Hills of at least five thousand (5,000) square feet containing slopes above twenty-five (25) percent;
 - (vi) Existing healthy, native forest lands of at least one-quarter (1/4) acre in area;
 - (vii) Habitat areas for populations of endangered or threatened species; and
 - (viii) Archeological sites, cemeteries and burial grounds.
- (b) At least seventy-five percent (75%) of the green space shall be in a contiguous tract. The green space shall adjoin neighboring areas of green space, other protected areas, and non-protected natural areas.

(3) *Setback Requirements.*

- (a) Minimum setback from all property lines shall be fifty (50) feet.
- (b) A minimum setback of twenty-five (25) feet shall be established parallel to all floodplain lines as shown on currently adopted FIRM panels.
- (c) A minimum setback of fifty (50) feet shall be established parallel to the top of bank along all perennial and intermittent streams.

(d) A minimum setback of (50) feet shall be established parallel to the edge of open bodies of water.

(4) *Height Requirements.* Buildings and structures shall be constructed to a maximum height of forty (40) feet.

(C) *Additional Plan Requirements.*

(1) In addition to the plan submittal requirements under other provisions of this code and any Subdivision Code requirements, applicants shall include the following items:

(a) Open bodies of water over five thousand (5,000) square feet in area;

(b) Riparian zones boundaries;

(c) Slopes in excess of twenty-five (25) percent; and

(d) Existing healthy, native forest lands of at least one-quarter (1/4) acre in area.

(D) *Legal Instrument for Permanent Protection.*

(1) Green space as defined above shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

(a) A permanent conservation easement in favor of a land trust or similar conservation oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instrument shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions.

(b) A permanent restrictive covenant for conservation purposes in favor of a government entity or property owner's association.

(c) An equivalent legal tool that provides permanent protection, if approved by the City of Bella Vista.

Section 400.07. Agricultural District

(Ord. 2009-23, 1/8/10)

(A) *General Description and Purpose.* The agricultural district is designed to provide for the compatible existence of agricultural activities within the city's corporate boundaries so that agricultural uses are protected as a valuable natural resource and do not unduly disturb the desirable functioning of residential, commercial, industrial or other uses.

(B) *Bulk and Area Regulations.*

(1) *Density.* One (1) dwelling unit per five (5) acres.

(2) Lot and Area Requirements.

Agriculture Lot and Area Requirements (feet)				
Minimum Lot Area	Minimum Street Frontage	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage (All buildings)
217,800 sq. ft. (5 acres)	100	100	100	30%

(3) *Minimum Setback Requirements.* Minimum setback shall be thirty feet (30) feet for front, side and rear yards.

(4) *Height Requirements.* Maximum fifty (50) feet.

(5) *Outbuildings.* An accessory or outbuilding shall be permitted on the property.

(6) *Additional Dwelling.* An additional dwelling unit shall be permitted on the property, provided the building is occupied by a family member, staff employed on the premises or it is used as a guest house. The building shall not be used as a rental unit and all regulations for a dwelling shall be followed when it is built.

(7) *Hazardous Materials.* Potentially flammable, explosive or noxious materials must be stored according to state regulations

Section 400.08. Residential Districts

(Ord. 2009-23, 1/8/10)

(A) *General Description.* The goal of the Residential districts is to provide safe, sound, economical, and innovative housing solutions for all citizens. Specific goals of residential districts include:

- (1) Provisions of adequate space at appropriate locations necessary to create an appropriate mix of housing alternatives;
- (2) Consideration to site selection and variety of choice;
- (3) Prevention of congestion as much as possible by regulating population density, activity intensity and extent of building bulk in relation to area land use;
- (4) Control of structure height to provide light and air access through windows; and
- (5) Promotion of desirable land use and development in order to protect district character and to conserve land and building value.

(B) *District Purposes.*

(1) *R-E, Residential Estate.* This district is designed to provide a low density, park-like atmosphere with a greater quantity of open space that creates a district that is protective of the environment.

An accessory or outbuilding shall be permitted on the property. The permitted use within this district is:

- Single-family detached dwellings

(2) *R-1, Residential, Single Family*. This district is intended to create a suitable environment for development of quality detached single-family dwellings with compatible densities, and related facilities normally required for a balanced and attractive residential area. The permitted uses within this district are:

- Single-family detached dwellings
- A limited number of other uses may be allowed by conditional use permit only.

(3) *R-2, Residential Two Family*. This district is intended to provide for development of attached dwellings and townhomes at moderate densities. These areas should serve as transition zones between single-family residential areas and more intensive uses, and should be in locations with convenient access to major thoroughfares. The permitted uses within this district include:

- Single-family detached dwellings
- Two-family attached dwellings
- Attached townhomes
- Public Uses
- Community Activity Centers
- A limited number of other uses may be allowed by conditional use permit only.

(4) *R-3, Residential Multi-Family*. This district provides for development of multi-family residences including a wide variety of housing types. These areas should serve as a transition zone between less and more intensive uses, and should be in locations with convenient access to major thoroughfares. The permitted uses within this district include:

- Single-family detached dwellings
- Two-family attached dwellings
- Attached townhomes
- Multi-family buildings
- Public Uses
- Community Activity Centers

- A limited number of other uses may be allowed by conditional use permit only.

(5) *R-MH, Residential Manufactured Home.* This district provides for an area designed and platted for the permanent parking of manufactured homes, with parking spaces in a predetermined arrangement. Each individual manufactured home must be placed on a permanent foundation and be designed to be used as a year-round residential dwelling unit. The placement of the manufactured home must be such that it conforms to all bulk and area requirements of the zoning district. No manufactured home shall be parked in violation of any enforceable deed restriction or covenant.

Furthermore, all such lots shall include on-site, hard surface, off-street parking spaces. Zoning in this district may be for a manufactured home park or individually owned home sites. A manufactured home park must provide water, sewer or septic, electric utilities, and streets and may also provide playgrounds and public use areas. The permitted uses within this district is:

- Manufactured Homes
- Public Uses
- Community Activity Centers

(C) *Residential Bulk and Area Requirements.*

(1) *Density.*

Zoning District	Maximum Density Permitted
R-E	1 dwelling unit per acre
R-1	3 dwelling units per acre
R-2	6 dwelling units per acre
R-3	16 dwelling units per acre
R-MH	3 dwelling units per acre

(2) *Lot and Area Requirements.*

Residential Bulk and Area Standards (feet)						
District	Structure Type	Minimum Lot Area (sq. ft.)	Minimum Street Frontage	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage
R-E	Single	43,560	50	50	100	20%
R-1	Single	14,000	50	50	100	35%
R-2	Two Family	14,000	50	50	100	35%
R-3	Multi-Family	87,120	50	50	100	40%
R-MH	Single	14,000	50	50	100	35%

(3) *Minimum Setback Requirements.*

- (a) *Garages.* The minimum setback for any garage shall be in conformance with the recorded plat survey. The minimum garage setbacks apply to attached and detached garages.
- (b) *Easements.* Where a utility easement extends beyond the required setback, the edge of the utility easement shall be the setback.
- (c) *Standards:*

Residential Setback Requirements (feet)			
District	Front	Side	Rear
R-E	50	20	50
R-1	20	10	20
R-2	20	10	20
R-3	20	20	20
R-MH	20	10	20

- (4) *Height Requirements.* The maximum height permitted in all Residential Districts is forty (40) feet.

Section 400.09. Commercial Districts

(Ord. 2009-23, 1/8/10)

- (A) *General Description.* Regulations for commercial districts are designed to encourage stable and efficient areas to meet the needs for commercial goods and services. The districts are designed to:
 - (1) Minimize any potential incompatibilities between commercial developments and other types of land use;
 - (2) Provide opportunities for investment as development occurs and infrastructure is built;
 - (3) Provide sufficient space, at appropriate locations in close proximity to established residential areas for retail and service trade;
 - (4) Provide sufficient and appropriate space to meet anticipated future needs for planned commercial developments; and
 - (5) Provide for adequate off-street parking, loading and access management in conjunction with commercial area development.
- (B) *District Purpose.*
 - (1) *C-1, Neighborhood Commercial District.* This district is intended to provide for development of small scale office, retail and commercial developments serving primarily local needs in a location convenient to the supporting residential area. These locations are within or adjacent to residential areas and therefore, this district contains performance criteria in order to ensure compatibility. It is further intended that this commercial area not be enlarged or extended

beyond its boundaries or encroach upon the existing residential areas. Permitted uses in this district include but are not limited to:

- Professional Services and Offices (bank, insurance, real estate)
 - Personal Services (beauty salons and spas)
 - Restaurants
 - Multi Family Housing (townhomes, condominiums, apartments)
 - Public Uses (parks, libraries, local, state, or federal public building)
 - Community Center (recreation or senior service centers)
 - A limited number of other uses may be allowed by conditional use permit only.
- (2) *C-2, Light Commercial District.* This district is intended to provide for development of small to medium scale office, retail, and commercial developments in convenient areas with accessibility to major thoroughfares. Permitted uses in this district include but are not limited to:
- Professional Services Offices
 - Personal Services
 - Restaurants
 - Multi Family Housing
 - Public Uses
 - Community Centers
 - A limited number of other uses may be allowed by conditional use permit only.
- (3) *C-3, Central Business District.* This district is intended to provide for a mixed use of small, medium and large scale office, retail, commercial and residential developments serving local and community needs in locations with convenient access to major transportation routes. These locations may be adjacent to residential areas, and therefore, this district contains performance criteria in order to ensure compatibility. Permitted uses include all those allowable in the C-1 and C-2 zoning districts in addition to but are not limited to:
- Newspaper printing
 - Animal hospital, kennel, grooming
 - Gasoline sales and service stations

- Commercial parking lots
- Utility company business offices
- A limited number of other uses may be allowed by conditional use permit only.

(4) *C-4, Shopping Center District.* This district is intended to provide for a mixed use of medium to large scale office, retail and commercial developments serving community needs in locations with convenient access to major transportation routes. Permitted uses include all those allowable in the C-1, C-2 and C-3 zoning districts in addition to but are not limited to:

- Indoor commercial amusement facilities
- Newspaper printing
- Automotive and parts sales and service centers
- Gasoline sales and service stations
- Commercial parking lots
- Public auditorium, arena
- A limited number of other uses may be allowed by conditional use permit only.

(C) *Commercial Bulk and Area Regulations.*

(1) *Lot and Area Requirements.*

Commercial Lot and Area Requirements						
District	Minimum Lot Area (acre)	Minimum Street Frontage	Minimum Lot Depth	Minimum Lot Width	Maximum Lot Coverage (%)	Minimum Green Space Coverage (%)
C-1	1	100	100	100	60	15
C-2	1	100	100	100	60	15
C-3	1	100	100	100	65	10
C-4	1	100	100	100	65	10

(2) *Minimum Setback Requirements.*

Commercial Minimum Setback Requirements (ft.)		
	Side	Rear

District	Front	Street Side	Adjacent to Non-Residential District	Adjacent to Residential District	Adjacent to Non-Residential District	Adjacent to Residential District
C-1	50	25	20	50	20	50
C-2	50	25	20	50	20	50
C-3	50	25	20	50	25	50
C-4	50	25	20	50	25	50

- (a) *Canopies.* An overhang or canopy roof with its support structures may not project beyond the building setback line and must be no less than eight (8) feet above a walkway.
- (b) *Sidewalk setback.* Upon application, where a sidewalk location is indicated, it may be within the setback line or the easement.

(3) *Height Requirements.*

- (a) Maximum Height – Forty (40) feet
- (b) Maximum Floors - Three (3)

Section 400.10. Industrial Districts

(Ord. 2009-23, 1/8/10)

(A) *General Description.* This District provides for development of industrial uses and related commercial facilities. The regulations for this District are designed to:

- (1) Make available a range of suitable sites for many types of manufacturing and related activities;
- (2) Protect residences by separating them from manufacturing activities;
- (3) Provide restricted areas for those industries emitting objectionable noises, odors, vibration or which involve danger of fire or explosives;
- (4) Protect industrial activities and related developments against congestion, as appropriate for each area, by limiting building bulk in relation to surrounding land and other industries and providing off-street parking and loading with each development;
- (5) Promote desirable land use and building development direction and to provide stability for industry and related development;
- (6) Protect district character and usage and to conserve land and building value.

(B) *District Purposes.*

- (1) *I-1, Light Industrial District.* This district is intended to provide locations for light to medium industrial uses and related commercial uses and contains performance criteria and design

guidelines incorporated to ensure compatibility with adjacent uses. Permitted uses include but are not limited to:

- Wholesale sales of building materials or lumber
- Bus or truck storage or garage
- Furniture manufacturing
- Cold storage plant
- Research Laboratory
- Monument Works

(2) *I-2, Heavy Industrial District.* This District is designed primarily to minimize the high risk of deleterious, hazardous and environmentally objectionable uses of general manufacturing processes and storage facilities as well as provide for warehousing, heavy equipment repair and transportation facilities.

(C) *Industrial Bulk and Area Regulations.*

(1) *Lot and Area Requirements.*

Industrial Lot and Area Requirements (ft.)					
Minimum Lot Area (acre)	Minimum Street Frontage(ft.)	Minimum Lot Width(ft.)	Minimum Lot Depth(ft.)	Maximum Lot Coverage (%)	Minimum Green Space Coverage (%)
43,560	100	100	100	75	15

(2) *Minimum Setback Requirement Standards.*

Industrial Minimum Setback Requirements (ft.)					
Front	Side			Rear	
	Street Side	Adjacent to Non-Residential District	Adjacent to Residential District	Adjacent to Non-Residential District	Adjacent to Residential District
50	25	20	100	50	100

(3) *Height Requirements.* Maximum height in Industrial Districts shall be forty-five (45) feet.

ARTICLE 500 Off Street Parking and Loading

Section 500.01. Purpose.....	78
Section 500.02. Applicability	78
Section 500.03. General Standards	79
Section 500.04. Accessibility.....	79
Section 500.05. Parking and Loading Space Location	80
Section 500.06. Parking and Loading Space Dimensions	81
Section 500.07. Reserved.....	81
Section 500.08. Passenger Vehicle Parking Spaces Allowed.....	81
Section 500.09. Off-Street Loading Requirements.....	84
Section 500.10. Vehicle Stacking Requirements	85
Section 500.11. Reserved.....	85
Section 500.12. Parking for Two-Wheeled Motorized Vehicles	86
Section 500.13. Bicycle Parking Requirements.....	87
Section 500.14. Appeals	88

Section 500.01. Purpose

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

- (A) This Article is intended to regular the size, number, and location of off street parking and loading spaces within the City in order to:
- (1) Protect adjoining properties from the adverse impacts associated with parking and loading spaces such as noise, appearance, and effect on property values;
 - (2) 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
 - (3) Encourage the use of energy efficient, alternative modes of transportation.

Section 500.02. Applicability

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

- (A) *New Development and Expansion.* Off-street parking and loading spaces shall be provided in accordance with these regulations for all new development, and for any existing development that is altered in a way that enlarges or increases capacity by adding or creating dwelling units, guest rooms, floor area or seats.
- (B) *New Use.* Off-street parking and loading spaces shall be provided in accordance with these regulations when a new use is established on a lot.
- (C) *Existing Spaces.* Parking spaces used in connection with an existing or continuing use or building on the effective date of this ordinance, up to the number required by this ordinance, shall be continued and may not be counted as serving a new structure or addition.
- (D) *Permitted locations by right.* Parking shall be located within the same zoning district as the use it serves. Required parking for uses allowed by right within a zoning district are allowed as a use by right in the same zoning district.
- (E) *Permitted locations as a Conditional Use.*
- (1) Parking located within residential zones and which serve uses in non-residential zones may be allowed as a conditional use by the Planning Commission
 - (2) Parking for uses allowed as conditional uses within residential zones must also be approved as a conditional use. A conditional use for parking may be approved at the same time the use is approved or may be approved separately if additional parking is developed later.
 - (3) 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.

- (F) *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 may be located on other property under common ownership as the principal use not more than two hundred (200) feet distant from the principal use, subject to conditional use approval by the Planning Commission.

Section 500.03. General Standards

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

- (A) *Surfacing.* All areas regulated under these regulations shall be constructed from asphalt, concrete, brick, or semi-permeable pavement. All parking shall be graded and drained to dispose of surface water into appropriate structures or appurtenances.
- (B) *Barriers.* Parking spaces shall be provided with wheel guards or curbs so located that no part of a parked vehicle will extend into or over sidewalks, property lines, or street rights-of-way.
- (C) *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.
- (D) *Use of Off-Street Parking and Loading Spaces.* Required off-street parking and loading spaces shall be used solely for the parking of motor vehicles in operating condition, and shall not be used for the storage of vehicles, boats, motor homes, campers, mobile homes, materials, tractor trailers or other temporary storage unless they are located in a designated staging area and are screened, fenced or otherwise fully shielded from public view.

Section 500.04. Accessibility

(Ord. 2009-23, 1/8/10)

- (A) *Americans with Disabilities Act Reference.* Accessibility for persons with disabilities in parking lots and building approaches shall be as required by the current Americans with Disabilities Act 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 Americans with Disabilities Act.
- (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 Americans with Disabilities Act of 1990 or the current federal statute. Curb ramps shall be provided in accordance with Americans with Disabilities Act of 1990 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	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.*

- (1) *Outpatient Facilities.* Outpatient units and facilities shall provide a minimum of ten percent (10%) of the total number of parking spaces provided serving each such outpatient unit or facility, but in no event shall be less than one such parking space be provided.
- (2) *Specialized Facilities.* Units and facilities that specialize in treatment or services for persons with mobility impairments shall provide twenty percent (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 Spaces.* Designated accessible parking shall be provided for at least two percent (2%) of the dwelling units and at facilities such as swimming pools and clubhouses that serve accessible buildings.
- (3) *Visitor Parking.* Accessible visitor parking that provides sufficient access to grade level entrances of multi-family dwellings is also required.

Section 500.05. Parking and Loading Space Location

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

- (A) *On-Site.* Required off-street parking and loading spaces shall be located on the same lot as the principal use, except as provided under Section 500.02.

(B) *Setbacks.*

- (1) In Districts zoned A1, RE, R1, and R2, required off-street parking shall not be located within a front or side building setback.
- (2) In R3 and RMH Districts, a parking setback of fifteen (15) feet shall be established from the property line or right-of-way. Off-street parking and loading spaces are allowed in the building setback, but not off the driveway, and not in a manner that obstructs sidewalks or visibility.
- (3) In all Commercial and Industrial districts, the following shall apply:
 - (a) *Front and Exterior Side of Lot.* A parking setback of twenty (20) feet shall be established from the property line or right-of-way.
 - (b) *Rear and Interior Side of Lot.* A parking setback of fifteen (15) feet shall be established from the property line or right-of-way for rear and interior side lot.
 - (c) Off-street parking and loading spaces are allowed in the building setback, but not off the driveway, and not in a manner that obstructs sidewalks or visibility.

Section 500.06. Parking and Loading Space Dimensions

(Ord. 2009-23, 1/8/10)

(A) *Passenger Vehicle Parking Spaces.*

- (1) A standard parking space shall be a minimum length of nineteen (19) feet and a minimum width of nine (9) feet.
- (2) Curvilinear parking spaces occurring on the arc of a curve will be allowed, provided that the dimensional requirements of ninety (90) degree spaces are met.

(B) *Loading Spaces.* Each loading berth shall be a minimum length of thirty (30) feet and a minimum width of ten (10) feet. All loading berths have a minimum clearance of fourteen (14) feet above finished grade.

(C) *Two-wheeled, Motorized Vehicle Spaces.* Each two-wheeled, motorized vehicle parking space shall be a minimum width of four (4) feet, 6 inches (4'6") and a minimum length of twelve (12) feet.

(D) All dimensions outlined in this section are exclusive of access drives and aisles.

Section 500.07. Reserved

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

Section 500.08. Passenger Vehicle Parking Spaces Allowed

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

(A) *Parking and Loading Schedules.*

- (1) *Off-Street Parking Schedule A and B.* The required number of off-street parking spaces shall be calculated in accordance with the following off-street parking schedules. In some cases, the applicable off-street parking space requirement in Schedule A refers to Schedule B. The maximum and minimum number of allowed spaces shall be determined as stated in Section B.
- (2) The required number of parking spaces for a use not listed herein shall be the same as for a similar use that is listed. When the required number of spaces cannot be ascertained by this method, or if the applicant and the Director of Planning and Code Enforcement cannot agree, the matter shall be submitted for Board of Zoning Adjustment determination. Such determination shall be subject to appeal to a court of competent jurisdiction.

SCHEDULE A – PARKING SPACES REQUIRED	
Residential Uses	Number of Spaces
Single-family detached	2 per dwelling unit
Single-family attached	2 per dwelling unit
Duplex	2 per dwelling unit
Multi-family	1 per one-bedroom unit 2 per two-bedroom unit 3 per three-bedroom and larger units
Manufactured housing (all)	2 per dwelling unit
Manufactured housing park	2 per unit, plus 1 for each 10 units
Zero lot line single-family	2 per dwelling unit
Civic & Commercial Uses	Number of Spaces
Animal care, general	1 per 400 square feet
Animal care, limited	1 per 300 square feet
Auditorium, arena, theater	1 for each 4 seats
Bank or financial institution	1 per 200 square feet
Bed and breakfast	2 per building, plus 1 per guest room
Bowling Alley	6 spaces per each lane
Church	1 for each 4 seats in sanctuary (sharing possible)
Clinic, medical or dental	1 space per 300 square feet
Fire Station	1 space per 400 square feet
College or university	1 per 300 square feet, or 1 for each 2 students, whichever is greater
Communication tower	1 space (plus office space, if on site)
Construction sales and service	Spaces to be provided pursuant to Schedule B
Convenience store	1 per 200 square feet
Day care, limited or general	1 per employee and/or attendant, plus 2 spaces
Funeral home	1 for each 3 chapel seats, plus 1 per employee
Government service	1 per 500 square feet
Hospital	1 for each 2 beds
Hotel or motel	1 per guest room, plus 1 per 10 guest rooms
Library	1 per 500 square feet

SCHEDULE A – PARKING SPACES REQUIRED	
Medical or Dental service	1 per 250 square feet
Museum	1 per 500 square feet
Office, General	1 per 300 square feet
Personal Service Establishments (barber) & beauty shop, and similar uses)	1 space per each station
Recreation/entertainment, indoor	1 per 400 square feet
Recreational vehicle park	1 per camping space
Restaurant, fast food	1 per 75 square feet of customer service/dining area; 1 per 200 square feet if no such service/dining area
Restaurant, general	1 per 150 square feet for first 2,500 square feet, plus 1 per 100 square feet over 2,500 square feet
Retail/service, general	1 per 250 square feet
Retail/service, furniture & bulky items	Spaces to be provided pursuant to Schedule B
School, nursery, elementary & middle	1 per staff and employee, plus 1 space per classroom
School, high	1 for each 3 students, plus 1.5 per classroom
Service station	1 per service bay, plus 1 per pump
Vehicle & equipment sales	Spaces to be provided pursuant to Schedule B
Vehicle repair, general or limited	4 per service bay
Vocational school	1 per 3 students, plus 1 per faculty member
Warehouse, residential (mini) storage	1 for each 5 storage bays, or 1 per 1,000 square feet, whichever is greater
Industrial & Manufacturing Uses	Number of Spaces
Asphalt or concrete plant	Spaces to be provided pursuant to Schedule B
Auto wrecking or salvage yard	Spaces to be provided pursuant to Schedule B
Manufacturing, general	Spaces to be provided pursuant to Schedule B
Manufacturing, limited	Spaces to be provided pursuant to Schedule B
Research service	1 per 300 square feet
Warehousing	Spaces to be provided pursuant to Schedule B
Welding or machine shop	1 per 1,000 square feet or 1 per employee, whichever is greater

SCHEDULE B – PARKING SPACE REQUIRED GENERAL CATEGORY	
Activity	Number of Spaces Required
Office or administrative area	1 per 300 square feet
Indoor sales, service or display area	1 per 500 square feet
Outdoor sales, service or display area	1 per 750 square feet
Manufacturing area	1 per 1,000 square feet
Indoor storage, warehousing, or equipment	1 per 5,000 square feet unless number of

SCHEDULE B – PARKING SPACE REQUIRED GENERAL CATEGORY	
Activity	Number of Spaces Required
servicing	employees and visitors requires greater

(B) *Computing Off-Street Parking Allowed.*

- (1) *Multiple Uses.* Lots and buildings containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all uses.
- (2) *Area.* Unless otherwise noted in this regulation, all square-footage based parking and loading standards shall be computed on the basis of gross floor area.
- (3) *Employees, Students and Occupancy Based Standards.* For the purpose of computing parking requirements based on the number of employees, students, residents, or occupants, calculations shall be based on the largest number of persons working on a single shift, the maximum enrollment or the maximum fire rated capacity, whichever is applicable and whichever results in the greatest number of spaces.
- (4) *Range of Allowed Spaces.* The actual number of parking spaces used may not exceed twenty-five percent (25%) of the required minimum spaces required, subject to the approval of the Planning Commission.

Section 500.09. Off-Street Loading Requirements

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

- (A) In all districts, accessory off-street loading berths, open or enclosed, shall be provided in conformity with the requirements set forth in this section and shall be so arranged so that parking and maneuvering will be on private property.
- (B) *Location of Off-street Loading Berths.*
 - (1) *Same Lot as Use.* Off-street loading berths shall be located on the same lot as the use for which they are provided.
 - (2) *Setback.* Such berths may occupy all or any part of any required building setbacks. Off-street berths are subject to provisions of Section 500.06. No such berth may be located closer than fifty (50) feet to any other property in an agricultural or residential district.
 - (3) *Surfacing and Marking.* Any required off-street loading space shall be surfaced with a durable and dustless surface and shall be so arranged and marked as to provide for orderly and safe unloading and loading.
- (C) *Number of Off-street Loading Berths.* The number of off-street loading berths required for various uses is set forth in the table below. The Planning Commission may reduce these requirements after receiving and reviewing a development plan through a waiver.

OFF-STREET LOADING SCHEDULE		
Use	Floor Area (Square Feet)	Number of Berths

OFF-STREET LOADING SCHEDULE		
Use	Floor Area (Square Feet)	Number of Berths
Retail and Service, Warehouse, Wholesale, & Manufacturing Uses	3,000 to 25,000	1
	25,001 to 85,000	2
	85,001 to 155,000	3
	155,001 to 235,000	4
	235,001 to 325,000	5
	325,001 to 425,000	6
	425,001 to 535,000	7
	535,001 to 655,000	8
	655,001 to 775,000	9
	775,001 to 925,000	10
	925,001 or more	10, plus 1 per 200,000 square feet above 925,001
Office, Nursing Home, Hospital, Hotels & Institutions	3,000 to 100,000	1
	100,001 to 335,000	2
	335,001 to 625,000	3
	625,001 to 945,000	4
		945,001 or more

Section 500.10. Vehicle Stacking Requirements

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

- (A) In addition to meeting the off-street parking requirements of these regulations, establishments with drive-thru facilities shall comply with the following minimum vehicle stack space standards.
- (B) Stack Space Schedule.
 - (1) *Fast-food restaurants*, one hundred ten (110) feet, as measured from the order station.
 - (2) *Banks*, seventy (70) feet, as measured from the teller drop.
 - (3) *Automatic car washes*, fifty (50) feet, as measured from the entrance.
 - (4) *Other uses*, thirty (30) feet, as measured from the pick-up window.
- (C) *Design and Layout*. Vehicle stack spaces shall be subject to the following design and layout Standards.
 - (1) Stack spaces shall be designed so as not to impede pedestrian access to the building, on and off-site traffic movements, or movements into or out of parking spaces.
 - (2) Stack space lanes shall be a minimum of eight (8) feet wide, and shall be separated from other internal driveways with painted lines or curbing.

Section 500.11. Reserved

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

Section 500.12. Parking for Two-Wheeled Motorized Vehicles

(Ord. 2009-23, 1/8/10; Ord. 2011-04, 7/2/11)

- (A) *When Two-wheeled, Motorized Vehicle Parking is Required.* All proposed new construction requiring passenger vehicle parking shall require two-wheeled, motorized vehicle parking. All proposed and required expansions in passenger vehicle parking lots shall also meet the requirements of this section.
- (B) *Amount of Two-wheeled, Motorized Vehicle Parking Required.* The following table shall be used to determine the minimum number of two-wheeled, motorized vehicle parking spaces to be provided:

TWO-WHEELED, MOTORIZED VEHICLE PARKING SPACES		
Total spaces required	Equivalent total off-street passenger vehicle parking required by code in a non-residential development	Equivalent total off-street passenger vehicle parking required by code in a residential development
2	1-25	1-50
3	26-50	51-100
4	51-100	101-150
5	101-150	151-200
6	151-300	201-350
7	301-500	351-500
8	501-750	501-750
9	750-1000	750-1000
1 additional space per	Each additional 500 spaces	Each additional 150 spaces

- (C) *Location of Two-wheeled, Motorized Vehicle Parking.*
- (1) Spaces shall be located within two hundred fifty (250) feet of a public entry.
 - (2) Spaces shall be clustered together as a cohesive area of at least two (2) spaces. Several groups of spaces may be provided as long as other location requirements are met.
 - (3) Spaces shall be positioned so that pedestrian and passenger vehicle traffic movements are not impeded.
 - (4) Spaces shall not be located within bus stops, loading zones, or other curb space where on-street parking is permitted unless approved by the Planning and Code Enforcement Department.
 - (5) Space shall have adequate lighting for the operation of combination and key locks at night and to minimize theft.
 - (6) Spaces shall have a fifteen (15) foot clearance from the edge of fire hydrants.

- (7) Spaces shall have a four (4) foot clearance from existing street furniture, including mailboxes and light poles.
- (8) Spaces shall have a ten (10) foot clearance from any gratings.
- (9) Spaces shall not interfere with Americans with Disabilities Act standards.
- (D) *Surface.* All motorized, two-wheeled vehicle parking spaces shall be constructed from concrete, brick, or stone pavers.
- (E) *Signage and Markings.*
 - (1) Each parking space shall be individually designated with striping to the spatial requirements of Section 500.06.
 - (2) *Buffer zone.* Each cluster of parking spaces shall be provided with a striped buffer zone as to provide for orderly and safe unloading and loading of vehicles. The minimum width of such buffer striping shall be as wide as the number of spaces within the cluster. The minimum length of such buffer striping shall be as long adjacent passenger vehicle spaces minus the required length of motorized, two-wheeled vehicle parking spaces. The words “Motorcycle Parking” shall be marked within the buffer zone.
 - (3) *Signage Required.* Each cluster of spaces shall be designated by its own conspicuously posted upright sign, either freestanding or wall mounted. Each sign shall be no smaller than twelve (12) inches by eighteen (18) inches and shall have its lower edge no less than four (4) feet above grade.

Section 500.13. Bicycle Parking Requirements

(Ord. 2009-23, 1/8/1; Ord. 2011-04, 7/2/110)

- (A) *When Bicycle Parking Racks Are Required.* All proposed new construction requiring twenty-five (25) off-street, automobile parking spaces or more shall require bicycle parking. All proposed or required expansions in automobile parking lots shall also meet the requirements of this section.
- (B) *Amount of Bicycle Parking Racks Required.* The following table shall be used to determine the minimum number of bicycle parking racks to be provided:

BICYCLE PARKING RACKS		
Total bicycle racks required	Equivalent total off-street automobile parking required by code in a non-residential development	Equivalent total off-street automobile parking required by code in a residential development
1	25-30	25-50
2	31-60	51-100
3	61-90	101-150
4	91-120	151-200
5	121-150	201-250
1 additional rack per	Each additional 100 spaces	Each additional 150 spaces

- (C) *Definition of a Bicycle Parking Rack.* Each bicycle parking rack shall hold a minimum of two (2) bicycles.
- (D) *Spacing of Racks.* Each bicycle parking space shall have two (2) foot by six (6) foot clear space, paved or unpaved, beside the rack allowing each rack to potentially count as two (2) spaces. The two (2) foot dimension may overlap another bicycle parking space such that racks positioned in a parallel row may be two feet, six inches (2' 6") on center.
- (E) *Position of Bicycle Parking Racks.*
- (1) Bicycle parking racks shall be located within fifty (50) feet of a public entry.
 - (2) Bicycle parking facilities should have adequate lighting for the operation of combination and key locks at night and to minimize theft.
 - (3) Bicycle parking racks should be positioned so that no pedestrian traffic is impeded.
 - (4) Bicycle parking racks should not be located within bus stops, loading zones, or other curb space where on-street parking is permitted unless approved by the Mayor or his designee.
 - (5) Bicycle parking racks shall have a fifteen (15) foot clearance from the edge of fire hydrants.
 - (6) Bicycle parking racks should have a four (4) foot clearance from existing street furniture, including mailboxes and light poles.
 - (7) Bicycle parking rack location shall not interfere with Americans with Disabilities Act standards.
- (F) *Shared Bicycle Parking.* Any property owner required to have bicycle parking may elect to establish a shared bicycle parking facility with any other property owner within the same block to meet the combined requirements.
- (G) *Procedure for Compliance.* For projects requiring bicycle parking, the bicycle parking shall be indicated on the site plan that is submitted to the Planning Commission for approval. All site plans must be drawn to scale.

Section 500.14. Appeals

- (A) Appeals of this Article shall be made as stipulated in §300.10, Variances.

ARTICLE 600 Non-Conformities

Section 600.01. Continuance of Use.....	90
Section 600.02. Discontinuance of Use	90
Section 600.03. Change of Use.....	90
Section 600.04. Subsequent Purchasers.....	91
Section 600.05. Repairs and Alterations.....	91
Section 600.06. Accessories to Primary Nonconforming Uses	91
Section 600.07. Damage and Destruction.....	91
Section 600.08. District Changes.....	91

Section 600.01. Continuance of Use

(Ord. 2009-23, 1/8/10)

- (A) Any lawfully established use of a structure or land, on the effective date of these regulations or of amendments hereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.
- (B) Any legal nonconforming structure may be continued in use provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein.
- (C) Any structure, for which a building permit has been lawfully granted prior to the effective date of these regulations, or of amendments hereto, may be completed in accordance with the approved plans. Such building shall thereafter be deemed a lawfully established building.

Section 600.02. Discontinuance of Use

(Ord. 2009-23, 1/8/10)

- (A) Whenever any part of a structure or land occupied by a nonconforming use is changed to, or replaced by, a use conforming to the provisions of these regulations, such premises shall not thereafter be used or occupied by a nonconforming use, even though the structure may have been originally designed and constructed for the prior nonconforming use.
- (B) Whenever a nonconforming use of a structure or part thereof, has been discontinued or abandoned for a period of one (1) year or more, such use shall not be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district.
- (C) Where no enclosed structure is involved, discontinuance of a nonconforming use for a period of six (6) months shall constitute abandonment, and shall not thereafter be used in a nonconforming manner.
- (D) Where periods of use are dictated by growing season or livestock rotation this does not constitute abandonment, as long as use is resumed within a twelve (12) month period.

Section 600.03. Change of Use

(Ord. 2009-23, 1/8/10)

- (A) The nonconforming use of any structure or portion thereof, may be occupied by a similar or less intense nonconforming use as may be determined by the zoning official, subject to appeal to the board of zoning adjustment. No building in which a nonconforming use has been changed to a more restricted use shall again be devoted to a less restricted use.
- (B) A nonconforming use of land without substantial buildings or structures may not be materially extended or expanded, nor shall it occupy more area than was in use on the effective date of these regulations. If such nonconforming use or portion thereof is discontinued for a period of six (6) months, or changed, any future use of such land or change of use shall be in conformity with the provisions of the district in which such land is located.

Section 600.04. Subsequent Purchasers

(Ord. 2009-23, 1/8/10)

- (A) Subsequent purchasers of property containing a lawfully established pre-existing non-conforming use may continue such non-conforming use subject to the other provisions herein.

Section 600.05. Repairs and Alterations

(Ord. 2009-23, 1/8/10)

- (A) Normal maintenance of a nonconforming structure or of a conforming structure containing a nonconforming use is permitted. Such structures may be expanded once, a maximum of twenty-five (25%) percent in gross floor area.
- (B) Alterations may be made when required by law, or when such alterations will actually result in eliminating the nonconformity.
- (C) No structure partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use.
- (D) A structure that is nonconforming with respect to yards, height or any other element of bulk regulated by these regulations, shall not be altered or expanded in any manner that would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located.

Section 600.06. Accessories to Primary Nonconforming Uses

(Ord. 2009-23, 1/8/10)

- (A) Addition of, or enlargement, alteration or relocation of, accessories which are incidental to and accommodate the primary nonconforming use may be permitted, after notices and public hearing and approval by the Planning Commission.
- (B) The procedures for application and review shall be the same as those for use on appeal, with the exception that all notifications must make reference to a request for “alteration, enlargement or relocation of use” instead of a request for a conditional use.

Section 600.07. Damage and Destruction

(Ord. 2009-23, 1/8/10)

- (A) If a nonconforming structure or a structure containing a nonconforming use is damaged or destroyed by natural disaster, fire, or other casualty, the structure may be repaired or reconstructed and used for the same purpose as it was before the occurrence; provided such repair or reconstruction is commenced within six (6) months and completed within one (1) year of the date of such damage or destruction. Failure to exercise this option within the time specified, shall be considered a voluntary abandonment and the structure may be rebuilt and used thereafter only for a conforming use, and in compliance with provisions of the district in which it is located.

Section 600.08. District Changes

(Ord. 2009-23, 1/8/10)

ARTICLE 600 Non-Conformities

Section 600.08.

- (A) Whenever the boundaries of a zoning district are changed, so as to transfer an area from one district to another, the foregoing provisions shall also apply to any newly created nonconforming uses therein.

ARTICLE 700 Supplemental Zoning District Regulations

Section 700.01. Where Applicable	94
Section 700.02. Accessory Buildings	94
Section 700.03. Animals	95
Section 700.04. Art Gallery, Library, Museum or Similar Facility	95
Section 700.05. Automobile, Driving Tracks, Go-Kart, Miniature Auto, or Racing	97
Section 700.06. Bed and Breakfast	97
Section 700.07. Automobile Wash Service, Including Self-Service Establishments	99
Section 700.08. Child Care	99
Section 700.09. Commercial Vehicles in Residential Zones	99
Section 700.10. Community Centers	99
Section 700.11. Emergency Housing Units	100
Section 700.12. Home Occupations	100
Section 700.13. Hospitals	101
Section 700.14. Non-Residential Uses In or Abutting Residential Districts	101
Section 700.15. Sewage Treatment Plant or Sludge Drying Bed	102
Section 700.16. Sexually Oriented and Adult Entertainment Businesses	102
Section 700.17. Temporary Classrooms	103
Section 700.18. Temporary Uses and Structures	104
Section 700.19. Wrecker Service	104
Section 700.20. Wireless Communication Facilities	104
Section 700.21. Docks, Boat Houses, and Dockside Recreational Improvements	110
Section 700.22. Septic Systems	112

Section 700.01. Where Applicable

(Ord. 2009-23, 1/8/10)

- (A) Uses permitted or those subject to Conditional Use approval shall be subject to the requirement of the district provisions as supplemented or modified by these regulations.
- (B) These regulations do not grant any waiver or right that might otherwise exist through current covenants.

Section 700.02. Accessory Buildings

(Ord. 2009-23, 1/8/10)

- (A) *Nonresidential Buildings.* An accessory nonresidential building may be erected detached from the principal building, or, except when a stable, may be erected as an integral part of the principal building.
 - (1) *Attached accessory.* An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements of this ordinance applicable to the principal building.
 - (2) *Size.* An accessory building shall be no larger than 720 square feet and shall have a similar architecture to that of the main structure.
 - (3) *Setbacks.* Detached accessory nonresidential building shall meet all setbacks for the zone as designated.
 - (4) *Height.* Accessory buildings shall not exceed the maximum height as allowed by zoning district in which it is located.
 - (5) *Barns and Stables.* Barns and stables shall not be considered nonresidential accessory structures and shall meet the setback requirements as set forth in the zoning district in which it is located.
- (B) *Accessory Dwellings.*
 - (1) *Residential Districts.* Detached dwelling units shall meet the setback requirements for the zoning district in which it is located. The detached dwelling unit shall be no larger than 50% of the size of the primary structure and no taller than the height of the primary structure.
 - (2) *C-1 and C-3 Districts.* Density limitations for attached residential uses in the C-1 district shall follow that of the R-3 District. Density limitations for the C-3 district are set forth in the bulk and area regulations for the C-3 district.
 - (3) *C-2, I-1 and I-2 Districts.* Density limitations shall follow that of the R-3 District. The building site and yard 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.

Section 700.03. Animals

(Ord. 2009-23, 1/8/10; Ord. 2013-13, 1/3/14)

(A) *General.*

- (1) Animals and fowl, where permitted in a district, shall be kept only in accordance with Bella Vista City Ordinances and Codes.
- (2) Adequate measures will be taken to prevent odor, dust, noise, or drainage from becoming a nuisance to uses on other properties. No incinerations of animal refuse shall be permitted on the premises.
- (3) The keeping of exotic or wild by nature animals are specifically prohibited, except by Conditional Use Permit in the A-1, Agricultural District.

(B) *Apiculture.* It shall be lawful for any person to keep, permit, or allow to keep honeybees within the corporate limits within permitted districts under the following terms and conditions:

- (1) The principal use of the property shall be a single family dwelling. Beekeeping shall not be allowed in multi-family dwellings, including two-family dwellings.
- (2) *Number Permitted.* The following number of bee colonies may be kept on a tract of land within the city, based upon the size or configuration of the lot on which the apiary is situated:
 - (a) One-quarter (1/4) acre or less lot size – 1 colony.
 - (b) More than one-quarter (1/4) acre but less than one-half (1/2) acre lot size – 2 colonies.
 - (c) More than one-half (1/2) acre but less than one (1) acre lot size – 3 colonies.
 - (d) One acre or larger lot size – 4 colonies.
 - (e) Regardless of lot size, where all hives are situated at least 200 feet in any direction from all property lines on the lot on which the apiary is situated, there shall be no limited to the number of colonies.
- (3) *Registration required.* All honeybee colonies shall be registered with the Arkansas State Plant Board and maintain an active certificate of inspection from such Board.
- (4) Africanized honeybees are specifically prohibited.
- (5) *Fencing of flyways.* In each instance in which any colony is situated within twenty-five feet (25') of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six feet (6') in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends 10 feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least 6 feet above ground level over the property lines in the vicinity of the apiary.

(6) *Water.* Each beekeeper shall ensure a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, pet watering bowls, bird baths, or other water sources where they may cause human, bird, or domestic pet contact.

(C) *Hobby Chickens.* It shall be lawful for any person to keep, permit, or allow hobby chickens within the corporate limits within permitted districts under the following terms and conditions:

(1) The principal use of the property shall be a single family dwelling. No hobby chickens shall be allowed in multi-family dwellings, including two-family dwellings.

(2) *Number Permitted.* No more than four (4) hens shall be allowed for each single-family dwelling.

(3) No roosters shall be allowed under the provisions of this section.

(4) Outside slaughter of birds is specifically prohibited.

(5) *Enclosure Placement and Area.*

(a) All hens must be kept in a secured, fenced enclosure constructed with a minimum area of 100 square feet.

(b) Hen enclosures shall to be kept in side and rear yard area. Enclosures are prohibited from in the front yard area.

(c) All hen enclosures shall be kept a minimum of twenty five feet (25') away from neighboring dwellings, measured from the adjoining property line.

(6) Enclosures shall be kept in a neat and sanitary condition at all times and must be cleaned on a regular basis to prevent offensive odor.

(7) All food used for chickens shall be kept in a suitable container with a tight-fitting cover so as to be inaccessible to rodents.

(8) *Applicability.* The above regulations are not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets. Further, these regulations are not intended to preclude the lawful transportation of fowl through the corporate limits of the City. Neither shall these regulations apply to fowl kept in areas of the City which are zoned A-1, Agricultural.

(D) *Livestock.*

(1) Keeping of livestock within the corporate limits of the City of Bella Vista shall be limited to the A-1, Agricultural District as a use by right.

(2) Keeping of livestock in the R-E, Residential Estates District shall be allowed by Conditional Use Permit only.

- (3) All livestock shall be kept in pens or enclosures that shall be kept a minimum of one-hundred fifty feet (150') away from any residence or business establishment; provided, however, that this restriction shall not apply to a residence or business of the livestock's owner.
- (4) All livestock pens or enclosures shall be maintained and kept in such conditions as not to become unsanitary, offensive, or disagreeable to persons residing in the vicinity thereof, nor shall they be so maintained or kept to permit the breeding of flies or in any manner cause injury to the health or comfort of the public or any person working or residing in the vicinity of said pen or enclosure. Manure or refuse shall be promptly removed and disposed of after each cleaning.
- (5) Fencing for livestock pens or enclosure shall be subject to the limitations of Section 900.04. Additionally, fencing shall be of an appropriate design and material for proper constraint of the livestock.
- (6) Pens and enclosures for livestock shall meet the following minimum dimensional requirements:
 - (a) *Horses, cows, swine, and other large livestock.* Enclosures for horses, cows, swine, and other large livestock shall be a minimum of one (1) acre in area for the first such animal. Each additional two (2) animals shall require an additional one (1) acre in area.
 - (b) *Sheep, goats, and other small livestock.* Enclosures for sheep, goats, and other small livestock shall be a minimum of one-half (1/2) acre in area for the first such animal. Each additional two (2) animals shall require an additional one-half (1/2) acre.

Section 700.04. Art Gallery, Library, Museum or Similar Facility

(Ord. 2009-23, 1/8/10)

- (A) An art gallery, library, museum or similar facility shall be located not less than fifty (50) feet from any other property in a Residential district, if permitted as a Conditional Use.
- (B) When located in said district, the facility shall have its primary vehicular entrance and exit on a major street or on another thoroughfare within one hundred fifty feet (150) feet of its intersection with a major street.

Section 700.05. Automobile, Driving Tracks, Go-Kart, Miniature Auto, or Racing

(Ord. 2009-23, 1/8/10)

- (A) Automobile, go-kart, miniature auto, racing or driving tracks shall be located not less than two thousand (2,000) feet from any residential district, if permitted as a Conditional use.
- (B) A solid fence or wall at least eight (8) feet high shall be erected on the boundary with the Residential district.

Section 700.06. Bed and Breakfast

(Ord. 2009-23, 1/8/10)

- (A) Bed and Breakfast shall be allowed with a Conditional use permit only in the A-1 and as a permitted use in all C zones. All applications for a Bed and Breakfast shall comply with the following requirements.
- (1) A Bed and Breakfast shall be considered to be a single-family residential structure and shall not be treated as a hotel, and shall not operate as a restaurant.
 - (2) A Bed and Breakfast shall be owner-occupied, with a maximum of four (4) outside employees permitted to help operate the business.
 - (3) A Bed and Breakfast shall conform to all Federal, State, and local laws and regulations concerning health, safety, licensing, nondiscrimination, or any other applicable law or regulations.
 - (4) A Bed and Breakfast shall have a working smoke detector in every sleeping room and a fire extinguisher in proper working order on every floor.
 - (5) No significant or substantial landscaping or structures shall be removed to provide the required parking.
 - (6) Prior to occupancy as a Bed and Breakfast, inspections shall be made by a Building Inspector, the Fire Inspector and any other inspection required by State and Federal laws.
 - (7) A site plan of the property and a building floor plan shall be submitted with the application for Conditional use permit showing entryways, guest room locations, exits, location of smoke detectors, fire extinguishers, and any other information required by the Planning Commission or the Mayor or his designee.
 - (8) One (1) non-illuminated sign, no larger than thirty two (32) square feet, and four (4) feet in height is permitted for each Bed and Breakfast facility.
 - (9) A maximum of five bedrooms may be available for rental for a maximum of five consecutive nights to any one guest and breakfast may only be served to registered guests. The price of breakfast shall be part of the rental fee.
 - (10) There shall be no individual cooking facilities for guests.
 - (11) Off-street parking requirements shall be two (2) spaces per dwelling plus one (1) space for each guest room available for rental.
 - (12) The facilities shall not be rented for receptions, parties, weddings or similar activities unless potential negative impacts, including, but not limited to, traffic, parking and noise, have been addressed and the activity is specifically permitted in the use permit.
 - (13) Prior to any functions located at the Bed and Breakfast, the Mayor or his designee shall be contacted and a Temporary permit requested. At this time the proposed activity will be evaluated, and if allowed, a temporary permit will be issued for that particular event with a set

time period, not to exceed three (3) days. A maximum of four (4) temporary permits may be issued per year.

- (14) The Planning Commission may revoke any conditional use permit granted under this section for violation of any condition of the permit or if the facility shall become a nuisance to the community in which it is located.

Section 700.07. Automobile Wash Service, Including Self-Service Establishments

(Ord. 2009-23, 1/8/10)

- (A) Vehicle wash service establishments shall provide paved parking space on the lot for not less than five (5) vehicles plus stacking space for no less than ten (10) vehicles.
- (B) Where any such use is located on a zoning lot abutting a Residential district, any entrance to such establishment or exit shall be by way of a major street. If located on the boundary with the Residential district, a solid fence or wall at least eight (8) feet high shall be erected along the property line subject to zoning regulations.
- (C) Wastewater from such establishments shall not be allowed to run into the street or storm sewer; such discharge of wastewater shall be into an approved sanitary sewer.

Section 700.08. Child Care

(Ord. 2009-23, 1/8/10)

- (A) Child care is prohibited in all residential zones.
- (B) *Commercial Child Care.*
- (1) Commercial day care centers, pre-schools, kindergartens, and nurseries must be operated from structures that are commercial in nature or operated within a religious facility.
- (2) A Conditional use permit is required for all commercial day cares operating within a religious facility or in A-1 zones.
- (3) They shall be limited by the requirements of the State of Arkansas in licensing such a facility, and shall otherwise comply with all area regulations established for the district in which such facility is located.

Section 700.09. Commercial Vehicles in Residential Zones

(Ord. 2009-23, 1/8/10)

- (A) A private garage located in any Residential district shall not be used for storage of more than one commercial vehicle that is owned by the property occupant and does not exceed one and one-half (1 ½) tons rated capacity per premise.

Section 700.10. Community Centers

(Ord. 2009-23, 1/8/10)

- (A) Any public gathering facility shall be subject to the following conditions:

- (1) *Vehicular access.* When located in any Residential district or on a zoned lot contiguous to an R district, such facility shall have its principal vehicular entrance and exit on a major street or on another thoroughfare within one hundred fifty (150) feet of its intersection with a major street.
- (2) *Site plan.* The site plan must be approved by the Planning Commission.

Section 700.11. Emergency Housing Units

(Ord. 2009-23, 1/8/10)

- (A) Emergency housing units may be approved as a Conditional use in all districts, for the purpose of providing temporary accommodations for persons in need of daily assistance due to health or emergency reasons. The following regulations shall apply to emergency housing units:
- (1) *Hardship.* Before approving a Conditional use for an emergency housing unit, the Planning Commission shall determine that the applicant has a special need to provide temporary, nearby living quarters due to an act of god or for a relative or employee who needs daily assistance due to health reasons. The applicant shall provide proof of such hardship, evidenced by a letter from a physician or other appropriate professional. The Commission shall also determine that allowing an emergency housing unit would alleviate a social, economic or physical hardship for the resident of the principal dwelling or the resident of the emergency unit. Consideration of the effect on adjoining property shall also be factored into the Commission's decision. A permit granted for such purposes shall expire no later than one (1) year from the date of approval. The Commission may approve a one-time extension of up to one (1) year of this period if the applicant applies for such extension within the original one year time period.
 - (2) *Unit Type.* Only manufactured housing units may be approved for emergency placement.
 - (3) *Removal.* Upon expiration of a Conditional use permit for an emergency housing unit, the unit shall be promptly vacated, and within ninety (90) days of permit expiration, be removed from the premises.

Section 700.12. Home Occupations

(Ord. 2009-23, 1/8/10)

- (A) Home occupations are permitted in accordance with the following provisions.
- (1) The home occupation is located completely within the principal dwelling unit.
 - (2) The home occupation is solely operated by the owner(s) and occupant(s) of the dwelling. No non-resident persons are employed.
 - (3) The home occupation is not primarily a retail sales operation.
 - (4) The home occupation does not occupy more than twenty five percent (25%) of the gross habitable ground floor area of the principal dwelling unit.
 - (5) The home occupation does not display merchandise or have outside storage of equipment or materials.

- (6) The home occupation does not alter the external appearance of the principal dwelling unit.
- (7) The home occupation does not create noise, vibration, glare, fumes, electromagnetic interference, odors, or air pollution outside the principal dwelling unit.
- (8) The home occupation does not involve the storage of hazardous materials.
- (9) The home occupation will not cause more than one (1) customer vehicle to be parked in the vicinity of the principal dwelling unit at a time.
- (10) The home occupation does not involve the external or visible manufacturing of goods on site.

- (B) *Examples of Allowed Home Occupations.* Activities conducted principally by telephone, computer, facsimile or mail; studios where handicrafts or objects of art are produced; dressmaking or apparel alterations; barber or beauty shop with one (1) chair; independent consultants including Mary Kay, Pampered Chef, Avon, etc.
- (C) *Examples of Prohibited Home Occupations.* Eating and drinking establishments, commercial sales or leasing of vehicles, rest home, clinic, doctor or dentist office, any use that requires employees who are not the sole owner(s) or occupant(s) of the dwelling, residential child care, any use that requires a building code upgrade (i.e. from residential standards to commercial standards) to accommodate the home occupation.
- (D) *Hobbies.* Hobbies conducted solely within the confines of a structure with no external impacts whatsoever, are not considered home occupations, even if occasional items are sold on the premises or transported away from the premises for sale.

Section 700.13. Hospitals

(Ord. 2009-23, 1/8/10)

- (A) Any and all hospitals shall be subject to the following conditions:
 - (1) No building, work area or recreation area shall be nearer to a zoned lot in any Residential district than one hundred feet (100’).
 - (2) There shall be a screening wall, at least eight (8) feet tall, adjacent to any zoned lot in an A or R district that is well maintained and in good condition.

Section 700.14. Non-Residential Uses In or Abutting Residential Districts

(Ord. 2009-23, 1/8/10)

- (A) The following requirements apply to all charitable, cultural, education, recreation, health, institutional, religious, social and similar non-residential facilities where permitted in or abutting any Residential District. Separation of structures or areas for uses listed below from the nearest other property line in an “R” District shall be as follows:

Type of Structure or Element of the Facility	Minimum Building Separation
<i>Outdoor Facility or Use</i>	
Outdoor passive Recreation	10 feet

Type of Structure or Element of the Facility	Minimum Building Separation
Entrance driveway and parking	50 feet
Eating or picnic area	100 feet
Tool or equipment storage	100 feet
Outdoor lighted area and game facilities with or without spectator facilities	200 feet
Refuse storage or incinerator	200 feet
<i>Indoor Facility or Use</i>	
Air-conditioning tower or compressor unit	50 feet
Auditorium, ballroom, dining room or meeting room having a floor area of more than 1,200 square feet; game court, game room, gymnasium, locker or shower, spectator facilities, swimming pool, theater or similar indoor facility: If fully air-conditioned: If not fully air-conditioned:	100 feet 200 feet
Building of a general hospital or convalescent home	100 feet
Building of a hospital, sanitarium or convalescent home for alcoholic, mental, nervous, narcotic or contagious patients	200 feet
All other indoor facilities: If fully air-conditioned: If not fully air-conditioned:	100 feet 200 feet

Section 700.15. Sewage Treatment Plant or Sludge Drying Bed

(Ord. 2009-23, 1/8/10)

- (A) Sewage treatment plants or sludge drying beds are Conditional Uses in designated zones.
- (B) Before this conditional use may be granted, a single, specific, legal, responsible entity must be assigned the specific responsibility for upkeep and maintenance of the facility. This responsibility must be a condition for the use to be allowed.
- (C) Any sewage treatment plant or sludge drying bed must be approved by the Arkansas Department of Health, the Arkansas Department of Pollution Control and Ecology, the Bella Vista Planning Commission, the Bella Vista City Council, and any other appropriate State or Federal agency which has jurisdictional control, prior to approval of the Conditional use.

Section 700.16. Sexually Oriented and Adult Entertainment Businesses

(Ord. 2009-23, 1/8/10)

- (A) Sexually oriented and adult entertainment businesses are only considered to be allowed in I-2, where they may be allowed as a Conditional use subject to the following:

- (1) *Separation Requirement.* The building housing an adult entertainment use shall not be located within two thousand six hundred forty (2,640) feet of any other adult entertainment use. This two thousand six hundred forty (2,640) foot area shall be defined by a radius of two thousand six hundred forty (2,640) feet measured from the exterior wall of the subject building.
- (2) *Additional Separation.* No sexually oriented business may be operated within two thousand six hundred forty (2,640) feet, measured in a straight line, without regard to intervening structures or objects, from the nearest property line of the sexually oriented business to the nearest property line of the following:
 - (a) A church;
 - (b) Any school or child care facility;
 - (c) A boundary of all residential districts;
 - (d) A public park, family recreation center; bowling alley, or skating rink;
 - (e) A hospital;
 - (f) Any properties listed on the National Register of Historical Places or local historic districts as identified by the Arkansas Historic Preservation Program;
 - (g) Another sexually oriented businesses;
 - (h) Any building premise, private club or establishment that sells or dispenses any alcoholic beverage.
- (3) *Prohibited Activities.* An adult entertainment use shall not be conducted in any manner that provides the observation of any material depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” from any public right-of-way. This provision shall apply to any and all displays, decorations or show windows.
- (4) *Subsequent Location of Certain Other Uses.* A lawfully operating sexually oriented business shall not be rendered illegal by the subsequent location of a church, a school, a pre-school, a child care facility, a public park, a family recreation center, a bowling alley, a skating rink, residential zoning, a residential use, or an establishment selling or dispensing alcohol.

Section 700.17. Temporary Classrooms

(Ord. 2009-23, 1/8/10)

- (A) Up to two (2) temporary classrooms may be permitted for public or private schools with expansion needs. Said classrooms shall meet local codes and ordinances.
- (B) *Time Limits.* Said buildings shall be removed within thirty (30) days after construction of any permanent structure intended for expansion purposes is complete. The temporary classrooms shall not be allowed for more than eighteen (18) months, unless expressly authorized by the Planning Commission.

Section 700.18. Temporary Uses and Structures

(Ord. 2009-23, 1/8/10)

(A) Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a lot or parcel and may be occupied only under the following conditions:

(1) *Conditional Use Permit Required.* A temporary use such as a carnival, circus, church tent revival, temporary tent sales, sales using non-permanent temporary structures, and outdoor sales or service activity or similar temporary uses that do not meet the exemption requirements shall be permitted only in a non-residential zoning district subject to the following;

- (a) No facilities shall be located nearer to a residential dwelling than four hundred (400) feet,
- (b) The site shall have access drives so located as to minimize traffic hazards,
- (c) The applicant shall show that adequate measures will be taken to prevent odor, dust, noise, lights, and traffic from becoming a nuisance to adjacent properties,
- (d) Each Conditional use permit for such an enterprise shall be valid for a period of not more than fifteen (15) days and shall not be permitted for more than two (2) such periods for the same location within any one calendar year.

(2) *Exemption.* Temporary uses located in temporary structures will not require a Conditional use permit if they meet the following requirements:

- (a) The use or structure shall not exceed three (3) days in a twelve (12) month time period.
- (b) The temporary structure shall not exceed eight hundred (800) square feet in size and shall not create a traffic hazard.

Section 700.19. Wrecker Service

(Ord. 2009-23, 1/8/10)

(A) A wrecker service is a business enterprise from which wrecker vehicles are dispatched to tow or haul inoperable or wrecked motor vehicles, and may or may not include the temporary storage, for a period not to exceed thirty (30) days, of such vehicles.

(B) All temporary storage of said wrecked or inoperable motor vehicles shall be screened entirely within an enclosed opaque fence or wall, except driveway areas, eight feet (8') in height, and contain no advertising thereon. Temporary storage between the street and such fence, or on the street right-of-way, is expressly prohibited.

Section 700.20. Wireless Communication Facilities

(Ord. 2010-10, 10/2/10; Ord. 2013-15, 1/24/14)

(A) *Applicability.*

- (1) Wireless communication may not be constructed, erected, moved, enlarged, or substantially altered in any zoning district unless allowed as a conditional use, except in accordance with the provisions of this section.

(a) *Exemptions and Exclusions.*

- (i) Repainting of a wireless communication facility shall not, in and of itself, be considered a substantial alteration.
 - (ii) Communications towers and antennas not exceeding seventy (70) feet in height and that are customarily associated with residential uses (not of a commercial nature) shall not be subject to these regulations. Such towers and antennas include “Receive only” antennas and towers and antennas used for private use such as ham radio operation.
- (2) *Permitting Required.* Except for instances where approval can be issued administratively as outlined in Section 700.20(B), below, all wireless communication facilities must fulfill the Conditional Use permitting procedures found in Article 300, in addition to the proceeding requirements.

(B) *Administrative Approvals.*

- (1) If plans submitted for an Administrative Approval include sufficient detail that the Director of Planning and Code Enforcement, or his or her designee, can determine whether the proposed wireless communication facility complies with the provisions of this section, then issuance of the requested Administrative Approval shall constitute development approval of the proposed wireless communication facility.
- (2) *Minor Wireless Communication Facilities.* The Director of Planning and Code Enforcement, or his or her designee, following an administrative review and without requiring the issuance of a Conditional Use Permit may approve the following:
 - (a) 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 freestanding non-residential structure), provided that the addition of the antenna does not add more than twenty (20) feet to the height of the existing structure.
 - (b) Installation of an antenna on an existing tower of any height, and the placement of additional buildings or other supporting equipment used in connection with such additional antenna, so long as the proposed additions would add no more than twenty (20) feet to the height of the existing tower and would cause no more than twenty-five percent (25%) increase in the square footage occupied by the Communication Facility. The addition or modification, to the extent possible, should be designed to minimize visibility.

(C) *Conditional Use Permits.*

- (1) In granting a Conditional Use Permit, the Planning Commission may impose conditions to the extent necessary to minimize any adverse effect of properties nearby the proposed tower location.

- (2) Any information submitted to the Planning Commission that relates to engineering matters shall be certified by an engineer licensed or registered by the State of Arkansas who is familiar with the design and erection of towers prior to submission. All submitted supporting documentation must be signed and sealed by the appropriate licensed professionals.
- (3) *Application.* The applicant requesting a Conditional Use Permit for a wireless communication facility at the time of submittal shall submit the following information:
 - (a) Plans shall fulfill the requirements for Conditional Use Permits as required under Section 300.06(D)(1) of the Zoning Code;
 - (b) Applications shall fulfill the requirements for wireless communication facilities as required under Section 1100.02(B)(2) of the Subdivision Code;
 - (c) Applications shall be accompanied by a Federal Aviation Administration Determination of No Hazard to Air Navigation.
 - (d) The site plan shall contain information showing the property boundaries, existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing structures on the site, existing residential dwelling units located within a distance equal to the height of the proposed tower, proposed structures, and topography;
 - (e) The proposed structures must contain information regarding any tower guy wire anchors and other apparatus needed for support; and
 - (f) Plans must also indicate proposed landscaping, fencing, parking areas, location of any signage and specifications on proposed lighting of the facility.
- (4) *Review Criteria.* In addition to the standard review criteria established under Section 300.06(E) of the Zoning Code, the following factors will be considered in granting a Conditional Use Permit. The Planning Commission may waive or reduce the burden upon the applicant for one or more of the following criteria if it is determined that the goals of this ordinance would still be served thereby.
 - (a) Height of the proposed tower;
 - (b) Proximity of the tower to residential structures and residential district boundaries;
 - (c) Nature of uses on adjacent and nearby properties;
 - (d) Surrounding topography;
 - (e) Surrounding tree coverage and foliage;
 - (f) Design of the tower, with particular attention paid to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
 - (g) Availability of suitable existing towers and other structures.

- (D) *General Guidelines.* In addition to the general guidelines for wireless communication facilities in Section 1100.02(C) of the Subdivision Code, applicants seeking Conditional Use Permits must also demonstrated compliance with the following:
- (1) Antennas and towers may serve either principal or accessory uses. A different or existing use or an existing structure on the same lot shall not prohibit the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with applicable development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a non-conforming use or structure.
 - (2) All towers must meet or exceed the then current Federal standards and regulations of the FAA, the FCC, and any other agency of the federal or state government with the authority to regulate towers and antennas and the construction and specifications thereof. If such standards and regulations are changed, then the tower and antenna owners governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to timely bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for removal of the tower or antennas at the owner's expense and/or grounds to terminate or not renew owner's Conditional Use Permit.
 - (3) To ensure the structural integrity of towers, the owner of a tower shall construct and maintain the tower in compliance with standards contained in applicable local building codes and the applicable then current standards for towers that are published by the Electronic Industries Association, as amended from time to time. To this end, prior to the initial issuance or the renewal of any permit the tower shall be certified by a professional engineer licensed and/or registered by the State of Arkansas and knowledgeable in the design and/or registered by the State of Arkansas and knowledgeable in the design and/or analysis of towers as being safe and meeting all applicable codes and standards. If upon inspection, the building inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon written notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such Tower into compliance within thirty (30) days, the Governing Authority may terminate that owner's Conditional Use Permit, cause that owner's Permit to not be renewed, and/or cause the removal of such tower (at the owner's expense).
 - (4) Accessory equipment, either mobile or immobile not used in direct support of a communication facility shall not be stored or parked on the communication facility, unless repairs to the tower are then currently in progress.
- (E) *Setbacks and Separation.* The following requirements shall govern the setbacks applied to the location of towers and antennas within allowable zoning districts.

- (1) Accessory facilities, towers, guy wires and other support devices must satisfy the minimum zoning district setback requirements.
 - (2) Towers must be setback away from existing residential structures a minimum distance equal to the height of the proposed tower. Such setback is measured from the center of the tower location to any residential structures within the setback required.
- (F) *Tower and Antenna Height Limitations.* Wireless communication facility towers, including any provisions for a lightning rod, shall be limited a maximum height of one hundred ninety-nine (199) feet. All other proposed structures shall be subject to the maximum height limitations of the zoning district..
- (G) *Landscaping.* The following requirements shall govern the landscaping surrounding towers for which a Conditional Use permit is required. The landscaping requirements set forth in this section are required for telecommunication tower and antenna sites only.
- (1) Communication facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the communication facility from adjacent properties.
 - (a) Along the street frontage a minimum buffer of ten (10) feet in width shall be provided, planted with a minimum of one (1) evergreen tree and four (4) shrubs per twenty-five (25) linear feet of street frontage.
 - (b) The remaining perimeter shall consist of a continuous landscaped area around the communication facility. This shall consist of at least two (2) courses of evergreen trees that are, at the time of initial planting, at least six (6) feet in height.
 - (2) Existing mature tree growth and natural landforms on or surrounding the communication facility shall be preserved to the maximum extent possible. In some cases (such as for towers situated on large, wooded lots), natural growth around the property perimeter may be a sufficient buffer. In such cases, the requirements listed above in the preceding subsection hereof may be waived.
- (H) *Aesthetics.* The following guidelines shall govern the aesthetics of all towers and antennas, provided however, that the Planning Commission may waive these requirements, upon a completed Waiver application, where it is determined that the goals of this ordinance would be better served thereby.
- (1) *Lighting.* Lighting of tower and antenna shall meet the following requirements:
 - (a) Towers shall be artificially illuminated if required by the FAA or other applicable authority or the Governing Authority. If artificial lighting is required, the lighting design and intensity chosen should be that which complies with the applicable guidelines, yet causes the least disturbance to the surrounding and nearby properties.
 - (b) Security lighting or motion activated lighting may be used around the base of a tower and within the telecommunication facility, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or rights-of-way.

(2) *Stealth Technologies.* This ordinance encourages creative design measures to camouflage facilities by integrating them with existing buildings and among other existing uses. Based on this, the color and design of towers and antennas shall meet the following requirements:

- (a) Towers shall be maintained with a galvanized steel finish, wood laminate or, subject to any applicable FAA standards, be painted a neutral color so that visual obtrusiveness is minimized.
- (b) The design of buildings and related structures within a telecommunication facility shall, to the extent possible, utilize building materials; colors, screening, and landscaping that will camouflage and blend the tower and related facilities into the natural and/or surrounding environment.
- (c) If an antenna is to be attached to a supporting structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a color closely compatible with the color of the supporting structure.

(I) *Abandoned Antennas or Towers.* Any tower no longer in use for its original communications purpose or any tower for which a Conditional-use Permit has been, for any reason, terminated or not renewed shall be considered abandoned. The owner of the tower shall provide the Governing Authority with a copy of any notice given to the FCC relating to its intent to cease operations.

(1) The telecommunication facility and all accessory structures shall be dismantled and removed at the owner's expense within ninety (90) days of the date of cessation of operations. Failure to timely remove these facilities shall constitute a nuisance under this code subjecting the owner and/or users to a fine not exceeding \$500.00. Each day of delinquency shall constitute a new violation. Upon removal, the tower owners shall re-vegetate the telecommunication facility site to blend with the existing surrounding vegetation at their expense.

(2) In the case of multiple antenna operators sharing use of a single tower, the provisions of this section regarding removal of abandoned towers shall not become effective until all users have ceased communications operations provided all other provisions of this section are fully complied with.

(3) All obligations imposed by this ordinance shall be the obligation of the applicant(s) and, if applicable, the lessee of the property upon which the tower and/or antenna(s) are located. Prior to co-location of a site, the original applications shall sign an agreement where co-locators accept full site maintenance in the event that the original applicant abandons the site. In the event that any tower or antenna is not properly and timely removed as required hereunder, then the City of Bella Vista may proceed to remove the abandoned tower and/or antenna (s) and the communication facility, in general, and thereafter recover the costs of removal, together with the costs of enforcement of this ordinance (including reasonable attorney's fees), from the applicant(s).

(J) *Notification of Change of Ownership/Operator.* Upon assignment or transfer of a Conditional Use Permit or any of the rights there-under to a new wireless telecommunication operator, the owner or

operator shall provide written notice within thirty (30) days to the Director of Planning and Code Enforcement.

Section 700.21. Docks, Boat Houses, and Dockside Recreational Improvements

(Ord. 2011-17, 12/28/11)

- (A) *Applicability.* The construction of docks, boat houses, and dockside recreational improvements shall be allowed as a use permitted by right in all zoning districts. However, all construction of such facilities will be subject to the provisions of this section and applicable building, electric, plumbing, fuel gas, and mechanical codes currently enforced by the City.
- (B) *Permit Requirements.* Construction of docks, boat houses, and other dockside recreational improvements requires the submission of a plot plan of the site and scaled drawings on the proposed structures.
- (C) *Unimproved Lots.* Applicants requesting construction covered under this section on an adjoining, unimproved lot must submit proof of ownership with the application. Docks, boat houses, and other dockside recreational improvements must be constructed on a lot adjoining a second lot upon which the owner of both lots has previously constructed a residential or commercial structure.
- (D) *Number Restricted.* Only one (1) dock, boat house, or dockside recreational improvement is allowed per parcel.
- (E) *Side Setback Infringement.* Construction of docks, boat houses, and other dockside recreational improvements may not infringe on the side building setbacks required for the district in which they are located. This provision is not subject to appeal to the Director of Planning and Code Enforcement for a minor modification variance under §300.10(B).
- (F) *Size Limitations.*
 - (1) Structures parallel to the shoreline of the body of water can extend a maximum of eighteen (18) feet into the body of water. Structures may not infringe into side building setbacks as provided in §700.21(E).
 - (2) Structures perpendicular to the shoreline can extend a maximum of eighteen (18) feet from the shoreline into the body of water or a maximum of fifteen (15%) percent of the distance across the body of water, whichever is less. Structures may not infringe into side building setbacks as provided in §700.21(E).
- (G) *Prohibited Materials.*
 - (1) Piers and parts of the structures covered under this section that come into contact with the body of water may not be constructed of treated wood, railroad ties, or other materials that could leach chemicals into the body of water, unless they are elevated a minimum of one (1) foot above the normal pool elevations established in §700.21(I).
 - (2) Barrels or pontoons are not permitted for floatation.

(3) Wood piers are not allowed unless encapsulated in concrete a minimum of one (1) foot above the normal pool elevations established in §700.21(I).

(H) *Material Requirements.*

- (1) Any wood which is in constant contact with water must be cypress, cedar, or redwood.
- (2) Dock skirting must be cypress, cedar, or redwood.
- (3) Any Styrofoam or equivalent material must be encapsulated in a polyethylene shell or an approved equal material. Approved equals must be submitted for review by the Planning and Code Enforcement Department at time of application.

(I) *Minimum Elevation Requirements.* The following elevations are hereby established as the normal pool elevation for water bodies within Bella Vista:

<u>Water Body</u>	<u>Normal Pool Elevation</u>
Loch Lomond	1120
Lake Avalon	1075
Lake Windsor	1069
Lake Norwood	1060
Lake Ann	1055
Lake Rayburn	1090
Lake Brittany	1200

Section 700.22. Septic Systems

(Ord. 2011-17, 12/28/11)

- (A) *General.* Driveway, sidewalks, walls, primary or accessory buildings, or structures shall not be erected over or infringe upon an existing or proposed septic system or septic leach field unless otherwise provided below.
- (B) *Setbacks.*
- (1) *Property Lines.* Septic systems or septic leach fields may be located no closer than ten (10) feet to a property line.
 - (2) *Primary Buildings.* Ten (10) feet of separation must be maintained between all primary buildings and existing or proposed septic systems and septic leach fields.
 - (3) *Accessory Buildings.*
 - (a) Ten (10) feet of separation must be maintained between all accessory buildings with permanent foundations and existing or proposed septic systems and septic leach fields.
 - (b) Accessory buildings with skids or other non-invasive foundations are allowed to intrude on existing or proposed septic systems and septic leach fields on a case by case basis as determined by the Planning and Code Enforcement Department.
 - (4) *Other Structures.* Footings for decks or structures with pier or column foundations shall maintain five (5) feet of separation between existing or proposed septic system and septic leach fields.
- (C) *Land with Access to Water Bodies.*
- (1) Lots or parcels with access to water bodies shall maintain a one-hundred (100) foot setback away from the edge of water or property line which abuts the body of water, whichever is greater, for any existing or proposed septic system and septic leach field without an Arkansas Department of Health approved pretreatment system.
 - (2) Lots or parcels with access to water bodies shall maintain a twenty-five (25) foot setback away from the edge of water or property line which abuts the body of water, whichever is greater, for any existing or proposed septic system and septic leach field with an Arkansas Department of Health approved pretreatment system.

ARTICLE 800 Landscaping, Screening, and Buffering

Section 800.01. Purpose..... 114
Section 800.02. Objectives 114
Section 800.03. Applicability 114
Section 800.04. Exemptions 114
Section 800.05. General Provisions 115
Section 800.06. Landscape Plans..... 116
Section 800.07. Landscaped Street Frontage Buffer 117
Section 800.08. Interior Parking Lot Landscaping 118
Section 800.09. Landscaped Perimeter 121
Section 800.10 Landscape Installation Requirements 121
Section 800.11 Trees and Shrubs..... 122
Section 800.12 Tree Preservation Requirements 124
Section 800.13 Enforcement and Maintenance 125
Section 800.14 Alternative Methods of Compliance..... 125
Section 800.15 Screening..... 125

Section 800.01. Purpose

(Ord. 2010-10, 10/2/10)

- (A) The purpose of this article is to ensure a minimum of open space and green area as an integral part of new development and to protect the health and welfare of its citizens through the regulation of landscaping of new multi-family, commercial and industrial developments.
- (1) Landscaping enhances the environmental and visual character of the community.
 - (2) Green space requirements preserve and stabilize the area's ecological balance by establishing a healthier environment.
 - (3) Green areas help to mitigate the negative effects of air and noise pollution by using plants as buffers.

Section 800.02. Objectives

(Ord. 2010-10, 10/2/10)

- (A) Landscaping should be an integral part of a development. This article is designed to promote high quality developments, protect property values and public investment in our community. Objectives of this ordinance include, but are not limited to, the following:
- (1) To moderate the effects of sun, wind, and temperature changes;
 - (2) To filter pollutants from the air and release oxygen;
 - (3) To stabilize soil and prevent erosion; and
 - (4) To encourage preservation of desirable trees.

Section 800.03. Applicability

(Ord. 2010-10, 10/2/10)

- (A) The requirements of this article shall apply to:
- (1) *New Development.* All new public, private, and institutional developments.
 - (2) *Additions.* Additions over ten (10) percent of the gross floor area of the building or more than 2,500 square feet, whichever is more.

Section 800.04. Exemptions

(Ord. 2010-10, 10/2/10)

- (A) *Residential.* Single family residential and duplex residential are exempt from these regulations.
- (B) *Additions.* Additions to existing structures that are under ten (10) percent of the gross floor area of the building or 2,499 square feet, whichever is less, are exempt.

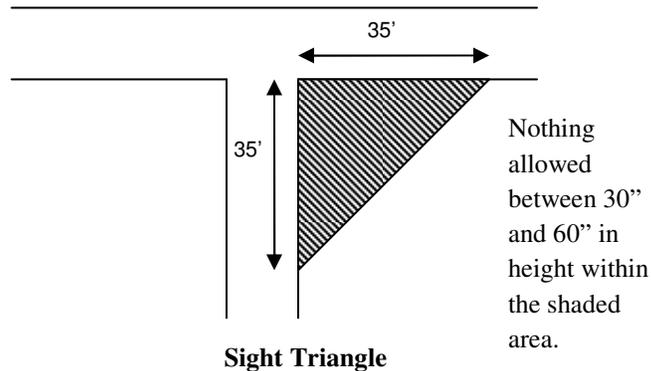
(C) *Previous Approval.* Previously approved developments, which have been given a permit to begin building construction, are exempt.

Section 800.05. General Provisions

(Ord. 2010-10, 10/2/10)

(A) *Sight Distances.*

- (1) Safe sight distances at intersections and points of access must be maintained.
- (2) No landscaping between thirty (30) and sixty (60) inches in height shall be placed within the sight triangle of an intersection or curb cut.



(B) *Soil and Climatic Conditions.* Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for their growth habits. Plants used in the landscape design shall to the greatest extent be:

- (1) Appropriate to the conditions in which they are to be planted;
- (2) Have non-invasive growth habits;
- (3) Encourage low maintenance, high-quality design; and
- (4) Be otherwise consistent with the intent of this article.

(C) *Replacement Guarantee.*

- (1) The following vegetation, planted or preserved, that does not remain alive shall be replaced with equivalent vegetation for a period of one (1) year from the date a Certificate of Occupancy is issued:
 - (a) Vegetation planted or preserved according to an approved plan; and
 - (b) Preserved trees for which credit under Section 800.12 Tree Preservation Requirements was awarded but which subsequently die.

(2) *Bonding required.*

- (a) Guarantee from the owner / developer that all vegetative materials, planted or preserved, will be warranted for a period of one (1) year from the time of installation. If any of the material should fail to survive during that period it would be replaced during the appropriate planting season.
- (b) The owner / developer shall post a one (1) year maintenance bond for fifty (50) percent of the value of vegetative material based on a cost estimate prepared by the Landscape Architect and agreed to by the Director of Planning and Code Enforcement. The bond shall be made to the City of Bella Vista. The bond will be released by the Planning and Code Enforcement Department after a site inspection of the vegetative material one (1) year after issuance of the Certificate of Occupancy.
- (c) *Exemption.* Any vegetative material covered by Section 800.05(C) that dies as a result of an act of God (e.g. tornados, straight line winds, flooding) shall be exempt from replacement. For this exemption to be effective, the owner / developer must notify the Planning and Code Enforcement Department within seven (7) business days from the event. After a site inspection, any plant material destroyed will be credited toward the final inspection for bond release.

(D) *Irrigation.*

- (1) Except as provided below, required landscaping shall be irrigated by one of the following methods:
 - (a) An underground sprinkling system;
 - (b) Automatic drip system; or,
 - (c) Hose attachment(s) within 100 feet of all landscaped areas.
- (2) Landscaping with native and drought tolerant species shall not require irrigation, provided the following certification is made on the landscape plan by a licensed Landscape Architect who is registered with the State of Arkansas:
- (3) “Automatic irrigation is not required on this project due to environmental conditions that do not warrant the installation of an irrigation system for plant establishment and survival.”

(E) *Weed Barrier.* If utilized in a landscape design, weed barrier shall be permeable to water. Non-permeable and plastic weed barriers are expressly prohibited.

Section 800.06. Landscape Plans

(Ord. 2010-10, 10/2/10)

(A) The landscaping plan is required to address three requirements:

- (1) Street frontage buffer as required in Section 800.07;

- (2) Interior parking lot landscaping as required in Section 800.08; and,
 - (3) Perimeter landscaping as required in Section 800.09.
- (B) The following information is required on landscape plans and shall be completed, stamped, and signed by a Licensed Landscape Architect in order for the Planning and Code Enforcement Department to review them for compliance with this Article.
- (1) *Existing vegetation.* Location, general type and quality of existing vegetation, including specimen trees.
 - (2) *Preservation.* Existing vegetation to be saved.
 - (3) *Protection.* Methods and details for protecting existing vegetation during construction and approved sediment control plan.
 - (4) *Proposed Plants.* Locations and labels for all proposed plants.
 - (5) *Landscape Details.* Plant lists with the botanical and common names, quantity, spacing and size of all proposed landscape improvements such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas.
 - (6) *Installation Details.* Planting and installation details as necessary to ensure conformance with all required standards.
 - (7) *Sight Triangle.* The sight triangle shall be indicated on the plan with a dimensioned shaded area.
 - (8) *Irrigation.* The plans shall indicate the type of irrigation to be used, in accordance with Section 800.05 (D). If hose bibs are proposed, the locations shall be shown on the plan.
 - (9) *One (1) Year Guarantee.* The plans shall note that all landscape vegetation material must be guaranteed for a period of one (1) year from the issuance of a Certificate of Occupancy.

Section 800.07. Landscaped Street Frontage Buffer

(Ord. 2010-10, 10/2/10)

- (A) *Purpose.* The landscaped street frontage buffer serves two primary purposes:
- (1) When a parking lot is located adjacent to a public right-of-way, a strip of landscaping helps shield projecting headlights that may impair the vision of passing motorists or pedestrians therefore creating a safer environment.
 - (2) It also provides an aesthetically pleasing transition from the public right-of-way to private property.
- (B) *Prohibitions.* Parking, merchandise display and off-street loading are prohibited in the landscaped street frontage buffer.

(C) *Buffer Options.* The site plan for any development, other than those exempt in Section 800.04 Exemptions, shall show a landscaped street frontage buffer along all public right-of ways. The applicant may choose one or a combination of four (4) options illustrated below to meet the particular site constraints of the development.

(1) *10' Buffer Strip:*

- (a) *Minimum width:* Ten (10) feet.
- (b) *Minimum number of trees required:* One (1) shade tree and one (1) ornamental tree per twenty-five (25) linear feet of street frontage.
- (c) *Minimum number of shrubs:* Ten (10) shrubs per twenty-five (25) linear feet of street frontage. A minimum of 50% of shrubs required shall be evergreen.

(2) *Earth Berm:*

- (a) *Minimum Height:* Two and one-half (2 1/2) feet higher than the finished elevation of the parking lot
- (b) *Maximum Slope:* Maximum slope of the berm is 3:1.
- (c) *Minimum Number of Trees:* One (1) shade tree and one (1) ornamental tree per twenty-five (25) linear feet of street frontage.
- (d) *Minimum Number of Shrubs:* Three (3) shrubs per twenty-five (25) linear feet of street frontage. A minimum of 50% of shrubs required shall be evergreen.

(3) *6' Buffer Strip:*

- (a) *Minimum Width.* Six (6) foot landscaped street buffer with three (3) feet of fall.
- (b) *Minimum Number of Trees.* One (1) shade tree and one (1) ornamental tree per twenty-five (25) linear feet of street frontage.
- (c) *Minimum Number of Shrubs.* Three (3) shrubs per twenty-five (25) linear feet of street frontage. A minimum of 50% of shrubs required shall be evergreen.

(4) *25' Buffer Strip:* A landscaped buffer area with existing woodlands maintained in twenty-five (25) foot strips along the street frontage.

(D) *Groundcover.* All areas of the landscaped street buffer that are not dedicated to tree or shrub plantings shall be landscaped with ground cover.

(E) *Massing.* Massing shall be integrated into a bed or in a curb to ease maintenance. The maximum distance between massing is twenty-five (25) feet.

Section 800.08. Interior Parking Lot Landscaping

(Ord. 2010-10, 10/2/10)

(A) *Purpose.* The interior parking lot landscaping requirement serves several purposes:

- (1) To provide necessary green space to give relief to expansive paved parking areas;
- (2) To provide shade and to serve as windbreaks; and
- (3) To assist with vehicular circulation.

(B) *Applicability.* Interior parking lot landscaping requirements apply to all parking lots that are required in the Zoning Code, Article 500 Off Street Parking, Loading, and Access Management to have fourteen (14) or more parking spaces.

(C) *Requirement.* The site plan shall show interior parking lot landscaping. A sliding scale to determine the amount of landscaping area per lot has been included in order for the applicant to include these landscaping requirements as an integral part of the site development.

(1) *Standard.* Percentage (%) of the total area of parking lot dedicated to interior planting shall be as follows:

Interior Landscaping Requirements	
<i>Total Area Of Parking Lot</i>	<i>Minimum % Dedicated to Interior Landscaping</i>
3,000-49,999 sq ft	5 %
50,000-149,000 sq ft	8 %
150,000 sq ft or larger	10 %

(2) *Calculating Lot Area.* Diagram A: Calculating Lot Area, illustrates what areas of the lot are considered when determining the total area of the parking lot. The total amount of landscape area for the interior lot is determined by figuring 5%, 8%, or 10% of the total parking lot area as explained below.

- (a) *Included in Calculation.* The square footage of all areas within the parking lot’s perimeter are counted, including the planting islands required, curbed areas, corner lots, parking spaces and interior driveways and aisles.
- (b) *Excluded from Calculation.* Driveways and aisles with no parking spaces located on either side, buildings, street frontage buffer, and perimeter strips are not counted. Landscaped areas outside the parking lot may not be used to meet the interior planting requirement.

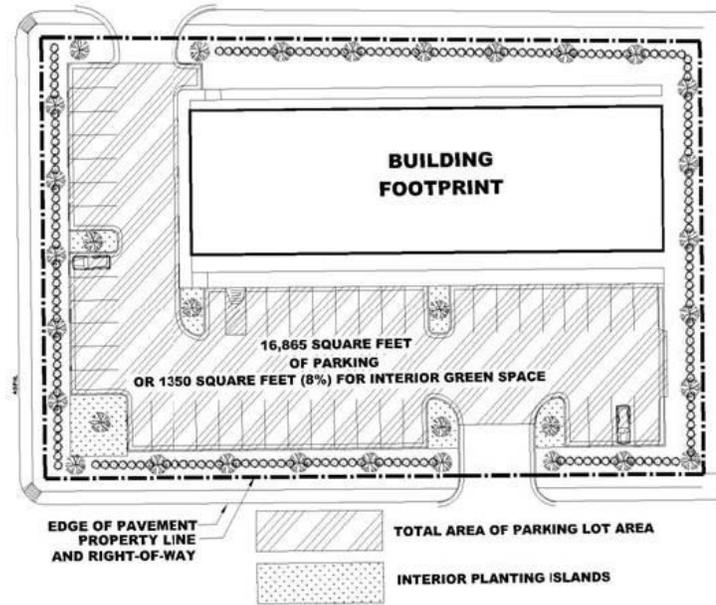


Diagram A: Calculating Lot Area

- (3) *Planting Islands.* Planting islands are required as a part of the landscape area percentage in the interior parking lot area.
 - (a) *Dimensions.* The dimensions of a parking island must be a minimum of nine (9) feet by nineteen (19) feet as measured from the face of the curb, the same as a parking space, and must be curbed to protect landscaping and trees.
 - (b) *Minimum Number Required.* No more than fourteen (14) parking spaces shall be permitted in a row without interruption by a parking island. In parking lots over 150,000 square feet, the number of parking islands can be reduced but the total square footage of landscape area must remain according to the requirements.
 - (4) *Trees.* Trees are required to be planted in the interior parking area to offer shade from the heat and sun.
 - (a) *Minimum Number Required.* One (1) shade tree per fourteen (14) parking spaces is required for the interior parking area.
 - (b) *Location.* Trees shall be planted within the island.
 - (5) *Groundcover.* All interior parking lot landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover.
- (D) *Vehicular Display Areas.* Applicants shall select one of the following options for vehicular display areas:

- (1) *Compliance with Standard.* Comply with the interior parking lot landscaping requirements described in this section and the required street frontage requirements in Section 800.07; or,
- (2) *Increase Street Frontage Buffer.* In lieu of the interior parking lot landscaping requirements, increase the required street frontage buffer to twenty-five (25) feet wide and install the number of trees required for the interior landscape requirements within the street frontage buffer.

Section 800.09. Landscaped Perimeter

(Ord. 2010-10, 10/2/10)

(A) *Purpose.* Perimeter landscaping:

- (1) Defines parking areas;
- (2) Prevents two adjacent lots from becoming one large expanse of pavement;
- (3) Provides vegetation in densely developed areas; and,
- (4) Enhances the appearance of individual properties.

(B) *Requirement.* The site plan for any development, other than that exempt in Section 800.04 Exemptions, shall show perimeter landscaping, in addition to the landscaped street frontage buffer required in Section 800.06.

- (1) *Width.* A ten (10) foot landscaped strip is required along the side and rear lot lines of a development.
- (2) *Minimum Number of Trees.* One (1) shade tree and one (1) ornamental tree per fifty (50) linear feet.
- (3) *Groundcover.* All perimeter landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover.
- (4) *Vehicular Access.* The perimeter landscaping requirement does not preclude the need for vehicular access to be provided between lots.
- (5) *Adjacent Properties.* The ten (10) foot perimeter strip is required for each development regardless if one is already in place from an adjacent, developed lot.

Section 800.10. Landscape Installation Requirements

(Ord. 2010-10, 10/2/10)

(A) *Location.*

- (1) *Drainage.* Trees shall not be placed where they interfere with site drainage.
- (2) *Overhead Utilities.* Trees shall not be placed where they require frequent pruning in order to avoid interference with overhead power lines. In such locations, small ornamental trees are encouraged.

(3) *Water Lines.* Landscaping shall be installed at locations that avoid placement directly above water lines.

(4) *Fire Hydrants.* Landscaping shall not be placed within three (3) feet of a fire hydrant.

(B) *Minimum Size.* Immediately upon planting, trees shall meet the minimum requirements:

Minimum Tree Size	
<i>Type</i>	<i>Minimum Size</i>
Ornamental Trees	1.5" caliper dbh
Evergreen Trees	6' in height
Shade	2.5" caliper dbh
Shrubs	18" in height

(C) *Species Mix.* When more than ten (10) trees are to be planted to meet the requirements of this ordinance, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. The minimum number of species to be planted is listed in the table below. Species shall be planted in proportion to the required mix. This species mix shall not apply to areas of vegetation required to be preserved.

Required Species Mix	
<i>Required Number of Trees</i>	<i>Minimum Number of Species</i>
11-20	2
21-30	3
31-40	4
41+	5

Section 800.11. Trees and Shrubs

(Ord. 2010-10, 10/2/10)

(A) *Criteria.* The following lists indicate plantings that meet the landscaping requirements of this article. The lists are by no means comprehensive and are intended merely to suggest the types of flora which would be appropriate for screening and shading purposes. Plants were selected for inclusion on these lists according to four principal criteria:

- (1) General suitability for the climate and soil conditions for this area;
- (2) Unconstrained maintenance;
- (3) Tolerance of city conditions; and
- (4) Readily available from area nurseries.

(B) *Plant Selection.* When selecting new plantings for a particular site, a developer should first consider the type of plants that are thriving on or near that site. However, if an introduced species has proven highly effective for screening or shading in this area, it too may be a proper selection.

Recommended Shrubs	
<i>Evergreen</i>	
Creeping Juniper	Japanese Holly

Shore Juniper	Pfitzer Juniper
Foster Holly	Helleri Holly
Yaupon Holly	Inkberry Holly
Abelia	Euonymus
Mugo Pine	Viburnum Wintergreen
Boxwood	Azalea
Arborvitae	Hydrangea
Mahonia	Pyracantha
Yew	Yucca
<i>Deciduous</i>	
Viburnum	Ohio buckeye
Cotoneaster	Spiraea
Azalea	Forsythia
Abelia	Butterfly Bush
Crapemyrtle	Chokeberry
Elderberry	Fragrant Sumac
Fountain grass	Lilac
Maiden grass	
Recommended Trees	
<i>Shade</i>	
Bald Cypress	Sweetgum
Ginkgo Biloba	Green Ash
Hackberry	Pin Oak
Red Maple	Sugar Maple
Northern Red Oak	Tulip Poplar
White Ash	Accolade Elm
Green Ash	Japanese Zelkova
Lacebark Elm	Littleleaf Linden
Shumard Oak	Nuttall Oak
Prospector Elm	Shingle Oak
Turkish Filbert	American Hophornbeam
Black Gum	Chinkapin Oak
Eastern Cottonwood	
<i>Evergreen</i>	
Austrian Pine	American Holly
Loblolly Pine	Japanese Black Pine
Norway Spruce	Eastern Red Cedar
Eastern White Pine	Scotch Pine
Canadian Hemlock	Leyland Cypress
Chinese Juniper	
<i>Ornamental</i>	
Amur Maple	Chinese Pistache
Dogwood	Eastern Redbud
Golden Raintree	Japanese Red Maple

River Birch	Purpleleaf Plum
Saucer Magnolia	Serviceberry
Trident Maple	Washington Hawthorn
Yoshino Cherry	Paperbark Maple
Scarlet Oak	Goldenrain Tree

Section 800.12. Tree Preservation Requirements

(Ord. 2010-10, 10/2/10)

- (A) *Healthy Trees.* No tree preservation credits will be allowed for any dead tree as classified by a registered arborist, any tree in poor health or any tree subjected to grade alterations.
- (B) *Protection during Construction.* Trees for which credit is given shall be protected during construction from:
 - (1) Mechanical injuries to root, trunk and branches;
 - (2) Injuries by chemical poisoning;
 - (3) Injuries by excavation; and
 - (4) Injuries by paving.
- (C) *Credit Options.* If an applicant is preserving trees, the applicant may use the existing trees as credit either toward a reduction in parking requirements or in a reduction of the number of trees required, as described below and as approved by the Planning Commission
 - (1) *Reduction of Parking Requirements.* To allow an existing or new development to preserve trees within or adjacent to a parking lot, the number of required off-street parking spaces may be reduced as described in the following chart:

Parking Space Reduction Credits	
<i>Total Diameter of all Preserved Trees</i>	<i>Number of Parking Spaces Credited</i>
4 – 7.9 inches	1 parking space
8 – 22.9 inches	2 parking spaces
23 – 29.9 inches	3 parking spaces
30+ inches	4 parking spaces

- (2) *Reduction of Required Trees.* Preservation and protection of existing trees on the lot may be credited toward the tree planting requirements. Credit for preserved trees shall be permitted at the following rates:

Tree Reduction Credits	
<i>Diameter of Preserved Tree</i>	<i>Number of Trees Credited</i>
4 – 7.9 inches	1 shade tree
8 – 22.9 inches	2 shade trees
23 – 29.9 inches	3 shade trees
30+ inches	4 shade trees

Section 800.13. Enforcement and Maintenance

(Ord. 2010-10, 10/2/10)

- (A) *Certificates of Occupancy.* The Director of Planning and Code Enforcement or his or her designee has the authority to enforce the requirements of this chapter. Certificates of Occupancy and/or final plats will be held for those who fail to complete landscaping requirements. All landscaping shall comply with Section 800.05(C) Replacement.
- (B) *Maintenance.* Once approved, the owner / applicant is required to guarantee the plants for one (1) year or the owner / applicant must replace them. The owner / applicant shall maintain all trees and vegetation.

Section 800.14. Alternative Methods of Compliance

(Ord. 2010-10, 10/2/10)

- (A) An application for alternative landscaping schemes is justified only when one or more of the following conditions apply:
 - (1) *Space Limitations.* The site involves space limitations or unusually shaped parcels.
 - (2) *Site Conditions.* Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical.
 - (3) *Change of Use.* Due to a change of use of an existing site, the required buffer yard is larger than can be provided.
 - (4) *Safety.* Safety considerations require a change.

Section 800.15. Screening

(Ord. 2010-10, 10/2/10)

- (A) *Standards.* Every development shall provide sufficient screening that meets these standards:
 - (1) *Adjacent Properties.* Neighboring properties are shielded from any adverse external effects of that development.
 - (2) *Developing Property.* The development is shielded from the negative impacts of adjacent uses such as major street or railroads.
 - (3) *Dumpsters.* Trash dumpsters are enclosed with opaque screening materials on all sides.
- (B) *Requirements.* Screening required shall be determined by the Table of Screening Requirements.

Table of Screening Requirements (Letters indicate screen type as described in Subsection C)					
	<i>SF</i>	<i>Duplex/ Townhouse</i>	<i>Multi-Family</i>	<i>Commercial</i>	<i>Industrial</i>
<i>SF</i>	None	B	A	A	A
<i>Duplex/</i>	C	None	C	A	A

<i>Townhouse</i>					
<i>Multi-Family</i>	A	C	None	B	A
<i>Commercial</i>	A	A	B	None	C
<i>Industrial</i>	A	A	A	C	None

(C) *Description of Screens.* The following three types of screens are hereby established and are used as the basis for the Table of Screening Requirements in Section 800.16(B) Requirements.

- (1) *Type A: Opaque Screen.* An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation.
 - (a) *Minimum height.* The screen shall be opaque from the ground to a height of at least six (6) feet, with intermittent visual obstructions from the opaque portion to a height of at least twenty (20) feet.
 - (b) *Materials.* The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.
 - (c) *Vegetative screens.* Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen shall be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide. The portion of intermittent visual obstructions may contain deciduous plants.

- (2) *Type B: Semi-Opaque Screen.* The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces.
 - (a) *Minimum height.* The screen shall be opaque from the ground to a height of three (3) feet, with intermittent visual obstruction from above the opaque portion to a height of at least twenty (20) feet.
 - (b) *Materials.* The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.
 - (c) *Vegetative screens.* Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide. The zone of intermittent visual obstruction may contain deciduous plants.

- (3) *Type C: Broken Screen.* The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces
 - (a) *Height.* The broken screen shall be composed of intermittent visual obstruction from the ground to a height of at least twenty (20) feet.

- (b) *Materials.* The broken screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.
- (c) *Vegetative screens.* The screen may contain deciduous plants.

ARTICLE 900 Fencing

Section 900.01. Applicability	129
Section 900.02. Exemptions	129
Section 900.03. Permit Required	129
Section 900.04. Prohibited Fence Types.....	130
Section 900.05. Fence Location.....	130
Section 900.06. Design Standards	131
Section 900.07. Pools and Spas	132
Section 900.08. Detention/Retention Ponds.	132

Section 900.01. Applicability

(Ord. 2011-17, 12/28/11)

(A) The requirements of this section shall apply to the following conditions in all zoning districts, except as exempted in Section 900.02 Exemptions, below:

(1) *New Construction.* Construction of a new fence;

(2) *Extension.* Extension of an existing fence;

(3) Replacement.

(a) Replacement of an existing fence that is a different size, at a different location or of a different material (e.g. a chain link fence being replaced by a wood privacy fence); or

(b) Replacement of more than fifty (50) percent of the linear length of an existing fence.

Section 900.02. Exemptions

(Ord. 2011-17, 12/28/11)

(A) This article shall not apply to:

(1) *Zoning Districts.* The A-1, Agricultural zoning district, with the exception of requirements for placement of razor wire, barbed wire, or electric fences near sidewalks and rights-of-way identified in Section 900.04, Prohibited Fence Types.

(2) *Replacement.* Replacement of less than 49% of the linear length of an existing fence, except that the portion being replaced shall not:

(a) Impede visibility at the sight triangle,

(b) Impede a natural drainage way;

(c) Be located in certain utility easements that require gated access; or,

(d) Encroach neighboring property lines.

Section 900.03. Permit Required

(Ord. 2011-17, 12/28/11)

(A) A fence permit shall be obtained prior to beginning construction and replacement of all applicable fences, except those shown on an approved preliminary plat or large scale development. All permits shall expire after 180 days.

(B) *Application.* To obtain a fence permit, a completed application form and a site plan must be submitted to the Planning and Code Enforcement Department. The site plan shall show:

(1) Location of all property lines;

- (2) Location of all existing structures;
 - (3) Location of existing or proposed pools or spas;
 - (4) Location of existing fencing that is to remain in place on or adjacent to the property;
 - (5) Portions of existing fence that will be replaced;
 - (6) Location of new fencing; and
 - (7) A note indicating the height of the proposed fence and the type of fence construction (i.e. wood privacy, wrought iron, brick, etc.)
- (C) *Review and Approval.* Once all the required information is submitted, it will be reviewed by the Planning and Code Enforcement Department for compliance. If the application is approved, the applicant shall pay the permit fee and the fence permit will be issued.
- (D) *Compliance.* All fences must be installed in compliance with the fence regulations and with the information shown on the approved plot plan and fence permit application form.
- (E) *Inspection Required.* The applicant shall contact the Planning and Code Enforcement Department to request a final inspection upon completion of the fence. If the inspector determines that the fence is constructed in accordance with the ordinance requirements and the approved fence permit, a Certificate of Compliance will be issued. If the fence does not pass the inspection, the inspector shall prepare an inspection report detailing the deficiencies.

Section 900.04. Prohibited Fence Types

(Ord. 2011-17, 12/28/11)

- (A) *Razor wire.* Razor wire shall be prohibited.
- (B) *Barbed wire.* Barbed wire shall be prohibited in residential zoned areas, except R-E. Barbed wire shall be permitted in commercial and agricultural zones and shall not be placed within five (5) feet of a public sidewalk or within five (5) feet of a street right-of-way where a public sidewalk does not exist
- (C) *Electric fences.* Electric fences shall be prohibited.
- (1) *Exception.* Electric fences shall be permitted in A-1, Agricultural and R-E, Residential Estate districts and shall not be placed within five (5) feet of a public sidewalk or within five (5) feet of a street right-of-way where a public sidewalk does not exist. Underground electric pet fences shall be permitted.

Section 900.05. Fence Location

(Ord. 2011-17, 12/28/11)

- (A) *Private Property.* All fences shall be located on private property and shall be built with the consent of the property owner. The fence installer and/or property owner shall be responsible to correctly locate property boundaries. Fences shall not encroach onto adjoining property or rights-of-way.
- (B) Fences shall be located on the common property line between adjacent lots or be located a minimum of five (5) feet away from the common property line.
- (C) *Front Yard.*
 - (1) A fence over thirty-six (36) inches in height shall not be located in the front yard or be positioned any closer to the front property line than the front surface of the building for a typical residential lot.
 - (2) For corner lots, only one side shall be considered the “front”.
- (D) *Rear and Side Yards.* A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this section.
- (E) *Adjacent to Right-of-Way.* Fences adjacent to a public right-of-way shall be placed no closer than five (5) feet to the right-of-way.
- (F) *Sight Triangle.* Fences constructed near street intersections shall stay clear of the sight triangle in order to provide a reasonable degree of traffic visibility.
- (G) *Easements.*
 - (1) *Utility Easements.* Construction of fences in utility easements is permitted, but the fence installer and/or property owner assumes some risk by doing so. The fence enclosing utility easement(s) shall have a gate installed to permit access to the easement.
 - (2) *Drainage Easements.* Fences shall not impede the normal flow of storm water and shall not cross an open drainage channel. Fences proposed in drainage easements shall be approved on a case by case basis.
 - (3) *Access Easement.* Fences shall not be constructed over a public access easement. Fences proposed over private emergency access easements must be approved by the Fire Department to ensure adequate access for emergency vehicles and equipment at all times.

Section 900.06. Design Standards

(Ord. 2011-17, 12/28/11)

- (A) The following design standards shall apply to any new or replacements of any fence where the length of the replacement exceeds fifty (50) percent of the length of the existing fence.
- (B) *Connection Required.* In instances where a fence exists on an adjacent property and a proposed fence will be built on the common property line, the existing and proposed fences shall be connected or be offset as provided in 900.05(B).

- (C) *Height.* Maximum height shall be eight (8) feet above average grade.
- (D) *Finished Surface.* Finished surface shall face outward from the property. Posts and support beams shall be inside the finished surface or designed to be an integral part of the finished surface.
- (E) *Gates.* All fence segments abutting a thoroughfare, except for corner lots, shall provide one gate opening per lot to allow access to the area between the fence and the street pavement for maintenance and mowing. An exception may be granted if the City receives a letter from the Home Owners Association stating that this area is maintained by the association and not by individual homeowners.
- (F) *Drainage.* Fences shall not create any net impact to pre-construction storm water flows.

Section 900.07. Pools and Spas

(Ord. 2011-17, 12/28/11)

- (A) Outdoor pools, spas and hot tubs shall be protected by an enclosure designed to restrict access by children. If a fence is intended to serve as the required enclosure, it shall meet the requirements of the Arkansas Fire Prevention Code in addition to those that apply to a fence under this Article.

Section 900.08. Detention/Retention Ponds

(Ord. 2011-17, 12/28/11)

- (A) If a fence is installed around a detention or retention pond with permanent depth of two (2) feet deep or more, the fence shall meet the requirements of Section 900.07 Pools and Spas.

ARTICLE 1000 Signs

Section 1000.01. Purpose.....	134
Section 1000.02. General Regulations Affecting All Signs	134
Section 1000.03. Signs Allowed without a Permit	136
Section 1000.04. Signs Allowed in a Public Right-of-Way	141
Section 1000.05. Temporary Signs.....	142
Section 1000.06. Permanent Signs.....	144
Section 1000.07. Prohibited Signs	147
Section 1000.08. Severability	148
Section 1000.09. Appeals	148

Section 1000.01. Purpose

(Ord. 2012-12, 11/09/12)

- (A) The purpose of this Article is to promote the well-being of the community by establishing standards that assure the provision of signs adequate to meet essential communication needs while also safeguarding the rights of the people in the community to a safe, healthful and attractive environment. This Ordinance provides standards for signs to safeguard life, health, property, safety, and public welfare, while encouraging creativity, variety and compatibility and enhancing the City's image. Within this overall framework, it is the intent of these regulations to:
- (1) Encourage creative and well-designed signs that contribute in a positive way to the City's visual environment;
 - (2) Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings and uses, and the surrounding neighborhood;
 - (3) Prevent signs from interfering with traffic regulatory devices or otherwise obstructing motorist or pedestrian vision;
 - (4) Protect the right to the use of signs for the identification of activities and any related products, services and events and for non-commercial messages;
 - (5) Protect the right of individuals to privacy and freedom from nuisances;
 - (6) Protect the value of property and improvements thereon; and
 - (7) Provide an efficient and effective means of administration and enforcement.

Section 1000.02. General Regulations Affecting All Signs

(Ord. 2012-12, 11/09/12)

- (A) *Compliance and Non-conforming Signs.* All signs erected after the effective date of this Section must be in compliance with City codes. Signs which were lawful at the time of their construction or placement but are not in conformance with current Ordinances shall be permitted as non-conforming signs until such time that the sign is damaged, in a state of disrepair, has lived its functional life span, or has a change of use of the site, or have become obsolete.
- (B) Design and Construction.
- (1) All signs shall comply with the Arkansas Fire Prevention Code and the National Electrical Code.
 - (2) Signs shall be permanently affixed to the ground or building except for the following which are explained in following sections of this ordinance:
 - (a) Temporary signs;
 - (b) Real estate signs advertising the premises for sale, lease or rent;

- (c) Construction signs during construction;
- (d) Window signs;
- (e) Yard sale signs, political and election signs; and
- (f) Special event signs.

(C) *Changeable Copy Signs.* Manual changeable copy signs and electronic changeable copy signs shall be allowed subject to the following:

(1) *Manual Copy Change.* Each message must be displayed at least seven (7) days except a gas station may change its copy as needed.

(a) *Area.* No more than 50% of the area of a sign shall be devoted to changeable copy.

(b) *Theatres.* Signs for theaters may devote up to 80% of a sign area to changeable copy.

(2) *Electronic Copy Change.*

(a) *Fluctuating Illumination.* Is prohibited.

(b) *Copy Rotation.* Each message shall be displayed for at least three (3) seconds before alternating to the next message. For scrolling signs, messages shall be permitted to scroll from one direction onto the message board so long as the message remains on the message board for at least three (3) seconds before scrolling off.

(c) *Lumens.* Screen may not be brighter than five (5) lumens measured at any point along the public right-of-way.

(d) *Screen Size.* Screen shall be no more than fifty percent (50%) of the total size of the sign, not to exceed twenty-four (24) square feet.

(D) *Illumination.*

(1) *Source.* Signs may be illuminated from within or from an external source, but such illumination shall be in a manner which avoids glare or reflection which in any way interferes with traffic safety or infringes on neighboring residential districts. External, down-lighting is preferred.

(2) *Internal illumination.* Internally illuminated signs in all districts shall have an opaque background and translucent copy.

(3) *External Illumination.* External illumination shall be selected, located, aimed and shielded so that direct illumination is focused solely on the sign face, away from adjoining properties and the public street right-of-way. Down lighting is preferred.

(4) *Strung Lights.* Signs shall not be illuminated by a string of lights placed around the sign.

(5) *Lighting Adjacent to Residential Areas.* Sign lighting shall not be a nuisance to adjacent neighboring residential areas and shall be at least four hundred (400) feet beyond a boundary designating a Residential District or at the farthest point of the commercial property from the residential district.

- (E) *Maintenance.* All signs, permanent and temporary, whether or not a permit is required, shall be maintained in good condition, shall be legible, kept free of cracked or peeling paint, kept free of missing or damaged sign panels or supports, and kept free of weeds, grass or vegetation which obscures the view of the sign message, and shall not be in disarray or fallen over. Sign landscaping shall be maintained so as not to interrupt the view of the sign. The owner will be required to remove signs within 30 days or face citations for signs not maintained as required herein when notified by the City Administration Office or other city authority appointed by the Mayor.
- (F) *Obstructions.* No sign shall block entrances or exits to buildings, including fire escapes.
- (G) *Nonconforming, Obsolete, and Unpermitted Signs.* Signs which were lawful at the time of their construction or placement but are not in conformance with current Ordinances shall be permitted as non-conforming signs until such time that the sign is damaged, in a state of disrepair, has lived its functional life span, or has a change of use of the site. At that time, the sign, if replaced, shall be in compliance with this Ordinance.
- (H) *Sight Triangle.* No sign shall constitute a hazard to traffic including, but not limited to signs located within the sight triangle of an intersection. The sight triangle is defined by a triangular area formed by a diagonal line connecting two points on intersecting street rights-of-way, measured thirty-five (35) feet along each pavement edge starting at the intersection point.
- (I) Any sign erected with or without a sign permit, must have the property owner's permission.

Section 1000.03. Signs Allowed without a Permit

(Ord. 2012-12, 11/09/12)

(A) *Construction Signs.*

(1) *Residential Districts – Individual Lot.* Construction signs on individual lots in residential districts, subject to the following regulations:

- (a) *Number Permitted.* One (1) construction sign per street frontage identifying on the single sign Builder; HVAC, Plumbing, and Electrical Contractors, if applicable.
- (b) *Maximum Area.* Five (5) square feet in total for all.
- (c) *Removal.* The sign shall be removed prior to the issuance of a Certificate of Occupancy.

(2) *Residential Districts - Subdivision.* Construction signs for a subdivision in residential districts, subject to the following regulations:

- (a) *Number Permitted.* One (1) per street frontage of subdivision.

(b) *Maximum Area.* Thirty two (32) square feet per sign face.

(c) *Maximum Height.* Nine (9) feet.

(d) *Removal.* The construction sign shall be removed within seven (7) days of erection of a permanent subdivision sign or within one (1) year of issuance of sign permit, whichever comes first.

(3) *Non-Residential Districts.* Construction signs in non-residential districts, subject to the following regulations:

(a) *Number Permitted.* One (1) per street frontage.

(b) *Maximum Area.* Thirty two (32) square feet per sign face.

(c) *Maximum Height.* Nine (9) feet.

(d) *Removal.* The construction sign shall be removed prior to obtaining a certificate of occupancy or erection of a permanent sign or within one (1) year of issuance of sign permit, whichever comes first.

(B) *Farm Signage.* Signs on farms of at least five (5) acres in size and registered with the U.S. Department of Agriculture's Farm Service Agency (FSA) advertising sale of products grown or produced on the premises. A maximum of two (2) signs are allowed per property location. Each sign size shall not exceed thirty two (32) square feet and must be maintained in good condition.

(C) *Flags.* U.S., State, Municipal, or Corporate Flags.

(D) *Hand Carried Non-Commercial Signs.*

(E) *Historic Markers.* Attached or freestanding historic or memorial markers erected by a governmental agency or private, non-profit historic preservation or education organization pursuant to a plan or program for the erection of such signs or markers applied on a national, state or county wide basis or to properties within a duly authorized local historic district. Such plan or program must employ uniform standards of eligibility and the sign or marker must commemorate a person, building, place or event of historical, civic, cultural, natural historical, scientific, or architectural significance. Historical markers are subject to the following regulations:

(1) *Maximum Area.*

(a) *Freestanding:* Eighteen (18) square feet.

(b) *Wall:* Six (6) square feet.

(2) *Materials.* Each such sign or marker shall be made of metal, cast metal, cut masonry, brick, stone, painted wood, vinyl or other similar weather resistant, durable, permanent material.

(3) *Condition.* Markers must be kept in good condition.

(4) *Location.* A map showing the location of any and all historic markers must be filed with the City Clerk's Office.

(F) *Holiday Decorations.* Temporary lighting and displays that are part of customary holiday decorations, subject to the following regulations:

(1) *Time Period.* Displays and lighting associated with holiday celebrations shall not be illuminated more than forty-five (45) days prior to the holiday and shall not be illuminated more than thirty (30) days after the holiday.

(2) *Subject.* Such decorations shall not contain a commercial message.

(3) *Location.* Such decoration shall not be located in the public right-of-way.

(G) *Identification Signs.*

(1) *Customary Identification Signs:* Are described as those which are commercially made, such as: building numbers, addresses, private parking signs, no trespassing signs or dangerous animal signs and are no larger than three (3) square feet in area per sign.

(2) *Individual Numbers.* Are those posted on a structure or a post. They must be clearly visible from the road so that an emergency response vehicle can readily identify the location of the home or business. The numbers shall be of a color that contrasts with the background or made of reflective material and must be three (3) to four (4) inches in height.

(3) *Location.* Numbers must be displayed on the side of the building facing the street the building is addressed on. If the building is not visible from the street, the numbers must be displayed on a post facing the street the building is addressed on. The numbers should be located at least three (3) to four (4) feet from the ground so they are easily seen. The area surrounding this post must be kept neat and free of weeds, grass or vegetation so they do not cover up the numbers. If there is more than one address on a driveway, all addresses must be visible.

(H) *Incidental or Directional Signs.* Incidental signs, those that give information or direction for the convenience and necessity of the public, such as "entrance", "exit", "no admittance", "telephone", or "parking", subject to the following regulations:

(1) *Maximum Area.* Five (5) square feet.

(2) *Maximum Height.* Three (3) feet.

(I) *Interior Signs.* Signs visible only from the interior of a structure, such as in a mall, where they are not visible from a public right of way or public space.

(J) *Non-Readable.* Any sign not readable either from any public right-of-way or from any lot or parcel other than the parcel on which such signs are located or from an adjacent lot or parcel under common ownership with the lot or parcel on which such sign is located.

(K) *Political Signs.* Temporary political signs erected in connection with elections or political campaigns, subject to the following regulations:

(1) *Maximum Size.* Five (5) square feet in residential areas and eighteen (18) square feet in non-residential areas.

(2) *Materials.* Political signs must be made of a durable, and non-destructible weather resistant material.

(3) *Location.* Political signs are prohibited on utility poles, street signs, or any other permanent sign; signs can not obstruct driver’s vision clearances at an intersection; signs shall not be placed in public right-of-ways. Sign may be on owner’s property/lot with owner’s permission.

(4) *Maximum Number Permitted.* One per each 20 feet of street frontage the property borders.

(L) *Public Notice.* Any public notice or warning required by valid and applicable federal, state or local law, regulation or ordinance. The location must be on file with the Planning and Code Enforcement Department. Sign must be removed within three (3) days of date of posted event.

(M) *Public Park Signs.* Signs in public parks of a noncommercial nature erected by a government agency such as directional signs, rules signs, safety signs or site identification signs that are no greater than four (4) feet in height.

(N) *Public Sign.* Any federal, state or local traffic control or other public sign.

(O) *Real Estate Signs.*

(1) Signage advertising the sale, lease, or rent of real estate shall be subject to the limitations of the following Real Estate Signage Table:

Real Estate Signage Table				
Zoning District	Maximum Number	Max. Area per Sign	Max. Height	Special Restrictions
Residential	<ol style="list-style-type: none"> One (1) freestanding per street frontage. One (1) wall per dwelling unit. One (1) freestanding stand per property line with golf course or lake frontage. 	6 sq. ft.	4 ft.	<ol style="list-style-type: none"> Two (2) riders permitted as long as maximum area not exceeded. Signs must be removed within seventy-two (72) hours of property closing. May not be illuminated. Balloons and attention getting devices prohibited.
Non-	<ol style="list-style-type: none"> One (1) freestanding per 	32 sq.	9 ft.	<ol style="list-style-type: none"> Two (2) riders permitted as long as maximum area not exceeded.

Real Estate Signage Table				
Zoning District	Maximum Number	Max. Area per Sign	Max. Height	Special Restrictions
Residential	street frontage.	ft.		2. Signs must be removed within seventy-two (72) hours of property closing.
	1. One (1) wall per dwelling unit.	9 sq. ft.	9 ft.	3. May not be illuminated. 4. Balloons and attention getting devices prohibited.
<i>For open houses only, Off-site Directional in all Districts</i>	1. Five (5) per project or property	6 sq. ft.	4 ft.	1. Must include the property address and hours of the open house. 2. Two (2) riders permitted as long as maximum area not exceeded. 3. May not be placed more than five (5) miles from the property at intersections only. 4. May be placed on the morning of the open house. 5. Must be removed at the end of each day of the open house. 6. May not be illuminated. 7. Balloons and attention getting devices prohibited.

(P) *Stadium Signage.* Commercial signs within City and school stadiums.

(Q) *Traffic Control Signs.* Traffic control signs on private property such as “stop”, “yield”, and similar signs, the face of which meet Arkansas Department of Transportation standards, subject to the following regulations:

(1) *Maximum Area.* Eight (8) square feet.

(2) *Subject.* Such sign shall not contain a logo or commercial message.

(R) *Vending Machines, ATM, Gas Pumps.* Vending machines, automatic tellers, or gasoline pumps which display the name, trademark or logo of the company or brand or prices shall not exceed thirty two (32) square feet in area per side. The display shall be an integral part of the machine or pump.

(S) *Window Signs.* Any sign, pictures, symbol or combination thereof that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window shall not exceed 40% of the window area. One (1) sign, announcing employment opportunities for an on-site business, is allowed, exempt from a time requirement, subject to a maximum area of five (5) square feet or 40% of the window area, whichever is less.

- (T) *Yard Sale Signs.* All such signs including, but not limited to, yard, garage, moving, estate, auction, and rummage sale signs, are subject to the following regulations:
- (1) *Advertising.* No sign shall be posted advertising said sale more than three (3) days prior to the sale. Signs must be removed no later than the final day of the sale. The sign must include the address, date(s) and time of the sale.
 - (2) *Maximum Area.* Five (5) square feet.
 - (3) *Maximum Number Permitted.* One (1) at the site of the sale and five (5) off-site directional sign.
 - (4) *Materials.* Sign shall be made of a durable, non-destructible, weather resistant material. Cloth, paper, cardboard and similar materials, unless laminated, are not allowed.
 - (5) *Location.* Signs shall be placed no farther than five (5) road miles from the property for which directions are given. Signs shall be placed at least six (6) feet distant from the edge of the nearest paved road, shall be located at intersections only, and be securely attached to the ground with a pole or stake. Signs are not allowed on street signs, utility poles, directional signs, mail boxes, trees or similar permanent existing signage; signs are not allowed freestanding attached to a box, rock or similar device.

Section 1000.04. Signs Allowed in a Public Right-of-Way

(Ord. 2012-12, 11/09/12)

- (A) *In Public Right-Of-Way.* No sign, including supports, frames, and embellishments, shall be located within a public right-of-way or attached, affixed, or painted on any utility pole, light standard, utility box or pedestal, tree, rock, or other natural object located within the public right-of-way or on public property, except as specifically permitted below.
- (B) *Exemptions.*
- (1) *Emergency.* Emergency warning signs erected by a government agency, utility company, or a contractor doing work in a public right-of-way. No permitting required.
 - (2) *Public.* Public signs erected by the city, county, state or federal government. No permitting required.
 - (3) *Directional Signs.* Small directional signs referred to in the Sections 1000.03 and 1000.05 are allowed in the right of way, however they must be at least six (6) feet from the nearest paved street, securely fastened to the ground, readable from a moving vehicle, and made of weather resistant material. Such signs shall not create a cluttered, unsightly condition due to close proximity to one another. Signs must be removed in accordance with displays period authorized by a permit.
 - (4) *Use of Structures within the Public Right-of-Way.* Placement of temporary signs on overpass railings within the public right-of-way shall be allowed upon permitting procedures under Section 1000.05.

Section 1000.05. Temporary Signs

(Ord. 2012-12, 11/09/12)

- (A) *Permit Required.* Temporary signs-for special sales events and promotions, fund raising events, new business openings, and non-recurring activities of interest to the general public must obtain a temporary sign permit, subject to the regulations of this Section.
- (B) *Time.* Temporary sign permits must be approved by the Planning and Code Enforcement Department a minimum of three (3) days prior to the intended display period.
- (C) *Materials.* Temporary signs shall be commercially made of a durable, non-destructible, weather resistant material. Cloth, paper, cardboard and similar materials, unless laminated, are not allowed.
- (D) *Permit Types.* Four types of temporary sign permits may be issued by the Planning and Code Enforcement Department:
 - (1) *New Business.* This permit shall be a new business opening.
 - (2) *Special Sales Event / Promotion for an Existing Business.* This permit shall be for a special sales event or promotion, rather than a routine business activity, for a business location in a non-residential district. Businesses operated within residential districts may not obtain this type of permit.
 - (3) *Non-recurring Events.* This permit shall be for fundraising events, special events, or activities of interest to the general public typically held once a year. Political events are exempted from this type of permit.
 - (4) *Recurring Events.* This permit shall be for fundraising events, special events, or activities of interest to the general public that occur on a recurring basis described as monthly, bi-monthly, weekly, or bi-weekly.
- (E) The following table shall govern individual temporary sign permit requirements:

Temporary Sign Requirements					
Permit Type	Max. Number of Permits	Type of Sign	Max. Signs / Permit	Max. Area	Display Period
New Business	1	Banner		32 sq. ft.	30 days
		Freestanding		5 sq. ft.	
Special Sales Event / Promotion for an Existing Business	4 per year	Banner	1	32 sq. ft.	15 days
		Freestanding		5 sq. ft.	

Temporary Sign Requirements					
Permit Type	Max. Number of Permits	Type of Sign	Max. Signs / Permit	Max. Area	Display Period
Non-recurring Events	2 per year per property	Banner	6	<i>Nonresidential:</i> 32 sq. ft. <i>Residential:</i> 5 sq. ft.	14 days prior to event and 3 days after (Maximum of 24 consecutive days)
		Freestanding			
Recurring Events	1 per year	Banner	6	<i>Nonresidential:</i> 32 sq. ft. <i>Residential:</i> 5 sq. ft.	<i>Monthly:</i> May be placed 7 days prior to the event and removed the day the event ends.
		Freestanding			<i>Other occurrence:</i> May be placed 3 days prior to the event and must be removed the day the event ends.

(F) *Directional Signage.* Recurring and non-recurring permit types shall allow directional signage subject to the following:

(1) *Maximum Number.*

(a) For recurring event permits, a maximum of forty (40) directional signs may be erected.

(b) For non-recurring event permits, a maximum of number of ten (10) directional signs may be erected.

(2) *Maximum Height.* Directional signs are limited to three (3) feet in height.

(3) *Maximum Area.* Directional signs are limited to five (5) square feet in area.

(G) *Banner Signage.* Regardless of permit type, banner signage permitted shall be attached to a building or be hung tautly by providing a member across the top of the banner to ensure that the sign does not sag and become unreadable.

(H) Regardless of permit type, freestanding signage must located on private property within ten (10) feet of main entrance.

(I) *Prohibited Locations.*

(1) Temporary signs shall not be located in the public right-of-way. *Exemption:* If the right-of-way cannot be determined, signs shall be placed at least six (6) feet distant from the edge of the paved road.

(2) Signs are prohibited on utility poles, street signs, or any permanent signs; signs cannot obstruct driver's vision clearances at an intersection.

(J) *Conformance with Other Regulations.* The temporary sign shall conform to the regulations for suspended signs, projecting signs or freestanding signs depending on the method of installation and support.

Section 1000.06. Permanent Signs

(Ord. 2012-12, 11/09/12)

(A) *Permit Required.* Permanent signs must obtain a sign permit as outlined in Section 300.16, subject to the regulations specified in this Section.

(B) *Maximum Area Limitations.* All signs, regardless of type, located on individual parcels in commercial and industrial districts permitted under this Section shall be limited to maximum signage area per parcel as follows:

Total Sign Square Footage Area Table	
Zoning District	Total Maximum Square Footage Area for all Types of Signs per Parcel
C-1	250 sq. ft.
C-2	350 sq. ft.
C-3	425 sq. ft.
C-4	500 sq. ft.
I-1	425 sq. ft.
I-2	500 sq. ft.

(C) *Attached Signage.* Permanent signage attached to or integral to a building or structure are subject to the following regulations.

(1) The following table shall govern individual attached, permanent sign type requirements:

Attached Signage Requirements Table				
Sign Type	Zoning District Limitations	Maximum Area	Setback	Special Restrictions
Awning	N/A	25% of Awning Surface	1. Must be flat against awning surface. 2. 2' (two feet) minimum horizontal distance from the back of curb line of any street or parking area.	1. Fabric may not extend more than 1' (one foot) below its rigid mount. 2. Must maintain 8' (eight feet) vertical clearance above a public right-of-way or front yard setback.
Marquee	Non-residential districts only.	25% of wall surface to which the	1. 2' (two feet) minimum horizontal distance from the	1. Must maintain 8' (eight feet) vertical clearance above a public

Attached Signage Requirements Table				
Sign Type	Zoning District Limitations	Maximum Area	Setback	Special Restrictions
		sign is attached.	back of curb line of any street or parking area.	right-of-way or front yard setback. 2. May extend the full length of the building façade.
Projecting	Non-residential districts only.	25% of wall surface to which the sign is attached.	1. May extend a maximum of 6' (six feet) into a required front setback. 2. 2' (two feet) minimum horizontal distance from the back of curb line of any street or parking area.	1. May not extend above top of the wall to which it is attached, <i>except</i> a sign 18" (eighteen inches) in width may project a maximum of 2' (two feet) beyond the top of the wall. 2. Must maintain 8' (eight feet) vertical clearance above sidewalk.
Roof	N/A	25% of Roof Surface	N/A	1. May not project above the height of the building or roof. 2. Roof signs are limited to a single roof surface. Multiple roof signs are prohibited.
Suspended	Non-residential districts only.	25% of wall surface to which the sign is attached.	1. 2' (two feet) minimum horizontal distance from the back of curb line of any street or parking area.	1. Must maintain 8' (eight feet) vertical clearance above sidewalk.
Wall	Non-residential districts only.	25% of wall surface facing a	N/A	1. May not cover more than 80% of the wall's width. 2. Each wall parallel

Attached Signage Requirements Table				
Sign Type	Zoning District Limitations	Maximum Area	Setback	Special Restrictions
		right-of-way.		to a right-of-way may contain one (1) sign.

(2) *Canopy Signs.* Canopy signs shall be permitted in non-residential districts, subject to the following regulations.

- (a) *All Canopies.* In no case shall the sign extend beyond the vertical edge of the canopy it is attached to.
- (b) *Fuel Canopies.* Signage for fuel canopies shall be limited to logo signs on each side of the canopy.
- (c) *Setbacks.* Canopy structures must adhere to the building setback requirements of Article 400.
- (d) *Maximum Area.* Canopy signs are limited to 25% of the wall area on each side of the canopy.

(3) Signage attached to or integral to a building or structure shall be no higher than the roof line of the building or structure to which it is attached.

(D) *Monument Signage.* Monument signage is subject to the following regulations:

(1) *Maximum Height.* Detached signage located on individual parcels in commercial and industrial districts permitted under this Section shall be limited in height by district as follows:

Detached District Height Limitations Tables	
Zoning District	Maximum Sign Height
C-1	9 feet
C-2	12 feet
C-3	18 feet
C-4	25 feet
I-1	15 feet
I-2	18 feet

(2) *Maximum Area.* Detached signage located on individual parcels in commercial and industrial districts permitted under this Section shall be limited in area by district as follows:

Detached District Area Limitations Tables	
Zoning District	Maximum Signage Area per Side of Sign
C-1	32 sq. ft
C-2	50 sq. ft.
C-3	75 sq. ft.

Detached District Area Limitations Tables	
Zoning District	Maximum Signage Area per Side of Sign
C-4	100 sq. ft.
I-1	75 sq. ft.
I-2	100 sq. ft.

- (E) *Sign Landscaping.* All permitted permanent monument and free standing signs require:
- (1) A defined, bordered, landscaped area at the base of the sign.
 - (2) The required landscaped area shall be parallel to the face(s) of the sign.
 - (3) The required landscaped area shall be at least fifty (50) square feet in area, be kept neat, weed free and in compliance with the original site plan.
 - (4) For signs with multiple faces, the landscaped area shall be allocated so that a portion of the required landscaping is located in front of each sign face.
 - (5) The required landscaped area shall contain living plant materials covering at least 50% of the defined landscaped area. Artificial plant materials are not authorized for use.
 - (6) A plan of the landscaped area with the name, quantity, and spacing of plant materials shall be included as a part of the sign permit application.

Section 1000.07. Prohibited Signs

(Ord. 2012-12, 11/09/12)

- (A) Billboards and permanent free standing signs.
- (B) *Fluctuating Illumination.* Signs, or any means of advertising, with the illusion of movement by means of a preprogrammed repetitious sequential switching of action in which illuminated elements of the sign are turned off or on to visually simulate the impression of motion characteristic of chasing, running, blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns. Illumination of attraction devices or signs that fluctuates in light intensity shall be prohibited. Signs that operate or employ any motion picture projection in conjunction with any advertisements shall be prohibited.
- (C) *Obsolete Signs.* Obsolete signs, signs which have broken supports, are in disarray or fallen over, are not in good condition, have a message that is not relevant, are for a business that is not in currently in existence, are non-conforming to these regulations or are overgrown with vegetation.
- (D) *Off-Site Signs.* Permanent off-site signs are signs that direct attention to a business, commodity, service, event or entertainment not conducted, sold or offered on the premises where the sign is located.
- (E) *Portable Sign.* Any sign not securely affixed to the ground or other permanent structure.

- (F) *Road Side Markers.* Signs or memorials commemorating a death location.
- (G) Rotating or Revolving Signs. Lighted or not.
- (H) *Strung Lights.* Lights strung across buildings or property, except those allowed under Section 1000.03(F).
- (I) *Vehicle Signs.* Signs attached to or painted on vehicles including automobiles, trucks, boats, campers, and trailers, which are parked on or otherwise utilizing a public right-of-way, public property or on private property so as to be intended to be viewed from a vehicular right-of-way for the basic purpose of providing advertisement for products or services or directing people to a business or activity. This excludes political signs. This definition is not to be construed to include those signs on a vehicle that identify a firm or its principal products or such advertising devices as may be attached to and within the normal unaltered lines of the vehicle of a licensed transit carrier, when and during that period of time said vehicle is regularly and customarily used to traverse the public highways during the normal course of business.
- (J) *Windblown.* Fluttering, spinning, windblown or inflated devices including pennants, propeller discs and balloons.
- (K) *Other.* All other signs which are not expressly permitted under this section.
- (L) *Banners.* Are not allowed except for those allowed under Section 1000.05.

Section 1000.08. Severability

(Ord. 2012-12, 11/09/12)

- (A) If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council declare that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional or invalid or ineffective.

Section 1000.09. Appeals

(Ord. 2012-12, 11/09/12)

- (A) Appeals of this Article shall follow the procedures for variances as outlined in Section 300.10.

APPENDIX A: Table of Permitted Uses

Key to Uses:	Zoning Districts:	
P = Permitted Use	P-1, Open Space	A-1, Agricultural
	R-E, Residential Estate	R-1, Residential Single Family
C = Conditional Use	R-2, Residential Two Family	R-3, Residential Multi-Family
	R-MH, Residential Manufactured Home	C-1, Neighborhood Commercial
Blank = Not Permitted	C-2, Light Commercial	C-3, Central Commercial
	C-4, Shopping Center	I-1, Light Industrial
	I-2, Heavy Industrial	

	TYPE OF USE	P-1	A-1	R-E	R-1	R-2	R-3	R-MH	C-1	C-2	C-3	C-4	I-1	I-2
A														
	Accessory Building, Nonresidential	P	P	P	P	P	P	P	P	P	P	P	P	P
	Accessory Building, Residential		P	P	P	P	P	P	P	P	P	P	P	P
	Accessory Use									P	P			
	Adult day care center		C				C		P	P	P		C	
	Agricultural products processing		P										P	P
	Agriculture		P											
	Animal clinic or hospital		P						P	P	P	P	P	P
	Animal – domestic or household		P	P	P	P	P	P	P	P	P	P	P	P
	Animal – grooming		P						P	P	P	P	P	P
	Animal – farm		P	C										
	Animal – boarding, kennels, rescue, or shelter		P						C	C	P	P	P	P
	Animal – exotic or wild by nature		C											
	Apiculture		P	P	P									
	Appliance repair									P	P	P	P	P
	Arboretum or botanical garden		P		C	C	C		P	P	P	P	P	
	Arena/Auditorium		C							C	C	P	P	
	Armored car service									P	P	P	P	P
	Art gallery, museum or similar public use		C		C	C	C		P	P	P	P	P	
	ATM machine								P	P	P	P	P	
	Auctioneer		P							P	P	P		
	Auto painting or body rebuilding shop										C	P	P	P
	Auto glass or muffler shop										P	P	P	
	Auto parts and accessory sales										P	P	P	
	Automobile and motorcycle display, sales or service (new or used)										P	P	P	
	Auto repair garage										P	P	P	P
B														

ARTICLE 1000 Signs

Section 1000.09. APPENDIX A: Table of Permitted Uses

	TYPE OF USE	P-1	A-1	R-E	R-1	R-2	R-3	R-MH	C-1	C-2	C-3	C-4	I-1	I-2
	Banks and Financial Institutions								P	P	P	P		
	Bar, lounge or tavern								C	P	P	P	P	
	Beauty Salons, Barbers and Spas								P	P	P	P		
	Bed & breakfast		C						P	P	P	P	P	
	Blueprinting, photocopying, and similar reproductive service								C	P	P	P	P	
	Breeding Facility		P						C	C	P	P	P	P
	Boat houses	P	P	P	P	P	P	P	P	P	P	P	P	P
	Boat rental or storage									C	C	C		
	Building materials, retail sales									P	P	P	P	
	Building materials or lumber, wholesale sales										P	P	P	P
	Building services including janitorial services, floor waxing, and office cleaning								P	P	P	P	P	
	Bus, truck, sales, service, rental repair, storage									C	C	C	P	
C														
	Car wash									C	P	P	P	P
	Carting, crating, express handling, moving, or storage									C	C	C	P	P
	Catering service		P			C	C		P	P	P	P	P	P
	Cement Plant												P	P
	Cemetery or mausoleum		C		C	C	C		C	C	C	C	C	
	Cesspool cleaning establishment		C										C	
	Chickens, Hobby		P	P	P									
	Child care facility		C						P	P	P	P	C	
	Cold storage plant												P	P
	Commercial cleaning services and storage										C	C	P	P
	Community center: public		C		C	C	C		P	P	P	P	P	
	Community welfare or health center		C				C		P	P	P	P	P	
	Construction equipment office or sales									P	P	P	P	P
	Construction equipment repair or storage												P	P
	Contract sorting, grading, and packing of fruits and vegetables for grower		P										P	P
	Contractor maintenance yard												P	P
	Convalescent /maternity / nursing home		C						P	P	P	P		
	Convenience store								C	P	P	P	P	
	Club, public or private		C			C	C		C	C	C	C	C	
	Crematory									C	C	C	C	C

	TYPE OF USE	P-1	A-1	R-E	R-1	R-2	R-3	R-MH	C-1	C-2	C-3	C-4	I-1	I-2
D														
	Delivery service								C	P	P	P	P	P
	Detective or protective service								P	P	P	P	P	P
	Diaper service								C	C	C	C	C	
	Disinfecting, deodorizing, or exterminating service									C	C	C	P	P
	Drafting service								P	P	P	P	P	
	Docks and dockside recreational improvements	P	P	P	P	P	P	P	P	P	P	P	P	P
	Drugstore or pharmacy								P	P	P	P	P	
	Dry goods store								P	P	P	P	P	
	Dry-cleaning, pickup or self-service								P	P	P	P	C	
	Duplex					P	P		P	P	P			
	Dwelling, accessory		P	P	P	P	P	P	P	C	C		C	
	Dwelling, single family		P	P	P	P	P	P	P	P				
	Dwelling, two-family		P			P	P		P	P	P	P		
	Dwelling, manufactured							P						
	Dwelling, multi-family (3 units or more)						P		P	P	P	P		
E														
	Electric regulating substation		C	C	C	C	C	C	C	C	C	C	C	C
	Electric utility maintenance/storage facility		C								C	C	C	C
F														
	Farming		P											
	Financial institution								P	P	P	P		
	Fire extinguisher service									C	C	C	P	P
	Fishery		P											
	Food products: retail as primary use and baking and cooking as secondary use								P	P	P	P	P	
	Food products: manufacturing												C	C
	Funeral home								C	P	P	P		
G														
	Golf Courses, Clubhouse	P	C	C	C	C	C							
	Greenhouse, Residential or Commercial		P						C	P	P	P		
H														
	Hardware store									P	P	P		
	Hardware, industrial sales									C	C	C	P	P
	Hay, grain, or feed store		P								P	P	P	
	Hazardous material storage												C	C
	Health studio or spa								P	P	P	P	P	

ARTICLE 1000 Signs

Section 1000.09. APPENDIX A: Table of Permitted Uses

	TYPE OF USE	P-1	A-1	R-E	R-1	R-2	R-3	R-MH	C-1	C-2	C-3	C-4	I-1	I-2
	Highway or street maintenance garage, yard, or similar facility										C	C	C	C
	Home occupation		P	P	P	P	P	P						
	Hospital									P	P	P	P	
	Hotel / Motel									P	P	P	P	
	Household cleaning services								P	P	P	P	P	
I														
	Insurance agencies								P	P	P	P	P	
	Industrial cleaning plants												P	P
J														
	Junk or salvage yard												C	C
L														
	Laboratory, Dental or Medical									P	P	P	P	
	Laboratory, Manufacturing									C	C	C	P	P
	Laboratory, Research									P	P	P	P	
	Livestock		P	C										
M														
	Machinery sales and service										C	C	P	P
	Manager / caretaker residence		C							C	C	C	C	
	Manufactured home sales, service, and manufacturing												P	P
	Manufactured home park							P						
	Manufacturing												C	P
	Mining		C										C	C
	Mini-warehouse storage		C								C	C	P	
	Monument works												P	P
	Motor freight terminal												P	P
N														
	Newspaper offices / print shop								C	P	P	P	P	
O														
	Office, General								P	P	P	P	P	
	Office, Warehouse												P	P
P														
	Parking facility (as principal use)									C	P	P	P	
	Park, Public or Private	P	P	P	P	P	P	P	P	P	P	P	P	
	Pet Shop								P	P	P	P	P	P
	Petroleum products: storage and wholesale												C	C
	Photography studio								P	P	P	P	P	P
	Plumbing, electrical, air conditioning, heating sales and service									P	P	P	P	P
	Public Buildings, Government		C	C	C	C	C	C	C	C	C	C	C	C

	TYPE OF USE	P-1	A-1	R-E	R-1	R-2	R-3	R-MH	C-1	C-2	C-3	C-4	I-1	I-2
	Services													
	Public Safety facilities		C	C	C	C	C	C	C	C	C	C	C	C
	Public Utilities facilities		C	C	C	C	C	C	C	C	C	C	C	C
R														
	Recreational facilities, indoor								P	P	P	P	P	
	Recreational facilities, outdoor	C	C							C	C	C	C	
	Recreational vehicle parks										C	C	P	
	Recycling and reclamation												P	P
	Religious facilities		C	C	C	C	C	C	C	C	C	C	C	C
	Restaurant		C						P	P	P	P	P	
	Restaurant, drive-in									P	P	P	P	
	Retail Store- Products								P	P	P	P	P	
S														
	School facility		C	C	C	C	C	C	C	C	C	C	C	
	Service Office (Acct., Dentist)								P	P	P	P	P	
	Service station / gas station		C							C	P	P	P	P
	Sexually oriented business													C
	Shelter						C	C	P	P	P	P	C	C
	Solid waste disposal												C	C
	Slaughterhouse		C										C	C
	Stable, commercial		P											
	Studio: cultural, broadcasting and recording								P	P	P	P	P	
T														
	Transition Facility/Rehab		C								C	C	C	C
	Temporary uses		C	C	C	C	C	C	C	C	C	C	C	C
	Theater									P	P	P	P	
	Transportation facilities excluding airports										C	C	P	P
	Truck Freight Terminal												P	
	Truck Stop, Sales and Service												P	P
V														
	Vehicle salvage												C	C
W														
	Warehousing												P	P
	Wastewater facilities		C									C	P	P
	Water filtration plant, pump station, elevated storage, treatment, plant, or reservoir		C	C	C	C	C	C	C	C	C	C	C	C
	Wind generators and pumping equipment		C	C	C	C	C	C	C	C	C	C	C	C
	Wireless telecommunications facilities (cell tower)		C	C	C	C	C	C	C	C	C	C	C	C

ARTICLE 1000 Signs

Section 1000.09. APPENDIX A: Table of Permitted Uses