

TITLE 14

ZONING

Chapters:

- 14.04 Zoning Ordinance
- 14.08 Zoning Districts
- 14.12 Mobile Homes
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CHAPTER 14.04

ZONING ORDINANCE

Sections:

- 14.04.01 General provisions
- 14.04.02 Boundaries and zoning map
- 14.04.03 Rules of interpretation

14.04.01 General provisions No person shall cause or allow land use within the municipal boundaries or territorial jurisdiction of the city of Eureka Springs except in full compliance with these zoning district regulations. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other ordinances, the more restrictive standard shall apply. The City Council has the authority to determine that the city's zoning regulations require amendment from time to time. No vested rights shall be created by the city's land regulations. (Ors. No. 1816, 11-2-00)

14.04.02 Boundaries and zoning map

- A. The city is divided into zones, or districts, along with explanatory information as shown on the official zoning map and in this chapter. This official zoning map is hereby adopted by reference and declared to be a part of this chapter.

The official zoning map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the city of Eureka Springs under the following words:

"This is to certify that this is the official Zoning Map referred to in Section 2 of Ord. No. 1816 of the city of Eureka Springs, together with the date of the adoption of this ordinance."

When the official zoning map is amended in accordance with this chapter and Arkansas Act 186 of 1957, as amended, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the City Council, with an entry on the official zoning map as follows:

Ordinance Number, Ordinance Date, Map Amendment Date

No amendment to this chapter which involves matter portrayed on the official zoning map shall become effective until after such change has been made on said map.

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter and punishable as provided in this chapter. The official zoning map which shall be located in the office of the Mayor shall be the final authority as to the current zoning status of land and water areas, building, and other structures in the city; however ordinances which specifically amend any portion of a zoning district boundary shall have precedence over the zoning map until the zoning map has been conformed to the ordinance so amending it.

- B. A new official zoning map may be adopted by ordinance when initiated by the City Council or Planning Commission. Following a public hearing, the Planning Commission shall recommend a proposed new zoning map to the City Council. The City Council may by ordinance adopt the recommended zoning map submitted by the Planning Commission or may return the proposed map to the Planning Commission for further study and recommendation. The new official zoning map shall be identified by the signature of the Mayor attended by the City Clerk, and bearing the seal of the city under the following words:

"This is to certify that this official zoning map supersedes and replaces the official Zoning Map adopted (date of adoption of map being replaced) as part of Ord. No. 1816 of the city of Eureka Springs."

Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant remaining parts, shall be preserved, together with all available records pertaining to its adoption or amendment, and shall be used for historical information purposes only. (Ord. No. 1816, Sec. 114-2-1-2, 11-2-2000)

14.04.03 Rules of interpretation Where uncertainty exists as to the boundaries of districts as shown on the official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
- F. Boundaries indicated as parallel to or extensions of features indicated above shall be so construed. Distances not specifically indicated on the official Zoning Map (a-e) shall be determined by the scale of the map.
- G. Where physical or cultural features existing on the ground are different than those shown on the official Zoning Map, or in other circumstances not covered above, the Planning Commission shall interpret the district boundaries.
- H. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance (Nov. 2, 2000) the city may permit the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.
- I. Where any uncertainty exists as to the interpretation of these rules, the Mayor, or that person designated by the Mayor for such purpose, shall interpret their application, subject to appeal to the Planning Commission. (Ord. No. 1816, Sec. 114-3-1, 11-2-00)

CHAPTER 14.08**ZONING DISTRICTS****Sections:**

14.08.01	Zoning districts
14.08.02	Prohibited uses
14.08.03	Use conditions and exceptions
14.08.04	Accessory uses
14.08.05	Non-conforming uses
14.08.06	Parking requirements
14.08.07	Rezoning
14.08.08	Conditional use permits
14.08.09	Administration
14.08.10	Board of Zoning Adjustment Appeals
14.08.11	Fees
14.08.12	Conflicting provisions
14.08.13	Definitions

14.08.01 Zoning districts The following shall be the zoning districts of the city:

R-1	Victorian Residential
R-2	Contemporary Residential
R-3	Multiple-Family Residential
C-1	Victorian Commercial
C-2-C	C-2 Contemporary Commercial outside of the Historic District
C-2-H	C-2 Commercial within the Historic District
C-3	Quiet Use Commercial
I	Industrial
A	Agricultural
MHP	Mobile Home Park

Residential Districts The residential zoning regulations are intended to accomplish the following:

- A. Protect the residential character of areas from noise, traffic, congestion, and other adverse effects caused by commercial and industrial uses;
- B. Encourage a suitable environment for family life by providing openness for living areas, appropriate neighborhood facilities, and compatible community facilities;
- C. Preserve the Victorian architecture and quaint historic character of the city and structures;

- D. Encourage restoration of historic and cultural features;
- E. Foster respect for the city's past and present beauty.

District R-1: Victorian residential

A. **Purpose** The Victorian Residential District is designed to protect and grant distinction to the older, majestic residential areas with historic, architectural, or cultural significance. To protect and enhance the value and character of the area, the city mandates that all future development be subject to land usage and dimensional review by the city Planning Commission and architectural review by the Historic District Commission.

B. **Permitted uses** Following is a list of permitted uses in the R-1 Victorian Residential District:

Dwelling, single-family Dwelling, two-family Public use
 Home occupation requiring no coming and going of the general public and no overnight street parking of construction trailers or other business-related vehicles including, but not limited to, mowers, mixers and dirt removal equipment. (Ord. No. 2236, Sec. 1, 2-26-16)

C. **Restrictions in R-1 Victorian residential**

1. No request for a Conditional Use Permit shall be granted if the property line of the property upon which the use will be carried out is within two hundred (200) feet in any direction of the primary frontage streets of the property line of where an existing Conditional Use or Legal Non-Conforming Use offering the same or similar services is located. This restriction is not intended to, nor shall it apply to any existing, permitted Conditional Use activities where a permit is requested for an existing activity due to a change in ownership. (Ord. No. 2188, Sec. 1, 8-26-13.)

2. **Conditional uses** The following is a list of conditional uses in the R-1 Victorian residential district: These uses require a Conditional Use Permit (CUP).

Bed and breakfast	Daycare, small
Boarding house	Dwelling, multiple-family
Building used for religious services	Education
Community service center	Healthcare provider
Daycare, small	Wedding establishment
Home occupation involving access by the General Public	
(Ord. No. 2236, Sec. 2, 2-22-16)	

3. Weekly rentals (only those existing prior to Ord. No. 2184, July 2013)
4. Tourist lodging Restriction of tourist lodging in District R-1 Victorian residential is not intended to, nor shall it apply to, any existing permitted Conditional Use activity where permit is requested for an existing activity due to change in ownership. (Ord. No. 1880, Sec. 1, 8-20-01.)

D. Legal non-conforming buildings

1. Used for religious purposes

209 Spring Street	68 Mountain Street
28 Prospect	17 Elk Street

(Ord. No. 1987, Sec. 1, 2001.)
2. Bed and breakfasts (see pg. 460 for more details)

6 Douglas	23 Hillside
7 Kingshighway	104 Wall Street
5 Ridgeway	11 Singleton
211 Spring Street	263 Spring Street
5 Summit	
3. Tourist lodging (see pg. 460 for more details)

27 Elk	1 Kingshighway
75 Lookout Lane	21 Nut
25 Pine	3 Prospect
247 Spring Street	256 Spring Street
4. Multi-family dwellings

31 Elk	24 Kansas
25 Kansas	2 Kingshighway
32 Kingshighway	76 Mountain
64 Pine	1 Ridgeway
269 Spring Street	275 Spring Street
285 Spring Street	1 Washington
5. Weekly rentals

23 Fairmont	18 Hale
18 Nut	9 Singleton

10 Singleton (only those exiting prior to Ord. No. 2184, July 2013.)

Bulk and Area Requirements

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Single-family home	4,000 sq. ft.	Rear: 20 ft/10 ft.* Side: 10 ft. Front: Same as average setback of neighborhood (within block) *if abutting public alley

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Two-family home	8,000 sq. ft.	Rear: 20 ft./10 ft.* Side: 10 ft. Front: Same as average setback of neighborhood (within block) *if abutting public alley

Height above primary street frontage: 35 feet maximum
 Stories visible from primary street frontage: 2.5 maximum
 (Ord. No. 1816, Sec. 114-4-2.1, 11-2-00)

District R-3: Multiple-family residential

A. **Purpose** The multiple-family residential district is intended to provide areas where dense multiple-family dwellings are permitted, such as apartment complexes. A density of four (4) to twenty-four (24) dwelling units per acre is permitted to encourage the development of a variety of dwelling types in suitable environments in a variety of densities.

B. **Permitted uses** Following is a list of permitted uses in the Multiple-Family Residential District: The listed uses are permitted by right.

Community service center	Dwelling, single-family	Dwelling, two-family
Dwelling, multiple-family	Education	Public use

Home occupation requiring no coming and going of the general public and no overnight street parking of construction trailers or other business-related vehicles including, but not limited to, mowers, mixers, and dirt removal equipment.
(Ord. No. 2236, Sec. 5, 2-22-16)

Manufactured homes

Manufactured homes - minimum requirements:

1. All dwelling units constructed in or set up in this district, whether by new construction, addition to an existing unit, placement of a multi-section manufactured or modular home, or combination of two (2) or more single-section manufactured homes, shall have a minimum dimension on each side of at least twenty (20) ft.
2. All dwelling units constructed in this district shall have foundation systems which meet city Building Code, and in the case of manufactured homes, shall be installed and anchored in accordance with the manufacturer's installation instructions and/or rules and regulations of the Arkansas Manufactured Housing Commission.
3. All dwelling units constructed or installed in this district on a crawl space shall have a perimeter foundation enclosure or skirting walls constructed of masonry, brick, block, rock, or stone.
4. All units constructed or set up in this district shall have a minimum roof pitch of 4:12 on the main part of the structure (i.e., porches are not required to meet this minimum).
5. All dwelling units constructed or installed in this district shall use vinyl, wood or wood composite siding materials but shall not use metal or aluminum siding.

6. All units moved into this district from off-site shall be: new and under warranty, or inspected by the Building Official prior to being moved on site to ensure proper function.

The following guidelines are the basis of approval or denial of placement for used manufactured homes.

- a. All roofing materials shall be secure, without gaps or damaged shingles.
 - b. All windows shall be operative without broken panes or damaged trim or screening.
 - c. All exterior siding shall be in place and undamaged. No dented, torn, burned, loose or mildewed siding shall be allowed.
 - d. All kitchen and bathroom facilities shall be fully operational and all mechanical equipment shall be in good working order.
 - e. Any attached gutters shall be secured and functional
 - f. All cornice materials shall be in place and undamaged.
 - g. Paint shall be uniform and unblemished.
 - h. Doors shall be plumb and fully operational. No damaged screening or door fixtures shall be allowed.
 - i. All flooring shall be structurally undamaged and secure. Holes in the flooring, or flooring that is missing, dented, broken, or in a state of damage or decay will not be allowed.
7. All manufactured home dwelling units constructed in this district shall have all transportation components removed at the time of installation.
 8. Manufactured homes shall not be allowed within the Historic District. (Ord. No. 1984, Sec. 3, 2-14-05)

C. **Conditional uses** The following is a list of conditional uses in the Multiple-Family Residential District: These uses require a Conditional Use Permit (CUP).

Bed and breakfast	Boarding house
Building used for religious services	Daycare, small and large
Healthcare provider	Office, small
Restaurant, no drive through	Retail, small
Services, personal	Tourist lodging
Wedding establishment	
Home occupation involving access by the General Public	

(Ord. No. 2236, Sec. 6, 2-22-16)

D. Legal non-conforming buildings

Weekly rentals Only those operating prior to July, 2013 are permitted. At that time, all weekly rentals were in R-1. (Ord. No. 2184, Appendix D)

Bulk and Area Requirements

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Single-family home	10,000 sq. ft.	Rear: 20 ft/10 ft.*
Two-family home		Side: 10 ft.
Three to four family home		Front: Same as average setback of neighborhood (within block)
Multiple-family home	1,800 sq. ft. per unit 10,000 sq. ft min.	Rear: 20 ft./10 ft.* Side: 10 ft. Front: Same as average setback of neighborhood (within block)

*if abutting public alley

Height above primary street frontage: 45 feet maximum

Stories visible from primary street frontage: 3.5 maximum (Ord. No. 1816, 114-4-2.3, 11-2-00)

Commercial districts The regulations of the commercial districts are intended to

- A. encourage stable and efficient commercial areas that will meet the needs for goods and services of the community;
- B. minimize and control the adverse effects of commercial uses on other land uses;
- C. preserve the character of historic commercial buildings by fostering the development of merchant activities in those structures;
- D. preserve the "city" concept of the central marketing core.

District C-1: Victorian commercial

A. The Victorian Commercial District is designed to preserve the historic character of the area by encouraging uses that will not cause the decline or destruction of historic or otherwise culturally significant features. Commercial uses in this district require a central location and must be accessible from routes entering the city. The Victorian Commercial District is intended to provide uses that are more pedestrian oriented and in harmony with the historic and "city's" concepts than the contemporary commercial district. To protect and enhance the value and character of the area, the city mandates that all future development be subject to land usage and dimensional review by the city Planning Commission and architectural review by the Historic District Commission.

B. **Permitted uses** Following is a list of permitted uses in the Victorian Commercial District: The listed uses are permitted by right.

- Bed and breakfast
- Boarding house
- Building used for religious services
- Club or lodge
- Community service center
- Dwellings contained in commercial buildings
- Education
- Entertainment, small
- Financial Institution
- Hostel
- Hotel
- Library
- Museum
- Office, small and large
- Parking lot
- Public use
- Restaurant, no drive through
- Retail, small
- Retail, large
- Studios/workshops
- Tour Home/House Museum (Ord. No. 2271, Sec. 1, 7-23-18)
- Tourist lodging
- Wedding establishment

- C. **Conditional uses** The following is a list of conditional uses in the Victorian Commercial District: These uses require a Conditional Use Permit (CUP).

Convention, banquet facility
 Daycare, small and large
 Healthcare provider

- D. **Prohibited uses** Direct vending on public ways, including but not limited to the offering of prepared foods and merchandise for public sale on the public streets, alleys, sidewalks or other public ways of the city, whether from vending machines or from existing structures opening onto such public ways, with the exception of newspaper vending machine.

Bulk and Area Requirements

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Commercial	2,500 sq. ft.	Rear: None Side: None Front: Same as average setback of neighborhood (within block)
Height above primary street frontage: 45 feet maximum		
Stories visible from primary street frontage: 3.5 maximum (Ord. No. 1816, 114-4-3.1, 11-2-00)		

District C-2-C: Contemporary Commercial

- A. **Purpose** The Contemporary Commercial District is intended to allow modern development of commercial facilities along major arterial streets outside the defined Historic District. The groupings should be attractive and arranged with every consideration for driving safety and sufficient parking. (Ord. No. 2126, Sec. 1, 9-13-10.)

- B. **Permitted uses** Following is a list of permitted uses in the Contemporary Commercial District: The listed uses are permitted by right.

Bed and breakfast
 Boarding house
 Building used for religious services
 Club or lodge
 Commercial supplier
 Community service center
 Conference/Convention center, banquet facility

Day care, large and small
 Dwellings, single-family
 Dwellings, two-family
 Dwellings, multiple-family (Ord. No. 1816, Sec. 114-4-3.2, 11-2-00)
 Dwelling units contained in a commercial building (Ord. No. 1982, Sec. 1, 1-24-05)
 Education
 Entertainment, small and large
 Financial Institution
 Funeral home, crematorium
 Gasoline service station, with or without convenience store
 Health care provider
 Hostel
 Hotel/motel
 Medical services
 Mini-warehouse
 Museum
 Office, small and large
 Parking lot
 Public use
 Restaurant, drive through, refreshment stand
 Restaurant, no drive through
 Retail, small
 Retail, large
 RV Park
 Services, personal
 Storage
 Studios/workshops
 Tour Home/House Museum (Ord. No. 2271, Sec. 2, 7-23-18)
 Tourist lodging
 Trades and services, not personal
 Veterinarian, small animals, no outdoor kennel
 Warehousing, storage
 Wedding establishment
 Wholesaling
 (Ord. No. 1816, Sec. 114-4-3.2, 11-2-00)

- C. **Conditional uses** The following is a list of conditional uses in the Contemporary Commercial District: These uses require a Conditional Use Permit (CUP).

Auto, motorcycle servicing
 Auto, motorcycle, small boats, sales, rental
 Manufacturing, light
 Pawn and gun shops

Towers and beacons
 Transportation center
 Truck stop

Bulk and Area Requirements

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Commercial	5,000 sq. ft.	Rear: 30 ft. Side: 15 ft* Front: Same as average setback of neighborhood (within block) (Ord. No. 2185, 7-8-13) *if abutting residential, screening fence is required

Height above primary street frontage: 45 feet maximum

Stories visible from primary street frontage: 3.5 maximum (Ord. No. 1816, 114-4-3.2, 11-2-00)

District C-2-H: Contemporary Commercial – Historic District

A. **Purpose** The Contemporary Commercial Historic District is intended to allow modern development along major arterial streets within the Historic District while supporting the overall character of the Historic District. The groupings should be attractive and arranged with every consideration for driving safety and sufficient parking

B. **Permitted uses** Following is a list of permitted uses in the Contemporary Commercial District: The listed uses are permitted by right.

Bed and breakfast
 Boarding house
 Building used for religious services
 Club or lodge
 Commercial supplier
 Community service center
 Convention center, banquet facility
 Day care, large and small
 Dwellings, single-family
 Dwellings, two-family
 Dwellings, multiple-family (Ord. No. 1816, Sec. 114-4-3.2, 11-2-00)
 Dwelling units contained in a commercial building (Ord. No. 1982, Sec. 1, 1-24-05)
 Education

- Entertainment, small and large
 - Funeral home, crematorium
 - Gasoline service station, with or without convenience store
 - Health care provider
 - Hotel/motel
 - Office, small and large
 - Parking lot
 - Public use
 - Restaurant, drive through, refreshment stand
 - Restaurant, no drive through
 - Retail, small
 - Retail, large
 - Services, personal
 - Studios/workshops
 - Tourist lodging
 - Trades and services, not personal
 - Veterinarian, small animals, no outdoor kennel
 - Warehousing, storage
 - Wedding establishment
 - Wholesaling
- (Ord. No. 1816, Sec. 114-4-3.2, 11-2-00)

C. **Conditional uses** The following is a list of conditional uses in the Contemporary Commercial Historic District: These uses require a Conditional Use Permit (CUP).

Transportation center

D. **Prohibited uses** The construction of any towers in the C-2-H District.

Bulk and Area Requirements

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Commercial	5,000 sq. ft.	Rear: 30 ft. Side: 15 ft* Front: Same as average setback of neighborhood (within block) (Ord. No. 2185, 7-8-13) *if abutting residential, screening fence is required

No building or other man-made structure in this C-2-H District can exceed forty five (45) feet in height above the primary street. (Ord. 2126, Sec. 4, 6-20-14)
Stories visible from primary street frontage: 3.5 maximum.

No building or other man-made structure in the C-2-H District can exceed forth-five (45) feet in height above the primary street. (Ord. No. 2126, Sec. 1, 9-13-10.)

District C-3: Quiet use commercial

- A. **Purpose** The quiet use commercial district is intended to allow commercial use of residential style buildings near or adjacent to residential neighborhoods. Such uses must not be offensive to the residential character of the neighborhood, including no involvement of the exterior or outward appearance in the commercial use. Quiet uses must be carried out in a building originally designed as a dwelling or which existed as a commercially designed building prior to October 15, 1987. Alteration of a building which is consistent with its previous use as a dwelling is permitted, subject to other relevant provisions of this code.

To qualify as a quiet use, the performance of the business must not involve any of the following:

1. Open before 7:00 a.m. or after 9:00 p.m.;
2. Service of alcohol, unless there is also service of food;
3. Dancing;
4. Loud music;
5. Bright lights or neon signs;
6. Shipping or receiving of inventory in vehicles larger than pickup trucks, except where allowed by state law;
7. Any outside work activity related to the commercial use;
8. Any exterior alteration of the building to adapt it to commercial use;
9. Unpleasant odor.

- B. **Permitted uses** Following is a list of permitted uses in the Quiet Use Commercial District: The listed uses are permitted by right.

Bed and breakfast
 Boarding house
 Building used for religious services
 Day care, large and small
 Dwellings, single-family
 Dwellings, two-family (Ord. No. 1816, Sec. 114-4-3.3, 11-2-00)
 Dwelling units contained in a commercial building (Ord. No. 1982, Sec. 2, 1-24-05)
 Hostel
 Office, small and large
 Public use

- Retail, small
- Restaurant, no drive through
- Services, personal
- Studios/workshops
- Tour Home/House Museum
- Tourist lodging
- Wedding establishment
- (Ord. No. 1816, Sec. 114-4-3.3, 11-2-00)

- C. **Conditional uses** The following is a list of conditional uses in the Quiet Use Commercial District: These uses require a Conditional Use Permit (CUP).
- Community service center
 - Convention center, banquet facility
 - Dwelling, multiple-family
 - Education
 - Funeral home, crematorium
 - Healthcare provider (Ord. No. 1816, Sec. 114-4-3.3, 11-2-00)
 - Intimate theater (Ord. No. 2191, Sec. 1, 12-9-13) Carnegie Library is exempt.
 - Library
 - Museum (Ord. No. 2271, Sec. 4, 7-23-18)
 - Parking lots (Ord. No. 1887, Sec. 1, 5-6-02)

Bulk and Area Requirements

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Commercial	4,000 sq. ft.	Rear: 20/10 ft*. Side: 10 ft* Front: Same as average setback of neighborhood (within block)

*if abutting residential, screening fence is required

Height above primary street frontage: 35 feet maximum
 Stories visible from primary street frontage: 2.5 maximum (Ord. No. 1816, Sec. 114-4-3.3, 11-2-00)

District I: Industrial

- A. **Purpose** The regulations of the Industrial District are designed to:
1. designate suitable sites for all types of manufacturing and related activities;

2. protect residences by separating them from manufacturing activities and by prohibiting residential development in such areas.

- B. **Permitted uses** Following is a list of permitted uses in the industrial district:
The listed uses are permitted by right.

Adult oriented businesses
 Auto, motorcycle servicing
 Auto, motorcycle, small boats, manufactured homes, sales and rental
 Commercial supplier
 Entertainment, large
 Gasoline service station, with or without convenience store
 Industry
 Large equipment, sales, service, storage
 Manufacturing, heavy
 Manufacturing, light (Ord. No. 1816, Sec. 114-4-4, 11-2-00)
 Parking lots (Ord. No. 1887, Sec. 2, 5-6-02)
 Public use
 Public utility
 Retail, large
 Trades and services, not personal
 Truck stop
 Warehousing/storage
 Wholesaling
 (Ord. No. 1816, Sec. 114-4-4, 11-2-00)

- C. **Conditional uses** The following is a list of conditional uses in the Industrial District: These uses require a Conditional Use Permit (CUP).

Restaurant, no drive through
 Restaurant, drive through, refreshment stand
 Wedding establishment

- D. **Prohibited uses** See 14.08.02

Bulk and Area Requirements

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Industrial	15,000 sq. ft.	Rear: 35 ft*. Side: 20 ft* Front: Same as average setback of neighborhood (within block) (Ord. No. 2185, 7-18-13) *if abutting residential, screening fence is required

Height above primary street frontage: 35 feet maximum

Stories visible from primary street frontage: 2.5 maximum (Ord. No. 1816, Sec. 114-4-4, 11-2-00)

District A: Agricultural

A. **Purpose** The regulations of the Agricultural District are designed to protect undeveloped areas from intensive development and use until such areas are otherwise zoned. Agricultural uses which produce noise or odor are prohibited.

B. **Permitted uses** Following is a list of permitted uses in the Agricultural District: The listed uses are permitted by right.

Agricultural
Cemetery
Dwelling, single-family
Dwelling, two-family
Grain elevator, feed mill
Healthcare provider
Public use
Veterinary, large animal, outdoor kennel
Veterinary, small animal, no outdoor kennel
Warehousing/storage

C. **Conditional uses** The following is a list of conditional uses in the Agricultural District: These uses require a Conditional Use Permit (CUP).

Airports
Auction house
Club or lodge
Community service center
Education

- Entertainment, large
- Gasoline service station, with or without convenience store
- Office, small
- Parking lot
- Public utility
- Restaurant, no drive through
- Restaurant, drive through, refreshment stand
- Wedding establishment

D. **Prohibited uses** See 14.08.02

Bulk and Area Requirements

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Residential single-family	2 acres	Rear: 35 ft. Side: 20 ft.
Non-residential		(Ord. No. 2185, 7-8-13) Front: Same as average setback of neighborhood (within block)
Residential two-family home	2 acres per unit	Rear: 35 ft. Side: 20 ft. (Ord. No. 2185, 7-8-13) Front: Same as average setback of neighborhood (within block)

Height above primary street frontage: 35 feet maximum

Stories visible from primary street frontage: 2.5 maximum (Ord. No. 1816, Sec. 114-4-5, 11-2-00)

District MHP: Mobile home park

A. **Purpose** The Mobile Home Park District is designed to located mobile homes near residential facilities such as schools, play areas, and convenience shops in courts with density of ten (10) dwelling units per acre or less.

B. **Permitted uses** Following is a list of permitted uses in the Mobile Home Park District: The listed uses are permitted by right.

- Community service center
- Mobile home park
- Office, small
- Parking lot
- Public use

- C. **Conditional uses** The following is a list of conditional uses in the Mobile Home Park District: These uses require a Conditional Use Permit (CUP).

Club or lodge
 Day care, large and small
 Dwelling, multiple-family

Bulk and Area Requirements

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Mobile home park	3 acres	Width at entrance areas: 50 ft. Width elsewhere: 100 ft. Front: 50 ft. Rear: 10 ft. Side: 25 ft.

Bulk and Area Requirements for Individual Mobile Homes (berth requirements)

<i>Building type of design</i>	<i>Lot size, minimum area</i>	<i>Yard minimum setback</i>
Mobile home	3,000 sq. ft.	Front: 20 ft. Rear: 10 ft. Side: 15 ft.*

*Separation between mobile homes is measured from exterior wall of original mobile home or exterior wall of any addition, carport, garage, covered porch or deck is one (1) is attached thereto.

D. **Additional requirements**

1. **Common recreation space** There shall be at least 300 square feet of common recreation space per mobile home lot; the minimum area of any common recreation area shall be 8,000 square feet, and the minimum width of any such area shall be 60 feet. Each required common recreation area shall be within 300 feet of each of the mobile homes it is intended to serve, measured along a route of pedestrian access. Such recreation area shall be no closer than 25 feet to any property line.
2. **Compliance** All mobile home parks shall, in addition to the above, comply in all respects with Sec. 14.08.01 of this code governing mobile home parks.
3. **Off-street parking**

14.08.02 Prohibited uses Following are uses which are not allowed in any zoning district within the authority of the city. These uses are considered detrimental to adjacent property owners and to the citizens of the city.

Agricultural uses emitting noise in violation of this code or noxious odor detectable on adjacent property

Animal fats and oils rendering

Commercial tire dump or pile which remains for more than fifteen (15) days

Explosives manufacturing or storage

Junkyard or scrap metal yard

Recycling facilities which produce odor or noise, or are uncontained

Petroleum refining or storage (except wholesale distribution in tanks)

Refuse collection (unless part of solid waste management in which the city participates)

Slaughterhouse or feedlot

Smelting or ore processing

Target practice range, uncovered

Vehicle or equipment salvage

(Ord. No. 1816, Sec. 114-5-1, 11-2-00)

14.08.03 Use conditions and exceptions This section provides supplemental regulations for uses. All uses are subject to the provisions of this section, whether permitted by the ordinance or obtained through a use variance.

Conditions applying generally

- A. Height of building The height of a building is measured from the ground to the top roof line of the structure. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit.

Churches, schools, hospitals, sanitariums and other public and semi-public buildings may exceed the height limitation of the district if the minimum depth of the rear yards and the minimum width of side yards are increased one (1) foot for each two (2) feet by which the height limit is exceeded.

- B. Open space No open space or lot area required for a building shall simultaneously be counted as open space for any other building.

Projections Open eaves, cornices, window sills, and belt courses may project into any required yard a distance up to one (1) foot. Open porches may project into a yard a distance up to five (5) feet. Neither shall be considered in calculating the open space for purposes of meeting the requirements of this chapter. (Ord. No. 1816, Sec. 114-6-2, 11-2-00)

- C. Required street frontage and access for dwellings If a dwelling is to be erected on a lot, the lot must abut a street for at least thirty-five (35) feet and have a width of at least thirty-five (35) feet at the building line. All dwelling unit lots must have a public street as the primary means of access. A garage apartment may be built to the rear of the main building if all other provisions of this chapter are met.
- D. Usual obstructions at intersections On the corner of any lot formed by two (2) intersecting streets, no structure, plant growth, or other visual obstruction shall be maintained having a height in excess of three (3) feet above the crown of the roadway, in a area measured as a triangle with legs that extend thirty (30) feet from the corner of the lot (at the intersection) along the lot lines abutting the intersecting streets. The base of the triangle connects the two (2) furthest ends of these lines. (Ord. No. 1816, Sec. 114-6-2, 11-2-00)
- E. Planned Unit Development
1. A Planned Unit Development (PUD) is a parcel of land initially under unified ownership or control which is intended to be the site for two (2) or more buildings or uses. Also included in this definition are such building groups whose layout would make it impracticable to apply the requirements of this chapter to the individual buildings of the group. The Planning Commission may authorize the development as submitted, or may modify or amend the plan, so long as:
 - a. The development will be in harmony with the character of the surrounding neighborhood.
 - b. When completed, the development will contain a density of land use no higher than allowed in the district.
 - c. The open space, building height, population density, and use requirements of the district shall be met.
 - d. In authorizing the development, the Planning Commission may prescribe such other conditions as it deems appropriate to protect the character of the neighborhood.

The development, as authorized, shall be subject to all conditions imposed and all other requirements of this chapter, except as specified in the authorization.

2. Application requirements The application submitted to the city must be accompanied by an overall development plan. The development plan shall contain any information needed to determine whether special requirements should be applied. At a minimum, the development plan shall include:
- a. Site plan;
 - b. Proposed uses;
 - c. Dimensions and locations of proposed structures;
 - d. Dimensions and locations of parking spaces;
 - e. Other open spaces.
3. Land development requirements The tract of land must either be under one (1) ownership or the joint owners must file the application. The tract of land must be at least two (2) acres or be bounded on all sides by streets, public open spaces, or the boundary lines of less restrictive use districts.

The proposed development must:

- a. Be designed to produce an environment of stable and desirable character;
 - b. Provide standards of open space;
 - c. Provide permanently reserved areas for off-street parking adequate to the proposed use and at least equal to the required parking under the ordinance;
 - d. Include a proposed maximum average density per acre, not including streets;
 - e. Include provisions for maintenance of areas set aside for streets or common open spaces; such streets or open spaces shall not be sold or disposed of except to an organization established to maintain them, or to be dedicated to the city if the city accepts.
4. Commercial uses allowed The Planning Commission may permit:
- a. A shopping center of other service to the community, if designed as a unit of limited size and controlled by restrictions to make the service inoffensive to the character of the area;
 - b. Office buildings for administrative, clerical, accounting, or business research organizations where the principal use does not involve:
 - (1) The handling or display of merchandise, except as permitted as an accessory use for the accommodation of the occupants;

- (2) Frequent personal visits of clients, members, customers, or other persons not employed on the premises;
- (3) Show windows or exterior display advertising of any kind. (Ord. No. 1816, Sec. 114-6-2.5, 11-2-00)

F. Metal buildings

- 1. Any building whose exterior walls, as viewed from the outside, are constructed primarily from metal shall be deemed a metal building within the scope of this section.
- 2. Prohibited Except as otherwise provided in this section, metal buildings are prohibited in all zoning districts.
- 3. Exemptions The following are exempt from this section:
 - a. Any metal building which is located in a C-2 Contemporary Commercial Zone or an I-Industrial Zone which has all exterior walls completely covered with one of the following types of architectural materials, or a combination thereof: brick, stucco, EFIS (exterior finish and insulation system), wood, stone, glass or patterned concrete. The architectural materials must completely disguise the metal structure underneath.
 - b. Any prefabricated metal storage building with a floor area not exceeding One hundred Fifty (150) square feet which:
 - (1) Is intended to store the personal effects of the owner;
 - (2) Is located in an R-2 contemporary residential zone; and
 - (3) Otherwise qualifies as an accessory use and complies with accessory use requirements in 14.08.04.
 - c. Any structure which is otherwise permitted as a mobile home or residential manufactured home.
- 4. Building permit required An application for a building permit for a metal building must be accompanied by such drawings and information as is reasonably required by the city. The city shall either grant or deny the application within a reasonable time. If denied, the applicant may appeal the denial to the Board of Zoning Adjustment if notice of such appeal is received by the city within fifteen (15) days of the denial. (Ord. No. 1816, Sec. 114-6-2.6, 11-2-00)

5. The applicant must pay a non-refundable processing fee of \$100.
6. Public Hearing: The Planning Commission shall schedule a public hearing on the application. The applicant shall follow the following procedures for giving Notice for this Public Hearing:
 - a. There shall be a public notice of the hearing published at least once in a newspaper of general circulation in the city at least ten (10) days before the hearing, which notice sets forth the time and place of such hearing and the address of the proposed Planned Unit Development. The responsibility and cost of the public notice shall be borne by the party making the proposal.
 - b. The applicant shall notify all adjacent property owners (within 200 feet of the property lines in every direction) by certified mail, return receipt requested, at least ten (10) days prior to the public hearing.
 - c. All return receipts and a copy of the letter with an affidavit of publication from the publisher shall be furnished to the Planning Commission before the Public Hearing.
 - d. The applicant shall post at least one (1) or more conspicuous signs on the property at least ten (10) days prior to said hearing. Signs shall be provided by the city, and shall note the time and date of the public hearing.

Conditions applying to specific uses

- A. Car wash Automobile wash service establishments shall provide paved parking space on the lot for at least five (5) vehicles per washing lane. If the

establishment is on a lot that abuts any residential district, any access to the establishment shall be by an arterial or collector street only. A privacy fence shall be required when abutting any residential district.

- B. B&B Bed and breakfast establishments and boarding houses may be allowed in residentially zoned districts as a Conditional Use. Regardless of the zoning district in which the property is located, the owner of the bed and breakfast or boarding house shall certify in the application that the owner or a resident manager shall occupy the premises at all times. (Ord. No. 1880, Sec. 2, 8-20-01; Ord. No. 1816, Sec. 114-6-3.2, 11-2-00)
- C. Child Care or Day Care All such establishments shall be located on lots which:
1. Meet the minimum standards as determined by the Arkansas State Department of Human Services; and
 2. Where any such use is located on a lot abutting an Agricultural, Residential or Mobile Home Park District and where any part of such use lies within 50 feet of such district boundary line, a screening wall or privacy fence shall be built along the boundary lines, which shall meet the conditions for screening walls. (Ord. No. 1816, Sec. 114-6-3.3, 11-2-00)
- D. Building used for religious services Churches and Sunday School facilities are subject to the following conditions: When located in or contiguous to a Residential or Quiet Use District, such use shall have a major street, or other thoroughfare which intersects with an arterial or collector street within 150 feet, as its principal vehicular access. (Ord. No. 1816, Sec. 114-6-3.4, 11-2-00)
- E. Community Center In a Residential or Quiet Use District, a community center shall meet the same requirements as a church. (Ord. No. 1816, Sec. 114-6-3.5, 11-2-00)
- F. Enclosure of commercial business All commercial businesses other than temporary open-air enterprises shall be operated within a structure located on a permanent foundation and meeting the appropriate building codes as adopted by the city. (Ord. No. 1816, Sec. 114-6-3.6, 11-2-00)
- G. Establishments that dispense fuel Any establishment that dispenses fuel such as gasoline and diesel fuel shall be subject to the following requirements: In no case shall the site be less than 10,000 square feet, with
1. Minimum street frontage: 100 feet
 2. Maximum width curb cuts or driveway width: 40 feet

3. Minimum distance of driveways from the curb line at the street: 40 feet.
4. Minimum setback of service building from all street right-of-way lines: 50 feet
5. Minimum setback of pump island, compressed air connection and similar equipment from all street rights-of-way and property lines: 25 feet
6. Minimum setback of pump island canopy from all street rights-of-way and property lines: 12 feet.
7. Washing of vehicles shall be entirely within a bay enclosed by at least two (2) walls. (Ord. No. 1816, Sec. 114-6-3.7, 11-2-00)

H. Satellite dishes Large (ground mounted) satellite television signal dishes (24 inches or greater) may not be located in the front yard of any Residential District. They shall only be placed in the rear yard, and if the lot is a corner lot, only in the rear yard such that the dish cannot be seen from a street. Small satellite television signal receiver dishes (twenty-three (23) inches or smaller) may be attached to structures in as unobtrusive a location as possible. (Ord. No. 1816, Sec. 114-6-3.8, 11-2-00)

I. Home occupations A business license shall be required for all new home occupations involving access by the general public.

1. In any dwelling, a home occupation use shall not occupy more than one-third (1/3) of the gross heated floor area of any one (1) floor of the dwelling, and shall be conducted indoors. This limitation shall not apply to foster family care.
2. No home occupation shall require internal or external alterations, involve construction feature, or use mechanical equipment not customary in dwellings.
3. One (1) unanimated, non-illuminated identification sign of up to two (2) square feet may be displayed flat against a wall or door of the residence. No other external evidence of the operation is allowed. (Ord. No 2236, Sec. 8, 2-22-16)
4. Power shall be limited to electric motors with a total limitation of three (3) horsepower per dwelling unit.
5. Residents of the dwelling shall conduct the home occupation. No more than one (1) non-resident employee is allowed.
6. Commercial vehicles must be kept in a garage.

7. Parking is not allowed in the front yard. Properties with three (3) or more spaces must be screened by a fence or hedge.
 8. Work that produces vibrations, fumes, odors, noise, dust, and/or electrical interference with neighbor's radio and television receivers is strictly prohibited.
 9. The list of home occupations specifically excludes these uses: animal hospitals, commercial kennels, funeral parlors or undertaking establishments, antique shops, restaurants, rooming houses, dancing schools, tearooms, and wedding establishments. (Ord. No. 1816, Sec. 114-6-3.9, 11-2-00)
- J. Hospitals Hospital access shall be within fifty (50) feet of an arterial or collector street. This shall not apply to service entrances or alleys. (Ord. No. 1816, Sec. 114-6-3.10, 11-2-00)
- K. Industrial use All industrial uses shall follow the site plan review procedure to determine whether the use is operative without violating the prohibitions set forth below. Unless in existence at the time of the passage of this chapter (11-2-00), industrial uses are prohibited which are likely to emit odor, dust, smoke, gas, or fumes beyond the property lines of the use, or are likely to generate noise or vibration which is generally perceptible at the boundary of the Industrial District or in adjacent areas. (Ord. No. 1816, Sec. 114-6-3.11, 11-2-00)

- L. Prefabricated, modular construction Modular and other prefabricated structures shall meet the requirements of the governing district; provided, however, that the terms "modular structures" or "prefabricated structures" shall not include a manufactured or mobile home whether or not the same be equipped with undercarriage.

In addition, all units shall meet the following requirements:

1. Zoning district regulations;
2. Building codes of the city;
3. Be secured to a permanent masonry or concrete foundation;
4. Have permanent water and sewer connections. (Ord. No. 1816, Sec. 114-6-3.12, 11-2-00)

- M. Screening of commercial businesses All commercial businesses, including but not limited to body shops and repair garages, which provide outdoor storage for vehicles and other equipment, must screen all such storage areas with an eight (8) foot, opaque wood, masonry or metal screening fence. (Ord. No. 1816, Sec. 114-6-3.13, 11-2-00)

- N. Storage of used materials, appliances This provision applies to storage or processing of used machinery, building materials, appliances, or plumbing fixtures, when located within 100 feet of any arterial or collector street or any Residential or Commercial District. Such uses shall be screened by a solid wall or privacy fence at least six (6) feet high. The fence shall prevent visibility from the street and the residential or commercial district. The fence shall not be used for advertising, but may contain an identification sign not to exceed ten (10) square feet in size. (Ord. No. 1816, Sec. 114-6-3.14, 11-2-00)

- O. Temporary open-air enterprises No such enterprises shall be located within two hundred (200) feet of any residential district boundary, nor within three hundred (300) feet of any occupied residential structure. The applicant for such use shall provide access drives to minimize traffic hazards and shall show that adequate measures are taken to prevent trash, odor, dust, noise, lights and traffic from becoming a nuisance to uses on nearby properties. A permit from the city to operate shall be required, upon payment of a fee which shall be set for this purpose by the City Council from time to time by resolution and posted in the office of the City Clerk. The city is authorized to terminate any such permit issue if the use becomes a nuisance to the surrounding property owners or the city in general. Applicants are also required to comply with all laws and regulations of the state of Arkansas and the United States in their operation. A permit revocation or denial may be appealed to the Mayor, and if denied, to the City Council. (Ord. No. 1816, Sec. 114-6-3.15, 11-2-00)

- P. Two Hundred (200) foot rule No request for a Conditional Use Permit in the R-1, Victorian Residential Zoning District, that requests a change in use shall be granted if the property line where the requested activity would take place is within two hundred (200) feet in any direction along the primary frontage streets of the property line of an existing conditional use or legally non-conforming use offering the same or a similar service. This restriction is not intended to, nor shall it apply to any existing, permitted conditional use activity where permit is requested for an existing activity due to a change in ownership. (Ord. No. 1879, 8-20-01)

14.08.04 Accessory uses An accessory use building is a use that is incidental to the main building or use on the same lot. If a building which otherwise qualifies as an accessory use is attached to the main building by a common wall or roof, then the accessory building shall be considered a part of the main building.

The following conditions shall apply to accessory building:

- A. An accessory building that is attached to the main building shall comply with all requirements for the main building under this chapter.
- B. All accessory buildings in a Residential District shall be located on the rear one-half (½) of the lot and at least ten (10) feet from any dwelling. This limitation shall not apply to open-sided carports; provided the required front yard setback is observed.
- C. No accessory building shall be located within five (5) feet of an alley, where such alley abuts the rear line of the lot.
- D. In the case of a corner lot, the accessory building shall not project beyond the required setback or existing building line on the adjacent lot, nor be closer than thirty (30) feet of the street line from which vehicular access is gained.
- E. Accessory uses shall not cover more than thirty (30%) percent of the required rear yard area.
- F. No portable building larger in size than 150 square feet shall be allowed. (Ord. No. 1816, Sec. 114-7, 11-2-00)

14.08.05 Non-conforming uses

- A. Intent The purpose of this section is to regulate the continued existence of uses, lots and structures established before the effective date of the ordinance from which this chapter derives (11-2-00), and amendments thereto, which do not conform to the provisions of this chapter. This section is intended to curtail

enlargement of non-conformities. The goal is to preserve the integrity of the zoning districts and the regulations established by this chapter.

- B. Construction Subject to the following provisions of this chapter, landowners may continue to use non-conforming uses, structures or lots which legally existed more than 180 days prior to the effective date of the ordinance from which this chapter derives (11-2-00) and would now be made illegal thereby. If any non-conformity is created by any amendment to this chapter adopted in the future, landowners likewise may continue their previously legal use which is made non-conforming by the amendment, if such existed more than 180 days prior to the effective date of such amendment. Landowners must bring all non-conforming uses instituted within the 180 days prior to the effective date of the ordinance (11-2-00) , or any amendment thereto, into compliance with this chapter within one (1) year of the effective date of the ordinance (11-2-00), or the amendment.
- C. Expansion A non-conforming use shall not be expanded or increased beyond the structure of land area it occupies.
- D. Change in use If no structural alterations are made, a non-conforming use may be changed to another non-conforming use upon approval by the Planning Commission and issuance of a Conditional Use Permit. Any such request shall be submitted to the city for public hearing as a conditional use. The proposed use must be the same or a more restrictive classification. The Planning Commission must find that the proposed use is equally or more appropriate to the district in which it is located than the existing use. Such finding may be by general rule or on a case by case basis. In permitting the change, the Planning Commission may require appropriate conditions and safeguards in accordance with the provisions of this chapter.
- E. One Hundred Eighty (180) day rule A non-conforming use will be allowed to continue, even with a change of title, until such time as it is abandoned or discontinued for a period of One Hundred Eighty (180) days, after which the use shall not be resumed or revived except in conformity with the regulations of that zoning district. If the discontinuance of use is caused by circumstances beyond the control of the property owner, such as involuntary destruction by fire, a reasonable variance from the 180 day abandonment period may be granted upon good cause shown.
- F. No enlargement or alteration A non-conforming structure may not be enlarged or altered. However, any non-conforming structure shall be kept maintained in a good state of repair at all times. Any failure to do so could result in loss of the non-conforming use status at the discretion of the city.

- G. Alteration because of damage Any non-conforming structure or non-conforming portion of a structure that has been damaged to an extent of more than fifty (50%) percent of its replacement cost shall not be reconstructed except in conformity with the provisions of this chapter. These restrictions may be waived upon good cause shown.
- H. Relocation Any structure which is moved any distance for any reason shall conform to the regulations of the district to which it is moved.
- I. B&B, tourist lodgings grandfathered Established before September, 1986. Due to a change in Ord. No. 1075, effective September 30, 1986, bed and breakfast and tourist lodging establishments which have been in business prior to September 30, 1986, are considered as legal non-conforming uses (grandfathered) in accordance with this section. Those establishments are listed in Appendix A, attached to Ord. No. 1816. No additions may be made to this list after the effective date of the ordinance from which this chapter derives (11-2-00). They are required to continually operate in accordance with building, fire and other applicable codes of the city, and shall be limited to only the use which has been in operation since before September 30, 1986. "Continual operation" shall be defined for the purposes of this chapter as being open and in business, showing revenue, and paying taxes with no lapse of operation of greater than 180 consecutive days. Any expansion of the use or the structure shall require application as a Conditional Use to be approved by the Planning Commission.
- J. Non-conforming lots Owners of lots which are unbuildable under the size and area provisions of this chapter may request relief from the strict application of this chapter as a hardship variance. The property owner may apply for such a variance, and must show to the Board of Zoning Adjustment that the buildable area is not sufficient for reasonable construction.

If permitted in the district, single-family dwellings may be erected on any lot of record at the adoption of the ordinance from which this chapter derives (11-2-00), subject to other limitations imposed by this chapter. Such lot must not be in continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district.

- K. Wedding establishments Wedding establishments in residentially zoned areas which have been in business prior to May 6, 2000, are considered as legal non-conforming uses in accordance with this section. Owners of these establishments may apply for an occupational permit (business license) prior to January 31, 2001. No charge will be assessed for an occupational permit for the portion of the year 2000 between the period of the effective date of the ordinance and December 31, 2000. Appropriate documentation must be submitted with the permit application

and will be retained by the city. Applications for occupational permits after January 31, 2001, shall be required to apply for Conditional Use Permit (CUP).

Wedding establishments are required to continually operate in accordance with building, fire and other applicable codes of the city, and shall be limited to only the use which has been in operation since before May 6, 2000. "Continual operation" shall be defined for the purposes of this chapter as being open and in business, showing revenue, and paying taxes with no lapse of operation of greater than 180 consecutive days. Any expansion of the use or the structure shall require application as a Conditional Use to be approved by the Planning Commission. (Ord. No. 1816, Sec. 114-8-11, 11-2-00)

1. Legal non-conforming B&B

- a. Doing business as a wedding establishment prior to 5-6-00 and obtain an Occupational Permit prior to 1-31-01.

If the B&B is sold, neither the B&B nor the wedding business at the B&B need to apply to the Planning Commission for CUP.

- b. Either was not doing business as a wedding establishment prior to 5-6-00, or was, but did not obtain an Occupational Permit prior to 1-31-01.

If the B&B is sold, the B&B is not required to appear before the Planning Commission for a CUP, however, the wedding business at the B&B does require a CUP.

2. Conditional use B&B

- a. Doing business as a wedding establishment prior to 5-6-00 and obtained an Occupational Permit prior to 1-3-01

If the B&B is sold, the B&B requires a new CUP, the wedding business at the B&B does not.

- b. Either was not doing business as a wedding establishment prior to 5-6-00, or was, but did not obtain an Occupational Permit prior to 1-31-01.

If the B&B is sold, both the B&B and the wedding business require CUPs.

- L. Legally non-conforming multi-family dwellings Should any of these properties lose their status by operation of law in the future that property or properties shall be removed from Appendix C to Title 14 of the Eureka Springs Municipal Code.

<u>Address</u>	<u>Number of dwelling units</u>	<u>Number of off-street parking spaces</u>
31 Elk St.	3 units	6
24 Kansas St.	5 units	6
25 Kansas St.	6 units	12
2 Kingshighway	6 units	8
32 Kingshighway	4 units	4
76 Mountain St.	5 units	4
64 Pine St.	3 units	1
1 Ridgeway Ave.	3 units	3
269 Spring St.	7 units	6
275 Spring St.	3 units	2
285 Spring St.	3 units	4
1 Washington St.	4 units	1

(Ord. No. 2142, Sec. 1, 10-6-11.)

14.08.06 Parking requirements

General conditions The requirement to provide and maintain the required off-street parking space shall be the responsibility of the operator and owner of the land on which off-street parking space is required to be provided. In all districts in connection with every industrial, business, institutional, recreational, residential, or other use, there shall be provided at the time any building or structure is erected, enlarged or increased in capacity, or any open use is established or enlarged, off-street parking spaces conforming to the following requirements:

- A. Parking space - off-street For the purpose of this chapter, an off-street parking space shall consist of a nine by nineteen (9 x 19) foot space located off the street right-of-way adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas shall be so designed, maintained and regulated that no maneuvering incidental to parking or unparking shall be on any public street or right-of-way, walk, or alley, and so that any automobile may be parked and unparked without moving another.

Compact car Compact car spaces shall be eight by sixteen (8 x 16) feet and otherwise shall comply with the above provisions. Spaces for compact car parking may be permitted for up to twenty (20%) percent of the total spaces in a parking lot which contains at least ten (10) spaces, which shall be clearly marked either on the pavement or by separate marker.

- B. Number of off-street parking required The number of off-street parking spaces required for each use is set forth below. Off-street parking space shall be provided for each use located on a lot and may be used jointly provided the sum total of parking space requirements for all use are provided.
- C. Location of off-street parking Parking areas include the required off-street parking spaces and access drives, and shall be located on the same lot as the use for which provided.
- D. Minimum distance and setbacks
1. Except for permitted entrance and/or exit drives, every off-street parking area shall be set back from the street right-of-way.
 2. No off-street parking area, exclusive of access drives, shall be located within five (5) feet of any other property unless shielded by vegetation at least thirty-six (36) inches high at planting.

- E. The following dimensions are based on a parking stall size of nine by nineteen (9 x 19) feet.

a	b	c	d	e	f ¹	f ²	
Parking angle	Type	Stall width	Stall to curb	Aisle width	Curb length per car	Center-to-center width of 2 row bin a/access road between curb-to-curb/overlap c-c	
30°	standard	9'	17.3'	11.0'	18.0'	45.6'	37.8'
	compact	8'	14.9'	11.0'	16.0'	40.8'	33.9'
45°	standard	9'	19.8'	13.0'	12.7'	52.6'	46.2'
	compact	8'	17.0'	13.0'	11.3'	47.0'	41.3'
60°	standard	9'	21.0'	18.0'	10.4'	60.0'	55.5'
	compact	8'	17.9'	16.0'	9.2'	53.8'	49.8'
90°	standard	9'	19.0'	24.0'	9.0'	62.0'	
	compact	8'	16.0'	22.0'	8.0'	56.0'	

All other considerations shall conform to acceptable published architectural/engineering standards, as approved by the city.

F. Handicapped parking

- Where parking spaces are required for the physically disabled and/or handicapped in accordance with Chapter V, Section 508 of the Standard Building Code, the number of spaces to be reserved for the handicapped shall be as follows:

Total Number of Parking Spaces	Required Number to be reserved for Handicapped
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
Over 1,000	20 plus 1 for each 100 for 1,000

2. Perpendicular parking spaces shall be at least ten (10) feet wide and shall have an adjacent striped access aisle five (5) feet wide minimum. Two (2) accessible parking spaces may share a common access aisle. If a sidewalk is located adjacent to the accessible parking space, a minimum of three (3) feet clear width, excluding vehicle overhangs, is required as an accessible circulation route. The access aisle shall be connected to the curb by a curb cut or ramp at a maximum inclination ratio of 12:1.
 3. Except in parking lots, parallel parking spaces next to curbs shall be separated from the space in front or behind by a minimum five (5) foot striped no parking area. This area shall be connected to the curb by a curb cut or ramp at a maximum inclination ratio of 12:1.
 4. Passenger loading zones shall provide an access aisle at least four (4) feet wide and twenty (20) feet long adjacent and parallel to the vehicle pull-up space, then a curb cut or ramp at a maximum inclination of 12:1 shall be provided.
 5. Parking spaces for the physically handicapped shall be located as close as possible to elevators, ramps, walkways and entrances. Parking spaces should be located so that physically handicapped persons are not compelled to wheel or walk behind parked cars to reach entrances, ramps, walkways and elevators.
- G. Curb cut required In areas where a parking area abuts street right-of-way, a continuous raised concrete curb of not less than six (6) inches in height shall be constructed along and parallel with the entire abutting street right-of-way line, except for driveway opening or grass paving blocks.
- H. Surfacing All entrance/exit drives, access drives, and parking and loading areas shall be graded and drained so as to dispose of all surface water accumulated thereon and shall be surfaced with a durable and dustless surface of at least an asphaltic concrete hot mix surface course or grass paving blocks for areas not under the authority of the Historic District Commission.
- I. Entrance/exit drives All vehicular entrance and/or exit drives for all non-residential use, and for all residential use for three (3) or more automobiles with access to a collector or arterial street (as designated on the master street plan), shall meet the following requirements:

All distances are to face of curb, or edge of pavement.)

1. Minimum width of drive for two-way traffic: 24 feet.
2. Minimum width of drive for one-way traffic: 15 feet.

3. Maximum width of drive at curb or edge of pavement: 40 feet.
 4. Minimum radius to the face of the curb: 15 feet.
 5. Minimum distance between drives: 30 feet.
 6. Minimum distance of drive from curb or edge of pavement at street intersection: 40 feet.
- J. Lighting Adequate lighting shall be provided if parking facilities are used at night. This lighting shall be installed and maintained in a manner not to shine, reflect, or cause glare into abutting premises or roads and highways.
- K. Reduction of parking area No automobile off-street parking facility shall be reduced in area or encroached upon by buildings, vehicle storage or any other use where such reduction or encroachment will reduce the area below that required.
- L. Barriers The perimeter of the parking area adjacent to the side or rear lot line shall be provided with wheel guards, bumper guards or curbs when the parking area is located ten (10) feet or less from the lot line. (Ord. No. 1816, Sec. 114-9-1, 11-2-00)

Schedule of parking requirements

- A. There are no parking requirements for businesses or residences in areas zoned C-1, Victorian Commercial.
- B. Off-street parking spaces shall be provided as follows:

Adult oriented business	See retail, large or small, or entertainment, large or small
Agriculture	N/A
Airport	Parking plan shall be submitted to the Planning Commission for approval
Auction house	See retail, large
Auto, motorcycle, boats, manufactured homes: sales/rental	Two (2) parking spaces per service bay plus one and one-half (1.5) space for each 400 square feet of showroom and office floor area.
Auto, motorcycle servicing	Two (2) parking spaces per service bay plus one and one-half (1.5) space for each 400 square feet of retail and office floor area.
Bed & Breakfast, boarding house	One (1) parking space per unit, plus two (2) spaces for owner/manager(s).
Building for religious services	One (1) parking space for every four (4) people of the maximum building capacity as determined by the city Fire Chief. Alternatively, arrangements that utilize off-site parking may be presented to the Planning Commission and may be approved by them.
Cemetery, mausoleum	One (1) space for each four hundred (400) square feet of office floor area.

Club, lodge	One (1) parking space for each four hundred (400) sq. ft of floor area
Commercial supplier	See retail, large
Community service center	One (1) parking space for each four hundred (400) sq. ft. of floor area
Convention center, banquet facility	One (1) parking space for each three hundred (300) sq. ft. of total floor area used for ball rooms, private meeting rooms, dining rooms and other similar places of assembly.
Daycare, large	One (1) parking space for each employee including teachers and administrators, plus sufficient off-street parking space for the safe and convenient loading and unloading of children.
Daycare, small	One (1) parking space for each employee including teachers and administrators, plus sufficient off-street parking space for the safe and convenient loading and unloading of children.
Dwelling, single-family	Two (2) parking spaces.
Dwelling, two-family	Four (4) parking spaces
Dwelling, multi-family	For each unit with no separate bedroom – one (1) space; for each unit with one separate bedroom – one and one-half (1 ½) spaces; for each unit with two (2) or more bedrooms – 2 spaces. Not more than fifty (50%) percent of the total are of the minimum required yards shall be occupied by parking spaces, drives, access road to, from and between such spaces, turnarounds or other surfaces designed for vehicular use.
Dwellings contained in a commercial building	See dwelling, multiple-family
Education	One (1) parking space for each employee including teachers and administrators, plus sufficient off-street parking space for the safe and convenient loading and unloading of students, plus additional facilities for all student parking.
Entertainment, large	One (1) parking space for every four (4) people of the maximum building capacity as determined by the city Fire Chief and one (1) space for each four hundred (400) sq. ft. of office area.
Entertainment , small	One (1) parking space for every four (4) people of the maximum building capacity as determined by the city Fire Chief and one (1) space for each four hundred (400) sq. ft. of office area.
Funeral home, crematorium	One (1) parking space for each four (4) seats in the main chapel or parlor, plus two (2) parking spaces for employees, and one (1) parking space for each vehicle used in connection with the business.
Gasoline service station, with or without convenience store	One (1) parking space for each three hundred (300) sq. ft. of total floor area.
Grain elevator, feed mill	Two (2) parking spaces for employees, plus one (1) parking space for every vehicle used in connection with the business.

Health care provider	One (1) parking space for each two hundred (200) sq. ft. of total floor area. No less than one (1) space per bed (not including bassinets).
Hotel, motel, or other lodging not listed in this chart	Parking plan shall be submitted to the Planning Commission for approval.
Industry	Parking plan shall be submitted to the Planning Commission for approval.
Large equipment, sales, service, store	Parking plan shall be submitted to the Planning Commission for approval.
Manufacturing, heavy	Parking plan shall be submitted to the Planning Commission for approval.
Manufacturing, light	Parking plan shall be submitted to the Planning Commission for approval.
Mobile home park	Two (2) parking spaces for each manufactured home space plus one (1) parking space for each four (4) home spaces in common areas for visitor parking.
Office, large	Parking plan shall be submitted to the Planning Commission for approval.
Office , small	One (1) parking space for each four hundred (400) sq. ft. of total floor area.
Parking lots	One (1) space for an employee.
Pawn and gun shops	See retail, large.
Public use	Parking plan shall be submitted to the Planning Commission for approval.
Public utility	One (1) space for each service vehicle, no less than (2) two.
Restaurant, drive-through or refreshment stand	One (1) parking space for each fifty (50) sq. ft. of floor area devoted to patron use within a building and one (1) parking space for each eighty (80) sq. ft. of floor area devoted to patron use not in a permanently fully enclosed area.
Restaurant, no drive through	One (1) parking space for each fifty (50) square feet of floor area devoted to patron use within a building and one (1) parking space for each eighty (80) square feet of floor area devoted to patron use not in a permanently fully enclosed area.
Retail, large	Parking plan shall be submitted to the Planning Commission for approval.
Retail, small	One (1) parking space for each three hundred (300) sq. ft. of gross floor area.
Services, personal	One (1) space per three hundred (300) sq. ft. of floor area.
Studio	One (1) space per three hundred (300) sq. ft. of floor area.
Tourist lodging	One (1) parking space per unit
Towers and beacons	See public utilities.

Trades and services, not personal	One (1) space per three hundred (300) sq. ft. of floor area.
Transportation center	Parking plan shall be submitted to the Planning Commission for approval.
Truck stop	Parking plan shall be submitted to the Planning Commission for approval.
Veterinarian, large animal or outdoor kennel	One (1) parking space for each three hundred (300) sq. ft. of total floor area excluding exterior kennel or holding pens.
Veterinarian, small animal, no outdoor kennel	One (1) parking space for each three hundred (300) sq. ft. of total floor area.
Warehouse/storage	Parking plan shall be submitted to the Planning Commission for approval.
Wedding establishment (indoor or outdoor)	One (1) parking space for every four people of the maximum building/site capacity as determined by the Eureka Springs Fire Chief. Alternatively, arrangements that utilize off-site parking may be presented to the Planning Commission and may be approved by them.
Wholesale businesses	See retail, large.

(Ord. No. 1816, Sec. 114, 9-1-4, 11-12-00)

- C. Vehicular use areas shall be landscaped in accordance with the city landscaping ordinances.
- D. Any landowner wishing to appeal the application of the parking requirements set forth in this section shall be entitled to appeal the determination of the city to the Board of Zoning Adjustment. (Ord. No. 1816, Sec. 114-9-1-4, 11-2-00)

14.08.06.1 Landscaping requirements All owners of property outside the Victorian Commercial (C-1) District that have parking areas of five (5) or more spaces that are visible from a public street, sidewalk or adjacent property shall landscape the areas according to the requirements of this article. (Ord. No. 1548, 11-23-93)

14.08.06.2 Perimeter landscaping requirements

- A. Each off-street parking area which is adjacent to a public right-of-way shall be separated from such right-of-way by a landscaped strip of not less than five (5) feet in width. Such strip shall contain evergreen ground cover or an evergreen hedge or an equal or better alternative. In addition, such strip shall contain at least one (1) deciduous tree not less than three (3) inches in caliper measured six (6) inches above the ground level for every 150 square feet of required landscaped strip.

- B. Each off-street parking area shall be separated from the adjacent property by a landscaped strip of not less than one-half (½) the required side yard (a minimum of five (5) feet in width on the side yard) or rear yard set back (a minimum of ten (10) feet in within rear yard) for the zoning district within which such parking area is located. Such landscaping strip shall contain the same plant material as required in subsection A.
- C. The above provisions notwithstanding, no more than one (1) deciduous tree shall be required for every thirty (30) linear feet of landscaped strip. (Ord. No. 1548, Sec. 1, 11-23-93)

14.08.07 Rezoning Property owners may initiate changes in the zoning district boundaries for property they own. The Planning Commission and the City Council, its agents, boards, or officers may propose changes to zoning district boundaries or any other provision of this chapter whenever public welfare necessitates. All rezonings shall follow the procedures of this section.

A. Rezoning initiated by private individuals

- 1. Fee Any party desiring a change in zoning district boundaries shall pay an application fee as determined by the City Council. The fee shall be paid to the city, and shall cover the cost of public notices and other expenses.
- 2. Submission requirements Any party desiring a change in zoning district boundaries shall submit an application to the city providing the following:
 - a. The name, address and telephone number of the record title holder of the property and the legal description of the property, provided by a copy of the warranty deed;
 - b. The names, addresses and telephone numbers of all intended grantees, if the property is subject to contract sale or title is to be otherwise conveyed;
 - c. A layman's description of the property;
 - d. The zoning classification requested for the property;
 - e. A brief statement of the reason for the zoning change;
 - f. The names, current addresses and zoning districts of adjacent property owners (all within two hundred (200) feet of the property in every direction) including those across streets or alleys from the property in question;

- g. A statement explaining the intended use and explaining why the zoning change will not conflict with surrounding land use;
- h. A scaled drawing of the property to be rezoned showing accurate lot lines, surrounding zoning, immediately adjacent property owners' names and a north arrow;
- i. Any other material or information relevant to the application. The city may request such drawings and other documents as may be helpful to the city's review of the application;
- j. Information submitted must be signed by the record title owner of the property, or his or her agent identified and designated in writing by the property owner. (Ord. No. 1816, Sec. 114, 10-1.1, 11-2-00)

B. Rezoning initiated by City Council When the City Council desires to initiate rezonings of land within the city boundaries, such proposals shall be referred to the Planning Commission for study and recommendations. If the City Council chooses to proceed with the rezoning, the following sections of this chapter shall be followed by the city which shall be considered the applicant.

C. Notice of public hearing on rezoning Upon receipt of a completed application for rezoning and the required fee, the Planning Commission shall schedule a public hearing on a proposed rezoning at the next scheduled meeting of the Planning Commission.

The following procedures shall apply:

1. There shall be a public notice of the hearing published at least once in a newspaper of general circulation in the city at least thirty (30) days before the hearing, which notice sets forth the time and place of such hearing and the proposed rezoning. The responsibility and cost of the public notice shall be borne by the party making the proposal.
2. The applicant shall notify all adjacent property owners (within 200 feet of the property lines in every direction) by certified mail, return receipt requested, at least ten (10) days prior to the public hearing. All return receipts and a copy of the letter with an affidavit of publication by the publisher shall be furnished to the Planning Commission in care of the city prior to the public hearing.
3. The applicant shall post at least one (1) or more where deemed necessary for adequate notice, conspicuous sign or signs on the property subject to a

rezoning hearing at least ten (10) days prior to said hearing. Signs for this purpose shall be provided by the city, and shall note the time and date of the public hearing. Each sign shall be no smaller than two (2) feet wide by three (3) feet long and to contain the words ZONING HEARING ON THIS PROPERTY, printed in bold block letters a minimum of three (3) inches high with a copy of the public notice concerning the rezoning petition to be placed on the sign in a clear, weatherproof enclosure.

4. There shall be no hearing without the required public notice. Notice shall not be published before the Planning Commission has scheduled the public hearing. (Ord. No. 1816, Sec. 114-10-1.3, 11-2-00)

D. Action by the Planning Commission on rezoning

1. The Planning Commission shall hear the petitioner's request for rezoning at the public hearing and shall consider the petitioner's purposes for the rezoning request as well as public comments. The applicant shall be present at the meeting for the matter to be considered. If the applicant is unable to attend, written authorization from the applicant authorizing representation must be presented to the Commission for the matter to be considered. Any decisions made by the designated agent shall be binding on the landowner.
2. Planning Commission votes The rezoning, as presented or modified by the action following the public hearing, shall be voted on by the Planning Commission. Following such vote, the Planning Commission shall certify its recommendations to the City Council. Should the Planning Commission determine a lesser impacting zone would be more appropriate to meet the purposes of the petitioner and would cause less impact on the neighboring parties, the Planning Commission is empowered to reduce the zoning classification requested to a different classification if the petitioner concurs, and after consideration of comments from the public, to vote thereon without the necessity of further publication of notice. Any change in zoning classification to a higher or more impacting zone would require notice be republished and public hearing be held again.

The following factors shall be considered by the Planning Commission in making any change:

- a. Whether the proposed change would be contrary to master, comprehensive or land use plans and would have an adverse effect on the plans;
- b. The existing land use pattern;

- c. The possible creation of an isolated district unrelated to the adjacent and nearby districts;
- d. The population density pattern and possible increase of overtaxing of the load on public facilities such as schools and infrastructure;
- e. Whether existing district boundaries are logically drawn in relating to existing conditions on the property proposed for change;
- f. Whether changed or changing conditions make the passage of the proposed rezoning necessary;
- g. Whether the proposed change will adversely influence property values or living conditions in the neighborhood;
- h. Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety;
- i. Whether the proposed change will create a drainage problem;
- j. Whether the proposed change will seriously reduce light and air to adjacent areas;
- k. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations;
- l. Whether the proposed change will constitute a grant of special privilege to an individual owner instead of protecting the public welfare;
- m. Whether there are substantial reasons why the property cannot be used in accord with existing zoning;
- n. Whether the change suggested is in harmony with the character of the neighborhood;
- o. Whether it is impossible to find other adequate sites in the city for the proposed use in districts already permitting such use. (Ord. No. 1816, Sec. 114-10-1.4, 11-2-00)

E. Failure of Planning Commission to act on rezoning

1. The Planning Commission shall make a positive or negative recommendation to the City Council within sixty (60) days on any rezoning application properly placed before it. The application shall be placed on the next City Council agenda for consideration by the City Council.
2. If the Planning Commission fails to act within this time, the applicant or other interested party shall be entitled to have the matter placed on the agenda of the next regular meeting of the City Council. The City Council shall assume direct jurisdiction over the matter and shall hold all public hearings required by this chapter or deemed in the best interest of the public. (Ord. No. 1816, Sec. 114-10-1.6, 11-2-00)

F. Action by the City Council on rezoning

1. The City Council, by majority vote, shall consider the Planning Commission's recommendation regarding any rezoning application at the City Council's next regularly scheduled meeting, and may by ordinance adopt the recommended rezoning forwarded to it by the Planning Commission. (Ord. No. 1816, Sec. 114-10-1.6a, 11-2-00)

The City Council may also deny the rezoning, impose conditions thereon, or may return the proposed rezoning to the Planning Commission for further study and recommendation. (MC 2000, Sec. 114-10-6a, 11-2-00)

2. Where a rezoning is under protest by the owners of twenty (20%) percent or more of the land within such area proposed to be altered, or by the owners of twenty (20%) percent or more of the area of lots immediately abutting the sides of the parcel(s) included in the proposed change, or separated therefrom only by an alley or street, such proposal shall not be passed except by the favorable vote of three-fourths (3/4) of the full membership of the City Council. (Note: for a council of six (6) aldermen, an ordinance requires a three-fourths (3/4) vote required five (5) ayes to pass.)

- G. Appeal of denial An applicant or adjacent property owner wishing to appeal the decision of the City Council may appeal the approval or denial of a rezoning to a court of law of proper jurisdiction, so long as the appeal is filed within fifteen (15) days of the decision by the City Council.

- H. Zoning of new land The City Council may classify any annexation of land to the city upon recommendation by the Planning Commission with proper notice and procedures. Otherwise, any annexation of land shall be classified as an agricultural district until application for rezoning is made. (Ord. No. 1816, Sec. 114-10-1.6-1.8, 11-2-00)
- I. Re-application Once an application for rezoning of a property has been denied, such action cannot be reconsidered for a period of twelve (12) months after the original decision, except that the Planning Commission by a three-fourths (3/4) vote of the complete membership may agree to schedule an earlier hearing in those cases where the applicant, in writing, clearly demonstrates that:
1. Circumstances affecting the property that is the subject of the application have substantially changed; or
 2. New information is available that could not with reasonable diligence have been presented at the previous hearing. (Ord. No. 1878, Sec. 1, 8-20-01)

14.08.08 Conditional use permits

- A. CUP required A Conditional Use Permit (CUP) is required for any use which is not a use allowed by right in any zoning district of the city. Conditional Use Permits will be issued only when authorized by the terms of this chapter. Approval of a conditional use shall not be a matter of right, but shall only be granted when the proposed use is in harmony with the character of the zone where it shall be located. Once a conditional use is approved, that use may continue so long as the owner abides by the requirements of this subsection and any special conditions placed upon the use by the Planning Commission. The conditional use is granted to the applicant for a specific use at a specific property and is not transferable.
- B. After Sept. 30, 1986 All bed and breakfast and tourist lodging establishments which commence operation or are modified by the addition of units, alteration of the existing structures or the construction of additional structures, after September 30, 1986, shall be required to apply for Conditional Use.
- C. Conditional Use application Submission requirements: Anyone requesting a conditional use permit shall submit an application to the city providing the following:
1. The name, address and telephone number of the record title holder of the property and the legal description of the property, provided by a copy of the warranty deed;

2. The names, addresses and telephone numbers of all intended grantees, if the property is subject to contract sale or title is to be otherwise conveyed;
3. A layman's description of the property;
4. The zoning classification of the property;
5. Brief statement describing the intended use, and the effect the proposed conditional use will have on the character of the neighborhood;
6. The names, current addresses as provided by the Carroll County Tax Assessor and zoning districts of adjacent property owners (all within 200 feet of the property in every direction) including those across streets or alleys from the property in question;
7. A scaled surveyed drawing of the property on which the use will be located, showing accurate lot lines, zoning district, surrounding zoning, immediately adjacent property owners' names, a north arrow, existing structures, trees, and any proposed improvements;
8. Any other material or information relevant to the application. The city may request such drawings and other documents prior to the public hearing as may be helpful to the city's review of the application;
9. Information submitted must be signed by the record title owner of the property, or his other agent identified and designated in writing by the property owner.
10. Applications for Conditional Use Permits (CUP) for a bed and breakfast shall state the number of "lodging units" and parking spaces available. (Ord. No. 1816, Sec. 114-10-2.1, 11-2-00)

D. Conditional Use Public Hearing Notice Upon receipt of a completed application for a conditional use and an application fee, the Planning Commission shall schedule a public hearing on the proposed conditional use at the next scheduled meeting of the Planning Commission.

The following procedures shall apply:

1. There shall be a public notice of the hearing published at least once (1) in a newspaper of general circulation in the city at least fifteen (15) days before the hearing, which notice sets forth the time and place of such hearing and the conditional use proposed. Responsibility and cost of the public notice shall be borne by the party making the proposal.

2. The applicant shall notify all adjacent property owners (within 200 feet of the property lines in every direction) by certified mail, return receipt requested, at least ten (10) days prior to the public hearing. All return receipts and a copy of the letter with an affidavit of publication by the publisher shall be furnished to the Planning Commission in care of the city prior to the public hearing.
3. The applicant shall post at least one (1), or more where deemed necessary for adequate notice, conspicuous sign or signs on the property subject to a conditional use hearing at least ten (10) days prior to said hearing. Signs for this purpose shall be provided by the city and shall note the time and date of the public hearing. Each sign shall be no smaller than two (2) feet high by three (3) feet wide and to contain the words **CONDITIONAL USE HEARING ON THIS PROPERTY**, printed in bold block letters a minimum of three (3) inches high with a copy of the public notice concerning the conditional use application to be placed on the sign in a clear, weatherproof enclosure.
4. There shall be no hearing without the required public notice. Notice shall not be published before the Planning Commission has scheduled the public hearing. (Ord. No. 1186, Sec. 114-10-2.2, 11-2-00)

E. Action by the Planning Commission on conditional use

1. The Planning Commission shall hear the petitioner's request for a conditional use at the public hearing and shall consider the petitioner's purposes for the conditional use request as well as public comments. The applicant must be present at the meeting for the matter to be considered. If the applicant is unable to attend, written authorization from the applicant authorizing representation must be presented to the Planning Commission for the matter to be considered. Any decisions made by the designated agent shall be binding on the landowner.
2. The Planning Commission shall either grant or deny the Conditional Use Permit within a reasonable time of the final public hearing, imposing such conditions, if any, deemed necessary and appropriate to protect the character of the neighborhood. If approved, the conditional use is thereby granted unless appealed to the City Council.

The following considerations shall be discussed in relation to each proposed use. Particular consideration shall be given to the impact on adjacent property owners in Residential and Quiet Use Zones:

- a. Whether the proposed use would be contrary to master, comprehensive or land use plans and would have an adverse effect on the plans;
- b. The existing land use pattern in the neighborhood;
- c. The population density pattern and possible increase of overtaxing of the load on public facilities such as schools and infrastructure;
- d. Whether the proposed change will adversely influence property values or living conditions in the neighborhood;
- e. Whether the proposed use will create or excessively increase traffic congestion or otherwise affect public safety;
- f. Whether the proposed use will create a drainage problem;
- g. Whether the proposed use will seriously reduce light and air to adjacent areas;
- h. Whether the proposed use will be a deterrent to the improvement or development of adjacent property in accord with existing regulations;
- i. Whether there are substantial reasons why the property cannot be used in accord with existing zoning without the conditional use being granted;
- j. Whether the proposed use is in harmony with the character of the neighborhood;
- k. Whether other adequate sites in the city exist for the proposed use in districts already permitting such use;
- l. Harm to any historic, aesthetic, or other intrinsic value of the structure to house the use;
- m. Adequacy of parking, and whether providing parking for the use would damage existing scenic areas, including front yards, gardens, and grounds;
- n. Traffic congestion near the proposed site; specific concerns as to ingress and egress, two-way traffic, danger from curves or other terrain conditions; prevention of smooth flow of visitors, customers, and motorists;

- o. Adequacy of utilities serving the site;
 - p. Adequacy of refuse and service areas;
 - q. Screening and buffering from adjacent properties;
 - r. Environmental impact of the proposed use, including, but not limited to, odors, noise, smoke, or signs;
 - s. The temporal nature of the enterprise, with allowances for temporary activities only in extreme cases where effort is already underway to construct a permanent facility;
 - t. The opinions of adjacent property owners.
3. Any person affected by a proposed use may express approval or disapproval in writing or in person at the public hearing. Any lack of response by surrounding property owners shall not be interpreted as approval or disapproval.
 4. Where a conditional use application has been opposed in writing by more than twenty (20%) percent of the adjacent property owners, a three-fourths (3/4) vote of the Planning Commission full membership shall be required for it to be approved. In no case can approval be reached with less than four (4) affirmative votes. (Ord. No. 1816, Sec. 114-10-2.3, 11-2-00)

F. Conditional use appeal

1. An applicant or adjacent property owner wishing to appeal a decision of the Planning Commission approving or denying a conditional use may appeal the decision to the City Council, so long as written notice of intent to appeal and a statement of the reason the appeal should be granted is filed with the city within fifteen (15) days of the Planning Commission decision. The City Council, by majority vote, shall consider the Planning Commission's determination regarding a conditional use appeal at the City Council's next regularly scheduled meeting. (Ord. No. 1816, Sec. 114-10-2.4a, 11-2-00)

The City Council, by majority vote, may uphold, modify in whole or in part, or reverse the decision of the Planning Commission, or may return the proposed conditional use to the Planning Commission for further study and recommendation. (MC 2000, 114-10-6a)

2. Where a conditional use is under protest by more than twenty (20%) percent of the adjacent property owners, a three-fourths (3/4) vote of the full membership of the City Council shall be required. A proposal is under protest if a written protest is signed by the owners of at least twenty (20%) percent of the adjacent land, which includes land separated from the subject property by only an alley or street. An appeal of the Planning Commission decision will be to the City Council. (Ord. No. 1816, Sec. 114-10-2.4, 11-2-00)

G. Revocation of Conditional Use Permit The city may revoke a Conditional Use Permit for violation of any condition of the permit. In the event that the city learns of any such violation, it shall notify the applicant of the violation. The applicant may be heard at the meeting of the Planning Commission scheduled for consideration of the revocation and show cause as to why the permit should not be revoked. If the applicant fails to appear or fails to show good cause why the permit should not be revoked, the permit shall be revoked and the use shall cease and any continuation of the use shall be a violation of this code. (Ord. No. 1816, Sec. 114-10-2.5, 11-2-00)

H. Re-application Once an application for a Conditional Use Permit for a property has been denied, such action cannot be reconsidered for a period of twelve (12) months after the original decision, except that the Planning Commission by a three-fourths (3/4) vote of the complete membership may agree to schedule an earlier hearing in those cases where the applicant, in writing, clearly demonstrates that:

1. Circumstances affecting the property that is the subject of the application have substantially changed; or
2. New information is available that could not with reasonable diligence have been presented at the previous hearing. (Ord. No. 1878, Sec. 2, 8-20-01)

14.08.09 Administration

A. Administrative officers The Mayor shall appoint the administrative officer(s) who shall be responsible for administering and enforcing this chapter. References to the city throughout this chapter shall mean that person appointed by the Mayor who is responsible for administering the zoning ordinance or any function hereunder, regardless of what other title may be used for the person's employment position. (Ord. No. 1816, Sec. 114-11-1, 11-2-00)

B. Building permits

1. It shall be a violation of this chapter for anyone to, erect, alter, modify or move any building unless in compliance with all applicable codes and laws

and the city has issued a building permit. (Ord. No. 1816, Sec. 114-11-2, 11-2-00)

2. The applicant for a building permit shall provide the following information:
 - a. A plot plan, drawn to scale, showing the following:
 - (1) The exact size, shape and dimensions of the lot to be built upon;
 - (2) The exact size and location on the lot of all existing buildings, structures and utilities;
 - (3) The exact size and location on the lot of the structure to be moved, erected, or altered;
 - (4) The arrangement, size, and number of parking stalls;
 - (5) Movement of vehicles, including entrance and exit drives of all off-street parking and loading facilities;
 - b. A declaration of the intended and existing use of each existing and proposed building on the lot;
 - c. The number of families and dwelling units which each existing or proposed building is to accommodate;
 - d. Any additional information needed to determine compliance with these regulations, or to justify historical precedent for any restorative action.

No building permit shall be issued until the city has verified that the applicant has fully complied with all applicable parts of this and any other applicable ordinance, including Historic District requirements. Proper documentation shall be maintained in the official files and records of the city. (Ord. No. 1816, Sec. 114-11-2.1, 11-2-00)

3. Expiration of Building Permits

- a. If the work described in a building permit has not begun within one (1) year of the permit issuance, the permit shall expire. It shall be canceled by the city.

- b. If any work described in a Building Permit is not substantially completed within two (2) years of the permit issuance, the permit shall expire. It shall be canceled by the city. "Substantially completed" shall be defined for this purpose as eighty (80%) percent completion of the structure. (Ord. No. 1816, Sec. 114-11-2.2, 11-2-00)

- 3. Building Permits in Historic District An applicant requesting a Building Permit for an area in the Historic District must present a Certificate of Appropriateness to the city. The Certificate of Appropriateness must have been properly issued, signed, and attested to by the City Historic District Commission on identical plans.(Ord. No. 1816, Sec. 114-11-2.3, 11-2-00)

- 4. Building Permits for Bed & Breakfasts When a residential building is to be modified for use as a bed and breakfast, all wiring and plumbing must conform to the applicable sections of the Municipal Code and conform to the requirements for commercial buildings. (Ord. No. 1816, Sec. 114-11-2.4, 11-2-00)

- 5. Certificate of Occupancy It shall be a violation of this chapter for any person to occupy any new or remodeled structure, or land on which there has been a change in use, prior to issuance of a Certificate of Occupancy certifying that all provisions of this chapter have been met. The Certificate shall be issued by the city upon the approval of the construction as conforming with the submitted plans which were approved at the time the Building Permit was issued therefore, or if regarding a change in use of land, upon the approval of the proposed use as being in compliance with this chapter. (Ord. No. 1816, Sec. 114-11-2.5, 11-2-00)

- 6. Approval for moving buildings
 - a. No building or structure shall be moved within the city without the prior written approval of the Planning Commission. Approval shall be indicated on a form entitled "Certificate of Approval for Plan to Move Building or Structure," and shall be signed by the chairman and attested by the secretary of the Planning Commission.

In approving the moving of a building, the Planning Commission shall consider:

- (1) The effect on relative property values;
- (2) The environments of the present and proposed sites;
- (3) Aesthetic matters;
- (4) Public safety and convenience.

- b. The Planning Commission has the authority to treat a request for approval for the moving of a building as a conditional use application. In such a case, the applicant for approval to move a building must comply with the provisions of 14.08.08 with respect to the contents of the application, public hearing, and matters of decision and appeal. (Ord. No. 1816, Sec. 114-11-2.6, 11-2-00)

- C. Construction and permits Building Permits and Certificates of Occupancy issued on the basis of plans and applications approved by the city authorize only the arrangement and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Arrangement or construction at variance with that authorized shall be deemed a violation of this chapter. Subsequent lawful changes of use shall not be deemed a violation. (Ord. No. 1816, Sec. 114-11-3, 11-2-00)

- D. Penalties A violation of this chapter shall be deemed a misdemeanor and shall be punishable by fine. Any person, corporation, or other entity that fails to comply with any provision of this chapter shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each offense. Continuing violations shall be a separate offense for each day the violation exists, and shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each offense. In addition, the city may seek relief for any violation through civil judicial process, including without limitation injunctive relief and judicial sanctions, which civil relief shall be supplemental to, and shall not displace, any prosecution and penalties provided hereby. (Ord. No. 1816, Sec. 114-11-4, 11-2-00)

- E. Written complaints When a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the city, who shall properly record such complaint, immediately investigate, and take action thereon as provided by this chapter. In addition to the penalties, the city may revoke any permit issued upon the finding of a violation of this chapter. (Ord. No. 1816, Sec. 114-11-5, 11-2-00)

14.08.10 Board of Zoning Adjustment Appeals

- A. The Planning Commission as a whole serves as the Board of Zoning Adjustment. (Ord. No. 1816, Sec. 114-12-1, 11-2-00)

- B. Proceedings
 - 1. The Board shall adopt rules necessary to conduct its affairs under this chapter. The Board shall establish regular meeting dates and call other meeting times as the Board may determine. The chairman, or in his or her

absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. Public notice of Board meetings shall be published in a newspaper of general circulation in the city at least one (1) time eight (8) days prior to the meeting.

2. The Board shall keep minutes of its proceedings. Minutes shall show the vote of each member upon each question, absence from the meeting, or failure to vote. The Board shall keep records of its examinations and other official actions. All minutes and records of the Board shall be a public record and be immediately filed in the office of the City Clerk.
3. The concurring votes of four (4) members of the Board shall be necessary to:
 - a. Reverse any order, requirement, decision, or determination of the Building Inspector;
 - b. Decide in favor of the applicant on any matter upon which it is required to pass under this chapter; or
 - c. Grant or deny any variance from the application of this chapter.

C. Powers and duties The Board of Zoning Adjustment shall have the powers and duties listed below. The scope of the discretion of the Board shall be to act so that undue hardship to the applicant be avoided while attempting to preserve the character and intent of the requirements of this chapter.

1. Administrative review of city The Board shall hear and decide appeals from decisions of the city regarding enforcement or application of this chapter. The Board may affirm, reverse, or modify, in whole or in part, such decisions.
2. Hearing appeals from denial of permits Any person or entity affected by a decision of the city may appeal that decision to the Board for a hearing. The applicant for an appeal must file a Notice of Appeal with the city within fifteen (15) days of the decision. The city must transmit the complete record of the decision to the Board within five (5) days of receiving notice of appeal.

The following procedures shall apply:

- a. There shall be a public notice of the hearing published at least once (1) in a newspaper of general circulation in the city at least eight

(8) days before the hearing, which notice sets forth the time and place of such hearing and the decision which is appealed. The responsibility and cost of the public notice shall be borne by the person filing the appeal.

- b. The applicant shall notify all adjacent property owners (within 200 feet of the property lines in every direction) by certified mail, return receipt requested, at least fifteen (15) days prior to the public hearing. All return receipts and a copy of the letter with an affidavit of publication by the publisher shall be furnished to the Board of Zoning Adjustment in care of the city prior to the public hearing.
- c. The applicant shall post at least one (1), or more where deemed necessary for adequate notice, conspicuous sign or signs on the property subject to a conditional use hearing at least fifteen (15) days prior to said hearing. Signs for this purpose shall be provided by the city and shall note the time and date of the public hearing. Each sign shall be no smaller than two (2) ft. high by three (3) ft. wide and to contain the words **BOARD OF ZONING ADJUSTMENT APPEAL HEARING ON THIS PROPERTY**, printed in bold block letters a minimum of three (3) inches high with a copy of the public notice concerning the conditional use application to be placed on the sign in a clear, weatherproof enclosure.
- d. There shall be no hearing without the required public notice. Notice shall not be published before the Board of Zoning Adjustment has scheduled the public hearing. (Ord. No. 1816, Sec. 114-12-3.2, 11-2-00)

3. Action on appeals

- a. The Board shall hear the appeal at the public hearing and shall consider the applicant's reasons for the appeal as well as public comments. The applicant must be present at the meeting for the matter to be considered. If the applicant is unable to attend, written authorization from the applicant authorizing representation must be presented to the Board for the matter to be considered. Any decisions made by the designated agent shall be binding on the landowner.
- b. The Board shall either grant or deny the appeal within a reasonable time, imposing such conditions, if any, deemed necessary and

appropriate to protect the character of the neighborhood. If approved, the appeal is thereby granted unless appealed to the City Council. Consideration shall be given to the concerns listed in 14.08.08 as for a Conditional Use, to the extent relevant. Particular consideration shall be given to the impact on adjacent property owners in Residential and Quiet Use Zones. (Ord. No. 1816, Sec. 114-12-3.3, 11-2-00)

D. Variances and waivers

1. The Board of Zoning Adjustment shall also have the power to grant variances from or to waive the literal provisions of this chapter. Variances and waivers can include, but are not limited to, matters such as setback lines, frontage requirements, height limits, lot size, density requirements, and yard regulations. A variance or waiver from the literal provision of this chapter shall not be granted unless written application is made demonstrating:
 - a. Literal enforcement of the provisions of this chapter would result in undue or unnecessary hardship.
 - b. Special circumstances exist which are unique to the property in question and which do not apply to other properties in the same district.
 - c. The special circumstances do not result from the actions of the applicant.
 - d. Literal enforcement would deprive the applicant of rights commonly enjoyed by other properties in the same district.
 - e. Granting the waiver or variance will be within the spirit and intent of this chapter and not against public interest.
2. Non-conforming uses of lands, or variances or waivers granted affecting lands, in the same or another district shall not be grounds for a waiver or variance.
3. A public hearing shall be held and public notice shall be given. The Board of Zoning Adjustment shall grant a variance or waiver only to the extent needed to relieve the unnecessary hardship.
4. To grant a waiver or variance, the Board of Zoning Adjustment must find:

- a. That the requirements set forth above have been met by the applicant;
 - b. That the reasons set forth in the application justify the granting of the waiver or variance;
 - c. That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure;
 - d. That the granting of the waiver or variance will be in harmony with the general purpose and intent of this chapter, and will not be detrimental to the neighborhood or detrimental to the public welfare.
5. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under this chapter.
 6. The action of this Board of Zoning Adjustment in granting any variance or waiver of any provision of this chapter shall not be deemed a waiver or variance of any provision of any protective code or other laws.
 7. In granting any variance or waiver, the Board of Zoning Adjustment may require appropriate conditions and safeguards to ensure compliance and to protect adjacent property. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. (Ord. No. 1816, Sec. 114-12-4, 11-2-00)

E. Appeals from Board of Zoning Adjustment

1. Decisions of the Board of Zoning Adjustment in respect to the above shall be subject to appeal only to a court of record having jurisdiction, in the manner provided by the laws of the state of Arkansas. (Ord. No. 1816, Sec. 114-12-5, 11-2-00)
2. An appeal of a Board of Zoning Adjustment decision to a court shall stay all proceedings in furtherance of that decision, unless the city certifies to the Board in writing that a stay would cause imminent peril to life or property. The certificate shall state the Building Inspector's supporting reasons and facts. In such a case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, after notice to the Building Inspector from whom the appeal is taken, and on due cause shown. (Ord. No. 1816, Sec. 114-12-5.1, 11-2-00)

- F. Duties of Building Inspector, Board of Zoning Adjustment, City Council and Court on matters of appeal It is the intent of this chapter that questions of interpretation and enforcement shall be first presented to the Mayor, or the person designated by the Mayor for such purpose ("the city"). Such questions shall be presented to the Board of Zoning Adjustment only on appeal from the decision of the city, and recourse from the decisions of the Board of Zoning Adjustment shall be to the courts as provided by state law.

It is further the intent of this chapter that the duties of the City Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure of deciding such questions shall be as stated in this section and this chapter. (Ord. No. 1816, Sec. 114-12-6, 11-2-00)

14.08.11 Fees The City Council shall establish by resolution a schedule of fees, charges, and expenses and a collection procedure for building permits, rezoning and conditional use applications, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the City Hall and may be altered or amended only by resolution of the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. (Ord. No. 1816, Sec. 114-13, 11-2-00)

14.08.12 Conflicting provisions In the event that the provisions of this zoning chapter appear inconsistent with one another or with other sections of the Municipal Code, the most restrictive provision shall govern. (Ord. No. 1816, Sec. 114-14, 11-2-00)

14.08.13 Definitions For the purposes of this chapter, certain terms or words used herein shall be interpreted as follows:

Person may include a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

Present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.

Shall is mandatory; **may** is permissive

Used or **occupied** include the words intended, designed, or arranged to be used or occupied.

Lot includes the words plot or parcel.

Building and **Structure** are synonymous

Abutting property Properties that touch along a common border.

Accessory use or structure A use or detached structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Adjacent property Any property within two hundred (200) feet of a parcel.

Agriculture Any farming use.

Apartment house See "dwelling, multi-family."

Auto/motorcycle servicing Any building or portion of a building used by a business whose services include servicing automobiles or motorcycles, for example: fuel, any maintenance, any type of repair, washing, and transmission repair. Buildings that service large equipment, buses, and trucks are not included in this definition.

Basement A story of a structure partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half (1/2) its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

Bed and breakfast A dwelling or area containing one (1) or more structures, at least one (1) of which is occupied by an owner or manager on-site, where, for compensation, lodging and meals are provided, generally no longer than thirty (30) days per guest, but not more than five (5) units. For the purpose of this section, "on-site" shall be defined as adjoining (i.e., sharing a boundary) and shall not include properties separated by a city street, roadway, green space or alley. (Ord. No. 2163, Sec. 1, 10-8-12.)

Board of Adjustment The Board of Adjustment of the city of Eureka Springs, Arkansas, whose membership may be identical to that of the Planning Commission at the discretion of the City Council.

Boarding house A dwelling where meals, or lodging and meals, are provided for compensation, or where meals may be available on a commercial basis, for two (2) or more persons pursuant to previous arrangements, but which is not available to transients.

Buildable area The portion of a lot remaining after required yards have been reserved.

Building (wind generating device) See "structure."

Building used for religious services A building or portion of building used primarily for regularly scheduled religious services at published times.

Certificate of Occupancy The documented evidence that the city has approved the use of a parcel of land, or a structure, as being in compliance with the Municipal Code which must be issued prior to a person occupying the land or structure.

City The city of Eureka Springs, Arkansas.

Clear cut The massive, deliberate effort undertaken by an owner, tenant or developer to eliminate a large amount or most of the trees and/or natural vegetation of land in order to build, erect or construct commercial or residential structures, or to simply level the land under the concept of improvement, including the initial clearing of land which was previously in a natural tree or brush-covered habitat.

Club or lodge A building or portion of a building used by an association for the promotion of some common objective, excepting clubs the chief activity of which is a service customarily carried on by as a business.

Community service center Any building or portion of a building used for the organized provision of community services, for example: social service provision, food pantries, community outreach, and counseling.

Conditional use A use permitted in one or more zoning districts as they are defined by this chapter, which use, because of the characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surrounding property, streets and existing improvements or demands upon public facilities, requires a special degree of control to make such use consistent with and compatible to other existing or permissible uses in the same district, and to assure that such uses shall not be inimical to the public interest. Any conditional use authorized in a residential zone shall be subject to and comply with all conditions and restrictions contained in the definition of "Quiet Use."

Conditional Use Permit (CUP) The documented evidence or authority granted by the Board of Zoning Adjustment to allow a conditional use at a particular location.

Dwelling, mobile home See "manufactured home."

Dwelling, multi-family A single detached dwelling designed for and occupied by three (3) or more families living independently of each other as separate housekeeping units, including apartment houses, apartment hotels, or resort-type hotels, and intended for use by the same tenant for each separate housekeeping unit for thirty (30) consecutive days or longer.

Dwelling, single-family A detached residential dwelling unit other than a mobile home, designed for and occupied by one (1) family only.

Dwelling, two-family A detached residential building containing two (2) dwelling units, designed for occupancy by not more than one (1) family per dwelling unit.

Dwelling unit One (1) room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

EFIS (Exterior Finish and Insulation System) An exterior wall and insulation system which provides a stucco-like exterior wall surface.

Education Public, private or denominational. Means an educational institution operated under the auspices of the city school board, or an educational institution operated by private or religious agencies which provide elementary or secondary education.

Entertainment, large Any building or portion of building larger than 3,000 sq. ft. of usable space used for entertainment. For example: golf courses, indoor target ranges, large health clubs, race tracks, stadiums, large cinema complexes, live theater and fair grounds.

Entertainment, small Any building or portion of building 3,000 sq. ft. or smaller of usable space, located on smaller parcels of land, used for entertainment for example, bars and taverns, dance halls, comedy clubs, video arcades, bowling alleys, smaller health clubs, live theater and small cinemas. Restaurants are not included in this definition.

Family One (1) or more persons occupying a single dwelling unit, and living as a single, non-profit housekeeping unit, provided that unless all members are related by blood, adoption, or marriage, no such family shall contain over four (4) persons, but further provided that domestic servants employed on the premises or foster children or persons court-ordered to live on the premises may be housed on the premises without being counted as a family or families.

Gasoline service station Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body work are conducted.

Healthcare provider Any of a number of different types of organizations that provide healthcare, including but not limited to hospitals, clinics, nursing homes, birthing centers, and residential care facilities.

Historic Those areas and structures that were constructed in the period from 1870 to 1950, in reality or simply in appearance, and to the natural formations of rock, stone, hillside, spring or cliff features that, whether marked by sign, celebrated with a surrounding park, or inherently valuable unmaintained or distinguished, comprise a traditional and currently attracting element for visitors and residents.

Home occupations The accessory use of a residential dwelling for gainful employment in such a manner and under such conditions and restrictions that the business use is compatible with and does not disrupt the residential character of the neighborhood including, but not limited to traffic and parking.

Hotel A building or group of buildings under one (1) ownership containing six (6) or more sleeping rooms occupied, intended or designed to be occupied as temporary accommodations for persons who are lodged with or without meals for compensation, but not including an auto or trailer court or camp, sanitarium, hospital asylum, orphanage.

Intimate theater A building used for dramatic presentations, stage entertainment, musical concerts or the presentation of motion pictures with a maximum capacity equal to 4 times the number of onsite parking places at the theater. No food or drink to be offered on site.

Large equipment Vehicles larger than the largest sport-utility vehicle or pick-up truck.

Loading space, off-street Space logically and conveniently located for bulk pickups and deliveries, scaled to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot For purposes of this chapter, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- A. A single lot of record.
- B. A portion of a lot of record
- C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
- D. A parcel of land described by metes and bounds.

Lot frontage The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yards" in this section.

Lot measurements

- A. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- B. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, and measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80%) percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where width is measured at the building line.

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 in metes and bounds, the description of which has been so recorded.

Lot, corner A lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot, interior A lot other than a corner lot with only one (1) frontage on a street.

Lot, through A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

Manufactured home A dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the federal Manufactured Housing Construction and Safety Standards Code.

Manufactured home subdivision A parcel of land platted for subdivision according to all requirements of the comprehensive plan, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes.

Manufactured housing construction and safety standards code Title VI of the 1974 Housing and Community Development Act (42 U.S.C. 5401 et sequence), as amended (previously known as the Federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder (including information supplied by the home manufacturer, which has been stamped and approved by a design approval primary inspection agency, an agent of the U.S. Department of Housing and Urban Development pursuant to HUD rules), which became effective for mobile/manufactured home construction on June 15, 1976.

Manufacturing, heavy Any manufacturing not included in manufacturing, light.

Manufacturing, light Any business organized to do any type of manufacturing which does not produce annoying or harmful by products including dust, odors, or noise; for example: light assembly.

Metal buildings Any building whose exterior walls, as viewed from the outside, are constructed primarily from metal shall be deemed a metal building within the scope of this section.

Mobile home A transportable, factory built home, designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

Mobile home park Any plot of ground on which there are located or intended to be located two (2) or more mobile or manufactured homes to be occupied for dwelling or sleeping purposes. All mobile home parks are subject to the regulations set forth in District MHP.

Non-conforming use, structure or lot A use, structure or lot which legally existed prior to the effective date of the ordinance from which this chapter derived or the applicable provision of this Municipal Code, or an amendment thereto, but no longer is in compliance therewith.

Office, large Any office larger than 3,000 sq. ft. of usable space.

Office, small Any office 3,000 sq. ft. of usable space or smaller, with the exception of a home office which qualifies as a home occupation.

Outdoor advertising business Provisions of outdoor displays or display space on a lease or rental basis only.

Parking lot Use of a plot of ground or parcel of real estate for the parking of vehicles used by customers and employees of that business.

Parking space, off-street For the purpose of this chapter, an off-street parking space shall consist of a space located off the street right-of-way adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for all non-residential use, and for residential use for three (3) or more automobiles with access to a collector or arterial street (as designated on the master street plan), shall be so designed, maintained and regulated that no maneuvering incidental to parking or unparking shall be on any public street or street right-of-way, walk or alley, and so that any automobile may be parked and unparked without moving another.

Planned unit development Planned unit development (PUD) is a parcel of land initially under unified ownership or control which is intended to be the site for two (2) or more buildings or uses.

Public use Any use which is governmental in nature, including uses and structures housing uses for purposes of police and fire protection, library, hospital, cemetery, tennis courts, park, courthouse, city hall and offices for city or county employees, but not including public utilities.

Public utility Any utility which is publicly or privately owned which provides electricity, gas, sewer, water, cable, or telephone services to members of the public citizenry.

Quiet use Any commercial use which can be carried out in a building which was originally designed and used as a dwelling or existed as a commercially designed building prior to October 15, 1987, and which meets the requirements as defined in district C-3, Quiet Use commercial.

Residential care facility A building or structure which is used or maintained to provide for pay, on a 24-hour basis, a place or residence and board for three (3) or more individuals, not to exceed ten (10) residents, whose functional capabilities have been impaired but do not require hospital or nursing home care on a daily basis, but could require other assistance in activities of daily living. A residential care facility should not be confused with traditional boarding houses or room and lodging facilities that provide only room and board.

Restaurant or refreshment stand, drive-in Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Retail, small Any retail business not covered elsewhere in the zoning ordinance, that is 3,000 sq. ft. of usable space or smaller.

Retail, large All retail businesses that don't qualify as "small." Includes nurseries and landscaping businesses.

Services, personal Businesses organized to provide services that are considered personal, for example: beauty salons, barbers, tanning booths, and massage.

Services, not personal Those trades and services that benefit structures and land, for example: plumbing, carpentry, heating/air conditioning, landscaping, and construction.

Setback line A line generally parallel to the front, side or rear lot lines indicating the limit beyond which buildings or structures, including porches, attached garages, attached carports, balconies, stairways, eaves and overhangs, may not extend except as otherwise provided in ordinances. The location of the setback line shall be determined by the yard requirements or setback line requirements of the zoning district in which the lot is located.

Sign See Eureka Springs Sign Ordinance of Municipal Code.

Street line The right-of-way line of a street.

Structure or building 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, wind-generating devices, mobile homes, walls, fences, billboards, poster panels, and signs. (Ord. No. 2125, Sec. 1, 9-13-10.)

Studios/workshops Arts oriented businesses, for example: dance, music, acting/theater, photography, crafts, martial arts, and painting.

Tandem lot A lot which does not have required frontage on a public street or on an approved private street, and which is located behind a lot or a portion of a lot which does not have frontage on a public street or an approved private street.

Tour home A residential home of historic character which is used for conducted tours and for individual touring, for which a tour fee may or may not be collected.

Tourist lodging Dwelling in which sleeping accommodations are provided for and offered to transient guests.

Townhouses/condominiums Attached single-family dwelling units, from two (2) units but not exceeding eight (8) units, which can be either single-story or multi-story in height; which are physically attached one (1) to another by common or adjoining walls on not more than two (2) sides; which have individual heating, air-conditioning, electrical and plumbing systems, which are located on individually platted lots, which are or may be individually owned or may be rented.

Transportation center A building used as hub for transportation services, for example, taxi dispatch center, bus station, train station, but not airport.

Travel trailer A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

Use, principal The main or primary purpose for which land or a structure or use thereon is designed, arranged or intended, or for which it may be occupied or maintained under this chapter.

Variance A variance is an alteration of the terms of the zoning ordinance as pertains to height, area and size of a structure or size of yards and open spaces as provided in variances and waivers.

Vehicular use area All open areas and open spaces on the land which are designated, used, required or intended to be used for storage, parking, maintenance, service, repair, display, circulation, or operation of vehicles. This definition is intended to include areas used or intended to be used for driveways to such vehicular use areas but does not include improvements to public roads, streets, highways and alleys.

Victorian Those areas developed mainly between 1870 and 1915 which characterize those features of architecture common to the reigns of Queen Victoria and King Edward VII of England. The overall impression of these features is one of grandeur and ostentation derived from Gothic, Baroque, Queen Anne and Georgian styles.

Victorian, commercial Areas consisting of the old commercial stores and retail outlets whose features include, but are not limited to, brick and stone facades, ornamental brick cornices, pressed-tin facades in filigree patterns, native limestone carvings of such figures as lions, shells and faces, double height glazing to conform with tall awnings, recessed entrance doors, cast iron bracing columns, intricate elaborate moldings and wood-framed display windows.

Victorian, residential Areas consisting of old homes which exhibit such features as, but are not limited to, ornamental shingles of fancy cut-out designs, shake roofs, beveledere, roof railings, varied mill clapboard walls, elaborate weather vanes and spires, finely-turned spindle railings on wide sweeping porches, trelliage to cover foundations and staircase levels, stained glass windows and transoms, unusual projecting cornices that cap outside windows, fancy cast iron fences, cut-stone ornamental detailing work on retaining walls and foundations and the use of multi-color combinations on the houses to highlight architectural variations.

Wedding establishment Any location, other than a building used for religious services at which marriages are performed for a fee. Private residences are excluded from this definition.

Yard An open space between a building or structure and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise herein provided.

- A. **Front** A yard extending across the front of a lot between the inner side lot lines, and being the minimum horizontal distance between the street line and the building or structure. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be required to have front yards.
- B. **Rear** A yard extending across the rear of a lot between inner side lot lines, and being the minimum horizontal distance between the rear lot line and the building or structure. For the purposes of determining yard requirements on corner lots and through lots, there will be no rear yards, but only front and side yards.
- C. **Side** A yard extending along the side lot line between the front and rear yards, and being the minimum horizontal distance between the side lot line and the building or structure. The ordinary projections of eaves, cornices, ornamental features and overhangs may extend a distance not to exceed twenty-four (24) inches into a required side yard.
- D. **Special** A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the city shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

Zero lot line dwelling Detached single-family dwelling units which are located on individually platted lots without a side yard requirement on one (1) side of the lot. The same interior property line cannot be utilized for zero side yard construction on adjacent lots. (Ord. No. 1816, Sec. 114-16, 11-2-00)

APPENDIX A

Following is a list of Bed & Breakfast and Tourist Lodging Establishments in R-1 and R-2 zones which have been in business prior to September, 1986, and are still in business at this time this ordinance was passed. These are considered as legal non-conforming.

Address	Type	Number of Units	Parking Spaces
6 Douglas	B&B	2	0
27 Elk	TL	1	0
23 Hillside	B&B	2	8
1 Kingshighwqy	TL	3	2
7 Kingshighway	B&B	3	5
75 Lookout Lane	TL	1	several
21 Nut	TL	1	N/A
25 Pine	TL	1	0
3 Prospect	TL	1	0
38 Prospect	B&B	5	N/A
5 Ridgeway	B&B	5	6
11 Singleton	B&B	5	0
211 Spring	B&B	4	2
247 Spring	TL	1	0
256 Spring	TL	1	0
263 Spring	B&B	5	3
5 Summit	B&B	3	6
104 Wall	B&B	5	4-6

Key: B&B – Bed and Breakfast
 TL – Tourist Lodging
 (Ord. No. 2156, Sec.. 1, 7-23-12.)

APPENDIX B

P = Permitted
C = Conditional
Blank = Prohibited

	R-1	R-2	R-3	C-1	C-2	C-3	I	A	MHP
Adult oriented businesses							P		
Agriculture								P	
Airport								C	
Auction house								C	
Auto, motorcycle, boats, manufactured homes; sales/rental					C		P		
Auto, motorcycle servicing					C		P		
Bed & Breakfast, boarding house	C	C	C	P	P	P			
Building used for religious services	C	C	C	P	P	P			
Cemetery, mausoleum								P	
Club or lodge					P	P		C	C
Commercial supplier					P		P		
Community service center	C	C	P	P	P	C		C	P
Convention center, banquet facility				C	P	C			
Daycare, large		C	C	C	P	P			C
Daycare, small	C	C	C	C	P	P			C
Dwelling, single family	P	P	P		P	P		P	
Dwelling, two family	P	P	P		P	P		P	
Dwelling, multiple family	C	C	P		P	C			C
Dwellings contained in a commercial building				P					
Education	C	C	P	P	P	C		C	
Entertainment, large					P		P	C	
Entertainment, small				P	P				
Funeral home, crematorium					P	C			
Gasoline service station, with or without convenience store					P		P	C	
Grain elevator, feed mill								P	
Healthcare provider	C	C	C	C	P	C		P	
Hotel or motel				P	P				
Industry							P		
Large equipment, sales, service, store							P		
Mobile home park									P
Manufacturing, heavy							P		

Manufacturing, light					C		P		
Office, large				P	P	P			
Office, small			C	P	P	P		C	P
Parking lots				P	P			C	P
Pawn and gun shops					C				
Public use	P	P	P	P	P	P	P	P	P
Public utility							P	C	
Restaurant, drive through or refreshment stand					P		C	C	
Restaurant, no drive through			C	P	P	P	C	C	
Retail, large				P	P		P		
Retail, small			C	P	P	P			
Services, personal			C		P	P			
Studio				P	P	P			
Tourist lodging	C	C	C	P	P	P			
Towers and beacons					C				
Trades and services, not personal					P		P		
Transportation center					C				
Truck stop					C		P		
Veterinarian, large animal or outdoor kennel								P	
Veterinarian, small animal, no outdoor kennel					P			P	
Warehouse/storage					P		P	P	
Wedding establishment	C	C	C	P	P	P	C	C	
Wholesaling					P		P		

(Ord. No. 1816, 11-12-00)

CHAPTER 14.12

MOBILE HOMES

Sections:

- 14.12.01 Definitions
- 14.12.02 Permit; application; fees
- 14.12.03 General provisions
- 14.12.04 Previous homes and parks

14.12.01 Definitions

Accessory structure means any awning, cabana, ramada, storage cabinet, windbreak, carport or porch established for use by the occupants of a manufactured/mobile home.

Approved means in conformance with applicable government statutes, regulations, codes and ordinances and with recognized national standards of technical or scientific organizations, and in conformance with the rules and regulations pertaining to manufactured/mobile home and travel trailer parks promulgated by the State Department of Health.

Dependent manufactured/mobile home means a manufactured/mobile home that has no toilet, lavatory or bathing facilities and is dependent upon a service building for toilet, lavatory and bathing facilities. Travel trailers, campers, motor homes and camper buses shall be considered dependent manufactured/mobile homes.

Health department means the Arkansas State Department of Health or the Office of the Carroll County Sanitarian.

Independent manufactured/mobile home means a manufactured/mobile home that has toilet, lavatory and bathing facilities.

Manufactured/mobile home means a movable or re-locatable dwelling unit, transported on its running gear to a manufactured/mobile home lot or other building site, and installed either with or without a foundation.

Manufactured/mobile home lot means a designated portion of a manufactured/mobile home park designed for the placement of a single manufactured/mobile home and accessory structures for the exclusive use of the occupants, and exclusive of streets, walks and other common use areas in a manufactured/mobile home park, exclusive of county, city or town streets, alleys, walks or other public easements, and exclusive of adjacent private properties.

Manufactured/mobile home park means that area or site upon which is located two (2) or more independent manufactured/mobile homes maintained, occupied or used for human habitation for periods exceeding twenty (24) hours.

Manufactured/mobile home stand means that part of an individual manufactured/mobile home lot used for the placement of the manufactured/mobile home.

Sewage means a combination of liquid wastes, which may include chemical, house wastes, human excreta, animal or vegetable matter in suspension or solution, and other solids in suspension or solution, and which is discharged from a dwelling, building or other establishment. (Ord. No. 1012, Sec. 1, 1-8-77)

14.12.02 Permit; application; fees

- A. Permit required It shall be unlawful for any person to construct, alter, operate, extend or use any manufactured/mobile home park within the city without first having obtained a permit from the Building Inspector.
- B. Application information All applications for permits shall first be submitted to the Planning Commission and shall contain the following information:
1. Name and address of the applicant.
 2. Location and legal description of the manufactured/mobile home park.
 3. Complete engineering plans and specifications of the proposed park showing, but not limited to, the following:
 - a. The area and dimensions of the tract of land.
 - b. The number, location and size of all manufactured/mobile home lots.
 - c. The location and width of roadways and walkways.
 - d. The location of water and sewer lines and riser pipes.
 - e. Plans and specifications of the water supply and refuse and sewage disposal facilities.
 - f. Plans and specifications of all buildings constructed or to be constructed within the manufactured/mobile home park, including storage facilities.
 - g. The location of each fire hydrant.
 - h. The location and details of lighting and electrical systems.
 - i. General landscaping plan, showing mature trees and specifications for fencing.
 - j. Such further information as shall be reasonably requested by the Building Inspector or Planning Commission in order to comply with standards of safety, health and general welfare of the city.

- C. Application fee Each application for a permit shall be accompanied by a fee of Twenty-Five Dollars (\$25.00) which shall be refunded if the plan is not approved. If the plan is approved, the applicant shall promptly obtain all occupation licenses required for such manufactured/mobile home park by the zoning ordinance.
- D. Submission of plan Application for permission for a manufactured/mobile home park must be made in writing to the Planning Commission, which on approval will submit the proposed plan to the City Council. The Council shall consider the application at a regular meeting and if approved, shall submit the plan to the Building Inspector for issuance of a permit. An individual whose plan is not approved by the Planning Commission may appeal the Commission's decision to the Council for consideration at a regular meeting.
- E. Compliance or revocation or permit The person to whom a manufactured/mobile home park license is issued shall at all times operate the park in compliance with this chapter and regulations established by county and state health departments. The permit shall be conspicuously posted in the office or on the premises of the manufactured/mobile home park at all times. A permit may be revoked by the Building Inspector or duly authorized health department official upon his finding that the requirements of this chapter or of a statute or regulation of a higher authority have not been met, after the following procedure has been followed:
1. Written notice of the specific violation is mailed to the manufactured/mobile home park owner, via certified mail, return receipt requested; and
 2. A reasonable time period to be provided in the written notice in which the violation is to be corrected or compliance be met, to be not less than ten (10) days nor more than thirty (30) days from receipt of the written notice.
- F. If the owner of the manufactured/mobile home park does not correct the violation within the provided time period, such owner may be prosecuted for the commission of a misdemeanor.
- G. Fines and penalties If the owner of the mobile home park does not correct the violation within the provided time period, such owner may be prosecuted for the alleged commission of a misdemeanor, and, upon conviction, may be fined in any sum not to exceed Two Hundred Fifty Dollars (\$250.00), and each day such violation shall have existed may be deemed to be a separate offense. (Ord. No. 1012, Sec. 2.05, 1-8-77)

14.12.03 General provisions

- A. Location of units No person shall park or locate any independent manufactured/mobile home, or use an independent manufactured/mobile home as a permanent or temporary dwelling or for indefinite periods of time, unless the independent manufactured/mobile home is located in a licensed manufactured/mobile home park, except as specifically provided in this subsection. (Ord. No. 1012, Sec. 3, 1-8-77)

Manufactured/mobile home parks shall be permitted only in C-2 and I zoning districts. (Ord. No. 1076, Sec. 1, 5-17-79)

Subsection (a) of Chapter 70-4 is amended by adding the following sentence at the end of the first paragraph thereof: Manufactured homes, as defined in Act 624 of 2003 (A.C.A. 14-54-1602) and A.C.A. 20-25-1602, shall also be permitted in District R-3: Multi-Family Residential. (Ord. No. 1984, Sec. 2, 2-14-05)

1. A camping or vacation trailer or dependent manufactured/mobile home not exceeding twenty-one (21) feet in length may be stored in the rear yard of any lot on which a permanent building is located, provided that no living quarters shall be maintained nor any business conducted while such trailer or manufactured/mobile home is so parked or stored.
2. A manufactured/mobile home may be used for office or residential purposes on a temporary basis during construction or remodeling activities in connection with a use permitted on the lot, provided that the manufactured/mobile home complies with all building regulations of the city and is removed from the site within ten (10) days after the construction or remodeling has been completed.

B. Site requirements

1. Each manufactured/mobile home park shall have a minimum area of three (3) acres.
2. The condition of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or the safety of the occupants. The site shall be so located so that its drainage will not constitute an unreasonable hazard or nuisance to persons, property or water supply in the immediate vicinity. Potential health hazards shall be eliminated before any construction is begun. Manufactured/mobile home park sites shall not be exposed to objectionable smoke, noise, odors or other adverse influences; and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.

- C. Utilities An independent manufactured/mobile home shall not be occupied for dwelling purposes in a manufactured/mobile home park unless it is properly placed on a conforming manufactured/mobile home lot and connected to all utility services including water, sewer and electrical. Utility service connections shall be located on the lot served.
- D. Manufactured/mobile home spaces and street requirements
1. Independent manufactured/mobile homes shall be separated from each other and all other buildings and structures by at least fifteen (15) feet in all directions.
 2. An accessory structure which has an area exceeding twenty-five (25) square feet and has a roof or opaque top shall, for purposes of spacing requirements, be considered to be part of the manufactured/mobile home.
 3. A minimum of ten (10) feet shall be provided from any point of the manufactured/mobile home to adjacent access roads serving more than one (1) manufactured/mobile home space.
 4. Minimum frontage of any manufactured/mobile home lot shall be not less than forty (40) feet for a single-width unit and fifty (50) feet for a double-width unit.
 5. Manufactured/mobile home lots shall not be less than 3,500 square feet in area.
 6. Off-street parking for not less than two (2) vehicles shall be provided on each manufactured/mobile home lot.
 7. Each manufactured/mobile home lot shall have unobstructed access to a manufactured/mobile home park street.
 8. No part of any manufactured/mobile home park shall be used for non-residential purposes, except such uses that are required for the direct benefit and well-being of the park residents and for the management and maintenance of the park. Permissible are units housing office space and laundry and storage facilities, provided that there is no commercial advertisement of these laundry and storage facilities nor access by the general public to such facilities.
 9. Nothing contained in this section shall be deemed as prohibiting the sale of an independent manufactured/mobile home located on a manufactured/mobile home lot and connected to the pertinent facilities.

10. All independent manufactured/mobile homes shall be located at least twenty-five (25) feet from all manufactured/mobile home park boundary lines. All manufactured/mobile home parks adjacent to other residential uses, or to commercial or industrial uses or highways or other roadways, shall have screening, such as opaque fencing or landscaping along the property boundary separating the manufactured/mobile home park from such adjacent land uses.
11. In all manufactured/mobile home parks accommodating or designed to accommodate twenty-five (25) or more independent manufactured/mobile homes, there shall be one (1) or more recreation areas which shall be reasonably accessible to all park residents, free from traffic hazards, and of a minimum size based upon one hundred (100) square feet per lot. No outdoor recreation area shall contain less than 2,500 square feet. (Ord. No. 1012, Sec. 3, 1-8-77)

14.12.04 Previous homes and parks Wherever an individual independent manufactured/mobile home or a manufactured/mobile home park was legally in existence in the city and was in compliance with previous regulations, such independent manufactured/mobile home or manufactured/mobile home park shall be considered to be legally non-conforming to this chapter; and no further compliance will be sought, except any changes, additions, subtractions, exterior remodeling or relocation shall be subject to conformance with this chapter. Where any independent manufactured/mobile home is located individually at a site outside a manufactured/mobile home park, the independent manufactured/mobile home shall not be replaced. In addition, if the use of such independent manufactured/mobile home is discontinued for a period of six (6) consecutive months or more, the independent manufactured/mobile home shall be removed from such site by the owner not more than thirty (30) days thereafter. Nothing in this section shall preclude the Building Inspector or duly authorized health authority from taking remedial action against the owners of independent manufactured/mobile homes or manufactured/mobile home parks currently in violation of previous regulations or in violation of any county, state and/or federal statutes, ordinance, regulations and/or standards regarding manufactured/mobile homes or manufactured/mobile home parks, or contrary to recognized national standards of technical and scientific organizations. (Ord. No. 1012, Sec. 4, 1-8-77)

CHAPTER 14.13**WIRELESS COMMUNICATIONS FACILITIES****Sections:**

14.13.01	Statement of purpose
14.13.02	Definitions
14.13.03	Applicability
14.13.04	Development standards
14.13.05	Review process
14.13.06	Approval procedure
14.13.07	Shared facilities and collocation policy
14.13.08	Removal of abandoned WCF
14.13.09	Non-conforming WCF
14.13.10	Revocation of Tower Use Permits
14.13.11	Penalty

14.13.01 Statement of purpose The purposes of these regulations are described as follows:

- A. To establish general guidelines for the siting of Wireless Communications Facilities (WCF) and granting of Tower Use Permits.
- B. To minimize the number of new towers needed by encouraging the use of existing towers and existing public and private structures, including utility poles, signs, water towers, buildings and other WCF where feasible;
- C. To preserve the stability of land values of properties near and adjacent to proposed commercial tower locations.
- D. To protect residential and historic areas from the uncontrolled development of WCF by requiring reasonable siting conditions.
- E. To streamline and expedite permitting procedures to effect compliance with the Federal Communications Act of 1996;
- F. To facilitate the use of public property and structures for WCF.
(Ord. No. 2130, Sec. 1, 11-8-10.)

14.13.02 Definitions

Antenna array means one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include an omni-directional antenna (rod), a directional antenna (panel) and a parabolic antenna (disc). The antenna array does not include the support structure defined below.

Attached Wireless Communications Facility (Attached WCF) means antenna array attached to an existing building or structure which shall include, but not be limited to, utility poles, signs or water towers, with any accompanying pole or device that attaches the antenna array to the existing building or structure and associated connection cables, and any equipment facility which may be located either inside or outside the attachment structure.

Collocation or site sharing means use of a common WCF or common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology or placement of a WCF on a structure owned or operated by a utility or other public entity.

Department means the Code Enforcement Department.

Department standards as used in this chapter shall mean those standards set forth in 14.13.04 hereof.

Equipment facility means any structure used to contain ancillary equipment for a WCF that includes cabinets, shelters, an extension or addition onto an existing structure, pedestals, and other similar structures.

FAA means the Federal Aviation Administration.

FCC means the Federal Communication Commission.

FTA means the Federal Telecommunications Act of 1996.

Height, when referring to a WCF, shall mean the distance measured from ground level to the highest point on the WCF, including the antenna array.

Monopole tower is a supporting structure composed of a solid pole without any guy-wired support.

Review process, as used in this chapter, shall mean those processes set forth in 14.13.05 hereof.

Setback means the required distance from the foundation of WCF land based elements, including guy-wires, to the property lines of the parcel on which the WCF is located.

Stealth technology means systems, components and materials used in the construction of WCF which are designed to mask or conceal the WCF to make it less visually intrusive to the surrounding property.

Substantially invisible means a WCF will blend into its surroundings and not be readily apparent from all significant potential public viewing points. Methods to reduce visibility include avoiding mountaintops and ridgelines; using terrain and trees as foreground and backdrops to screen towers; minimizing tower height and bulk; using color to blend with surroundings; using existing buildings to locate facilities whenever possible; using architecturally compatible buildings to house ground equipment; and otherwise using best available technology that avoids or minimizes visual impacts. When none of the above-preferred methods achieves substantial invisibility, camouflage in scale with the surroundings may be proposed in order to blend the facility with the visual setting.

Support structure means a structure designed and constructed specifically to support an antenna array, and may include a monopole tower, a self supported lattice tower, a guy-wire supported tower or other similar structures. Any device used to fasten an Attached WCF to an existing building or structure shall be excluded from the definition of and regulations applicable to support structures.

Temporary Wireless Communications Facility (Temporary WCF) means a WCF to be placed in service for ninety (90) or fewer consecutive days at the same location.

Tower Use Permit (TUP) means a permit issued by the city specifically for the location, construction and use of a WCF subject to an approved site plan and any special conditions determined by the Code Enforcement Officer or Planning Commission to be appropriate under the provisions of this chapter.

Wireless communications means any personal wireless service as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

Wireless Communication Facility (WCF) means any unstaffed facility for the transmission or reception of wireless telecommunications services, usually consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation. This definition may also include an attachment to an existing structure. (Ord. No. 2130, Sec. 2, 11-8-10.)

14.13.03 Applicability

- A. Permit required No person, firm or corporation shall install or construct any WCF unless and until a Tower Use Permit (TUP) has been issued pursuant to the requirements of this chapter.
- B. Exclusions
1. Existing facilities Any communication tower currently located in the city of Eureka Springs, Arkansas, shall be excluded from this regulation except that any additions to existing towers would subject to the provisions herein.
 2. Communication tower exclusions These regulations apply only to communication towers and not to business radio towers or broadcast towers.
 3. Amateur radio facilities This chapter shall not govern the installation of any amateur radio facility that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- C. Relationship to other ordinances This chapter shall supersede all conflicting requirements of other code provisions and ordinances regarding the locating and permitting of WCF.
- D. Building codes Construction of all WCF's shall comply with the requirements of the city of Eureka Springs building codes and permitting process in addition to the requirements of this chapter. (Ord. No. 2130, Sec. 3, 11-8-10.)

14.13.04 Development standards

- A. Height standards The following height standards shall comply to all WCF installations.
1. Attached WCF. Any attached WCF shall not add more than ten percent (10%) of the total height of the existing structure, not to exceed the maximum height allowed in the zoning district where the WCF is to be located
 2. WCF with support structures. WCF with support structures shall be limited to the maximum heights as described in the following table.

WCF Can Be Approved by Administration with these height limits	
Zone	Maximum Height
I -Industrial	250 feet
A – Agricultural	250 Feet

WCF in any zone other than noted in the table above must be approved by the Planning Commission.

Towers and antenna may be approved on or near the Historic District and designated scenic corridors by special exception from the Planning Commission and only if so concealed as to be substantially invisible. The views of, and vistas from, such structures, districts, and corridors shall not be impaired or diminished by the placement of telecommunications towers and antenna.

No new WCF shall exceed one hundred feet (100) in height. However, in the event of dense vegetation or other substantial obstacles to signal propagation, facilities may apply to receive approval to exceed to a height of no more than 20 percent (20%) above the average canopy height within one thousand (1,000) feet of the proposed facility.

WCF that simulate objects that typically occur in landscapes similar to the proposed facility (except billboards, electrical transmission towers or telecommunication towers) may exceed One hundred (100) feet in height if, based on the judgment of the Planning Commission, it would appear in context on the landscape, is aesthetically acceptable, and would be a preferable alternative to an undisguised facility.

- B. Administrative approval Attached WCF with or without new building construction and WCF in Zones I- Industrial and A-Agricultural may be permitted by administrative review as long as they meet all development standards.
- C. Planning Commission review Any application for WCF permit shall require submission to the Planning Commission, as described in Section 6 below.
- D. Support structures for WCF shall be the monopole type in all zones except I and A.
- E. Support structures located in any zone other than I and A shall use stealth technology with a design to be approved by the Planning Commission.

- F. Setback standards The following setback standards shall apply to all WCF installations:
1. Attached WCF Antenna arrays for attached WCF are exempt from the setback provisions of any property zoned commercial. An attached WCF antenna array may extend up to thirty (30) inches horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.
 2. WCF with support structures WCF with support structures in zones I and A shall meet the setback requirements for principle structures of the applicable zone in which they are located.
 3. WCF with support structures abutting or located in any zone other than I or A. WCF with support structures which abut property zoned other than I or A on any side or which is located within any residential zone, shall be set back a distance at least 2.5 times the height of the tower measured from the base of the tower to the property line of the residential lot and 1.5 times the height of the tower measured from the base of the tower to the nearest public road.
- G. Landscaping and screening The following landscaping and screening requirements shall apply to all WCF facility installations:
1. New construction New WCF with support structures and attached WCF with new building construction shall be landscaped in accordance with the applicable provisions of the landscape ordinance which may now or hereafter be adopted.
 2. Land form preservation Existing mature tree growth and natural land form on the site shall be preserved to the extent feasible; provided, however, that vegetation causing interference with the antenna's performance or inhibiting access to the equipment facility may be trimmed.
 3. Existing vegetation Existing vegetation on a WCF site may be used in lieu of required landscaping where approved by the Planning Commission.
- H. Aesthetics, placement, materials and colors WCF shall be designed so as to be compatible with the existing structures and surroundings to the extent feasible, including placement in a location which is consistent with proper functioning of the WCF, the use of compatible or neutral colors, or stealth technology.

- I. Lighting and signage The following lighting and signage requirements shall apply to all WCF facility installations.
1. Artificial illumination WCF shall not be artificially illuminated, directly or indirectly, except for: a. security and safety lighting of equipment buildings if such lighting is appropriately down shielded to keep light within the boundaries of the site; and b. such illumination of the WCF as may be required by the FAA or other applicable authority installed in a manner to minimize visual impacts on adjacent residences.
 2. Signage WCF shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial nature, except for a small message containing provider identification and emergency telephone numbers. Such sign shall not exceed two (2) square feet in area.
- J. Security fencing WCF with support structures shall be enclosed by a security fence not less than six (6) feet in height. Security features may be incorporated into the buffer, landscaping and screening requirements for the site. Nothing herein shall prevent security fencing which is necessary to meet requirements of state or federal agencies.
- K. Radio Frequency emissions The following radio frequency emissions standards shall apply to all WCF facility installations:
1. RF Impact. The FTA gives the FCC sole jurisdiction of the regulation of Radio Frequency (RF) emissions, and WCF which meet the FCC standards shall not be conditioned or denied on the basis of RF impact.
 2. FCC Compliance. In order to provide information to its citizens, copies of ongoing FCC information concerning WCF and RF emission standards may be requested. Applicants for WCF shall be required to provide information with the application on the measurement of the effective radiated power of the facility and how this meets the FCC standards.
 3. Sound prohibited No sound emissions such as alarms, bells, buzzers or the like are permitted.
- L. Structural integrity WCF with support structures shall be constructed to the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled “Structural Standards for Steel Antennas Towers and Antenna Supporting Structures” (or equivalent), as it may be updated or amended. Each support structure shall be capable of structurally and functionally supporting at least three (3) antenna arrays.

- M. Collocation agreement All applicants for WCF are required to submit a statement with their application agreeing to allow collocation of other WCF providers. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers. The Collocation Agreement shall be considered a condition for issuance of a TUP. (Ord. No. 2130, Sec. 4, 11-8-10.)

14.13.05 Review process

- A. General The applicable development standards referred to herein are those set forth in 14.13.04 of this ordinance.
- B. Permitting procedures Attached WCF with or without new building construction and WCF with monopole support structures that meet the development standards may be permitted by Administrative Review except as herein specified. All other WCF with support structures, regardless of type, to be sited in or abutting any residential zone shall be subject to the Planning Commission review process and may not be approved solely by the administrative review process. All WCF applications that do not conform with the development standards or are otherwise not eligible for administrative review shall be subject to the Planning Commission review process.
- C. WCF as part of Coordinated Development Approval. WCF as part of a proposed residential or nonresidential subdivision Planned Unit Development (PUD), site plan, conditional rezoning, or other coordinated development approval shall be reviewed and approved through these processes.
- D. WCF for Temporary Term WCF for a term not to exceed ninety (90) days are permitted by administrative review and, in case of emergency, such as loss of existing equipment due to environmental causes, shall be given expedited review. (Ord. No. 2130, Sec. 5, 11-8-10.)

14.13.06 Approval procedure

- A. Application submission All requests for a Tower Use Permit, regardless of WCF type shall submit an application in accordance with the requirements of this section.
1. Application contents Each applicant requesting a TUP under this chapter shall submit a scaled site plan containing a scaled elevation view and other supporting drawings, calculations and other documentation showing the

location and dimensions of the WCF and all improvements associated therewith, including information concerning specifications, antenna locations, equipment facility and shelters, landscaping, parking, access, fencing and, if relevant as determined by staff, topography, adjacent uses and existing vegetation. Applicants proposing to collocate on an existing WCF shall include a Radio Frequency Intermodulation Study with their application.

2. Submission requirements Application for a TUP shall be submitted to the Code Enforcement Officer on forms prescribed by the Department. The application shall be accompanied by a site plan containing the information described above. If Planning Commission review is required, the application and site plan shall be placed on the next available Commission agenda in accordance with the agenda deadlines established by the Commission.
3. Application fees Each application shall be accompanied by a plan review fee of Five Thousand Dollars (\$5,000) and a Radio Frequency Intermodulation Study review fee of Five Thousand Dollars (\$5,000) (collocation applications only). These fees shall be used to engage an engineer or other qualified consultant(s) to review the technical aspects of the application and Radio Frequency Intermodulation Study (if required). Application fees may be adjusted annually by a majority vote of a quorum of the Planning Commission.
4. Technical assistance In the course of its consideration of an application, the Code Enforcement Officer, the Planning Commission or the City Council may deem it necessary to employ an engineer(s) or other consultant(s) qualified in the design and installation of WCF to assist the code enforcement officer, Commission or Council in the technical aspects of the application. In such cases, any reasonable costs incurred by the city, not to exceed Five Thousand Dollars (\$5,000) for the technical review and recommendation, shall be reimbursed by the applicant prior to the final city hearing on the TUP. The Three Thousand Dollars (\$3,000) cost ceiling may be adjusted annually by a majority vote of the Planning Commission.
5. Abandonment Remediation bond: Prior to receiving a building permit, the city may require the applicant to provide the city with a bond, in a reasonable amount as determined by the Public Works Department, to protect the city from costs incurred by removing the WCF should it be deemed abandoned as defined in 14.13.09 of this ordinance.

- B. Administrative review The following administrative review process shall apply to all WCF applications eligible for administrative review.
1. Review authority Review of WCF under this section shall be conducted by a panel composed of the Code Enforcement Officer, Mayor and City Clerk.
 2. Review criteria The review panel shall review the application for compliance with the development standards.
 3. Timing of decision The review panel shall render a decision on the WCF application by written response to the application within ten (10) business days after the receipt of the completed application, except that an extension may be agreed upon by the review panel.
 4. Deferral The review panel may defer administrative approval of WCF for any reason. Deferral of administrative approval shall require submission to the Planning Commission for review. The Planning Commission shall review any deferred application no more than twenty-one (21) calendar days from its deferral, not to exceed ninety (90) days from the date of the application.
 5. Application denial If administrative approval is not obtained due to non-compliance with the development standards, the applicant may appeal the denial by applying for Planning Commission review.
 6. Application approval If the TUP application is in compliance with the development standards and otherwise meets the requirements of this section, the code enforcement officer shall issue a Tower Use Permit (TUP) upon approval of the application.
- C. Planning Commission review The following shall apply to all Tower User Permit applications requiring submission to the Planning Commission:
1. Review authority The Planning and Zoning Commission shall be the review authority for TUP applications not eligible for Administrative Review or otherwise referred to the Commission.
 2. Notice Notice of the application and the public hearing by Planning Commission shall be accomplished in the same manner as a Conditional Use Permit (CUP) under Title 14 Chapter 14.08. Section 14.08.08 D of the Municipal Code of Eureka Springs, Arkansas.

3. Hearing The Planning Commission shall review and consider the TUP application at a public hearing. At the hearing, interested persons may appear and offer information in support of or opposition to the proposed application. The Planning Commission shall consider the following in reaching a decision:
 - a. Development standards variance The TUP application shall be reviewed for compliance with the development standards set forth in 14.13.04; provided that the applicable development standards may be reduced or waived so long as the approval of the WCF meets the goals and purposes of 14.13.01. The Planning Commission may authorize a variance from the development standards by specific inclusion in a motion for approval. No such variance authorized by the Planning Commission shall be the basis for subsequent variance requests to the Board of Zoning Adjustment.
 - b. Tower siting conditions The Planning Commission may impose conditions and restrictions on the application or on the premises benefitted by the TUP as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the WCF with the surrounding property, in accordance with the purposes and intent of this chapter. The violation of any condition shall be grounds for revocation of the TUP. The Planning Commission may impose such conditions in addition to the development standards upon the following findings:
 - (1) The WCF would result in significant adverse visual impact on nearby residences.
 - (2) The conditions are based upon the purpose and goals of this chapter as set forth in 14.13.01.
 - (3) The conditions are reasonable and capable of being accomplished.
4. Action Following the public hearing and presentation of all evidence, the Planning Commission shall take one (1) of the following actions:
 - a. Approve the application as submitted;
 - b. Approve the application with conditions or modifications;

- c. Defer the application for no more than ninety (90) days from the date of public hearing the application for additional information or neighborhood input; or
 - d. Deny the application.
5. Findings All decisions rendered by the Planning Commission concerning a Tower Use Permit (TUP) shall be supported by written findings of fact and conclusions of law based upon substantial evidence in the record.
6. Timing of decision The Planning Commission shall render its decision within sixty (60) days or less of the final submission of all required application documents and technical evaluations.
7. Appeals The decision of the Planning Commission may be appealed to the City Council under the following circumstances:
- a. Only the applicant and those who registered an objection to the TUP in the record of the Planning Commission shall have standing to appeal.
 - b. Only such evidence or testimony in support of or opposition to the issuance of the TUP which was provided to the Planning Commission may be presented to the City Council unless the Council, by majority vote, decides to hear new information.
 - c. Notice of appeal shall be accomplished by the appellant in the same Manner as a Conditional Use Permit (CUP) under Title 14 Chapter 14.08.
 - d. Appeal of decision of the City Council shall be filed in the court of appropriate jurisdiction within thirty (30) days of the final decision on the TUP. (Ord. No. 2130, Sec. 6, 11-8-10.)

14.13.07 Shared facilities and collocation policy; Facilitating location on public property

- A. Collocation All WCF shall be constructed to be capable of sharing the facility with other providers, to collocate with other existing WCF and to accommodate the future collocation of other WCF. Applicants proposing a new WCF shall demonstrate that it has made a reasonably good faith attempt to find a collocation site. Competitive conflict and financial burden are not deemed to be adequate reasons against collocation.

- B. Location on public property The city will work with telecommunication providers to facilitate the siting of WCF on suitable city-owned or controlled property, by identifying existing facilities, the appropriate contact persons, and the appropriate procedures in accordance with this section. (Ord. No. 2130, Sec. 7, 11-8-10.)

14.13.08 Removal of abandoned WCF Any WCF that is not operated for a continuous period of twelve (12) months, or such lesser time if the city is so advised by the provider or landowner, shall be considered abandoned, and the owner of such WCF may be required to remove same within ninety (90) days of notice to the city that the WCF is abandoned. If the WCF is not removed within ninety (90) days, the city may remove it and recover its costs from the owner of the WCF or from the landowner. If there are two or more users of a single WCF, this provision shall not become effective until all providers cease to use the WCF. (Ord. No. 2130, Sec. 8, 11-8-10.)

14.13.09 Nonconforming WCF WCF in existence on the date of the adoption of this chapter, which do not comply with the requirements of this Chapter (nonconforming WCF) are subject to the following provisions:

- A. Expansion Nonconforming WCF may continue in use for the purpose now used, but may not be expanded without complying with this Chapter, except as further provided in this Section.
- B. Additions Nonconforming WCF may add additional antennas (belonging to the same provider or other providers) subject to administrative review under 14.13.06.
- C. Repairs Non-conforming WCF which become damaged or destroyed due to any reason or cause, may be repaired and restored to its former use, location, and physical dimensions subject to the provisions of this chapter. Such repairs must be commenced within one (1) year after said damage or destruction, or said WCF shall be deemed abandoned. (Ord. No. 2130, Sec. 9, 11-8-10.)

14.13.10 Revocation of Tower Use Permits Any Tower Use Permit (TUP) issued pursuant to this chapter may be revoked by the Planning Commission after a hearing as provided hereinafter. If the Commission finds that any permit holder has violated any provision of this chapter, or has violated any federal, state, or local law or ordinance, or has failed to make good faith reasonable efforts to provide or seek collocation, the Commission may revoke the Tower Use Permit (TUP) upon such terms or conditions, if any, that the Commission may determine.

Prior to initiation of revocation proceedings, the Code Enforcement Officer shall notify the permit holder, in writing, of the specific areas of non-compliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not

exceed sixty (60) days. The permit holder shall provide the Code Enforcement Officer with evidence that the required corrective action has been taken. Should the permit holder fail to correct any deficiencies in the time required, the Planning and Zoning Commission shall convene a public hearing to consider revocation of the Tower Use Permit (TUP). The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the city not less than ten (10) days prior to the hearing and by written notice to the permit holder.

At any such hearing, the permit holder may be represented by an attorney and may cross examine opposing witnesses. Other interested persons may comment. The Planning Commission may impose reasonable restrictions with respect to time and procedure and may, but is not required to, provide for stenographic or other recording of the hearing or portions thereof. (Ord. No. 2130, Sec. 10, 11-8-10.)

14.13.11 Penalty The fine or penalty for violating any provisions of this chapter shall, upon conviction in the District Court, not exceed Five Hundred Dollars (\$500.00) for any one (1) specified offense or violation, or double that sum for each repetition of such offense or violation; provided, further, that if a thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof in the violation of this Chapter shall not exceed Two Hundred Fifty Dollars (\$250.00) for each day that it may be unlawfully continued. (Ord. No. 2130, Sec. 11, 11-8-10.)