

CITY OF WHITE HALL, ARKANSAS

ZONING CODE PAMPHLET

This pamphlet contains pages 75 through 122 of the
White Hall, Arkansas, Code of Ordinances

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AMERICAN LEGAL PUBLISHING CORPORATION

432 Walnut Street Cincinnati, Ohio 45202-3909 (800) 445-5588

CHAPTER 154: ZONING CODE

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GENERAL PROVISIONS**§ 154.001 AUTHORITY.**

Act 186 of 1957 of the General Assembly of the State of Arkansas, as amended, being A.C. §§ 14-56-401 through 14-56-425, empowers the city to enact zoning regulations and to provide for their administration, enforcement and amendment. The City Council, pursuant to the provisions of Act 186 of 1957 of the General Assembly, as amended, has established a planning commission, which has

divided the city into districts and has prepared regulations pertaining to these districts in accordance with the Comprehensive Development Plan. These regulations apply to all land and structures and are in effect throughout the entire city limits.

(Ord. 26, passed 10-24-67)

§ 154.002 PURPOSE.

(A) The City Council deems it necessary, for the purpose of promoting the health, safety, morals, order, and general welfare of the city, to enact these zoning regulations.

(B) These zoning regulations are designed to lessen congestion in the streets; to secure safety from fire and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water and sewage, schools, parks and other public requirements; to stabilize property values; and to insure orderly development of the community for the general welfare of the citizens.

(C) These zoning regulations provide for zoning districts of suitable and harmonious uses with the purpose of conserving the value of buildings and encouraging the most appropriate use of land in the city.

(Ord. 26, passed 10-24-67)

§ 154.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The word "shall" is mandatory, the word "may" is permissive. The word "used" or "occupied" shall include the words intended, designed or arranged to be used or occupied. The word "lot" includes the words "plot" and "parcel." The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

ACCESSORY DWELLING. A site-built, self-contained living unit in a detached structure subordinate in both land coverage and gross floor area to the principle dwelling on the lot. Mobile homes or manufactured or modular housing are not included in this definition and are not permitted as **ACCESSORY DWELLINGS**. Metal structures of any type built and intended for residential storage purposes are not included in this definition and are not permitted as **ACCESSORY DWELLINGS**. Any **ACCESSORY DWELLING** constructed in accordance with the regulations contained herein shall comply with the bulk and area provisions in § 154.047(I).

ACCESSORY STRUCTURE. A subordinate structure located on the lot with the principle structure. Where an **ACCESSORY STRUCTURE** is attached to the principle structure, in a substantial manner, as by a roof, such accessory shall be considered as a part of the principle structure. An example of an **ACCESSORY STRUCTURE** for a non-residential structure would be the educational buildings of a church, with the sanctuary being the principle structure.

ACCESSORY USE. A use which is customarily incidental to the principal use. In buildings restricted to residential use, the office of a professional man or customary family workshops not conducted for compensation shall be deemed an **ACCESSORY USE**.

ALLEY. A narrow public way not in excess of 20 feet which affords a secondary means of access to abutting properties and not intended for general traffic circulation.

AREA. This term refers to the amount of land surface in a lot or parcel.

AREA REQUIREMENTS. The yard, lot area, width of lot, and parking requirements as set forth in a specific district.

BILLBOARDS. A freestanding sign having a sign-face of area in excess of 200 square feet but not in excess of 1200 square feet per sign-face area.

BUILDING OFFICIAL. A person appointed by the City Council to administer and enforce these regulations.

CERTIFICATE OF OCCUPANCY. An official certification that a premise conforms to provisions of the Zoning Ordinance (and building code) and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures. Unless a certificate is issued, a structure cannot be occupied.

CHILD CARE FACILITY. Any facility conducted under public or private auspices on a profit or non-profit basis which provides care, training, education, custody, or supervision for seven or more children from no less than five families. This definition includes, but is not limited to, a kindergarten, provided it is not operated as a part of the public schools of this state, a day care center or family day care home, foster homes, group homes, and custodial institutions. This definition does not include: religious schools or classes; any private or public educational facility which does not provide custodial care and which operates solely for educational purposes in grades one or above; or facilities operated in connection with a church, shopping center, business, or establishments where children are cared for during short periods of time while parents or persons in charge of such children are attending church services, shopping, or engaging in other activities during such periods.

COMMON OPEN SPACE. A parcel, or parcels of land or an area of water or a combination of land and water within the site designed and intended for the use or enjoyment of the occupants of the planned residential development. **COMMON OPEN SPACE** may contain such complimentary structures and improvements as are necessary for the benefit and enjoyment of the residents.

CONVENIENCE STORE. A retail store with a floor area generally between 2,500 and 7,500 square feet that sells a limited line of groceries and household items such as prepackaged food items, tobacco, hot beverages, fountain-type beverages, and other household goods generally necessary or desirable for everyday living, and may also sell gasoline. This definition shall not include automotive or gasoline service stations or vehicle repair shops.

DEVELOPER. The legal or beneficial owner or owners of all the land proposed to be included in the Planned Residential Development including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DRIVE-THROUGH WINDOW. An opening in the wall of a building or structure designed and intended to be used to provide for sales to and/or service to patrons who remain in their vehicles.

DWELLING, MULTI-FAMILY. A detached building designed for, or converted or occupied by, three or more families, living independently of each other, with cooking and toilet facilities in each dwelling unit.

DWELLING, SINGLE-FAMILY. A building consisting of a single dwelling unit only, separated from other dwellings by open space.

DWELLING, TWO-FAMILY. A detached building designed for, or converted or occupied exclusively by, two families, living independently of each other, with cooking and toilet facilities in each dwelling unit.

DWELLING UNIT. The space, within a building, comprising living, dining, sleeping rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, and used by only one family and its household employees.

EXISTING. The established fact of the use of land or structure at time of effective date of these regulations.

FACTORY BUILT HOME. Any dwelling that is wholly, or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly on a building site. **FACTORY BUILT HOMES** shall include, but are not limited to, manufactured homes, modular homes and mobile homes.

FAMILY. One or more persons occupying premises and living as a single, non-profit housekeeping unit provided that, unless all members are related by blood or marriage, the number of persons shall not exceed five.

FLOOR AREA. The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings, but not including cellar or basement space not used for retailing, and not including accessory off-street parking or loading space.

LOT. A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open space belonging to same.

LOT OF RECORD. A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

MAJOR IMPACT HOME OCCUPATION BUSINESSES. Major impact home occupations, as set forth in § 154.042 of this chapter and operating under the performance standards of said section, require a conditional use permit and Planning Commission approval in accordance with § 154.047 of this chapter. Major impact home occupations are those home occupations listed as no impact and minor impact home occupations; however, applicants for major impact home occupations may request that up to two nonresident employees be permitted to engage on-premises in the subject business, and/or applicants may request an increase in the number of customers/clients who can be seen at the home occupation location. Applications for major impact home occupations may be accepted for all residential zones; however, after a public hearing, the Planning Commission may approve, deny, modify, or place conditions on the requested major impact home occupation.

MANUFACTURED HOME. A dwelling built in a factory in accordance with the Federal Manufactured Home Construction and Safety Standards.

MANUFACTURED HOME PARK. Any lot or land parcel having more than one manufactured home placed on it. No single lot or parcel may have more than one manufactured home placed on it unless it meets the requirements of a **MANUFACTURED HOME PARK**. No sale/display of manufactured homes is permitted.

MANUFACTURED HOME SUBDIVISION. A subdivision that is designed and intended for residential use where residence is in manufactured homes exclusively, and may be either conveyed or leased. No sale/display of manufactured homes is permitted in a **MANUFACTURED HOME SUBDIVISION**.

MINOR IMPACT HOME OCCUPATION BUSINESSES. Minor impact home occupations, as set forth in § 154.042 of this chapter and operating under the performance standards of said section, require approval by the Zoning Administrator and may be permitted in all residential zones. Minor impact home occupations may have a limited number of customers coming to the home as set forth in § 154.042(D) so long as the activity of the business does not have a major impact on the residential neighborhood where they operate; however, no one who does not reside in the home on a permanent basis may engage in the on-premises activities of the minor home occupation.

MOBILE HOME. A dwelling that was fabricated in an off-site manufacturing facility, designed to be a permanent residence, built prior to enactment of the Federal Manufactured Home Construction and Safety Standards, and consistent with any existing state definitions.

MODULAR HOME. A residential dwelling, constructed in a factory to a residential construction code other than the Federal Manufactured Home Construction and Safety Standards.

NO-IMPACT HOME OCCUPATION BUSINESSES. No-impact home occupations, as set forth in § 154.042 of this chapter and operating under the performance standards of said section, do not require a permit and are permitted in all residential zones. No-impact home occupations do not have customers coming to the home and no one who does not reside in the home on a permanent basis engages in the on-premises activities of the home occupation.

NONCONFORMING. A use or structure or both that existed prior to the adoption of these regulations but which does not meet the requirements of these regulations.

OPEN SPACE. Any unoccupied space on a lot that is open and unobstructed to the sky and occupied by no structures or portion of structures whatsoever.

PARKING SPACE, BUS. On-lot space available for the parking of one motor vehicle and having an area of not less than 500 square feet exclusive of space necessary to provide access to a street or alley.

PARKING SPACE, CAR. An on-lot space available for the parking of one motor vehicle and having dimensions of nine feet by 34 feet inclusive of space necessary to provide access to a street or alley.

PLANNING COMMISSION. The White Hall Planning Commission.

PRINCIPAL USE. The chief or main recognized use of a structure, or lot, or of land.

PROPERTY LINE. The line bounding a lot as described herein.

SCREENING. A permanent type opaque fence of wood or masonry construction having a height of not less than six feet shall be erected and maintained between such area and the property in a residential zone.

STREET. A public way which affords the principle means of access to abutting properties.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, **STRUCTURES** include buildings, billboards, and poster panels, but do not include walks, parking areas and drives.

TELECOMMUNICATIONS TOWER. Any structure designed to provide the capability to receive, transmit, and/or communicate at a distance, including but not limited to television, radio, telephone and cellular towers and structures.

TRANSIENT USE. The placement on a site of any type of structure, either mobile or stationary and including trailers, tents, portable buildings, or other structures, that is not designed to comply with permanent construction regulations, and is intended to remain on the site for a period not to exceed six months. Such uses include concession stands, vegetable or other seasonal food stands, and merchandising or other vending stands. A **TRANSIENT USE** may only be placed in a use zone permitting the type of

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activity proposed. It must comply with the setback and parking regulations of the zone and type of use and must obtain a temporary certificate of occupancy. Such use must meet other city and state codes and regulations as required.

USE OF LAND. The unoccupied portion of a lot shall be considered to be in the same use as is the principal structure located on the lot unless such land is utilized for open storage or agriculture outside of the structure, then the **USE OF LAND** shall be classified according to the nature of its use.

YARD. A space on the same lot with a principal building, open, unoccupied and unobstructed by buildings from the ground to the sky, except for encroachments and accessory buildings expressly permitted by this chapter.

YARD, FRONT. A yard extending across the full width of a lot and between the exterior front building wall, at the ground, and the centerline of the adjoining street upon which the lot fronts.

YARD, REAR. A yard extending across the full width of a lot and between the exterior rear building wall and the rear lot line.

YARD, SIDE. A yard adjacent to a side lot line extending from the front yard to the rear yard and between the exterior side building wall and side lot line.

(Ord. 26, passed 10-24-67; Am. Ord. 101, passed 4-11-77; Am. Ord. 113, passed 12-11-78; Am. Ord. 121, passed 9-8-80; Am. Ord. 243, passed 10-21-96; Am. Ord. 248, passed 12-16-96; Am. Ord. 259, passed 2-17-98; Am. Ord. 260, passed 2-17-98; Am. Ord. 273, passed 5-17-99; Am. Ord. 341, passed 5-19-03; Am. Ord. 371, passed 7-18-05)

USE ZONES

§ 154.020 DIVISION OF CITY INTO USE ZONES.

The city is divided into the following use zones as indicated by the zoning map, which is a part of these regulations.

(A) *Residential Use Zone.* The residential use zones are intended primarily for residences, with permitted related uses such as churches, schools and recreational facilities. The permitted uses and the area requirements established the character of the use district.

- R-1 Residential Single-Family
- R-2 Residential Single- and Two-Family
- R-3 Residential Multiple-Family
- R-1 M-H Residential Mobile Home
- R-1X Residential Single-Family Mixed Housing

(B) *Commercial Use Zone.* The commercial use zones are intended for the conduct of business and provision of services to the community.

- C-1 Neighborhood Commercial
- C-2 General Commercial

(C) *Industrial Use Zone.* Industrial use zone is intended for warehousing, wholesale storage, general manufacturing and industrial activities provided such uses do not constitute a nuisance, hazard or danger to the community.

(Ord. 26, passed 10-24-67; Am. Ord. 140, passed 9-12-83; Am. Ord. 288, passed 3-20-00; Am. Ord. 305, passed 1-22-01)

§ 154.021 R-1 RESIDENTIAL SINGLE-FAMILY.

This zone is intended primarily for residential neighborhoods characterized by residential dwellings containing a suitable lot area.

(A) *Permitted use.*

- (1) Single-family dwellings. The term shall not be deemed to include motels or rooming houses.
- (2) Public schools and parks.
- (3) Municipal recreational uses and public utilities and structures.
- (4) Accessory structures or uses incidental to the permitted principal use.
- (5) Minor impact home occupations.

(B) *Area requirements, residential.*

- (1) Minimum lot area shall be 9,600 square feet, except in unsewered areas, such areas must comply with state health regulations.
- (2) Minimum lot width shall be 75 feet (at front yard building line).
- (3) Front yard: Measured from the centerline of streets.
 - (a) Lots which abut arterial streets, 90 feet.
 - (b) Lots which abut collector streets, 70 feet.
 - (c) Lots which abut local service streets, 55 feet, 30 feet from property line.
- (4) Side yard setbacks for both sides shall total not less than 15 feet, with a minimum of five feet from the property line on any one side.
- (5) Side yard street (corner lot): Measured from the centerline of streets.
 - (a) Lots which abut arterial streets, 85 feet, 25 feet from the property line.
 - (b) Lots which abut local service streets, 40 feet, 15 feet from the property line.
- (6) Rear yard: Minimum 20 feet from rear lot line.
- (7) Building coverage: A maximum of 35% of the lot.

(8) Rear and side yards for accessory buildings: Minimum of seven and one-half feet from any property line.

(9) Off-street parking: Parking shall be provided on the lot to accommodate two off-street parking spaces for each dwelling unit. The parking spaces shall not be less than 400 square feet and shall not be located in the required front yard setback and required street side yard setback.

(10) Any lot or parcel having double frontage shall be screened in accordance with this chapter to prevent access from a side.

(C) *Area requirements, place of public assembly.*

(1) Height. Maximum height shall be two and one-half stories and not to exceed 35 feet for that portion of the structure used for assembly of offices.

(2) Yard requirements: A minimum of 25 feet from all property lines.

(3) On-lot parking.

(a) Places of public assembly shall provide one on-lot parking space to accommodate one motor vehicle for each four seats based on maximum seating capacity.

(b) Schools.

1. Elementary and junior high school: One bus parking space (500 square feet) for every 100 students, one automobile parking space for each teacher and employee, and two parking spaces per classroom (each automobile parking space to measure 9 feet by 34 feet, inclusive of space necessary to provide access to a street or alley).

2. High schools: One bus parking space (500 square feet) for every 150 students, one automobile parking space for every ten students, one parking space for each teacher and employee and two parking spaces per classroom (each parking space to measure 9 feet by 34 feet inclusive of space necessary to provide access to a street or alley).

(c) All off-street parking areas must be paved with two and one-half inches of hot mix asphalt over eight inches of compacted gravel or paved with six inches concrete.

(4) Sidewalks: Sidewalks shall be installed within the street right-of-way at a distance of one foot from the property line except where such sidewalks are deemed unnecessary by the Planning Commission. All sidewalks should be a minimum of five feet in width and four inches thick.

(5) Curb and gutter: All streets shall be curbed and guttered except where such curbs and gutters are deemed unnecessary by the Planning Commission. Curbs shall be six inches high and the gutter 18 inches in width, and the material used shall be concrete.

(D) *Conditional uses upon satisfaction of the provisions of § 154.047 of this chapter.*

(1) Minor impact home occupations when operating in conjunction with no-impact home occupations, and major impact home occupations.

(2) Planned residential development.

(3) Child care facilities.

(4) Telecommunication towers.

(5) Accessory dwellings.

(6) Churches and religious educational buildings.

(Ord. 26, passed 10-24-67; Am. Ord. 140, passed 9-12-83; Am. Ord. 158, passed 3-10-86; Am. Ord. 159, passed 3-10-86; Am. Ord. 243, passed 10-21-96; Am. Ord. 259, passed 2-17-98; Am. Ord. 274, passed 5-17-99; Am. Ord. 341, passed 5-19-03)

§ 154.022 R-2 RESIDENTIAL SINGLE-FAMILY AND TWO-FAMILY.

(A) *Permitted uses.*

(1) Any use permitted in the R-1 District.

(2) Two-family dwelling units.

(3) Manufactured homes, provided all requirements of division (E) below are met, and provided that the structure has a minimum width and length of 28 feet and 44 feet.

(B) *Area requirements, residential.* Same as in a R-1 District except the following:

(1) Lot area per dwelling unit. An additional 2,400 square feet of lot area shall be required for the second dwelling unit.

(2) Off-street parking for single-family and two-family dwelling. Parking shall be provided on the lot to accommodate two off-street parking spaces for each dwelling unit. The parking spaces for each unit shall not be less than 400 square feet and shall not be located in the required front yard setback and required street side yard setback.

(C) *Area requirements, places of public assembly and school.* Same as in a R-1 District.

(D) *Conditional uses upon satisfaction of the provisions of § 154.047 of this chapter.*

(1) Hospital and nursing homes, provided that they meet all of the setback requirements, and provided one off-street parking space for each one bed, plus one off-street parking space for each doctor and employee is provided. All off-street parking must be paved.

(2) Minor impact home occupations when operating in conjunction with no-impact home occupations, and major impact home occupations.

(3) Planned residential development.

(4) Child care facilities.

(5) Telecommunication towers.

(6) Accessory dwellings.

(7) Churches and religious educational buildings.

(E) *Requirements for manufactured homes on individual lots or parcels of land in the city.*

(1) Be occupied only as a residential use.

(2) The manufactured home shall be oriented in a manner so to be consistent with the prevalent orientation of the dwellings in the immediate vicinity.

(3) Be placed on permanent foundations, on footings, on piers, or on blocks in accordance with Arkansas State requirements or manufacturer recommendations, whichever are more stringent. Both the foundation system and connection of the manufactured home to the foundation system shall be capable of withstanding the design loads and concentrated loads identified in the installation instructions prescribed by the manufacturer.

(4) All foundations for manufactured housing shall not exceed a height of 16 inches above the foundation height prevalent to the dwellings in the immediate vicinity.

(5) The skirting at the perimeter of the unit shall be composed of concrete or masonry materials, or of manmade materials giving the appearance of concrete or masonry materials.

(6) The exterior will be covered with a nonreflexive material customarily used on site-built dwellings, such as board siding, plywood siding, brick, or stucco; exterior brick or stucco material shall extend to the ground; other covering material need not extend below the top of the foundation and shall both be closer than eight inches to the ground.

(7) The structure shall have a pitched or peaked roof and covered with a nonflammable roof material used on site-built dwellings.

(8) Be anchored to the ground in accordance with the Manufactured Housing Construction and Safety Standards Code and manufacturer's specifications.

(9) Have wheels, axles, and hitch mechanisms removed.

(10) Have all pertinent utilities connected in accordance with the Manufactured Housing Construction and Safety Standards Code and manufacturer's specifications.

(11) Manufactured homes on individual lots or parcels of land in the city shall not be more than 15 years old and shall have a minimum width of 28 feet and a minimum length of 44 feet. (Ord. 26, passed 10-24-67; Am. Ord. 135, passed 4-11-83; Am. Ord. 140, passed 9-12-83; Am. Ord. 234, passed 8-14-95; Am. Ord. 243, passed 10-21-96; Am. Ord. 259, passed 2-17-98; Am. Ord. 273, passed 5-17-99; Am. Ord. 293, passed 6-19-00; Am. Ord. 341, passed 5-19-03; Am. Ord. 387, passed 10-10-06)

§ 154.023 R-3 RESIDENTIAL MULTIPLE-FAMILY.

(A) Permitted uses.

(1) Multi-family units.

(2) Two-family dwelling units.

(3) Single-family dwelling units.

(4) Public schools and parks.

(5) Municipal recreational uses and public utilities and structures.

(6) Accessory structures or uses incidental to the principal use.

(7) Manufactured homes, provided all requirements set forth in § 154.022(E) are met, and provided that the structure has a minimum width and length of 28 feet and 44 feet.

(8) Minor impact home occupations.

(B) Area requirements, residential. Same as in a R-1 District, except the following: lot area per dwelling unit: 12,000 square feet total lot area shall be required for the first two dwelling units, plus 2,000 square feet for each additional dwelling unit.

(C) Area requirements, places of public assembly and school. Same as in a R-1 District.

(D) *Conditional uses upon satisfaction of the provisions of § 154.047 of this chapter.*

(1) Hospital and nursing homes provided that they meet all of the setback requirements, and provided one off-street parking space for each one bed, plus one off-street parking space for each doctor and employee is provided. All off-street parking must be paved.

(2) Minor impact home occupations when operating in conjunction with no-impact home occupations, and major impact home occupations.

(3) Planned residential development.

(4) Telecommunication towers.

(5) Churches and religious educational buildings.

(Ord. 26, passed 10-24-67; Am. Ord. 140, passed 9-12-83; Am. Ord. 177, passed 9-12-88; Am. Ord. 243, passed 10-21-96; Am. Ord. 274, passed 5-17-99; Am. Ord. 288, passed 3-20-00; Am. Ord. 293, passed 6-19-00; Am. Ord. 341, passed 5-19-03)

§ 154.024 R1-MH MANUFACTURED HOME DISTRICT.

(A) *Manufactured Home Subdivision Residential District.* This district is intended to promote and preserve single-family manufactured home subdivisions and manufactured home park development which is compatible with conventional single-family residential development. The manufactured home subdivision and manufactured home park classification shall consist of three subdistricts including:

- (1) R1-5.0 (MH) - 5,000 square feet minimum lot size with 45 feet minimum width;
- (2) R1-5.5 (MH) - 5,500 square feet minimum lot size with 50 feet minimum width; and
- (3) R1-6.5 (MH) - 6,500 square feet minimum lot size with 60 feet minimum width.

(B) *Height and area regulations.* In the MH Manufactured Home District the maximum height of buildings, the minimum required setbacks, and the maximum allowable density shall be as follows:

- (1) *Height.* In the MH Manufactured Home District, no building hereafter erected or structurally altered shall exceed one story or 15 feet.
- (2) The minimum width at front building line of a manufactured home park/tract shall be 45 feet.
- (3) The minimum setback from any perimeter property line shall be 25 feet.
- (4) The minimum setback from any interior street shall be 20 feet.
- (5) The minimum separation between manufactured homes shall be 20 feet.
- (6) The minimum side and back yard setback shall be ten feet.
- (7) The maximum allowable density in any manufactured home park/subdivision shall be eight manufactured homes per acre.

(C) *Special requirements.*

- (1) A map or plat of the manufactured home parks/subdivision shall be prepared in accordance with the subdivision and zoning ordinance of the city; and, all manufactured homes will be clearly identified with an alphabetic or numeric identifier which is legible to city and emergency personnel. In addition, the manufactured home park will provide an updated list of occupancy to the Police Department.
- (2) The minimum size of manufactured home park/subdivision shall be ten acres.
- (3) No more than one manufactured home shall be placed on each lot/tract.
- (4) No manufactured home shall be permitted in a manufactured home park unless it contains

at least 784 square feet of living space; and was not manufactured more than 15 years before the date to be installed on the property; provided however, that upon application, a manufactured home park owner may request ten spaces for temporary use by campers, and an additional five spaces for overflow. These spaces shall be clearly designated by the manufactured home park owner, upon the plat or map submitted to the city.

(5) The manufactured home shall be mounted and anchored in accordance with current state laws, regulations and guidelines.

(6) Manufactured homes shall be skirted to the perimeter of the manufactured home with concrete or masonry materials, wood materials or the same materials used as siding for the manufactured home, provided however, that campers or motor homes located on temporary use lots are exempt.

(7) Prior to submission of a map or plat as stated in division (1) above, any person or entity wishing to establish a manufactured home park/subdivision shall make petition pursuant to the Constitution of the State of Arkansas and amendments thereto at general or specific election and property petition and have placed on the ballot at said general or special election the proposed manufactured home park/subdivision, the approval for which shall be made by popular vote of the registered voters residing within the city.

(8) No manufactured home park/subdivision may be established within one half mile of the outer boundaries of the grounds of any school in the White Hall School District and located within the city.

(D) *Use regulations.* Premises located within this district shall be used exclusively for a manufactured home park/subdivision subject to the provisions of this chapter. In the MH Manufactured Home District no building or land shall be used and no building shall be hereafter erected, converted, or structurally altered, unless otherwise provided in this chapter, except for one of the following uses:

(1) Manufactured home residential.

(2) Accessory buildings (shall be located back of the required set back line from any interior drive, or any exterior drive from which access is taken).

(3) Accessory recreational uses such as tennis courts, swimming pools, playgrounds, putting greens, etc., and other uses such as washaterias customarily incidental to the above use, when located on the same lot and back of the required setback lines.

(4) Nameplate not exceeding one square foot in area. (One per manufactured home). Signs not exceeding 32 square feet in area appertaining to the lease or hire of a building or premises, which shall not rotate or flash. (One per manufactured home park).

(5) Awnings and carports may occupy only 50% of the required minimum spacing between manufactured homes; must be open from the ground to the roof structure; and must be constructed of non-combustible materials.

(6) Double frontage spaces. A manufactured home space having double frontage shall take access from only one dedicated public street.

(E) *Off-street parking.* Off-street parking shall be provided at each manufactured home space at the rate of two spaces per manufactured home. All parking spaces shall be paved in accordance with the zoning ordinance.

(F) *Screening.* Where a manufactured home park/subdivision adjoins a lot in a residential zone, or is across the street from a residential zone, a permanent type opaque fence of wood or masonry construction having a height of not less than six feet shall be erected and maintained between such area and the property in a residential zone.

(G) *Recreation space.* Common recreation shall be provided at the rate of 300 square feet per manufactured home lot/tract. Minimum size of any recreation space shall be 5,000 square feet. All required recreation areas shall be located back of the required setback lines. All required recreation areas shall be used solely for recreational purposes.

(H) *Storage facilities.* In addition to required lot area, a common storage facility shall be provided at a central location, at the rate of 100 square feet for each manufactured home lot/tract for the storage of boats and recreational vehicles, etc.

(I) *Utility installations.* All utility installations shall meet the requirements established by the appropriate codes, and shall be maintained hereafter by the developer in accordance with the appropriate code of the city.

(J) *Conformance with ordinance.* All work on or at any manufactured home park/subdivision shall be in accordance with the subdivision ordinances and all other ordinances of the city regulating such work.

(K) *Nonconforming use.* Commencing on the date of the adoption of this ordinance to amend the zoning and subdivision regulations, manufactured home/parks/subdivisions in all other existing zoning districts and do not meet these requirements within the city will be classified as nonconforming use.

(L) *Conditional uses upon satisfaction of the provisions of § 154.047 of this chapter.*

(1) Telecommunication towers.

(Ord. 26, passed 10-24-67; Am. Ord. 166, passed 11-10-86; Am. Ord. 167, passed 11-10-86; Am. Ord. 234, passed 8-14-95; Am. Ord. 243, passed 10-21-96; Am. Ord. 273, passed 5-17-99)

§ 154.025 C-1 NEIGHBORHOOD COMMERCIAL.

The intent of this district is to provide neighborhood services and may contain such uses as will be compatible with adjoining residential districts.

(A) *Permitted uses.*

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- (1) Multi-family dwelling units provided that they meet all the requirements of the R-3 District.
- (2) Offices, business and professional.
- (3) Clinics, medical or dental, for human treatment only.
- (4) Barber shops, beauty parlors, custom dressmaking or millinery shops, clothes cleaning and pressing pick-up agencies, tailor shops, confectionery stores.

(B) *Prohibited uses.* Single-family and two-family dwellings are prohibited.

(C) *Area requirements.*

- (1) Minimum lot area shall be 9,600 square feet.
- (2) Minimum lot width shall be 80 feet at the front yard building line.
- (3) Front yard: Measured from the centerline of streets.
 - (a) Lots which abut arterial streets, 90 feet.
 - (b) Lots which abut collector streets, 70 feet.
 - (c) Lots which abut local service streets, 55 feet.
 - (d) On corner lots the front yard shall be considered as parallel to the street upon which the lot has the least dimensions.
- (3) (a) Side yard each.
 1. Minimum of ten feet when abutting a C or M-1 district.
 2. Minimum of 20 feet abutting an R-2 district.
 3. Minimum of 30 feet when abutting an R-1 district.
- (b) Side yard street (corner lots). Measured from the centerline of streets.
 1. Lots which abut arterial streets, 85 feet, 25 feet from property line.
 2. Lots which abut collector streets, 65 feet, 25 feet from property line.
 3. Lots which abut local service streets, 50 feet, 25 feet from property line.
- (c) Additional height. Same as in a R-1 District.

- (4) Rear yard. Same as in a R-1 District. 20'
- (5) Building coverage. Same as in a R-1 District.
- (6) Rear and side yards accessory building. Minimum of 7½ feet from property line except when abutting streets.
- (7) Off-street parking requirements. As provided in § 154.046 of this chapter.
- (8) Sidewalks. Sidewalks shall be installed within the street right-of-way at a distance of one foot from the property line except where such sidewalks are deemed unnecessary by the Planning Commission. All sidewalks shall be a minimum of five feet in width and four inches thick.
- (9) Curb and gutter. All streets shall be curbed and guttered except where such curbs and gutters are deemed unnecessary by the Planning Commission. Curbs shall be six inches high and 18 inches in width, the material used shall be concrete.
- (10) A permanent opaque screening fence or wall shall be constructed along any side yard that abuts property zoned for residential purposes or along any rear property line that abuts or is across the street from property zoned for residential purposes. The height of the screen or wall shall be not less than eight feet and shall be constructed of wood, masonry or other durable opaque material, and finished in a manner appropriate to the appearance and use of the property. Chain link or other mesh screens containing slats shall not be permitted as an opaque screen. The location of the screen in relation to the lot line, visibility triangle, street right-of-way, or sidewalk shall be in accordance with § 154.045.

(D) *Conditional uses upon satisfaction of the provision of § 154.047 of this chapter.*

- (1) Self-service or automatic laundries, dryers, cleaners, repair shops for shoes, repair shops for radio and television sets, and repair shops for domestic appliances.
- (2) Public and community services.
- (3) Establishment of all drive-in types services offered by the permitted and conditional uses that service directly to the customers waiting in parked vehicles.
- (4) Child-care facilities.
- (5) Recreation centers.
- (6) Telecommunication towers.

(Ord. 26, passed 10-24-67; Am. Ord. 101, passed 4-11-77; Am. Ord. 113, passed 12-11-78; Am. Ord. 141, passed 9-12-83; Am. Ord. 243, passed 10-21-96; Am. Ord. 288, passed 3-20-00; Am. Ord. 385, passed 4-18-06)

§ 154.026 C-2 GENERAL COMMERCIAL.

The intent of this district is to provide for retail trade, service, cultural and recreational needs of the entire community and beyond, intended to be developed in a manner similar to a C-1 District and should have excellent highway access.

(A) *Permitted uses.*

(1) Any uses permitted in the C-1 District plus special uses. Multi-family units shall not be permitted.

(2) General consumer-oriented grocery sales such as, but not limited to the following:

Bakeries (provided that at least 25% of the floor space is devoted to sales).

Drug and proprietary sales.

Grocery stores; meat, fish and seafood markets; fruit and vegetable, candy, nut and confectionery stores.

(3) Variety stores offering a wide range of consumer items such as, but not limited to the following:

Department stores.

Dry goods sales; draperies, curtains and upholstery sales; leather goods and luggage shops.

General stores.

Hardware stores including garden supply sales.

Limited price variety stores.

Mail order houses.

Discount stores.

(4) Stores offering special types of consumer household needs such as, but not limited to the following:

Furniture stores, rug and carpet sales.

Household appliance stores, including radio and television sales and service, and sewing machine sales and service.

Interior decorating shops.

Paint and wallpaper stores.

(5) Other stores offering special consumer items such as, but not limited to the following:

Antique sales (no outside storage).

Books and stationary sales, newspaper and magazine shops

Camera and photographic supply stores.

Cigar stores.

Florists.

Hobby shops, coin and stamp stores.

Jewelry stores; gift and novelty shops; china, glassware and metalware sales.

Optical goods.

Sporting goods, bicycle sales.

Pet shops.

(6) Personal services such as, but not limited to the following:

Apparel repair, alteration and cleaning pick-up services.

Beauty and barber services.

Electrical repair services for household appliances.

Laundry, dry cleaning and dyeing services (exclusive of rugs, linen supply, industrial laundry services, and diaper services).

Shoe repair services.

Watch, clock and jewelry repair services.

(7) Open air market such as, but not limited to the following: Farmer and produce market, flea market, antique market and craft market.

(8) Eating establishments.

(9) Finance, insurance and real estate service of all types.

(10) Convenience stores.

(11) Drive-through windows.

(12) Churches and religious educational buildings.

(B) *Prohibited uses.* Single-family, two-family and multiple family dwelling units are prohibited.

(C) *Area requirements.*

(1) Same as in C-1 District.

(2) Front yard: Same as in a C-1 District, 90-foot arterial.

(3) (a) Side yard (each): Same as in a C-1 District.

(b) Side yard street: Same as in a R-1 District.

(c) Additional height: Same as in a C-1 District.

(4) Rear yard: Same as in a C-1 District. 20'

(5) Building coverage: A maximum of 50% of the lot.

(6) Rear yard accessory building: Same as in a C-1 District.

(7) Off-street parking requirements: As provided in § 154.046 of this chapter.

(8) Sidewalks: Same as in C-1 District.

(9) Curb and gutter: Same as in C-1 District.

(10) Drive-through window stack space. The minimum stack space per drive-through window for drive-in banks and similar uses and fast food restaurants shall be 120 linear feet, and shall be 60 linear feet for drugstores, liquor stores, laundries, fully automated banking centers, and other such commercial establishments which normally do not have a specific peak period of usage. Said stack space shall not impede parking lot/street traffic or on-site parking spaces. The location of the drive-through window and stack space shall be approved by the Zoning Administrator who may require any changes in the design deemed necessary.

(11) A permanent opaque screening fence or wall shall be constructed along any side yard that abuts property zoned for residential purposes or along any rear property line that abuts or is across the street from property zoned for residential purposes. The height of the screen or wall shall be not less than eight feet and shall be constructed of wood, masonry or other durable opaque material, and finished

in a manner appropriate to the appearance and use of the property. Chain link or other mesh screens containing slats shall not be permitted as an opaque screen. The location of the screen in relation to the lot line, visibility triangle, street right-of-way, or sidewalk shall be in accordance with § 154.045.

(D) Special uses upon satisfaction of the provisions of § 154.047 of this chapter.

(1) Private schools such as but not limited to the following:

- Art and music schools.
- Barber and beauty schools.
- Business and stenographic schools.
- Correspondence schools.
- Dancing schools.
- Driving schools.
- Nursery schools.

(2) Vehicle related:

- Tires, batteries and accessory sales.
- Gasoline service stations.
- Repair services.
- Wash services.
- New car dealerships.
- Used car sales lot.
- Motorcycle sales shop.
- Motorcycle repair shop.

(3) Other activities and services such as the following:

Bowling alleys.

Business associations; professional membership organizations; labor unions; civic, social and fraternal organizations.

Gymnasiums and athletic clubs.

Theaters.

Welfare and charitable services.

Research, development and testing services.

Motels and hotels.

Sports arenas.

Amusement, arcade and billiard establishments.

Taverns, bars and liquor stores.

Funeral homes.

Veterinarian clinics.

(4) Telecommunication towers.

(5) Billboards.

(E) *Uses prohibited.*

(1) A number of land uses exist which may, in some ways, be considered commercial but because of other aspects of their nature must be prohibited from even the least restrictive of the C-2 Commercial Districts. Such uses generally have one or more of the following traits:

(a) They deal with large volumes of material which is not intended for sale directly to the consumer.

(b) They deal with materials in a raw form, that is, materials which require some type of processing before a derived product can be sold to the customer.

(c) They deal with materials of a dangerous nature and such materials should not be sold or stored in highly populated areas.

(2) Therefore, the following and similar uses are prohibited from the C-2 District:

(a) Industrial uses as specified in the Industrial Districts.

(b) The sale or storage of materials such as dynamite which decompose by detonation (this clause does not include the sale of sporting ammunition).

(c) Wholesale trade of farm products or animal products in raw material form.

(d) Sale of metals, minerals, scrap and waste materials.

(e) Warehousing and storage of materials or products which are not sold on the premises or which are not used in the production of some material or item which will be sold on the premises. (Ord. 26, passed 10-24-67; Am. Ord. 135, passed 4-11-83; Am. Ord. 141, passed 9-12-83; Am. Ord. 149, passed 1-14-85; Am. Ord. 243, passed 10-21-96; Am. Ord. 248, passed 12-16-96; Am. Ord. 371, passed 7-18-05; Am. Ord. 385, passed 4-18-06; Am. Ord. 456, passed 5-20-13)

§ 154.027 M-1 INDUSTRIAL.

Industrial use zone is intended for general manufacturing and industrial activities and for the storage of goods.

(A) *Permitted uses.*

(1) The manufacturing, compounding, processing, packing and assembling of products where it is found by the enforcement officer that the location and the safeguards taken will so reduce the noise, dust, odor or vibration so as not to be detrimental or dangerous to the health, safety, or general welfare of the people.

(2) Storage of bulk material when it is found by the enforcement officer that the specific location and safeguards taken will so reduce the danger of fire or explosion as not to be dangerous to the health, safety, or general welfare of the people.

(B) *Residential uses prohibited.* No structure may be constructed or altered for residential use.

(C) *Area requirements.*

(1) Minimum lot area: 2½ acres.

(2) Minimum lot width: 150 feet.

(3) Front yard: Minimum of 30 feet from all property lines.

(4) Side yard: Minimum of 25 feet from all property lines.

(5) Back yard: Minimum of 25 feet from all property lines.

(6) Sidewalks: Same as in C-1 District.

(7) Curb and gutter: Same as in C-1 District.

(8) A permanent opaque screening fence or wall shall be constructed along any side yard that abuts property zoned for residential purposes or along any rear property line that abuts or is across the street from property zoned for residential purposes. The height of the screen or wall shall be not less than eight feet and shall be constructed of wood, masonry or other durable opaque material, and finished in a manner appropriate to the appearance and use of the property. Chain link or other mesh screens containing slats shall not be permitted as an opaque screen. The location of the screen in relation to the lot line, visibility triangle, street right-of-way, or sidewalk shall be in accordance with § 154.045.

(D) *Height.*

(1) Maximum height of a structure shall be three stories and not to exceed 45 feet.

(2) The Board of Adjustment may waive the height requirements when it is demonstrated that the equipment and structure to house the operation requires greater height.

(E) *Off-street parking.* One on-lot parking space shall be provided for every one employee.

(F) *Off-street loading and unloading facilities.* Each structure or use shall provide off-street loading and unloading facilities which will not block a street, alley or other public way.

(G) *Conditional uses upon satisfaction of the provisions of § 154.047 of this chapter.*

(1) Telecommunication towers.

(2) Billboards.

(Ord. 26, passed 10-24-67; Am. Ord. 101, passed 4-11-77; Am. Ord. 243, passed 10-21-96; Am. Ord. 248, passed 12-16-96; Am. Ord. 385, passed 4-18-06)

§ 154.028 R-1X RESIDENTIAL SINGLE-FAMILY MIXED HOUSING.

This zone is intended primarily for residential neighborhoods characterized by mixed single-family housing types on lots containing suitable area.

(A) *Permitted use.*

(1) Any use permitted in the R-1 District.

(2) Manufactured homes, provided all requirements set forth in § 154.022(A)(3) and (E) are met.

(B) *Area requirements, residential.* Same as in an R-1 District.

(C) *Area requirements, places of public assembly and school.* Same as in an R-1 District.

(D) *Conditional uses upon satisfaction of the provisions of § 154.047 of this chapter. Same as in an R-1 District.*

(Ord. 305, passed 1-22-01)

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GENERAL REGULATIONS**§ 154.040 ANNEXED AREA.**

(A) Territory annexed to the city after adoption of these regulations shall be given use designations within 90 days after the effective date of annexation in accordance with the amendment procedures of these regulations.

(B) Before official use designation is made after annexation, all requests for building permits shall be referred to the Planning Commission or a committee thereof. The Planning Commission or its designated committee may recommend issuance of the permit if it conforms to the land use plan and the structure meets the requirements of the zone in which it is to be located.
(Ord. 26, passed 10-24-67)

§ 154.041 COMPLETION OF EXISTING CONDITIONS.

Nothing herein contained shall require any change in construction or designated use of a building actually under construction at the time of the adoption of these regulations.
(Ord. 26, passed 10-24-67)

§ 154.042 HOME OCCUPATIONS.

(A) *Home occupations permitted in residential neighborhoods and districts.*

(1) No-impact home occupation businesses, as defined in § 154.003, may operate in any residential districts and neighborhoods without necessity of permit, subject to the limitations and conditions set forth herein.

(2) Minor impact home occupation businesses, as defined in § 154.003, may operate in residential districts and neighborhoods with a zoning permit but do not require a conditional use permit or Planning Commission approval, subject to the limitations and conditions set forth herein.

(3) Major impact home occupation businesses, as defined in § 154.003, require a conditional use permit and Planning Commission approval to operate or continue operation, subject to the limitations and conditions set forth herein.

(B) *Performance standards.*

(1) The use of the dwelling as a home occupation location must be clearly incidental and subordinate to its use for residential purposes.

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(2) No person other than those residing on the premises shall be engaged in on-premises activities of the home occupation unless a conditional use permit for a major impact home occupation is granted by the Planning Commission. "Residing on the premises," when stated in this ordinance, means that the residence in which the home occupation is to be conducted is the permanent domicile of any person engaging in the home occupation activity.

(3) A home occupation which is authorized to receive patrons, students, or any business-related individuals at the home occupation location may only do so between the hours of 8:00 a.m. and 8:00 p.m.

(4) Number of home occupations that may be permitted in a single dwelling unit, subject to the limitations and conditions set forth herein:

- (a) Two no-impact home occupations; or
- (b) One minor impact home occupation; or
- (c) One major impact home occupation; or
- (d) One minor impact home occupation and one no-impact home occupation.

(5) The home occupation(s) in totality must occupy no more than 25% of the floor area of the residence or 500 square feet, whichever is less. Restrictions on the number of patrons, clients and those performing work in a dwelling unit shall apply to all home occupations within a dwelling unit and shall not be cumulative.

(6) There shall be no exterior displays, no exterior storage of equipment or goods, including unlicensed equipment, materials, vehicles, or open lot storage.

(7) Home occupations shall not produce offensive noise, vibration, smoke, electrical interference, dust, odors or heat. Any noise, vibration, smoke, electrical interference, dust, odors or heat detectable beyond the property lines or beyond the walls of a multiple-family unit shall not be permitted.

(8) Home occupations shall not require internal or external structural alterations of the principal residence that may change the outside appearance of the principal residence or change the residential character of the property.

(9) No separate entrance from the outside of the building shall be added to the residence for the sole use of the home occupation.

(10) Home occupations shall not require the installation of equipment or machinery creating utility demand, noise, fumes or other impacts in excess of equipment or machinery that is customarily found in a residential area.

(11) No electric devices may be used in any home occupation which may cause electrical interference or create visual and audible interference in any radio, television receiver or telephone, which violates FCC standards, or which causes fluctuations in off-site line voltages.

(12) No on-premises advertising for the home occupation shall be allowed, with the exception of a non-illuminated sign no larger than one square foot that is mounted flush against the home. Window areas must not purposely, intentionally, or unintentionally be used as display areas or to offer merchandise for sale.

(13) All related business activities shall take place entirely within the residential dwelling or in an accessory structure that is normally associated with a residential use, unless the Zoning Administrator finds that business activity conducted outside the dwelling is similar to noncommercial activities normally associated with single-family residences.

(14) No pedestrian or vehicular traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential area.

(15) No delivery truck shall operate out of a residential district as a function of the home occupation. A single delivery or business vehicle may be operated from a home occupation so long as it is limited to a maximum size of one-ton gross vehicle weight and so long as it is stored on its own paved parking pad located behind the front yard setback. Said vehicle cannot displace vehicles that normally would park in either of the two paved parking spaces required for the residence.

(16) No home occupation will be permitted which requires receipt or delivery of merchandise, goods, or equipment by other than a passenger motor vehicle or by parcel or letter carrier mail service using vehicles typically employed in residential deliveries.

(17) No deliveries by semi-tractor/trailer truck are permitted.

(18) All vehicles of customers or residents of the home occupation location must be parked in authorized parking locations on the lot where the home occupation is located.

(19) The home occupation shall not create a hazard by using flammable, explosive or other dangerous materials or by keeping, raising or storing animals that are capable of inflicting harm or discomfort or endangering the health and safety of any person or property.

(20) Low-intensity (traffic generation, land use, noise, and the like) occupations, professions and business activities, and those uses or activities of a similar nature, as provided by the permitted home occupation uses in this section, may be permitted as home occupations in residential zoning district(s), subject to the conditions of these regulations and other applicable federal, state, or local laws.

(21) A business license shall be obtained, if required by other ordinances.

(22) This section does not permit the establishment and operation of home occupations without a permit unless they have been exempted from the requirements of permitting by this section.

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(C) *No-impact home occupation businesses.* The following home occupations do not require a zoning permit so long as the activity of the business has no impact on the residential neighborhood where it operates, does not invite business customers to or receive customers at the home occupation location, and no person other than those residing on the premises shall be engaged in on-premises activities of the home occupation:

- (1) Artists;
- (2) Composers;
- (3) Writers;
- (4) Photography studio;
- (5) Home crafts, such as jewelry making, model making, rug weaving, woodworking, and ceramics (with a kiln up to six cubic feet), where sales of homemade items occur at locations other than the home occupation location;
- (6) Musical instrument teacher for not more than two students at a time where instruments are not amplified;
- (7) Dance or aerobics instructor for not more than two students at a time;
- (8) Art and craft instruction for not more than two students at a time;
- (9) Educational tutoring for not more than two students at a time;
- (10) Persons who conduct the home occupation entirely on a telephone or personal computer and do not invite business customers to or receive customers at the home occupation location, including telephone answering service, telephone reception for a mobile business, and mail order or telephone order business where no merchandise is delivered to or from the home occupation location;
- (11) "Work at home" activities where employees of a business, located at another location, perform work for the business in their own residence, provided all physical contact between the business and the employee occurs at the place of business and not the residence, and so long as the "work at home" activity conforms to all other requirements of this section;
- (12) Sale of personal goods and services, such as cosmetics and kitchenware away from the residence, and which does not invite customers to or receive customers at the home occupation location and which does not have storage of equipment, goods, or supplies outside the home occupation residential dwelling; or
- (13) Any other activities similar to one of the above categories.

(D) *Minor impact home occupation businesses.* The following home occupations require a zoning permit but do not require a conditional use permit and Planning Commission approval so long as the activity of the business does not have a major impact on the residential neighborhood where they operate, and no person other than those residing on the premises shall be engaged in on-premises activities of the home occupation:

- (1) Musical instrument (non-amplified) teacher for more than two but less than five students at a time, limited to three groups daily;
- (2) Dance or aerobics instructor for more than two but less than five students at a time, limited to three groups daily;
- (3) Educational tutoring for more than two but less than five students at a time, limited to three groups daily;
- (4) Art and craft instruction for more than two but less than five students at a time, limited to three groups daily;
- (5) Designer/decorator who does not see more than one customer at a time at the home occupation location, limited to five customers daily;
- (6) Personal sewing, clothing alterations, and dressmaking if the proprietor does not invite or receive more than one customer to the home occupation location at a time, limited to five customers daily;
- (7) Washing and ironing if the proprietor does not invite or receive more than one customer to the home occupation location at a time, limited to five customers daily;
- (8) Window covering sewing if the proprietor does not invite or receive more than one customer to the home occupation location at a time, limited to five customers daily;
- (9) Fitting of prostheses, if the proprietor does not invite or receive more than one customer to the home occupation location at a time, limited to five customers daily;
- (10) Small bookkeeping, typing, or computer programming service if the proprietor does not invite or receive more than one customer to the home occupation location at a time, limited to five customers daily;
- (11) Babysitters for no more than five children, including the children of the babysitter;
- (12) Professional offices, such as accountants, appraisers, architects, attorneys, contractors, engineers, financial planners, consultants, and realtors, who see no more than one customer at a time at the home occupation location, limited to five customers daily;
- (13) Maintenance/handyman/janitorial service, contractor, and lawn care service, provided there is no outside storage of equipment or supplies. A single business vehicle may be operated from

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the home occupation location so long as it is limited to a maximum size of one-ton gross vehicle weight, and so long as it is stored on its own paved parking pad located behind the front yard setback. Said vehicle cannot displace vehicles that normally would park in either of the two paved parking spaces required for the residence; or

(14) Any other activities similar to one of the above categories.

(E) *Major impact home occupation businesses.*

(1) The home occupations listed in divisions (C) and (D) of this section are considered major impact home occupation businesses when persons other than those residing on the premises shall be engaged in on-premises activities of the home occupation, and/or when the number of single and daily customers allowed under a lesser home occupation is requested to be increased.

(2) A major impact home occupation requires a conditional use permit and Planning Commission approval, and the Planning Commission may, after a public hearing, permit the home occupation where it is deemed to be essential or desirable to the public convenience or welfare. The Planning Commission may place conditions on the permit so as to reduce the impact of the home occupation on the neighborhood. These conditions can include but are not limited to screening, off-street parking, and access to the property.

(3) The Planning Commission shall not permit the on-premises employment of more than two persons who do not reside at the residence.

(4) The Planning Commission may permit the proprietor to increase the number of single and daily customers allowed under minor impact home occupations if it is found that said increase will not have a negative impact on the neighborhood.

(5) The Planning Commission may not permit any home occupation as a major impact home occupation that is not permitted under these regulations.

(F) *Activities not permitted.* The following activities shall not be permitted as home occupations in accordance with this section: dentists and medical doctor offices; beautician or barber shops; manicure and pedicure shops; massage therapy; massage parlors; fortune telling; health and exercise facilities; palm reading; tattoo parlors; recording studios; any repair of motorized vehicles including the painting or repair of automobiles, trucks, trailers, boats, motorcycles, all-terrain vehicles, and lawn equipment; tow truck service; veterinary offices; pet grooming; kennels; stables; bird keeping facilities; animal training; dancing schools; music schools; child care facilities for over five children; restaurants; catering/food preparation businesses; funeral chapels or homes; crematoria; mausoleums; the sale of firearms or ammunition; construction businesses or landscaping businesses that provide the storage of goods and materials to be utilized in the operation of the business or use; warehousing; vehicle sales, leases, or parts sales; welding or machine shops; retail sales not specifically allowed above; boarding houses unless otherwise permitted in a residential zone; cabinetry, mechanical repair or modification, fabrication, treatment or assembly of goods, the process of which requires intensive use of equipment,

machinery, raw materials or component parts (e.g., welding, construction or assembly of cabinets or furniture, treatment of steel or the finishing of wood); and any other type of business that would change the residential character of the neighborhood if permitted to operate.

(G) *Conditions of zoning permit or conditional use permit; revocation of permit.*

(1) Any permit issued for a home occupation is valid only for the person who applied for the permit, the use applied for, and the location applied for. The home occupation permit is not transferable to a subsequent buyer of the property or to another home occupation in the same residence. It is also not transferable to another location to which the applicant may move.

(2) All minor impact home occupation permits are issued for an unlimited period. Major impact home occupation permits may also be issued for an unlimited period unless otherwise determined by the Planning Commission.

(3) The Planning Commission, after a public hearing, may revoke a home occupation permit for the following reasons:

(a) Noncompliance with conditions set forth when the conditional use permit was granted;

(b) It is determined that the home occupation is adversely impacting the residential neighborhood by operation of the business; or

(c) For violation of any of the requirements of this section or any provision of city codes.

(4) If a business license is required for the home occupation, a home occupation permit may also be revoked if the applicant has not renewed his or her business license at his or her approved location within 90 days of the expiration of the business license.

(5) If a home occupation permit is in danger of being revoked for any reason, the applicant must be given written notice at least ten days prior to any action.

(Ord. 26, passed 10-24-67; Am. Ord. 341, passed 5-19-03)

§ 154.043 EXISTING LOTS AND LOT AREA.

(A) On any lot in a residential use district which is on a plat of record at the time of passage of these regulations, a one-family structure may be erected even though the lot be of less area or width than required by the regulations of the residential use area in which the lot is located, provided all other area requirements are met.

(B) On any lot in a commercial use district which is on a plat record at the time of passage of these regulations and has not, as yet, been developed, curbs and gutters shall be required in accordance with the current subdivision regulations as amended.

(Ord. 26, passed 10-24-67; Am. Ord. 89, passed 11-10-75; Am. Ord. 101, passed 4-11-77)

§ 154.044 NONCONFORMING BUILDINGS AND USES.

(A) The lawful use of a building or premises existing at the time of adoption or amendment of these zoning regulations may be continued although such use does not conform with the provisions of these regulations. Such nonconforming use may be enlarged to an extent not to exceed more than 50% of the existing floor area, if it can meet all the other zoning regulations at the effective date of this chapter or at such later date as a building may become nonconforming by reason of a change in zoning regulations.

(B) An existing mobile home or manufactured home that is located on a residential-zoned parcel of land (subject site) and is determined to be nonconforming as defined in this chapter may be replaced on said parcel with a manufactured home that meets all the requirements set forth in § 154.022(A)(3) and § 154.022(E) of this chapter, provided that all other zoning requirements of the residential district in which it is located and all of the following conditions are met:

(1) An application to replace an existing mobile home or manufactured home must be submitted to the City of White Hall no later than 30 days after removing an existing mobile home or manufactured home from the subject site. If the subject site has been vacated by the mobile home or manufactured home for over 30 days at the time an application for the mobile home/manufactured home replacement is made, the application will not be considered.

(2) Documentation that the home to be replaced is the principal residence of the applicant and that he or she will be the occupant of the replacement manufactured home must accompany the application for mobile home/manufactured home replacement. Current occupancy documentation must be in the form of a current water or electric bill for the subject site that shows normal residential usage. Documentation of occupancy of the replacement manufactured home shall be a purchase agreement between the applicant and the manufactured home vendor or similar document that also shows where the home is to be situated.

(3) A site plan reasonably drawn to scale that shows a) the proposed location of the replacement manufactured home, b) any other structures that will remain on the subject site or are proposed to be located on the subject site, and c) the location of all existing or proposed off-street parking must be submitted with the application for mobile home/manufactured home replacement.

(4) The replacement manufactured home must be completely installed on the subject site and any other requirements of this chapter must be completed no later than 60 days after issuance of a permit to replace an existing mobile home or manufactured home. A reasonable time extension may be granted through a variance (see § 154.092) by the White Hall Board of Zoning Adjustment upon submission of proof that circumstances beyond the control of the applicant have prevented the timely completion of implementation of the replacement permit. Financial constraints shall not be considered as a circumstance beyond the control of the applicant.

(Ord. 26, passed 10-24-67; Am. Ord. 304, passed 1-22-01; Am. Ord. 387, passed 10-10-06)

§ 154.045 SCREENING.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FENCE shall mean an artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

SCREENING shall mean a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

WALL shall mean a constructed solid barrier of concrete, stone, brick, tile, wood or similar type of material that closes, marks, or borders a field, yard, or lot, and that limits visibility and restricts the flow of air and light.

(B) *Visibility at intersections.*

(1) It shall be unlawful to install, set out, maintain, or allow the installation of any object that obstructs the visibility of a street intersection within the 25 foot "visibility triangle" of such intersection. The "visibility triangle" is the triangular area formed by the intersection of the platted, assumed, or maintained right-of-way of two streets, with the third side of such triangle being described as a line connecting two points located 25 feet from the corner intersection of and along the respective right-of-way line of each side street. Such obstructions shall include, but not be limited to, signs and signposts, levies, hedges and hedgerows, shrubbery, trees and other natural vegetation, embankments, retaining walls, or any other obstruction to the view higher than 36 inches above the level of the center of the adjacent and corresponding intersection.

(2) The foregoing division shall not apply to public utility poles, official traffic or public safety signs, advertising signs, the lowest portion of which shall be nine feet or more above the level of the intersection and mounted on supporting column(s) less than 12 inches in diameter, trees that are trimmed and free of branches to a minimum height of nine feet above the level of the intersection, or saplings or other vegetation not planted in hedge and that are so planted and trimmed so as to leave at all seasons a clear and unobstructed view of the intersection.

(C) *Dangerous trees.* Any tree or shrub that overhangs any sidewalk, street or public space in the city in such a way as to impede or interfere with traffic or travel on such public place or that obstructs any street lamp or interferes with the fire alarm wires, shall be trimmed by the owner of such tree or shrub so that the obstructions shall cease. Any limb of a tree that has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands.

(D) *Fencing and walls.*

(1) Permit requirements.

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(a) No person shall install, replace, or reconstruct a fence or wall in the city without first obtaining a Fence Permit and complying in all respects with the terms and conditions and this section. A Fence Permit is not required for painting, maintenance, or repair or replacement of less than 16 lineal feet.

(b) A scaled site plan must be submitted with the Fence Permit Application that shows the following:

1. The location, type and height of the proposed fence;
2. Distances of the proposed fence from lot lines and other improvements on the property;
3. Location of driveway(s);
4. Location of public streets, sidewalks, and alleys;
5. For fence subject to the 50% solid limitation, an accurate and dimensioned drawing or illustration of the fence is required; and
6. Such other information as may be reasonably required to determine compliance with city codes and ordinances.

(2) Completion of installation. A fence or wall authorized by a Fence Permit shall be fully installed in accordance with this section and permit conditions, within 180 days of the date of the permit issuance. A Fence Permit shall expire 180 days after the date of issuance. After a Fence Permit expires, no work requiring such a permit shall be commenced, resumed or undertaken until a new permit is issued or the original permit is extended. The permit applicant may file a written request for an extension of the Fence Permit stating the reason for the request, for up to 180 additional days to complete the fence installation. The Zoning Official, in administering this code, shall grant the request if good cause is shown.

(3) Responsibility of applicant. The applicant is solely responsible for installing the fence or wall:

(a) Within the boundaries of their property determined by survey, in compliance with this section and the Permit, including but not limited to, proper materials, height, setback, and vision clearance;

(b) In compliance with any subdivision covenants or restrictions, deed restrictions, utility easement restrictions, land use restrictions of record, including applicable plan review and approval or waiver requirements;

(c) In a manner as will not obstruct storm water drainage, violate a city approved storm water plan or unreasonably divert storm water on the property of another; and

(d) Without damaging any underground utilities.

(4) Existing fences and walls. Any fence or wall existing upon the effective date of this section shall not be enlarged, extended or replaced, except in strict compliance with all of the requirements of this section, except that existing fences that are damaged less than 50% of replacement value may be rebuilt, but no residential fence to be rebuilt may include barbed wire or other sharp edge material such as razor wire.

(5) General standards.

(a) Fences and walls must be constructed in a substantial, workmanlike manner. They shall be constructed, and shall include line, gate, and corner posts securely anchored to the ground, all in conformance with generally accepted good fence construction practices.

(b) Fences and walls shall be designed and constructed in a uniformly consistent manner and shall have a neat, clean, and finished appearance. Used materials shall not be utilized for fence construction unless the materials are refurbished in an appearance and structure to approximate new material.

(c) All fences facing streets and alleys shall be installed so that the finished side of the fence is exposed to the public view and the parts of the fence structure (horizontal and vertical support posts, etc.) are exposed to the view of the property owner. Fences facing properties other than streets and alleys may be erected with the finished side facing either inward or outward.

(d) Post spacing shall be equidistant except to accommodate gates or a repeating architectural design.

(e) Fences and walls shall be maintained in an upright condition.

(f) Any fence or wall which is or has become dangerous to public safety, health, or welfare, is considered a public nuisance. The Zoning Official may start proper proceedings for an abatement.

(g) Boundary line fences and walls will be located entirely upon the private property of the person constructing or causing the construction of the fence or wall unless the owner of the property adjoining agrees, in writing, that a fence or wall may be erected on the division line of both properties.

(h) Civil disputes over the location of a fence or wall at adjoining private properties are not within the enforcement authority of the city to resolve.

(i) Fences and walls placed within easements are subject to removal by city and utility maintenance workers if such becomes necessary to permit access for the purpose of installing, repairing, cleaning, replacing, or rehabilitating city utility or drainage facilities located or proposed within the easement. The locations where easements are crossed by fence installations, locked gates may be required to allow vehicular access. Acceptable provisions to allow access into underground structures are required when fences and walls are placed over such facilities.

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(j) Schools, public parks, and/or playgrounds may erect open-mesh fences within accepted industry standards, and fencing surrounding tennis courts and baseball and/or softball field backstops may be erected in conformance with accepted industry standard, as long as other provisions of these regulations are met.

(k) No fence or wall shall be installed in any yard that will shield any window or opening in a habitable space of a dwelling. A minimum distance of three feet shall be maintained between any solid fence or wall and any such window or opening in a dwelling.

(l) No advertising signs are allowed on fences or walls.

(m) It shall be the responsibility of the property owner to insure that a fence or wall does not block or obstruct the flow of storm water.

(6) Approved fence materials.

(a) Front yard fences shall be 50% open (see-through) and be of ornamental design, i.e., split rail, wrought iron or picket. Chain link fences shall not be located within any portion of the front yard.

(b) Fences or walls to be situated in side and/or rear yards shall be constructed using materials suitable for residential-style fencing, including but not limited to brick, fieldstone, wrought iron, vinyl, chain link, stockade, or board-on-board wood.

(c) Chain link/open mesh fences, wherever permitted, will be constructed so that the barbed end is at the bottom of the fence and the knuckle end is at the top. Chain link/open mesh fences shall not contain strips or slats among the links.

(d) Agricultural/farm fences shall not be permitted on properties that have been used for the purpose of enclosing livestock or other agricultural activities within the preceding 24 month period. Agricultural/farm fences are those fences consisting of chicken wire, deer fence, hog wire, high tensile, wire strand, used in the agricultural, farming and livestock business, specifically for livestock, animal and bird control.

(e) No fence or wall shall be constructed of used or discarded materials in disrepair, including but not limited to pallets, tree trunks, trash, junk, or other similar items. Materials not specifically manufactured for fencing, such as railroad ties, wooden doors, landscape timbers or utility poles shall not be used for or in the construction of a fence.

(7) Fence standards for residential districts. All fences in residential districts shall comply with the following standards in addition to the general standards and approved fencing materials:

(a) Fences within any portion of the front yard extending across the full width of the lot and lying between the street frontage of the lot and the front yard setback as set forth in the Zoning Ordinance, shall not exceed 42 inches in height, and posts and/or decorative finials together may add no more than six inches to the total height.

- (b) The maximum height of fences and walls located in a rear or side yard is eight feet.
- (c) All fences and walls shall comply with division (B) of this section (visibility triangle).
- (d) No fence or wall shall be located within one foot of a sidewalk.

(e) Electric fences at a height of no more than five and one-half feet are allowed in rear and side yards when: completely enclosed by another fence or wall that is not charged with electricity, is opaque and does not have barbs, spikes, or dangerous projections, and said outer fence is at least six and one-half feet in height.

(f) No residential fence may include barbed wire or other sharp edge material such as razor wire. Existing fences including barbed wire or other sharp edge material shall be considered nonconforming and may not be extended or replaced except in conformance with this section.

(g) All fences or walls on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises for any single direction except as otherwise permitted or required in this section.

(8) Fence standards for commercial and industrial districts. All fences and walls in commercial and industrial districts shall comply with the following standards in addition to the general standards:

(a) Location.

1. In order to maintain clear vision lanes for vehicles and pedestrians, no opaque faces shall be permitted within 10 feet, in any direction, of the following points:

(i) At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk),

(ii) At the intersection of a driveway and public right-of-way, and

(iii) At the intersection of any two driveways.

2. All fences and walls shall comply with division (B) of this section (visibility triangle).

3. No fence or wall shall be located within one foot of a sidewalk.

(b) Material and construction.

1. Electric fences are allowed only when completely enclosed by another fence or wall that is not charged with electricity, is opaque, and does not have barbs, spikes, or dangerous projects, and said outer fence is at least six and one-half feet in height and is located within a rear or side yard.

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2. A fence may be topped with barbed wire or other sharp edged materials when:
 - (i) Included as a security fence as part of an approved development plan; and
 - (ii) Such materials are located above a height of six and one-half feet.
3. Only ornamental fences shall be permitted in the front yard setback unless required by these or other governmental regulations.

4. All fences and walls on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises for any single direction.

(c) Height.

1. Unless otherwise permitted or required in this section, fences and walls within any portion of the front yard extending across the full width of the lot and lying between the street frontage of the lot and the front yard setback as set forth in the Zoning Ordinance, shall not exceed 42 inches in height, and posts and/or decorative finials together may add no more than six inches to the total height.

2. Unless otherwise permitted or required in this section, the maximum height of fences and walls located in a rear or side yard is eight feet.
(Ord. 26, passed 10-24-67; Am. Ord. 358, passed 8-16-04)

§ 154.046 OFF-STREET PARKING REQUIREMENTS.

(A) For the purpose of this section, calculations for parking space shall not be included in any part of any required front yard or the first five feet for commercial districts.

(B) Off-street parking space as required in this section shall be provided for all new buildings and structures and for additions to existing buildings or structures. The word "additions" as used above shall include any alteration intended to enlarge or increase the capacity of a building or structure by adding or creating dwelling units, guest rooms, floor area, or seating capacity. Required parking space may include existing parking space and such space shall be maintained and shall not be encroached upon so long as main buildings or structures remain, unless an equivalent number of such spaces are provided elsewhere in conformance with this chapter. The parking spaces required for other uses shall be located on the same site with the main building or within 660 feet of such use, the distance to be measured along lines of public access.

(C) Number and size of parking spaces.

(1) In the interpretation of the following requirements, entrance and exit drives to the parking lots shall not be included in computation to determine the number of required parking spaces.

(2) Each off-street parking space shall measure nine feet by 34 feet inclusive of space necessary for access to a street or alley.

(3) All off-street parking areas must be paved with 2½ inches of hot mix asphalt over eight inches of compacted gravel or paved with six inches of concrete except for open-air markets that are open to the public two days a week or less. Open-air markets open two days a week or less shall be paved with four inches of compacted SB-2.

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- (a) Offices, business and professional: One space per 100 square feet of gross floor area.
- (b) Clinics, medical or dental, for human treatment only: five spaces for each employee.
- (c) Barber shops, beauty parlors: One space per 100 square feet of gross floor area plus one space per employer/employee.
- (d) Custom dressmaking or millinery shops, clothes cleaning and pressing pick-up agencies, tailor shops, confectionery stores: one space per 100 square feet of gross floor area.
- (e) Hotels and motels: One for each housekeeping unit, suite or room.
- (f) Eating and drinking places: One space per two seats intended for customer use.
- (g) Retail sales: One per 300 square feet of gross floor area.
- (h) Motion picture theater: One space per two seats.
- (I) Gymnasiums, athletic clubs, private clubs, fraternity and sorority building: One space per 100 square feet of floor area.
- (j) Bowling alley: Five spaces per alley plus one space per employee.
- (k) Automobile retail sales, auto supply, and auto repair: One space per 100 square feet of floor area.
- (l) Service station: All outdoor space intended for use and service and parking shall be paved with 2½ inches of hot-mix asphalt over eight inches of compact gravel or paved with six inches of concrete.
- (m) Drive-in restaurant: 3.2 spaces per 100 square feet of area.
- (n) Open-air markets: One space per 200 square feet of sales area. All driveway access must be approved by the Zoning Administrator.
(Ord. 26, passed 10-24-67; Am. Ord. 101, passed 4-11-77; Am. Ord. 135, passed 4-11-83)

§ 154.047 CONDITIONAL USES.

(A) The Planning Commission may after a public hearing, permit special uses as outlined in the various districts where such uses are deemed to be essential or desirable to the public convenience or welfare.

(B) Written application for the approval of the uses classified as special uses shall be filed with the Southeast Arkansas Regional Planning Commission's office or at the City Hall upon forms prescribed for that purpose by the Planning Commission.

(C) The procedure for holding public hearings shall be the same as that required in § 154.093 of this chapter.

(D) The Planning Commission shall make its findings and determination in writing within 40 days from the date of filing of an application and shall forthwith transmit a copy thereof to the applicant.

(E) In approving special uses, the Planning Commission shall have authority to impose such conditions as it deems necessary to protect the public's health, safety and general welfare.

(F) In addition to the requirements for conditional uses stated above in divisions (A) through (E) of this section, the following provisions shall be satisfied for child care facilities:

(1) Child care facilities may be operated for a period of not more than 12 hours and only between the hours of 6:00 a.m. and 8:00 p.m. The Planning Commission may waive these hours of operation on a case by case basis if the proposed hours of the facility are compatible with the surrounding uses.

(2) There shall be provided one paved off-street parking space for each staff member, with two spaces being the minimum number of parking spaces required, as well as a paved loading and unloading area for children.

(3) Thirty-five square feet per child of usable floor space shall be required for indoor play. For the purpose of computing this area, hallways, bathrooms, and kitchen floor space shall not be included.

(4) There shall be not less than 75 square feet of usable outdoor play space for each child receiving care in the facility. Such outside play space shall be completely enclosed with not less than a four-foot chain link fence.

(5) All such applicants for child care facilities must evidence that the State of Arkansas Social Services Division, Department of Social and Rehabilitation Services, agrees that the applicant can satisfy any and all state requirements in addition to those noted herein.

(G) In addition to the requirements for conditional use stated above in divisions (A) through (F) of this section, the following provisions shall be satisfied for recreation centers: Recreation centers shall not be located less than 300 feet from any residential zone property.

(H) In addition to the requirements for conditional uses stated above in divisions (A) through (G) of this section, the following provisions shall be satisfied for billboards:

(1) Billboards shall be located only on streets designated on the White Hall Master Street Plan as major arterial streets.

(2) Each billboard shall have a maximum of two sign faces, one per side, supported by the same structural foundation. In no case will the maximum area of a single sign on one facing be more than 1,200 square feet, nor will it exceed a length of 60 feet or a height of 25 feet inclusive of any border and trim but excluding ornamental base or apron supports and other structural members.

- (3) No billboard shall be located within 3,000 feet of another billboard. This spacing requirement shall be measured linearly along the center line of the street to which the billboard is directed and the measurement shall apply to both sides of the street, except that each side of the street shall be considered separately on streets with medians.
- (4) A billboard, including the facing and supporting structures, shall meet the following setbacks:
- (a) The front yard setback shall be 70 feet from the center of the road or 20 feet from the property line, whichever is greater.
 - (b) The side yard (street) setback shall be 15 feet.
 - (c) The side yard (interior) setback shall be 10 feet when abutting a C-2 or M-1 zone and 20 feet when abutting all other zones.
 - (d) The rear yard setback shall be 20 feet.
- (5) The maximum height of a billboard shall not exceed 45 feet above grade level except that billboards located within 200 feet of a divided highway may be elevated a maximum of 45 feet above the level of the highway at the point on the highway perpendicular to the center of the sign.
- (6) If a billboard is erected in conformance with the zoning regulations and any conditions placed upon it by the Planning Commission, and subsequently the view of one or both of the full facings of the billboard at any point described above is materially obstructed, the sign facing shall be considered no longer functional. (An obstruction shall be deemed to be of a material character when it renders the essential elements of the sign unreadable.) The owners of the billboard may be given the option to replace the sign facing(s) in the event it (they) becomes obstructed and considered no longer functional, however, a sign facing that is obstructed in excess of 60 days shall be required to be removed.
- (7) When a conditional use application shall be filed for the establishment of a billboard in the city, the application shall be accompanied by a professional survey drawn to scale that shows the location of the proposed billboard in relation to all property lines, all existing structures and existing parking and driveway facilities, and the location of the outside curb or edge of pavement of the arterial street on which the billboard will be located.
- (I) In addition to the requirements for conditional use stated above in § 154.047(A) through (E), the following provisions shall be satisfied for accessory dwellings.
- (1) One accessory dwelling may be placed on a parcel with one existing single family dwelling which is the primary residence, or constructed on the parcel at the same time as the primary residence, provided all requirements of this section are met. One of the dwelling units shall be occupied by the land owner. Accessory dwellings shall not be permitted on parcels with duplexes.

(2) The accessory dwelling shall be a site-built structure. Mobile homes, manufactured or modular housing, or metal structures built off-site and intended to be moved onto a residential lot for storage purposes are not permitted as accessory dwellings. An existing accessory structure meeting this requirement may be converted to an accessory dwelling provided that upon completion it will meet the requirements of this section and the city building codes.

(3) The accessory dwelling may be a stand-alone structure or may be a two-story type of construction when the ground floor is occupied as an automobile garage or accessory storage for the primary residence on the lot.

(4) The maximum permitted floor area of an accessory dwelling shall not exceed 700 square feet nor shall it exceed, when added to the principle dwelling, 35% of the total lot area.

(5) *Setbacks.* A stand-alone accessory dwelling shall be located in the back yard of the principle residence and be located at a minimum ten feet from the principle residence. Side yard setbacks shall be the same as for the principle residence. The rear yard setback shall be ten feet from the rear property line. If the accessory dwelling is a two-story type of construction and the ground floor is occupied as an automobile garage for the primary residence on the lot, the structure may be located beside or be attached to the primary residence provided that said structure meets the setback requirements of its zone.

(6) One off-street paved parking space located behind the front yard setback of the primary residence is required for an accessory dwelling. Said parking space shall be in addition to the parking required for the principle residence.

(7) No accessory dwelling shall exceed the permitted height of the district.

(J) Implementation of conditional uses permitted under the requirements of this section shall begin within six months of the date the permit was granted or the permit will be voided. A six-month extension of this requirement may be granted by the Zoning Administrator if the permittee can show that unavoidable circumstances have delayed the implementation of said conditional use permit. Extension requests must be submitted to the Zoning Administrator in writing and must state the reasons the extension is needed. If a conditional use permit becomes void under this regulation, and the petitioner wishes to pursue said conditional use, a new conditional use application must be submitted, and all regulations of this section must be adhered to.

(Ord. 26, passed 10-24-67; Am. Ord. 101, passed 4-11-77; Am. Ord. 113, passed 12-11-78; Am. Ord. 202, passed 5-11-92; Am. Ord. 248, passed 12-16-96; Am. Ord. 259, passed 2-17-98; Am. Ord. 428, passed 8-16-10; Am. Ord. 435, passed 5-16-11)

§ 154.048 OUTDOOR LIGHTING.

In order to protect the privacy of property owners by limiting the potential for glare and light trespass from outdoor lighting fixtures located on adjacent properties, and to protect drivers, pedestrians, senior citizens, and the visually impaired from the glare of non-vehicular light sources that can impair safe travel, the following regulations shall be applied as follows:

(A) Applicability.

(1) All outdoor lighting fixtures installed on private and public property after the effective date of this section shall comply except as set forth herein.

(2) All outdoor lighting fixtures existing and legally installed and operative before the effective date of this section are exempt from these requirements unless they are determined to create a disabling glare.

(3) Replacement of existing fixtures shall meet the requirements of this section.

(4) In the event of a conflict with any other section of the White Hall Code of Ordinances, the more stringent requirement shall apply.

(B) Exemptions.

(1) Single-family and two-family residential uses;

(2) Street lights; however, street lights must meet the requirements of the State of Arkansas;

(3) Navigation lights (i.e., airports, heliports, radio/television towers);

(4) Special situations approved by the city for temporary or periodic events (i.e., parades, festivals, etc.);

(5) Seasonal lighting for a period up to 60 days when such lighting is not hazardous to vehicular traffic or disruptive to neighborhoods;

(6) Security lights of any wattage that function properly and are controlled by a motion-sensor switch and which do not remain on longer than 12 minutes after activation;

(7) Fossil fuel lighting; and

(8) Spotlighting on landscaping and foliage utilizing incandescent lamps or bulbs of not more than 150 watts.

(C) *General standards.*

(1) All outdoor lighting fixtures shall be designed, installed, located and maintained such that all direct illumination is kept within the boundaries of the fixture owner's property.

(2) Sports field lighting shall be designed in accordance with IESNA standards located in IESNA RP 6-01 "Sports and Recreational Area Lighting".
(Ord. 385, passed 4-18-06; Am. Ord. 386, passed 8-21-06)

PLANNED RESIDENTIAL DEVELOPMENT

§ 154.060 INTENT.

It is the intent of these conditions to accommodate creative and imaginative planned residential development and to permit those innovations in the technology of land development which are in the best interests of the city. In order to accomplish this intent, it is the purpose of these conditions:

(A) To permit, in a planned residential development, a variety of dwelling types, including single-family, two-family, and multi-family dwellings of the townhouse, garden apartment, and highrise types, and a maximum density permitted in the district within which the planned residential development is proposed; and

(B) To permit the flexible spacing of lots and buildings in order to encourage:

(1) The separation of pedestrian and vehicular circulation,

(2) The conservation of natural amenities of the landscape,

(3) The provision of readily accessible open space,

(4) The creation of functional and interesting residential areas, and

(5) The provision of a necessary complement of community facilities.

(Ord. 101, passed 4-11-77)

§ 154.061 PERMITTED USES.

The Planning Commission may permit the following uses in a planned residential development:

(A) Single-family dwellings.

(B) Two-family dwellings.

(C) Multi-family dwellings which may exceed the height limitations of the zoning district in which the project is located.

(D) Accessory service and nonresidential uses. Customary accessory or associated uses such as private garages, storage spaces, community facilities, and schools shall be permitted as appropriate and clearly incidental to the uses permitted on the same premises.

(E) Open space which may include, along with the natural environmental features, swimming pools, tennis courts, and other recreational facilities deemed permissible by the Planning Commission. These facilities are to be used mainly by the residents, and their guests, of the development in which the facilities are located. Streets, parking lots, structures for habitation or storage, and the like shall not be included as part of the required open space and recreational facilities.

(Ord. 101, passed 4-11-77)

§ 154.062 AREA, DENSITY, LOT AND HEIGHT REGULATIONS.

(A) *Minimum area for development.* A planned residential development shall contain a minimum of ten acres. All land within the development shall be contiguous in that it shall not be divided into segments, by any limited access highway, and any tract of land (other than streets or rights-of-way for pipeline or electrical transmission lines) not owned by the landowner of the planned residential development.

(B) *Maximum density of residential development.* A planned residential development shall not exceed the densities prescribed for the district in which it is located. Planned residential developments which exceed 50 acres may have a maximum density exceeding by 10% the densities prescribed for the district in which it is located.

(C) *Minimum requirements.*

(1) Yard setback, type of dwelling unit, frontage and use restrictions contained in other sections of this chapter are hereby waived for planned residential development, provided that the intent and objectives of § 154.060 are complied with in the total development plan, as determined by the Planning Commission. Building separation shall be maintained in accordance with the requirements of the fire code and other safety codes of the city and in accordance with good design principles.

(2) Every dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

(D) *Perimeter requirements.* If topographical or other barriers within the development do not provide reasonable privacy for existing uses adjacent to the development, the Planning Commission shall impose either of the following requirements or both:

(1) Structures located on the perimeter of the development must be set back in accordance with the provisions of the zoning code controlling the area within which the development is situated; and,

(2) Structures located on the perimeter of the development must be well screened in a manner approved by the Planning Commission.

(E) *Height regulations for multi-family dwellings.* No structure shall exceed 70 feet in height

above the average finished grade line in the R-2 (multi-family district) nor exceed 50 feet in the R-1 (single-family district).

(Ord. 101, passed 4-11-77)

§ 154.063 STREETS.

(A) *Interior streets.*

(1) Interior residential access streets shall be paved according to (city or county) specification for residential streets, as delineated in the subdivision regulations and properly lighted and maintained. Their minimum paved roadway width shall be as follows:

Two-way without parking	20 feet
Two-way road with parking on one side where approved	28 feet
One-way road with parking on one side where approved	18 feet

(2) Parking along access roads shall be subject to approval of the Planning Commission and the City Safety Director.

(B) *Collector streets and major thoroughfares.* Collector streets and major thoroughfares shall be designated as such by the developer upon the submission of general plans as provided for in § 154.071. Such designations shall be subject to modification by the Planning Commission so that an efficient circulation system is established in relation to other existing or planned streets in the area. There shall be no direct access from single-family residential lots to a major thoroughfare, and direct access from single-family residential lots to collector streets shall be maintained.

(Ord. 101, passed 4-11-77)

§ 154.064 OFF-STREET PARKING.

There shall be provided outside the public or private right-of-way a minimum of two parking spaces for each dwelling unit or in an area designated for guest parking as deemed appropriate, common driveways, parking areas, and lighted for night use. Screening of parking or service areas may be required through the use of trees, shrubs, hedges, and screening devices. All parking spaces and service drives shall be improved with bituminous, concrete, or equivalent surfacing and so graded and drained as to control the release of all surface water accumulation within the area.

(Ord. 101, passed 4-11-77)

§ 154.065 COMMON OPEN SPACE.

(A) *Amount and character.* At least 25% of the total acres in a proposed development permitted by this section shall be dedicated to public and/or private open space or recreation facilities exclusive

of dwellings, streets, parking areas, and single-family residential lots. Such open space shall be clearly shown on the general plan, shall be physically situated so as to be readily accessible, available to, and usable by all residents of the planned residential development.

(B) *Conveyance and maintenance of common open space.*

(1) All common open space shown on the final development plan and recorded in the office of the City Clerk-Treasurer must be conveyed in accordance with one of the following methods:

(a) The proposed dedication as publicly owned and maintained open space must be acceptable to the city with regard to the size, shape, location, and improvements. In addition, the developer must show that dedication of such areas will be to the city.

(b) By leasing or conveying title (including beneficial ownership) to corporation, home associations or other legal entity. The terms of such lease or other instrument of conveyance must include provisions suitable to the Planning Commission for guaranteeing:

1. The continued use of such land for intended purposes;
2. Continuity of proper maintenance,
3. When appropriate, the availability of funds required for such maintenance;
4. Adequate insurance protection; and
5. Recovery for loss sustained by casualty, and condemnation or otherwise.

(2) In any event, the developer must file in the City Hall, at the time the approved final subdivision map is filed, legal documents which will produce the aforesaid guarantees and, in particular, will provide a method for restricting use of common open space for the designated purposes.

(Ord. 101, passed 4-11-77)

§ 154.066 PEDESTRIAN CIRCULATION.

The pedestrian circulation system and its related walkways shall be insulated as completely and as reasonably as possible from the vehicular street system in order to provide separation of pedestrian and vehicular movement.

(Ord. 101, passed 4-11-77)

§ 154.067 UTILITIES.

A planned residential development shall provide for underground installation of utilities (including

electricity and telephone) in public ways and extensions thereof. Utility installation and maintenance of facilities shall be in accordance with the requirements and regulations of the appropriate White Hall District authority having jurisdiction thereof. A planned residential development shall not be approved unless adequate assurance is given that adequate public or central water and sanitary sewers will be available at the first occupancy.

(Ord. 101, passed 4-11-77)

§ 154.068 PRIVACY.

Each planned residential development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, insulation, walls, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, or uses and reduction of noise.

(Ord. 101, passed 4-11-77)

§ 154.069 EROSION AND SEDIMENTATION CONTROL.

Effective erosion and sediment controls shall be planned and applied according to the following principles:

(A) The smallest practical area of land should be exposed at any one time during development.

(B) When land is exposed during development, the exposure should be kept to the shortest practical period of time.

(C) Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development.

(D) Sediment basins (debris basins or silt traps) shall be installed and maintained to remove sediment from run-off waters from land undergoing development.

(E) Provisions shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development.

(F) Permanent final vegetation and structures shall be installed as soon as practical in the development.

(G) The development shall be fitted to the topography and soils so as to create the least erosion potential.

(Ord. 101, passed 4-11-77)

§ 154.070 SUBDIVISION REVIEW.

(A) It is the intent of this chapter that subdivision review under the subdivision regulations be carried out as an integral part of the review of a planned residential development under this chapter. The plans required under § 154.073 of this chapter must be submitted in a form which substantially will satisfy requirements of the subdivision regulations for final plan approvals. However, if any provisions of this chapter and the subdivision regulations are in conflict, the more restrictive or detailed requirements shall be met, unless specifically waived or altered by the Planning Commission.

(B) It is the intent of this chapter to permit the submission of subdivision applications for the whole, a part, or parts of the overall planned residential development.
(Ord. 101, passed 4-11-77)

§ 154.071 GENERAL PLAN APPROVAL PROCESS.*(A) General plan submission.*

(1) At the time of application for a conditional zoning certificate, a general plan for the development of the land shall have been filed with the Planning Commission by the owner or owners of the land involved. The general plan (which may be set forth on one or more maps or in one or more instruments) shall have been signed by all owners of property within the project, shall have been drawn to a scale and shall have been prepared by an architect, landscape architect, or planner-in-charge authorized to practice in the city.

(2) All general plans for the establishment of a planned residential district shall be presented to the Planning Commission with an application in the form to be prescribed. The Planning Commission shall charge for processing of the application of the proposed improvements a fee of \$100 for each application.

(a) The general plan shall include a declaration by the developer which furnishes the following:

1. A general statement regarding the nature, acreage, and location of open space, and descriptive data as to the methods to be employed for guaranteeing its continuity and maintenance;
2. The general location and purpose of all nonresidential structures;
3. The areas of the project to be used for single-family dwellings; two-family dwellings; townhouses, garden apartment buildings indicating for each such area the number of housing units by type and size, and the number of bedrooms per unit of each class of housing proposed in any given area;
4. The total population density for the project in number of housing units;

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5. Descriptive data concerning the sewer, water, and storm drainage facilities within the project, identifying the entity whether public or private to whom such facilities are to be dedicated or transferred; and

6. General description of the availability of other community facilities, such as schools, fire and police protection services and cultural facilities, if any, and how these facilities are affected by this proposal.

(b) The general plan shall also include conceptual and schematic plans at a scale of 1" = 100' or less, incorporating the following elements:

1. An area map showing adjacent property owners and existing land uses within 200 feet of the parcel;
2. The boundaries of the project including a legal description of the rectangular survey of the parcel and the acreage therein;
3. Existing contours at one foot intervals, accompanied by outline of grading plans;
4. The proposed street system for the project, including designation of collection thoroughfares are indicated on the White Hall Master Street Plan, or where otherwise necessary for efficient vehicular circulation;
5. Drainage control including a plan showing provisions for control of erosion and sedimentation during and after construction; such plan shall be accompanied by documentation indicating the review and recommendation of said plan by the Jefferson County Soil Conservation District;
6. Location of main and accessory structures accompanied by an outline explaining intended heights, coverage, and treatment of yards within the project;
7. Location, size and landscaping of the proposed parking lots within the project;
8. Pedestrian circulation features, walks and paved areas within the project;
9. Landscaping and forestry features;
10. Principle ties to the community at large with respect to transportation, water supply and sewage collection and treatment;
11. General nature and location of public and private utilities and community facilities and services, including maintenance facilities within the project;
12. Recreational and other non-building areas designated within the project; and

13. Soil interpretive map indicating degree of limitation.

(c) Common open space information, including:

1. Percentage of acreage of common open space in each part of the project;
2. General nature of common open space use; and
3. Topographical factors affecting common open space.

(d) A document describing the proposed phasing program for the project for all dwelling units, non-dwelling structures, recreational and other common facilities, and open space improvements.

(B) *General plan approval.*

(1) The Planning Commission shall review the general plan and shall render a written report to the applicant within 60 days after the filing of an application for a conditional zoning certificate.

(2) The Planning Commission may call upon other public and/or private consultants necessary to provide a sound review of the project. These departments and/or consultants need only concern themselves with general conceptual merit, and in no way shall commit any further acceptance or rejection of detailed design elements required in the final approval of uses. (See § 154.072.) The written finding shall include the following:

(a) The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established;

(b) Whether there are adequate services and utilities available or proposed to be made available in the construction of the project;

(c) Whether the proposal meets the intent and objectives for planned residential developments as expressed in § 154.060;

(d) Whether the proposal meets all general regulations for planned residential development of Section III; and

(e) Whether the proposal meets all the general requirements pertinent to conditional uses as stated in this subchapter.

(3) Upon approval of the general plan by the Planning Commission, a conditional zoning certificate may be issued for the project. Therefore, the developer shall within two years prepare and secure final approval of uses for any specific area within the project or the overall project, or the conditional zoning certificate shall automatically expire. The implementation of the project is then

subject to further qualifications, requirements and provisions set forth below. No substantial change from the approved general plan shall be made without prior approval by the Planning Commission. (Ord. 101, passed 4-11-77)

§ 154.072 FINAL APPROVAL.

(A) *Final development plan.* Before such uses as were authorized by the Planning Commission's approval of the general plan and the issuance of the conditional zoning certificate for the overall project may be begun, a zoning certificate must be obtained for each structure, and only after final approval of uses has been obtained from the Planning Commission. For final approval of uses, the owner shall file a final development plan for any specific area within the project or the overall project with the Planning Commission together with a letter of application for such approval. Such final development plan must show the following:

(1) The area to be developed and the area to be devoted to open spaces for the use of all residents of the area with accurate acreage, courses, and distances are determined by a licensed engineer or surveyor who shall sign such plan and certify to accuracy thereof. The boundaries of any area for which final development plan approval is requested shall not be gerry-mandered to comply with the density and open space acreage criteria but shall be proportioned and allotted so that required open space is convenient to the residential properties included in the area submitted for final approval.

(2) The location and floor plans of all buildings, descriptive data as to the type of buildings, the number of dwelling units in each separate type and bedrooms per unit of apartment (multi-family dwelling) buildings, and the number of bedrooms in each apartment unit.

(3) A title guarantee or rider to an existing policy, prepared by a reputable title company, showing the legal description of the land which has been set aside for open space, and showing appropriate restrictions, limiting the use of such land to recreation and open space in perpetuity; granting owners and residents of the area to be developed a right and easement of use in such open space.

(4) A detailed plan setting forth the manner, means and proposed time of transfer of the land reserved for open space to a nonprofit entity and the obligations and rights of use of such open space by all residents of the area.

(5) A detailed landscaping plan for all areas proposed for parking, two-family, and multi-family development.

(B) *Conditions for final approval of uses.* The Planning Commission shall review the final development plan and approve, modify and approve or disapprove an application for final approval of uses and transmit notice thereof to the applicant within 30 days after the filing of an application for final approval of uses in planning unit residential development. The Planning Commission shall give the final approval of uses only upon finding that the following conditions are met:

(1) No applicable, general or specific requirement of the zoning ordinance, as existing at the time of general plan approval, is violated by the final development plan.

(2) The final development plan accurately sets forth the area to be developed and the area to be set aside as open space with appropriate boundaries established by course and distances and the acreage within the area to be approved is set forth as well as the acreage of the area to be set aside as open space for the use of all residents of the area.

(3) The final development plan is substantially in accordance with the general plan which had been previously filed with and approved by the Planning Commission and for which the conditional zoning certificate had been issued.

(4) The density of dwelling units in any area does not exceed that shown on the general plan. The overall density of the district has not been exceeded with respect to the total figure shown on the general plan.

(5) The area reserved for open space and recreation in the sum of all areas for which final development plan approval has been given or is requested shall never be less than 25% of the cumulative acreage of all areas for which final development plan approval has been given or requested.

(6) Satisfactory progress has been made in previously approved segments with respect to the provision and improvement of indicated recreational facilities.

(7) The final development plan accurately sets forth a schedule demonstrating proportionate development of the open space and recreational facilities in conjunction with the total project. A performance bond may be allowed to substitute for actual construction. Any such construction covered by a performance bond shall be completed within one year. The amenities included in each phase shall be, in effect, completed prior to the issuance of occupancy permits.

(Ord. 101, passed 4-11-77)

§ 154.073 SUBDIVISION PROCESSING.

(A) *Subdivision plans.* Within six months of final approval of uses for any specific area within the project or the overall project, subdivision plans for the area shown on the final development plan shall be submitted in accordance with the subdivision regulations. Subdivision plans shall show the following:

(1) Exact engineering data on boundaries, streets and ways, easements, parcels for sale and monuments, in accord with subdivision regulations.

(2) Monuments for angles and intersection points on survey line of public streets.

(3) Cross reference to recorded final development plan.

(B) *Documents.*

(1) At the time subdivision plans are filed with the Planning Commission, the developer shall also file:

- (a) Project cost estimates for all public improvements in the subdivision plan.
- (b) Other statements required by the subdivision regulations.

(2) Within 60 days after the complete subdivision application is filed, with all necessary documents and exhibits, the Planning Commission must approve, approve and modify or disapprove it.

(3) Upon approval of the subdivision application, the Planning Commission shall notify the applicant, by certified mail, and thereafter upon payment of the required fee by the applicant, the maps and other related documents may be recorded in the office of the City Clerk-Treasurer.

(Ord. 101, passed 4-11-77)

§ 154.074 FAILURE TO BEGIN.

(A) If no construction has begun in the planned residential development within one year from the approval of a final subdivision plan for the overall project or any part thereof and recording the documents, final approval of uses shall lapse and be of no further effect. The Planning Commission, for good cause, may extend for periods of up to one year the time for beginning construction.

(B) If an approved final approval uses shall be provided herein, notice of such lapse shall be recorded by the Planning Commission, and thereafter such approval be considered as having been revoked.

(C) Nothing herein shall be considered as effecting such lapse and revocation if the developer commences construction. If construction commences, the final approval of uses approval may be modified only in accordance with § 154.075.

(Ord. 101, passed 4-11-77)

§ 154.075 ALTERATIONS, ADDITIONS OR DELETIONS.

The development shall conform to the approved final development plan and the approved subdivision plan. The applicant, his successors and assignees shall make no alterations, additions or deletions to the final development plan, the related documents, or to the site, except as provided herein. Upon final approval of uses, changes may be made only pursuant to a new submission of a planned residential development application which shall be processed and approved in accordance with

this chapter. The Planning Commission may authorize minor changes, provided that the overall density is not increased, without a new planned residential development application.

(Ord. 101, passed 4-11-77)

§ 154.076 PHASING.

(A) The establishment of common open spaces and construction of public or common recreational facilities shown on the recorded final development plan together with the construction of other nonresidential structures shall proceed substantially in accordance with the phasing program referred to in § 154.071(A)(2)(d), General Submission, herein.

(B) After general construction commences, the developer shall submit progress reports every six months to the Planning Commission who shall review all building permits issued and compare them to the overall development phasing program. If it is determined that the rate of construction of residential units or nonresidential structures substantially differs from the phasing program, they shall so notify the developer in writing.

(C) Thereafter, the Planning Commission may issue such orders to the developer as it sees fit, and upon continued violation of this section may suspend the developer from further construction of dwelling units or nonresidential structures until compliance is achieved.

(Ord. 101, passed 4-11-77)

§ 154.077 VIOLATIONS.

(A) Whenever the Planning Commission shall find, in the case of any approved final development plan, that any of the terms, conditions, or restrictions upon which final approval of uses, § 154.072 herein, was granted are not being complied with, the Planning Commission may rescind and revoke such approval. Notice thereof shall be given in accordance with § 154.074.

(B) Violation of the final approval of uses for planned residential development, as approved shall constitute violation of the zoning code.

(Ord. 101, passed 4-11-77)

ADMINISTRATION AND ENFORCEMENT

§ 154.090 BOARD OF ZONING ADJUSTMENT.

(A) *Organization.* A Board of Zoning Adjustment is hereby created which shall consist of the Planning Commission as a whole and the Chairman of the one shall likewise be the Chairman of the other.

(B) *Meetings.* The Board of Zoning Adjustment shall establish regular meeting dates, adopt rules for the conduct of its business, establish a quorum and procedure, and keep a public record of all findings and decisions. Each session of the Board of Zoning Adjustment shall be a public meeting with public notice of the meeting and business to be carried on published in a newspaper of general circulation in the city, at least one time, seven days prior to the meeting.

(C) *Powers.* The Board of Zoning Adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations and may affirm or reverse, in whole or part, the decision of the enforcement officer.

(2) To hear requests for variances from the literal provisions of the zoning regulations in instances where strict enforcement of the zoning regulations would cause undue hardship due to circumstances unique to the individual property under consideration, and 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 zoning regulations. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the regulations. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure and to protect adjacent property.

(3) To hold hearings on, and decide the following exceptions to or variations of these regulations:

(a) To permit the extension of a district where the boundary line thereof divides a lot held in a single ownership at the time of adoption of these regulations.

(b) Interpret the provisions of these regulations in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map where the street layout on the ground varies from the street layout as shown on this map.

(c) Classify commercial or industrial uses which are likely to create hazards and reviews the locations of proposed industrial uses.

(4) The Board may hear applications and take such action as permitted on matters specifically referred to it under these regulations.

(Ord. 26, passed 10-24-67)

§ 154.091 APPEALS.

(A) An appeal shall be made to the Board of Zoning Adjustment by any person, group or organization, public or private, affected by a decision of the Zoning Administrator.

(B) An appeal petition stating the section of the zoning ordinance that is being appealed and the basis for the appeal shall be filed with the City Clerk 25 days before the Board of Zoning Adjustment's public hearing.

(C) A fee of \$50 shall be accompanied with the appeal petition.

(D) The Board of Zoning Adjustment shall hold a public hearing on the appeal. Notice of the appeal shall be published in a newspaper of general circulation in the city, at least seven days prior to the hearing.

(E) The Board of Zoning Adjustment shall either uphold the Zoning Administrator's decision, or concur with the applicant's appeal.

(F) Appeals from the decision of the Board of Zoning Adjustment shall be to a court of record within 30 days from the decision of the Board of Zoning Adjustment in accordance with Act 186 of 1957 General Assembly as amended, being A.C. §§ 14-56-401 through 14-56-425.
(Ord. 26, passed 10-24-67; Am. Ord. 316, passed 12-17-01)

§ 154.092 VARIANCE AND SPECIAL USE PERMITS.

(A) Variance requests shall be made by any property owner who desires to obtain a variance from the zoning regulations.

(B) A variance petition stating the section of the zoning regulations that the request is being made for, a drawing prepared to scale showing the variance requested, and statement as to why the variance request is being made shall be filed with the City Clerk 30 days before the Board of Zoning public hearing.

(C) A fee of \$75 shall accompany the variance request.

(D) The Board of Zoning Adjustment shall hold a public hearing on the appeal. Notice of the appeal shall be published in a newspaper of general circulation in the city at least seven days prior to the hearing.

(E) The Board of Zoning Adjustment shall hear requests for variances from the stated provisions of the zoning regulations in only where strict compliance with the provisions of the regulations would cause undue hardship due to the circumstance unique to the individual's property under consideration.

(F) The Board of Zoning Adjustment may grant variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the zoning regulations.

(G) The Board of Zoning Adjustment may impose conditions on the granting of the variance to insure compliance and protection to other adjacent property.

(H) Appeals of variance decision of the Board of Zoning Adjustment shall be to a court of record within 30 days from the decision of the Board of Zoning Adjustment in accordance with Act 186 of 1957 General Assembly as amended, being A.C. §§ 14-56-401 through 14-56-425.
(Ord. 26, passed 10-24-67; Am. Ord. 316, passed 12-17-01)

§ 154.092-1 CONDITIONAL USES.

(A) Conditional use request shall be made by the property owner who desires to use his or her property in accordance with one of the listed conditional uses as identified in the zoning regulations.

(B) A conditional use application giving the legal description of the property, the stated conditional use requested, a drawing of the property prepared to scale showing all the pertinent information concerning the use of the property and building on the property shall be filed by the property owner with the City Clerk 30 days of receipt of the Planning Commission.

(C) The property owner shall file with his or her petition proof that certified return receipt letters have been sent to all property owners owning property that adjoins the property for which the conditional use petition is being filed, including properties across any street or public right-of-way. The letter shall state what the proposed conditional use application is for, and the time and place where the public hearing will be held. The property owners who are to be notified as owners shall be those property owners as recorded in the County Assessor's office.

(D) A fee of \$75 shall accompany the conditional use request.

(E) The Planning Commission shall hold a public hearing on the conditional use request. Notice of the public hearing shall be published in a newspaper of general circulation in the city, at least one time seven days prior to the hearing.

(F) Following the public hearing the conditional use request may be approved in its entirety, modified, and/or conditions placed on the conditional use request to insure that conditional use request is compatible with the existing uses in the neighborhood and the intended use listed in the regulations.

(G) If the Planning Commission disapproves the proposed conditional use request, the reason for such disapproval shall be given in writing to the petitioner within 15 days from the date the Planning Commission acts on the request.

(H) Following the disapproval of the petitioner's request, the petitioner may appeal such disapproval to the City Clerk why he considers the Planning Commission's findings and decisions are in error. Such appeal shall be filed within 15 days after receipt of notice of the Planning Commission's action. Also an adjacent property owner may appeal the conditional use approval to the City Clerk why he or she considers the Planning Commission's findings and decisions are in error. Such appeals shall be filed within 15 days from the date the Planning Commission approves the conditional use request.

(I) The City Council may either send the petitioner's request back to the Planning Commission for further consideration or take any action the City Council feels is appropriate and is compatible with the existing land use within the neighborhood and in the best interest of the public health and safety of the city.

(J) No application for a conditional use request will be reconsidered by the Planning Commission within 12 months from the date of final disapproval unless the Commission finds a substantial reason exists for waving this limitation.

(Ord. 316, passed 12-17-01; Am. Ord. 327, passed 10-21-02)

§ 154.093 NOTICE OF PUBLIC HEARING.

Whenever an appeal or application for a variance or special use permit is made to the Board, the Board shall cause to have published at the expense of the appellant or applicant a notice of the time and place of the public hearing upon such appeal or application, which notice shall be published at least once not less than seven days preceding the date of such hearing in an official paper or a paper of general circulation in the city, the notice to designate the particular location with which the appeal or application is concerned, and a brief statement as to what the appeal or application consists of. The Board shall also give or cause to be given such additional notice of such hearing to interested persons and organizations as it shall deem feasible and practicable.

(Ord. 26, passed 10-24-67)

§ 154.094 AMENDMENTS TO ZONING REGULATIONS.

(A) *Amendments by public body.*

(1) The City Council may suggest that the Planning Commission amend the text of these regulations, or the Planning Commission itself may desire to initiate an amendment.

(2) Amendments to the text proposed by the Planning Commission shall be advertised in a paper of general circulation at least 15 days in advance of a public hearing to be conducted by the Planning Commission. After the public hearing, the Planning Commission shall make a report and recommendation to the City Council pertaining to the proposed amendment to the text. The City Council action on the report and recommendation shall be final.

(B) *Amendments by the city.*

(1) The City Council may suggest that the Planning Commission amend the text of the zoning regulations and/or the zoning classification as shown on the zoning map, or the Planning Commission itself may desire to initiate an amendment.

(2) Amendments to the text and/or map proposed by the Planning Commission shall be advertised in a paper of general circulation at least 15 days in advance of a public hearing to be conducted by the Planning Commission. After the public hearing, the Planning Commission shall make recommendations to the City Council concerning the proposed amendments. The City Council shall either approve or deny the recommendations or send the recommendations back to the Planning Commission for further study. After reconsideration by the Planning Commission, the City Council can take any action it deems appropriate on the Planning Commission recommendations.

(C) Amendments by individual property owners.

(1) A zoning amendment petition, giving the legal description of the property, zoning classification requested and a drawing prepared to scale showing the property requested to be rezoned shall be filed by the property owner with the City Clerk 30 days before the Planning Commission public hearing.

(2) The property owner shall file with his or her petition proof that certified return receipt letters have been sent to all property owners owning property that adjoins property for which the rezoning petition is being filed, including properties across any street or public right-of-way. The letter shall state what the existing zoning classification is, what the petitioner is requesting his or her property be rezoned as, and the time and place where the public hearing will be held. The property owners who are to be notified as owners shall be those property owners as recorded in the County Assessor's Office.

(3) A fee of \$100 shall accompany the special use request.

(4) The Planning Commission shall hold a public hearing on a proposed amendment. Notice of the public hearing shall be published in a newspaper of general circulation in the city, at least one time 15 days prior to the hearing.

(5) Following the public hearing, the proposed amendment may be approved as presented or in modified form by a majority vote of the Planning Commission membership. The Commission shall justify its recommendations to the City Council.

(6) If the Planning Commission disapproves a proposed zoning amendment, the reason for such disapproval shall be given in writing to the petitioner within 15 days from the date the Planning Commission acts on the petitioners request.

(7) The City Council, by majority vote, may by ordinance adopt the recommended amendment submitted by the Planning Commission or may return the proposed change to the Planning Commission for further study and recommendations. If the City Council does not concur with the recommendations of the Planning Commission, either as first submitted or as submitted after re-study, the City Council may, by a majority vote, amend these regulations by granting the request for a proposed change in zoning classification in full or in modified form.

(8) Following disapproval of a proposed amendment by the Planning Commission, the petitioner may appeal such disapproval to the City Clerk why he or she considers the Planning Commission's findings and decisions are in error. Such appeal shall be filed with the City Clerk within 15 days of receipt of notice of Planning Commission action.

(9) The City Council may review the action the Planning Commission has taken on the proposed amendment and may approve the proposed amendment only by not less than three-fourths vote of the Council membership.

(10) No application for a change in zoning classification will be reconsidered by the Planning Commission within 12 months from date of final disapproval unless the Commission finds a substantial reason exists for waiving this limitation.

(Ord. 26, passed 10-24-67; Am. Ord. 316, passed 12-17-01; Am. Ord. 327, passed 10-21-02)

§ 154.095 REGIONAL ZONING ADMINISTRATOR.

The Regional Zoning Administrator shall be responsible for the administration and enforcement of these regulations.

(Ord. 26, passed 10-24-67)

§ 154.096 ZONING PERMITS.

(A) No structure shall be erected, added to, or externally altered without a zoning permit. No building permit shall issued except in conformity with the provisions of these regulations, unless by written order of the Board of Zoning Adjustment.

(B) All applications for zoning permits shall show dimensions and shape of the lot to be built upon; the sizes and locations on the lot of structures already existing, if any, and the location and dimensions of the proposed structure or alteration. The application shall include such other information as lawfully may be required, including existing or proposed structural alterations; existing or proposed uses of structures and land; the number of families, housekeeping units, or rental units the structure is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, these regulations.

(Ord. 26, passed 10-24-67)

§ 154.097 CERTIFICATE OF OCCUPANCY.

(A) *Purpose.* Certificates of occupancy are required to ensure that completed structures and the development of property of which such structures are a part comply with the provisions of this chapter, as well as any site plans or conditional approvals for such structures and development, and other city regulations as pertain to construction and development.

(B) *Authority.* The Building Inspector shall have the authority and responsibility to issue and keep records of certificates of occupancy in accordance with the requirements set forth in this chapter.

(C) *Certificate of occupancy required.* No new structure or addition to an existing structure shall be occupied and no use of a building shall be changed unless a certificate of occupancy is issued therefor by the Building Inspector.

(D) *Procedure.*

(1) *Application.* A certificate of occupancy shall be applied for coincident with the application for a building permit and will be issued before occupancy and connection of utilities to such building.

(2) *Action on application.* The Building Inspector or his or her designated agent shall inspect the property which is the subject of an application within a reasonable time after a completed application has been filed and shall issue a certificate of occupancy if the premises of the property comply in all respects with the applicable development regulations in effect. If the premises do not so comply, the Building Inspector shall deny the application in a written notice mailed to the applicant within five days after the inspection of the property, specifying the provisions of which section with which the structure or development does not comply.

(3) *Contents of certificate of occupancy.* Information required for submission to obtain a certificate of occupancy shall include:

(a) Name of applicant.

(b) Nature and extent of the applicant's ownership interest in the subject property.

(c) Address of the property for which a certificate is requested.

(d) A legal description of the property, the zoning classification for the property, and a statement that the use of the property is allowed or permitted in the zoning classification for the property.

(e) If a site plan or other conditional approval for the structure or the development of which such structure is a part was required, a copy of any document granting such approval and plans approved in connection therewith.

(f) Such other information as requested by the building inspector to ensure conformance with applicable development regulations.

(4) *Temporary certificates of occupancy.*

(a) A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion of the building or other development

to the property. However, such temporary certificate may be issued only when the proposed construction or other proposed property development is an addition or modification to an existing structure or existing development. It also may be used for a transient use which, due to its nature, is not required to comply with permanent construction regulations.

(b) A temporary certificate of occupancy shall be valid for a period not exceeding six months. For additions or modifications to an existing structure or existing development, an extension of this time period for an additional six months may be granted by the Building Inspector if the applicant can show that circumstances beyond the applicant's control have caused delays in the project's completion. Upon expiration of the initial temporary certificate or extension thereof, the applicant of the addition or modification must apply for a certificate of occupancy. For transient uses, upon expiration of the temporary certificate, the structure must be removed from the site and may not be resituated on the site for a period of six months. However, when transient uses as defined in § 154.003 are for charitable purposes such as fund raising and are located on the site for a period of 72 hours or less, or when the uses are special events declared by the city, temporary certificates of occupancy are not required.

(c) A temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the city relating to the use or occupancy or any other matter required by this section.

(Ord. 260, passed 2-17-98)

§ 154.098 FEES.

The following fees shall be established for applications and permits provided for by these regulations to defray the costs of advertising, mailing notices, processing, inspecting, and copying applications, permits, and use permits:

(A) Zoning review: \$10;

(B) Minor impact home occupation: \$10;

(C) Conditional use permit, including major impact home occupation: \$75;

(D) Rezoning: \$100;

(E) Variance: \$35;

(F) Zoning Administrator appeal: \$35;

(G) Street and alley closing: \$100; and

(H) Manufactured home subdivision or park: \$50 plus \$2 per lot.

(Ord. 26, passed 10-24-67; Am. Ord. 260, passed 2-17-98; Am. Ord. 341, passed 5-19-03)

§ 154.099 NOTICE OF VIOLATION.

(A) If the Zoning Administrator shall find that the provisions of these regulations are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.

(B) Should the persons responsible for such violation fail to take the necessary action to correct it, the Zoning Administrator shall notify the Planning Commission and City Council of the violation and shall certify the violation to the City Attorney. The City Attorney shall thereafter apply to Chancery Court for an injunction mandamus, or other process to prevent, enjoin, abate, or remove said violation to these regulations.

(Ord. 26, passed 10-24-67; Am. Ord. 160, passed 4-14-86; Am. Ord. 260, passed 2-17-98)

§ 154.999 PENALTY.

Any person or corporation who shall violate any of the provisions of this chapter or fail to comply herewith or with any of the requirements hereof, or who shall build or alter any building in violation of any detailed statement of plan submitted and approved hereunder, shall be guilty of a misdemeanor and shall be liable of a fine of not more than \$100. Each day such violation is permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof where anything in violation of this chapter shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof, shall be fined as hereinbefore provided.

(Ord. 26, passed 10-24-67)