

WASHINGTON COUNTY CODE OF ORDINANCES
Chapter 13 - Urban / Rural Development

Chapter 13: URBAN /RURAL DEVELOPMENT

Article

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Article I. BUILDING

Section

- 1300.00 All general building contractors to provide portable toilets.
- 1300.01 Use of fire flow tanks and other measures for land developments.

§ 1300.00 ALL GENERAL BUILDING CONTRACTORS TO PROVIDE PORTABLE TOILETS.

- 1) Every General Building Contractor shall provide no less than one portable toilet for every forty (40) workers or fraction thereof on a job site. Said toilets must be maintained in a sanitary condition as required by the State Health Department regulations.
- 2) General Building Contractor is hereby defined as any person, firm, or entity, who for compensation engages in the building or erection of structures or controls or directs the construction of buildings or other structures.
- 3) Job site is defined as one or more contiguous lots, parcels, or tracts wherein constructions activities are taking place on a development that requires approval by the Washington County Planning Board or the Planning Administrator.
- 4) Construction activities include but are not limited to building construction, dirt work, utility construction, landscape and drainage work.
- 5) PENALTIES. A violation of this ordinance shall be punishable by a fine of \$250.00. Each day said violation exist shall be considered as a separate violation.
- 6) This ordinance may also be enforced by appropriate civil action by the County Judge.
([Ord. 2005-019](#), passed 05-16-2005)

§ 1300.01 USE OF FIRE FLOW TANKS AND OTHER MEASURES FOR LAND DEVELOPMENTS.

- 1) This Ordinance shall be applicable to any land development utilizing fire flow tanks and/or other allowed measures.
- 2) Fire flow tanks and other allowed measures including but not limited to ponds and pumps when approved for use by the County Fire Marshal shall be designed by and installed under the supervision of a professional engineer who shall certify to the County that such

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has been designed and installed so that it meets all applicable State Laws and Codes.

- 3) Requests by any developer to utilize fire flow tanks or other allowed measures shall be accompanied by a plan prepared by a professional engineer, for the design and long-term maintenance and inspection of said tanks and other measures to be approved by the County Fire Marshal.
- 4) The following definitions are hereby adopted:
 - a. Fire flow tanks are hereby defined as follows: an above or below ground tank made of concrete or composite materials utilized to assist in firefighting.
 - b. Other allowed measures are hereby defined as follows: including but not limited to holding ponds; dry hydrants; and pumps utilized to assist in firefighting. [(a) and (b) may be individually or collectively referred to as systems.]]
 - c. The responsible management entity (RME) is hereby defined as follows: the person, persons, corporation, partnership, or other entity that has the managerial, financial and technical oversight over any system including but not limited to operations and management, permit compliance, record keeping, reporting, customer service, billing and collection and is fully responsible for the long-term cost-effective operations in accordance with all applicable regulations and performance requirements.
- 5) An RME shall be designated by the developer and shall comply with all state laws and regulations, the provisions in this Ordinance, and any regulations promulgated hereto.
- 6) The RME shall charge a sufficient rate or fee that includes reserves for operation, maintenance, emergencies, and capital improvements.
- 7) The County Fire Marshal is hereby authorized to promulgate rules and regulations, subject to approval by the Quorum Court to further effectuate this Ordinance.
- 8) Before any such land development is approved by the Washington County Planning Board, the RME shall provide the following to the Public Utilities Coordinator:
 - a. The name and location of the land development to be served by the system and the type of system that is being utilized; and that such has been approved by the Fire Marshal;

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- b. The number of lots to be served;
 - c. The rate or fee that will be charged to the property owners;
 - d. The amount of reserves that will be built into any rate or fee along with evidence indicating how these reserves are adequate and appropriate to provide long-term sustainable performance and compliance with permits;
 - e. The legal entity that will own and retain the necessary services and the exact name, address and phone number of said entity;
 - f. A copy of the contract to be executed for the maintenance and inspection;
 - g. Plans to enforce and collect the rate or fee to be charged; and
 - h. Any other matter deemed relevant by the Public Utilities Coordinator.
- 9) The RME shall report to the Public Utilities Coordinator, upon request, any matters relevant to the operation including, but not limited to operation and maintenance issues, environmental issues, financial matters, customer service issues, and any other matter deemed relevant by the Public Utilities Coordinator. A bond, letter of credit or other similar instrument in an amount to be determined by the Public Utilities Coordinator shall be posted by the RME to ensure compliance with this Ordinance and any regulations promulgated hereto.

The Public Utilities Coordinator is authorized to promulgate additional rules and regulations in coordination with the Fire Marshal to assure compliance with this Ordinance and the financial viability of any such systems, subject to approval by the Quorum Court.

- 10) The following provisions shall apply to non-residential large-scale developments not charging a fee for operation:
- a. The RME in such a development shall maintain sufficient sums of money that include reserves for operation, maintenance, emergencies and capital improvements.
 - b. Before any such large-scale development is approved by the Planning Board, the RME shall provide the following to the Public Utilities Coordinator:

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- i. The size and location of the land development to be served by the system and the type of system that is being utilized and if such has been approved by the Fire Marshal;
- ii. The square footage of the facility to be served;
- iii. The projected cost of operating and maintaining the system on an annual basis;
- iv. The amount of reserves that will be retained along with evidence of how these reserves will adequately provide for sustainable performance and compliance with permits;
- v. The legal entity that will own and retain the necessary services and the name, address and telephone number of said entity;
- vi. A copy of the contract to be executed for the maintenance and inspection;
- vii. Any other matter determined relevant by the Public Utilities Coordinator.

11) The following provisions shall apply to all land developments: Any system owned, operated and maintained by a volunteer fire department or similar entity approved by the Fire Marshal shall be exempt from the provisions of this Ordinance and Ordinance No. 2006-52.

12) This Ordinance shall be applicable throughout the unincorporated area of the County including the extra-territorial growth area of any incorporated city. This Ordinance shall not be applicable in the event any such system is or becomes owned, maintained, or operated by an incorporated city or other approved public entity. In the event that an incorporated city or other approved public entity enacts ordinances or rules and regulations concerning said systems, then the more stringent provisions shall apply.

13) A violation of this Ordinance or any regulation promulgated hereto shall be enforceable by appropriate civil action by the County Judge. Such civil remedy shall include but is not limited to injunctive relief, civil sanctions, and removal of the RME from operating or in any other manner managing said system. Attorney fees and any other costs related to any civil action may also be recovered.

14) SEVERABILITY. If any sentence, clause, article, section, phrase or portion of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity

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of the remaining portion of this Ordinance.

- 15) EMERGENCY CLAUSE. It is hereby ascertained and declared that regulations pertaining to adequate water to fight fires are immediately needed for the preservation of the public peace, health and safety. Therefore, it is declared that an emergency exists and this Ordinance being necessary for the preservation of the public peace, health and safety shall be in force and take effect immediately upon and after its passage.
([Ord. 2006-052](#), passed 9-15-2006; am. [Ord. 2006-077](#), passed 12-15-2006)

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Article II. PLANNING / ZONING

A.C.A § 14-17-209. Zoning ordinance – Board of zoning adjustment.

- (a) (1) The county planning board shall have authority to prepare, or to cause to be prepared, a zoning ordinance for all or part of the unincorporated area of the county, which ordinance shall include both a map and a text.
- (2) The zoning ordinance may regulate:
- (A) The location, height, bulk, number of stories, and the size of the building;
 - (B) Open space;
 - (C) Lot coverage;
 - (D) Density and distribution of population; and
 - (E) The uses of land, buildings and structures.
- (3) The zoning ordinance may require off-street parking and loading.
- (4) The zoning ordinance may provide for districts of compatible uses, for large scale unified development, for the control and elimination of uses not in conformance with provisions of the ordinance, and for such other matters as are necessary to the health, safety, and general welfare of the county.
- (5) The zoning ordinance shall designate districts or zones of such shape, size, or characteristic as deemed advisable for all, or part, of the unincorporated area of the county.
- (6) The regulations imposed within each district or zone shall be uniform throughout the district or zone.
- (7) The zoning ordinance shall allow and regulate home-based work as provided in § 14-1-104.

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A.C.A. § 14-17-210. Jurisdiction over unincorporated areas.

The county planning board shall have the exclusive zoning and planning jurisdiction over all unincorporated areas lying within a county and along a navigable stream notwithstanding the fact that such areas may be within five (5) miles of the corporate limits of a city having a planning commission if the unincorporated areas are lands upon which a new community has been or is being developed with funds guaranteed, in whole or in part, by the federal government under Title IV of the Housing and Urban Development Act of 1968 or under Title VII of the Housing and Urban Development Act of 1970.

Section

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| 1320.00 | Regulations, standards and specifications for the division, development and improvement of unincorporated land. |
| 1320.01 | All plats upon which development has not begun within four years from approval must comply with current land development regulations. |
| 1320.02 | Standards and regulations for moving of buildings and occupancy. |
| 1320.03 | Regulations for the placement, construction, and maintenance of antenna arrays and communication towers. |
| 1320.04 | Approval for land plat developments contingent on obtaining all federal, state and local permits. |
| 1320.05 | Protection of rural and agricultural property. |
| 1320.06 | Interlocal agreement between the County and the City of Farmington regarding planning matters. |
| 1320.07 | Zoning administration. |
| 1320.08 | Regulating location of mailboxes in the right-of-way of county roads. |
| 1320.09 | Time limits for conditional use permittees established. |
| 1320.10 | Public utilities exempt from large scale development processes. |
| 1320.11 | Clarifying the intentions of certain ordinances. |

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**§ 1320.00 REGULATIONS, STANDARDS AND SPECIFICATIONS FOR THE
DIVISION, DEVELOPMENT AND IMPROVEMENT OF UNINCORPORATED LAND.**

- 1) The Quorum Court of Washington County, Arkansas, hereby approves and adopts as part of the official plans for Washington County, Arkansas, the revised regulations, standards and specifications for the division, development and improvement of unincorporated land in Washington County, Arkansas. This approval and adoption are made pursuant to Ark. Code Ann. §§ 14-17-201, et. seq.

- 2) The above referenced revised regulations, standards and specifications are attached hereto and made a part of this Ordinance. Said regulations, standards and specifications shall be filed in the Office of the County Clerk simultaneously with the filing of this Ordinance.
([Ord. 1980-050](#), passed 12-15-1980; Am. [Ord. 1991-009](#), passed 4-11-1991; Am. [Ord. 1992-018](#), passed 7-17-1992; Am. [Ord. 1998-010](#), passed 3-13-1998; Am. [Ord. 1998-018](#), passed 6-12-1998; Am. [Ord. 1999-009](#), passed 3-12-1999; Am. [Ord. 1999-032](#), passed 7-9-1999; Am. [Ord. 2000-018](#), passed 5-12-2000; Am. [Ord. 2001-022](#), passed 4-16-2001; Am. [Ord. 2002-034](#), passed 9-16-2002; Am. [Ord. 2003-036](#), passed 7-11-2003; Am. [Ord. 2004-038](#), passed 7-9-2004; Am. [Ord. 2004-039](#), passed 7-9-2004; Am. [Ord. 2005-003](#), passed 2-16-2005; Am. [Ord. 2005-020](#), passed 5-16-2005; Am. [Ord. 2005-025](#), passed 6-10-2005; Am. [Ord. 2005-026](#), passed 6-10-2005; Am. [Ord. 2005-035](#), passed 7-14-2005; Am. [Ord. 2005-036](#), passed 7-14-2005; Am. [Ord. 2005-038](#), passed 7-14-2005; Am. [Ord. 2005-050](#), passed 9-12-2005; Am. [Ord. 2005-057](#), passed 10-17-2005; Am. [Ord. 2005-058](#), passed 10-17-2005; Am. [Ord. 2005-066](#), passed 11-15-2005; Am. [Ord. 2006-013](#), passed 5-13-2006; Am. [Ord. 2006-025](#), passed 5-12-2006; Am. [Ord. 2006-029](#), passed 6-9-2006; Am. [Ord. 2006-030](#), passed 6-9-2006; Am. [Ord. 2006-032](#), passed 6-9-2006; Am. [Ord. 2006-033](#), passed 6-9-2006; Am. [Ord. 2006-034](#), passed 6-9-2006; Am. [Ord. 2006-042](#), passed 7-14-2006; Am. [Ord. 2006-043](#), passed 7-14-2006; Am. [Ord. 2006-044](#), passed 7-14-2006; Am. [Ord. 2006-047](#), passed 8-11-2006; Am. [Ord. 2006-053](#), passed 9-15-2006; Am. [Ord. 2006-065](#), passed 11-13-2006; Am. [Ord. 2006-074](#), passed 12-15-2006; Am. [Ord. 2006-075](#), passed 12-15-2006; Am. [Ord. 2007-001](#), passed 1-16-2007; Am. [Ord. 2007-018](#), passed 4-13-2007; Am. [Ord. 2007-033](#), passed 7-13-2007; Am. [Ord. 2007-040](#), passed 7-14-2007; Am. [Ord. 2007-071](#), passed 12-14-2007; Am. [Ord. 2007-072](#), passed 12-14-2007; Am. [Ord. 2008-019](#), passed 4-18-2008; Am. [Ord. 2008-042](#), passed 8-15-2008; Am. [Ord. 2008-043](#), passed 8-5-2008; Am. [Ord. 2009-038](#), passed 6-15-2009; Am. [Ord. 2010-074](#), passed 12-20-2010; Am. [Ord. 2011-016](#), passed 3-11-2011; Am. [Ord. 2015-089](#), passed 11-23-2015; Am. [Ord. 2017-046](#), passed 9-22-2017)

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§ 1320.01 ALL PLATS UPON WHICH DEVELOPMENT HAS NOT BEGUN WITHIN FOUR YEARS FROM APPROVAL MUST COMPLY WITH CURRENT LAND DEVELOPMENT REGULATIONS.

- 1) All plats approved by the Washington County Planning Board shall be governed by land development regulations currently in effect unless development has begun within four (4) years from the date of approval.
- 2) This ordinance shall apply also to plats that were never approved by the Washington County Planning Board.
- 3) “Development” is defined as any physical improvements made to the platted property.
- 4) This ordinance shall be deemed amendatory to the Regulations, Standards and Specifications for the Division, Development and Improvement of Unincorporated Land in Washington County, Arkansas, Washington Code 11-51 et. seq., and any violation shall be punishable as set out therein.
([Ord. 2003-036](#), passed 7-11-2003)

§ 1320.02 STANDARDS AND REGULATIONS FOR MOVING OF BUILDINGS AND OCCUPANCY.

- 1) The Quorum Court of Washington County, Arkansas hereby approves and adopts as the official plans for Washington County, Arkansas the following: Regulations for Moving of Buildings and Occupancy in Washington County, Arkansas, January 1981. This approval and adoption are made pursuant to Arkansas Stats. Ann.§ 17-1111.
- 2) The above referenced Regulations for Moving and Occupancy are attached hereto and made part of this Ordinance. Said Regulations shall be filed in the Office of the County Clerk simultaneously with the filing of this Ordinance.
([Ord. 1981-007](#), passed 2-13-1981; Am. [Ord. 1991-001](#), passed 1-10-1991; Am. [Ord. 1992-003](#), passed 2-14-1992; Am. [Ord. 2011-077](#), passed 11-15-2011)

§ 1320.03 REGULATIONS FOR THE PLACEMENT, CONSTRUCTION, AND MAINTENANCE OF ANTENNA ARRAYS AND COMMUNICATION TOWERS.

- 1) PURPOSE. The purpose of these regulations is to promote the efficient and effective provision of communication services in compliance with the Telecommunications Act of 1996 while responding to the significant concerns of the citizens of the County. The intent of these regulations is to protect the general safety and welfare of the citizens of the County by providing for rules governing the location, construction, repair and maintenance of antenna arrays and communication towers in the unincorporated areas of

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the County.

- 2) **EFFECT.** This shall be a free-standing Ordinance, but to the extent not inconsistent herewith, the provisions of Washington County Code 11-51 et seq., (regulations, Standards, and Specifications for the Division, Development, and Improvement of Unincorporated Land in Washington County, Arkansas) relating to administration, appeals, variances, and enforcement are incorporated by reference. The Appendices which are attached hereto are appended for the administrative convenience of the Staff of the Planning Board and may be amended from time to time by the Quorum Court by simple voice vote to facilitate such usage.

- 3) **DEFINITIONS.**

Applicant. The person or persons making an application to the County for approval of a tower or major modification, as defined herein, or, for continuing obligations hereunder, any legal successor to such person(s). Such person(s) need not be a tower or landowner

Antenna Array. An “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/or a parabolic antenna (disc). The antenna array does not include the Support Structure, as defined herein.

Tower. A "tower" is any structure that is designed and constructed primarily for the purpose of supporting one or more antenna arrays, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The fact that one or more antenna arrays is placed on any structure which was not primarily intended for such purpose does not convert the structure into a tower.

Support Structure. Any existing structure onto which one or more antenna arrays are placed; they need not be towers.

Major Modification. A "major modification" to a tower or support structure is a change from personal use to nonpersonal use or commercial use; any increase in height which would require a significant increase in lighting or noise level; or increase in height of more than 24' for towers at 250' or less in height or increases in height by more than 10% of tower's original height if over 250'; any increase in

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width by more than 18", or for guyed towers in excess of 500' in height, 50% of the towers' original width, or 6" in diameter in the case of a monopole.

- a. **Personal Use.** "Personal use" refers to a non-commercial use by a resident of the subject property. If any revenues are generated from the operation of the tower, it will not be for personal use as such term is used herein.

Residence. "Residence" means a dwelling which is either currently inhabited by one or more persons legally entitled to be there, or suitable for such habitation. It specifically does not include abandoned or other structures which are not suitable for human habitation.

- 4) **GENERAL APPLICABILITY.** The administrative review procedures of Article 6 shall apply to the placement and modification of antenna arrays and the construction of certain new towers as described in Article 6. The remainder of these regulations shall apply to the construction and major modification of towers, whether or not they are designed to provide cellular, personal communications service and/or specialized mobile radio service, except as provided herein. These regulations shall also apply to all outbuildings and facilities built in connection with any tower governed by these regulations. Any major modifications to a tower or facility must be approved in the same way that a new tower would have to be approved. If a tower is damaged or for other reasons is to be replaced, the repair or replacement is subject to these regulations only if the repair or replacement amounts to a major modification as defined herein.

These regulations do not cover incorporated areas within the County, unless specifically approved and/or adopted by the municipality.

- 5) **EXCLUSIONS.** The regulations adopted herein shall not apply to the following towers:
 - a. Towers for personal use which, including the height of all attached antenna arrays, do not extend more than 80 feet from the ground;
 - b. Placement of antenna arrays which cannot be used for emergency services or 9-1-1-calls on existing support structures so long as the placement does not increase the total height of the original support structure by more than 24 feet, and does not significantly increase the lighting or noise levels of the structure;
 - c. Temporary structures designed to be used for not more than 14 days in connection with a special event or for any reasonable period of time in and immediately following an emergency, including without limitation those towers which are

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identified as "C.O.W.s" or "Cellular on Wheels."

- 6) **PROJECTS SUBJECT ONLY TO ADMINISTRATIVE REVIEW.** Certain projects within the ambit of these regulations are subject only to administrative review and may be approved by the Staff of the Washington County Planning Board in the manner described in Article 7. Projects which are subject only to Administrative Review are:
- a. Placement of antenna arrays which might be used for emergency services or 9-1-1-calls on existing support structures which do not increase the total height of the original support structure by more than 24 feet, and which will not significantly increase the lighting or noise levels of the structure. Outbuildings and facilities built in connection with such antenna arrays are subject to the same administrative review.
 - b. Construction of new towers or major modifications to existing towers so long as either of the following conditions are met:
 - i. After the construction or modification of the tower, there will be no residences which are within 400 feet plus the height of the tower from the perimeter of the base of the tower; or
 - ii. All persons owning said residences or the land upon which said residences are located have consented in a signed writing to the construction or modification of said tower.
 - iii. In any event, the owner of the land upon which the tower sits must agree in writing to either sub-paragraph (1) or (2); unless the lease for the site states otherwise.
- 7) **PROCEDURES FOR ADMINISTRATIVE REVIEW OF AN ANTENNA ARRAY.** A project involving placement of an antenna array on an existing support structure, which is subject to administrative review pursuant to the terms of this article, shall be submitted to the staff of the County Planning Board, and shall contain the information required by the form which is attached to the ordinance from which this Article derived, in Appendix "A" and entitled "Application for Administrative Approval of Antenna Array (Cellular/PCS Provider)." The applicant must also submit information from a licensed Professional Engineer certifying the capacity (loading and otherwise) of the tower for the new array (in addition to all existing arrays) and a letter of intent from the tower owner indicating their intent to share space.

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If the application is complete and complies with the terms of this article, the staff shall approve the application without the necessity for review by the full Planning Board. The staff shall use best efforts to provide a response to any application within five (5) working days, and a failure to respond within fifteen (15) working days after receipt of a completed application shall be deemed to be an approval of such application.

Administrative review shall not be available if any variance from these regulations is requested.

The owner of the property upon which the tower sits must consent in writing to the above and Appendix A should be amended to reflect such unless the lease for the site states otherwise.

- 8) **PROCEDURES FOR ADMINISTRATIVE REVIEW OF A TOWER.** A project involving the construction of or a major modification to a tower, which is subject to administrative review pursuant to the terms of this article, shall be submitted to the staff of the County Planning Board, and shall contain the information required by the form which is attached to Ordinance No. 99-34 in Appendix "B" and entitled "Application for Administrative Approval of Tower." The applicant must also provide a letter certifying that the tower meets or exceeds the design criteria and all current local, state, and federal requirements regarding the construction maintenance and operation of the tower; said letter to be issued by an architect, engineer, manufacturer, or other similar profession is determined to be qualified by the Planning Administrator.

If the application is complete and complies with the terms of this article, the staff shall approve the application without necessity for review by the full planning board. If, for any reason, the staff determines that administrative approval is not appropriate, the applicant shall be entitled to amend the application to come within the ambit of [Article 9] and to have the amended application considered by the Planning Board. The staff shall use best efforts to provide a response to any application within five (5) working days, and a failure to respond within fifteen (15) working days after receipt of a completed application shall be deemed to be an approval of such application. Administrative review shall not be available if any variance from these regulations is requested.

The owner of the property upon which the tower sits must consent in writing to the above and Appendix A should be amended to reflect such; unless the lease for the site states otherwise.

- 9) **PROCEDURES FOR REGULAR REVIEW.** A project which is subject to regular review pursuant to the terms of this article shall be submitted to the staff of the County Planning Board and shall contain the information required by the form which is attached to

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Ordinance No. 99-34 in Appendix “C” and entitled “Application for Approval of Tower or Antenna Array.” The applicant must also provide a letter certifying that the tower meets or exceeds design criteria and all current local, state, and federal requirements regarding the construction, maintenance, and operation of the tower; said letter to be issued by an architect, engineer, manufacturer, or other similar professional if determined to be qualified by the Planning Administrator.

If the application is complete and complies with the terms of this article, the staff will submit the application to the full Planning Board, which shall approve the application if it is complete and complies with the terms of this article. The staff shall maintain a calendar of submittal dates for each Planning Board meeting. A completed application submitted prior to a given submittal date shall be presented for consideration at the applicable Planning Board meeting. In no event shall a submittal date be more than sixty (60) days prior to the scheduled Planning Board meeting. The applicant is to be notified within sixty (60) days after initial consideration by the Planning Board of the decision of the Planning board with regard to the application.

The owner of the property upon which the tower sits must consent in writing to the above and Appendix C should be amended to reflect such; unless the lease for the site states otherwise.

10) PREFERENCE FOR CO-LOCATION.

- a. All Applicants seeking permission to construct one or more towers in Washington County shall cooperate in co-location of antenna arrays on their towers where feasible. This requirement shall not be deemed to require Applicants to incur additional expense to construct their towers in order to facilitate co-location. All applicants seeking permission to construct a new tower primarily dedicated for cellular or PCS communication purposes shall, where feasible, design and construct said tower so as to accommodate co-location of at least one additional cellular or PCS provider in addition to Applicant. Co-location is not required if the new antenna array would interfere with the Applicant’s use of the tower, or with reasonably foreseeable future uses anticipated by Applicant. Upon the request of any third party whose request for co-location has been denied, the Applicant agrees to provide a written explanation of reasons for the denial.
- b. All Applicants seeking permission to construct a new tower in order to serve one or more specific purposes must demonstrate in the application process that they made a reasonable and good faith effort to co-locate their antenna arrays on existing towers or support structures. This paragraph does not apply to

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Applicants who desire to construct a tower for the primary purpose of attracting other persons to co-locate on the tower.

- c. In complying with the requirements of paragraph (b), Applicants must include the information required in the appropriate Application Form, provided that:
 - i. With regard to the required statement that the owners of all such towers have been contacted and asked about the possibility of co-location, an explanation of why such contact was not made will be satisfactory if it indicates that a particular tower was obviously unsatisfactory for technological or safety reasons, or if the owner could not be located after reasonable inquiry.
 - ii. With regard to the required statement explaining why the available towers in the area are not suitable for co-location, by way of example and not limitation, existing towers would be unsuitable if co-location would cause interference problems, if there are other technological problems, if the tower is already filled to capacity, if the cost of co-location would exceed the cost of a new tower, if co-location would require major modification (as such term is defined herein), or if co-location would not satisfy the reasonably foreseeable future needs of Applicant which would be served by construction of a new tower.
 - iii. With regard to the supplemental information which may be required by the Staff of the Planning Board, Applicant may delete any and all references to confidential pricing information in any correspondence required to be submitted.
 - iv. The owner of the property upon which the tower sits must consent in writing to the above; unless the lease for the site states otherwise.
- 11) SET BACK FROM ROAD. All towers shall be set back from the nearest edge of all roads, as recognized by the County 911 Operations Office with a specific name or number, by at least 20 feet plus the height of the tower. The edge of the road shall be defined as the edge of pavement or the edge of the unpaved surface at the time of application.
- 12) SET BACK FROM RESIDENCES. Towers subject to this ordinance will be located so that there will be no residences where the nearest part of the residence is within 150% of the height of the tower from the base of the tower, unless all persons owning said residences or the land on which said residences are located consent in a signed writing to the

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construction of said tower.

13) MITIGATION OF VISUAL IMPACT. In minimizing any aesthetic problems with a proposed Tower or Antenna Array, applicants agree to take the following steps:

- a. Signage at the site is limited to non-illuminating warning and equipment identification signs.
- b. Unless specifically required by law or a regulatory authority or because there is no technologically feasible alternative, no tower shall be equipped with strobe lights which operate at night.

14) PRECAUTIONS AGAINST EXCESSIVE NOISE. Equipment used in connection with a tower or antenna array shall not generate noise that can heard beyond the site. This prohibition does not apply to air conditioning units no noisier than ordinary residential units or generators used in emergency situations where the regular power supply for a facility is temporarily interrupted; provided that any permanently installed generator shall be equipped with a functional residential muffler.

15) PRECAUTIONS AGAINST TRESPASSERS. The base of every tower must be surrounded with a fence at least 6 feet in height and topped with either barbed wire or razor wire. The gate for such a fence shall be kept locked except when authorized personnel are working on or around the tower. The fence must be posted with signs warning against trespass and providing a number to call in case of emergency. With the exception of towers constructed in such a way that is not reasonably practicable to do so, any ladder or other apparatus designed to aid in climbing of a tower shall be constructed so that the bottom 12 feet of such ladder or apparatus is not readily accessible except when it is in use by construction, maintenance, repair or other authorized personnel.

16) MAINTENANCE OF TOWERS AND FACILITIES. By making an application hereunder, Applicant agrees to regularly maintain and keep in a reasonably safe and workmanlike manner all towers, antenna arrays, fences and outbuildings owned by Applicant which are located in the County. Applicant further agrees to conduct inspection of all such facilities not less frequently than every 12 months. Applicant agrees that said inspections shall be conducted by one or more designated persons holding a combination of education and experience so that they are reasonably capable of identifying functional problems with the facilities.

The Staff of the Planning Board may request in writing from the Applicant documentation regarding inspections and maintenance activities at any such facilities.

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Applicant agrees to provide the documentation within 30 days after the mailing of any such request from the Staff. Said documentation shall be in the form of a sworn statement and shall include but need not be limited to the following items, unless the Staff specifically indicates that one or more of the following items need not be provided:

- a. The estimated date on which the tower was originally constructed and the estimated date of all modifications thereto.
- b. Verifications of safe and appropriate grounding and electrical connections as per the version of the National Electrical Code in effect at the last modification or addition to the electrical system.
- c. Structural design certification by the tower manufacturer regarding the facility's capacity to withstand a combination of ½" accumulation of ice and 70 mile per hour winds.
- d. A statement that all antenna arrays on such tower have been attached and maintained in accordance with the specifications of the manufacturer, if any.
- e. For a guyed tower, a statement that all guy wires are being properly maintained so that structural integrity of the tower is not compromised.
- f. For any lattice tower, a statement that all welds and other joints are being properly maintained so that they do not show signs of wear which would make the tower unsafe.
- g. For lighted towers, verification of payment of the most recent applicable electric bill or other evidence that the facility remains functional and the safety signals are in working order.
- h. For unit towers, a statement by the owner verifying the continued use or need for the structure.
- i. For structures which are painted for cosmetic reasons, proof that the tower has been painted within the last 5 years, or proof satisfactory to the Staff that the exterior does not currently need painting.

If any such information is not submitted within 30 days after the first notice, the Staff shall send a second written notice requesting the documentation within 15 days from the date of the second mailing. If the Staff does not receive the requested information by the

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end of normal business on the 15th day from the date on which the second notice was mailed, the Staff shall place the issue of whether the tower has been abandoned on the agenda at the next regularly scheduled County Planning Board meeting.

At that meeting, the Planning Board shall determine whether the subject tower has been abandoned. If the owner/operator fails to respond or appear before the Board or fails to present evidence regarding the above described items, the Planning Board shall make a determination of abandonment and forward said finding to the Quorum Court for action.

The Quorum Court, at its next regularly scheduled meeting, shall consider the determination of abandonment forwarded by the Planning Board, along with any subsequent submittals by the owner/operator of the tower. The owner/operator may submit remedial action plans which may call for the owner/operator to be given a reasonable time, not to exceed three months, to implement a plan to restore the facility to safe operations. The Quorum Court may adopt such plan or any substitute plan deemed by the Court to be reasonable. If at any time, the Court finds that the tower in question has been abandoned, the Court shall instruct the County Judge to have the tower removed at the owner's expense. Any salvage value derived from the removed structures shall be applied to the costs of removal, if not paid by the owner.

Requests by staff for documentation shall not be made more than 3 times per year on any given tower.

- 17) **REGULATORY COMPLIANCE.** Applicant, by requesting approval of any Tower or Antenna Array in Washington County, certifies and agrees that no Towers or Antenna Arrays under the Applicant's control will emit electro-magnetic radiation (EMR) in excess of federal safety and health guidelines as adopted by any authorized federal regulatory agency.
- 18) **OPPORTUNITY FOR PUBLIC RESPONSE.** Except as expressly provided herein, all persons owning property within 800 feet plus the height of the tower from the base of the tower must be notified in writing and given a chance to voice opposition or support any proposed antenna array, tower or major modification to an existing tower at a public meeting.
- 19) **BURDEN OF PROOF.** Applicant must prove that any application under these regulations satisfies all of the applicable requirements of these regulations.
- 20) **SEVERABILITY.** If any part of these regulations is declared invalid by a court of competent jurisdiction such invalid portions shall be severed and the remaining portions

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of these regulations shall remain in full force and effect. Furthermore, all laws, rules, or regulations by the FCC or other federal entity shall supersede any of the provisions herein if a conflict exists.

21) **ENFORCEMENT.** Violations of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of conditional uses, variances, or waivers) shall be enforced against the tower owner in accordance with Washington County Code 11-51 et. seq., (Regulations, Standards, and Specifications for the Division, Development, and Improvement of Unincorporated Land in Washington County, Arkansas).

22) **EMERGENCY.** Whereas the construction of towers and related facilities are of concern to the citizens of Washington County, and the general welfare and safety of the citizens are affected by such; therefore, an emergency is declared to exist and this ordinance shall be and is effective from the date of its passage.

([Ord. 1999-034](#), passed 07-09-1999; Am. [Ord. 1999-038](#), passed 09-10-1999; Am. [Ord. 1999-039](#), passed 09-10-1999; Am. [Ord. 1999-040](#), passed 09-10-1999; Am. [Ord. 1999-041](#), passed 09-10-1999; Am. [Ord. 1999-046](#), passed 11-12-1999; Am. [Ord. 1999-047](#), passed 11-12-1999; Am. [Ord. 1999-051](#), passed 12-13-1999; Am. [Ord. 2007-073](#), passed 12-14-2007; Am. [Ord. 2008-008](#), passed 2-15-2008; Am. [Ord. 2009-037](#), passed 06-15-2009)

§ 1320.04 APPROVAL FOR LAND PLAT DEVELOPMENTS CONTINGENT ON OBTAINING ALL FEDERAL, STATE, AND LOCAL PERMITS.

- 1) All plats for land developments approved by the Washington County Planning Board shall be contingent upon receipt by the developer of any Federal, State or local permits or approvals, if any, whether know or unknown to the Board of the Developer.
- 2) Nothing herein shall require the Planning Board or staff to enforce such permits or approvals or take action to determine if such is necessary.
- 3) If the Planning Board or staff is aware of the need of such permit or approval, then they may notify the appropriate agency and seek input and comments prior to final plat approval.

([Ord. 2005-037](#), passed 7-14-2005)

§ 1320.05 PROTECTION OF RURAL AND AGRICULTURAL PROPERTY.

- 1) a. The County Judge shall cause a notice to be filed in the real estate records in the Office of Circuit Clerk stating the following: "If you purchase property in an unincorporated area of Washington County, you are hereby put on notice that agricultural operations may

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now or in the future be located in the vicinity."

- b. The County Judge is hereby further authorized to disseminate this chapter and said notice to the public in a manner he deems wise and expedient.
- 9) PLATS. All plats presented to the Planning Board and filed on record shall note the uses of adjacent property. The determination of said use shall be the responsibility of the developer.
- 10) RIGHT TO FARM. The right to farm is hereby declared to be the policy of Washington County. A.C.A. §§ 2-4-101, et. seq. is hereby adopted as a County Ordinance.
- 11) This Ordinance is amendatory to Washington County Code section 11-51 et seq., and enforceable as set out therein.
([Ord. 2006-013](#), passed 5-13-2006; Am. [Ord. 2006-044](#), passed 7-14-2006)

§ 1320.06 INTERLOCAL AGREEMENT BETWEEN THE COUNTY AND THE CITY OF FARMINGTON REGARDING PLANNING MATTERS.

- 1) That said Interlocal Agreement is approved and the County Judge is authorized to sign such.
- 2) EMERGENCY CLAUSE. It is hereby found and determined that an emergency exists, affecting the life, health, safety, and property of the citizens of Washington County, in that this interlocal agreement is immediately necessary due to the rapid growth in the County, and this Ordinance shall be in full force and effect immediately upon passage.
([Ord. 2006-064](#), passed 11-13-2006)

§ 1320.07 ZONING ADMINISTRATION.

- 1) ZONES CREATED. All of the unincorporated portions of the County are hereby zoned, unless depicted otherwise, as shown on the official zoning map which together with all explanatory materials thereon is hereby adopted by reference and declared to be a part of this Article.
- 2) MAP LOCATION. Said map shall be located in the offices of the County Clerk and the Planning Director.
- 3) USES PERMITTED. These areas so zoned are designated as agricultural and single-family residential, the latter to have a lot, tract or parcel size of no less than one (1) acre; however, if any city requires a larger size in its subdivision regulations, then the larger

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size will be controlling.

4) DEFINITIONS.

a. ***Agricultural*** means:

- i. The care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; by way of illustration, but without limitation, this includes horses, greenhouses, and kennels;
- ii. The planting, cultivating, harvesting, and processing of crops and timber;
- iii. The production of any plant or animal species in a controlled freshwater or saltwater environment; and
- iv. Includes silviculture and aquaculture.

b. ***Single-Family Residential*** means a detached dwelling for occupancy as the residence of one (1) family.

c. ***Surrounding Area*** means other property in the zone whenever there is a reasonable likelihood that a proposed use will impact such significantly.

d. ***Non-conforming Uses*** means a use that is not agricultural or single-family residential, the latter to have a lot, tract, or parcel size of no less than one (1) acre.

5) CONDITIONAL USES. All other proposed uses in said zones, other than those specifically permitted therein, are hereby declared to be conditional uses and may be permitted based upon the factors set forth below.

6) ADMINISTRATOR; RULES AND REGULATIONS. The Planning Administrator is authorized to promulgate additional rules and regulations to further effectuate this article subject to approval by the Quorum Court.

7) NON-CONFORMING USES. All non-conforming uses shall be considered as conditional uses for expansion purposes or re-establishment or rebuilding purposes and must obtain a building permit or plat approval.

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- 8) ZONING BOARD OF ADJUSTMENT. There is hereby established a Zoning Board of Adjustment which shall consist of the Washington County Planning Board. The two boards shall sit concurrently when hearing any matter pertaining to zoning and are hereinafter referred to as "the Board."
- 9) CRITERIA FOR ALLOWANCE OF CONDITIONAL USES:
- a. The Board shall hear and decide requests for a conditional use and may authorize such if it finds:
 - i. That a written application has been filed with the Planning Office and the appropriate fee has been paid.
 - ii. That the applicant has provided proof that each property owner as set out in section 11-204 has been notified by return receipt mail.
 - iii. That adequate utilities, roads, drainage and other public services are available and adequate or will be made available and adequate if the use is granted.
 - iv. That the proposed use is compatible with the surrounding area.
 - v. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - vi. That the conditional use will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor substantially diminish and impair property values within the surrounding area.
 - vii. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding area for uses permitted in the zone.
 - b. If it is determined that there exist conditions that could be imposed by the Board that would significantly lessen the impact of the aforestated, then the Board has the power to impose said conditions which shall be specifically set forth.

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10) CONDITIONAL USE—MAJORITY VOTE:

- a. A conditional use may only be allowed upon a majority vote of the entire Board membership and must be ratified by the Quorum Court, sitting in its legislative capacity, by ordinance.
- b. The Planning Administrator shall present conditional use rulings to the Quorum Court for ratification at its next meeting following the meeting of the Board if in his/her opinion there is no likelihood of an appeal; however, ratification shall not be a bar to an appeal hearing as set forth in 11-206.

11) APPEALS TO BOARD. The Board may hear appeals from any decision of the Planning Administrator in respect to the enforcement and application of this article and may affirm or reverse, in whole or in part, such decisions.

12) VARIANCES. The Board may hear requests for variances from the literal provisions of this article in instances where strict enforcement would cause undue hardship due to circumstances unique to the individual property under consideration and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of this article. The Board may impose conditions in the granting of a variance to insure compliance and to protect adjacent property; a variance may only be allowed upon a three-fourths ($\frac{3}{4}$) majority of the entire Board membership.

13) NOTIFICATION.

- a. The Planning Administrator on behalf of an applicant for a conditional use or a variance shall send a certified letter to all adjoining property owners within three hundred (300) feet of the exterior boundary of the proposed use at least fourteen (14) days prior to the scheduled meeting of the Board, at which the application is to be reviewed. Said letter shall state the date, time, place of the review of the proposed application and the location of the proposed use. Furthermore, said notice will state that the proposed use will be heard by the Quorum Court for ratification at its next meeting following the meeting of the Board. The applicant shall reimburse the Planning Office for the actual cost of mailing plus fifteen cents (\$0.15) (per notice sent).
- b. In the case of Large Scale Developments as set out in section 11-100(a)(2), the Planning Administrator, on behalf of an applicant for a conditional use or a variance, shall send a certified letter to all adjoining property owners within one-half ($\frac{1}{2}$) mile of the exterior boundary of the proposed use at least thirty (30) days

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prior to the scheduled meeting of the Board, at which the application is to be reviewed. Said letter shall state the date, time, place of the review of the proposed application and the location of the proposed use. The applicant shall reimburse the Planning Office in the same manner as set out above.

14) FEES.

- a. An applicant for conditional use or variance shall remit a fee in the amount of one hundred dollars (\$100.00) to the planning office upon submittal of any application.
- b. Conditional use permits for personal wireless services facilities. In addition to any other applicable fee listed in this Subchapter, any Conditional Use Permit application for approval of a personal wireless services facility as defined in the Federal Telecommunications Act of 1996 (47 U.S.C. § 332(c)(7)(C)(i) and (ii)), shall also be accompanied by a fifteen hundred dollar (\$1,500.00) fee, payable toward the estimated cost of a Court Reporter to attend and transcribe the records of meetings of the quorum court at which such personal wireless services facility application is considered. This fee, however, shall be subject to the following:
 - i. In the event all or any portion of the \$1,500.00 fee is unused, the county shall return the balance to the applicant; and
 - ii. In the event \$1,500.00 is not enough to cover the cost to the county of such a Court Reporter, the applicant shall be responsible for the balance.

15) APPEALS FROM BOARD.

- a. Decisions of the Board shall be appealed first to the Quorum Court, sitting in its legislative capacity, said appeal shall be perfected by filing a Notice of Appeal on a form to be provided by the Planning Administrator and filed with the County Clerk no later than thirty (30) days after the decision of the Board. The appeal process set forth herein shall also be available for actions of the Quorum Court pursuant to section 11-201.
- b. Before said thirty-day period has expired, upon concurrence of the Planning Director and the Planning Board Chairman, any decision made by the Board shall be reconsidered by the Board, in which event the thirty-day period to appeal shall be tolled and will begin anew once the Board has reconsidered its decision.

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- c. After the expiration of said thirty-day period, if no appeal has been filed, upon concurrence of the Planning Director and Planning Board Chairman, the Board shall reconsider any conditions it has imposed due to unforeseen circumstances or consequences; such shall be heard by the Board in the same manner as the original Conditional Use Permit application; however, no submittal fees shall be charged. Any such change shall be submitted to the Quorum Court for ratification.
 - d. No hearing before the Quorum Court shall be set until the full thirty-day appeal period has run.
 - e. Individual notice to surrounding property owners shall be given by regular mail to those who were notified of the Board meeting no less than twenty (20) days prior to said hearing by the Planning Office.
 - f. Any written documents that are to be submitted to the Quorum Court shall be submitted to the County Judge's Office no later than ten (10) days prior to the hearing; by majority vote of the Quorum Court, any submission later than ten (10) days prior to the meeting may be received.
 - g. The Quorum Court will follow the same procedures as the Board, unless it decides otherwise by majority vote. The Quorum Court shall memorialize its decision by ordinance.
 - h. After the decision by the Quorum Court, an appeal may be taken to Circuit Court within thirty (30) days from said decision.
- 16) **BUILDING PERMITS.** The provisions of this article shall be administered by the Planning Administrator; building permits are hereby deemed to be issued for agricultural and single-family residential uses. All conditional uses and uses requiring a variance are required to have a building permit or plat approval.
- 17) **VIOLATIONS.** A violation of this article shall be punishable and enforceable as set out in Washington County Code section 11-114.
- 18) **APPLICABILITY.** This article shall apply to all uses that have not received preliminary approval by both the City and County before the effective date of this article. This article shall not apply to any business or industry currently negotiating with any city to locate adjacent to the city limits.

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19) SEVERABILITY. The provisions of this article are hereby declared to be severable. If any section, paragraph, sentence or clause of this article shall be held invalid, the invalidity of such section, paragraph, sentence or clause shall not affect the validity of the remaining portion of the said article.

20) EMERGENCY CLAUSE. It is hereby determined that it is in Washington County's best interest for this article to be effective immediately; and the general health, safety and welfare of the citizens are affected by such for the reasons as set out above; therefore, an emergency is declared to exist and this article shall be and is effective from the date of its passage.

([Ord. 2006-066](#), passed 11-13-2006; Am. [Ord. 2007-006](#), passed 2-9-2007; Am. [Ord. 2007-061](#), passed 11-9-2007; Am. [Ord. 2007-071](#), passed 12-14-2007; Am. [Ord. 2008-070](#), passed 11-14-2008; Am. Ord 2008-071, passed 11-14-2008; Am. [Ord. 2009-033](#), passed 5-15-2009; Am. [Ord. 2009-043](#), passed 7-10-2009; Am. [Ord. 2009-067](#), passed 12-14-2009; Am. [Ord. 2010-002](#), passed 01-15-2010; Am. [Ord. 2015-090](#), passed 11-23-2015)

§ 1320.08 REGULATING LOCATION OF MAILBOXES IN THE RIGHT-OF-WAY OF COUNTY ROADS.

- 1) Mailboxes shall be allowed to encroach within the right-of-way of any County road so long as the outermost edge of said mailbox and/or its supporting structure is no less than two feet from the edge of the driving surface of said road.
- 2) All such mailboxes shall also comply with the following:
 - a. Mailboxes must be made of Postmaster-approved light sheet metal or plastic only.
 - b. The support should be only strong enough to hold the mailbox. An ordinary 4"x 4" wood post or 1-1/2" to 2" metal pipe, or other material comparable or less in strength, anchored in the ground no more than two feet is required.
 - c. Mailbox-to-post attachments must be strong enough to prevent the box from coming loose from the post if struck by a motor vehicle.
 - d. Multiple mailbox mountings must use individual mounting posts rather than a horizontal support.
 - e. No reflective material may be used on the mailbox or supporting post except for addresses.

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- f. Specific installation details of the Postmaster must be followed.
- 3) The County Judge or his designee may grant an extension of time to relocate any mailbox upon showing a good cause.
- 4) This Ordinance shall be applicable to any mailbox that is erected or replaced on or after the effective date of this section.
- 5) Any violation of this Ordinance shall be punishable by a fine of \$250.00 per day and may be enforced by appropriate civil action by the County Judge.
- 6) **APPLICABILITY.** This section shall not apply to the following:
- a. Any mailbox made from brick, stone, or similar material so long as the outermost edge of said mailbox is at least eight (8) feet from the outermost edge of a hard surface road.
 - i. However, a separate hard surface, to be approved by the County Road Superintendent, or his or her designee, in accordance with County Road specifications must be provided for the postal service to access mailboxes.
 - ii. The separate hard surface and/or the mailbox may not have a negative drainage impact to the road or surrounding property owned by others; and the mailbox may not obstruct the vision of any person driving on said road or any person pulling out onto said road.
 - iii. A permit must be obtained from the Road Department in accordance with section 12-23.
 - b. Any mailbox in a subdivision that has curb and gutter that received approval by the County Road Superintendent, or his or her designee.
- 7) **EMERGENCY CLAUSE.** It is hereby determined that it is in the best interest of the citizens of County for this Ordinance to be effective immediately; and the general health, safety and welfare of the citizens are affected by such for reason as set out above; therefore, an emergency is declared to exist and this Ordinance shall be, and is, effective from the date of its passage.
([Ord. 2008-073](#), passed 11-14-2008; Am. [Ord. 2009-032](#), passed 5-15-2009)

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§ 1320.09 TIME LIMITS FOR CONDITIONAL USE PERMITTEES ESTABLISHED.

- 1) a. A Conditional Use Permittee that is not required to go through the land development approval process (Washington County Code sections 11-51 through 11-80), shall meet all conditions of the permit no later than eighteen (18) months from the date the Conditional Use Permit was granted. The Planning Director may grant up to two (2) ninety-day extensions; the denial of any such extension may be appealed to the Board. However, in no event shall more than two (2) extensions be granted.
- b. If land development approval or approval pursuant to Article VIII is required, then application for such must be made to the Planning Office no later than twelve (12) months from the date the Conditional Use Permit was granted; exempt splits pursuant to Washington County Code section 11-79 are not included in this subsection but shall be governed instead by subsection (a). The Planning Director may grant up to two (2) ninety-day extensions; the denial of any such extension may be appealed to the Board. However, in no event shall more than two (2) extensions be granted.
- 2) If a land development approval or approval pursuant to Article VIII is required, and the applicant desires to build a phased development, then the Planning Board and Zoning Board of Adjustments may consider an alternate phasing and expiration timeline that is reasonable for the proposed conditional use.

The phasing plan and expiration timeline must be presented and approved as a part of the Conditional Use Permit process.

The Planning Director may grant up to two (2) ninety-day extensions; the denial of any such extension may be appealed to the Board. However, in no event shall more than two (2) extensions be granted.

- 3) Appeals and litigation shall automatically toll the running of any time period set out herein.
- 4) Any Conditional Use Permit that fails to comply with subsections (a), (b), or (c) of this section shall expire and be null and void.

([Ord. 2009-068](#), passed 12-14-2009; Am. [Ord. 2012-018](#), passed 3-9-2012)

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§ 1320.10 PUBLIC UTILITIES EXEMPT FROM LARGE SCALE DEVELOPMENT PROCESSES.

- 1) The following public utility services and structures are hereby exempt from the Washington County Code provisions concerning Large Scale Developments:
 - a. Utility boxes;
 - b. Passenger stops for buses;
 - c. Police alarm boxes;
 - d. Historical markers, watershed, improvement projects, water conservation projects, or flood control projects.
 - e. Utility machine, local transformer and station, water pump stations, waterline flushing assembly, water storage facilities, PRV vaults, electric regulation stations, sewage lift station, manholes, natural gas pressure control stations, individual septic systems, other necessary structures and equipment for water, sewage, and other utility facilities. However, in residential areas, lift stations and pump stations may be required to insulate their station machinery, if the noise produced by such machinery would be an annoyance to the surrounding residential community.
 - f. Booster generators, not owned by a utility, which are utilized for homes, poultry houses and other agricultural facilities.
 - g. And additions or expansions of municipal fire department, volunteer fire departments, or ambulance service buildings or facilities located in the unincorporated portions of the County.
- 2) The following are not exempt:
 - a. Other utility uses, such as power generation facilities, solid waste disposal facilities, water or sewage treatment plants not part of a specific land development, and Natural Gas Compressor Stations.
 - b. Nothing herein shall be construed to mean that any land development itself that utilizes any of the aforesaid is exempt from the Land Development Process.

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- 3) Any of the above that are exempt from local regulations pursuant to A.C.A. § 23-18-526 are also exempt from this ordinance.
- 4) EMERGENCY CLAUSE. It is hereby determined that it is in the best interest of the citizens of Washington County that this ordinance to be effective immediately; in that requiring the above stated utility services and structures to seek Large Scale Development approval is an undue burden in the providers as well as planning staff. Therefore, an emergency is declared to exist and this ordinance shall be and is effective from the date of its passage. ([Ord. 2007-013](#), passed 3-9-2007; Am. [Ord. 2009-011](#), passed 2-13-2009; Am. [Ord. 2013-037](#), passed 6-21-2013)

§ 1320.11 CLARIFYING THE INTENTIONS OF CERTAIN ORDINANCES.

- 1) By way of clarification, all the provisions of Ordinance No. 2004-38 and Ordinance No. 2004-39 are applicable to all Large-Scale Developments as defined in Washington County Code at Sections 11-63(a)(2).
- 2) EMERGENCY CLAUSE. It is hereby ascertained and declared that this ordinance is immediately needed for the preservation of the public peace, health and safety; therefore, it is declared that an emergency exists and this ordinance shall be in force and take effect immediately upon and after its passage. ([Ord. 2005-067](#), passed 11-15-2005)

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Article III. ECONOMIC DEVELOPMENT

A.C.A. §§ 14-173-101-105. City and County Economic Development Grant Authorization Act.

A.C.A. §§ 14-169-901. Subchapter intention.

It is the intention of this subchapter to permit municipal and county government in the State of Arkansas to participate fully in the Community Development Act of 1974, specifically, but not limited to, community development activities eligible for assistance in section 105 of it, and to have their governing bodies exercise any and all powers conferred on housing authorities and urban renewal agencies, including, but not limited to:

- (1) Eminent domain;
- (2) Redevelopment activities;
- (3) Housing;
- (4) Public housing;
- (5) Urban renewal; and
- (6) Community development in its broadest sense.

Section

Reserved.

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Article IV. HOUSING

A.C.A. §§ 14-54-1601-1606. The Affordable Housing Accessibility Act.

A.C.A. §§ 16-123-201-210. Arkansas Fair Housing Act.

Section

1360.00 Gated communities.

§ 1360.00 GATED COMMUNITIES.

- 1) Any gated community, or subdivision, in Washington County shall comply with the uniform standards to be promulgated herein. A gated community or subdivision is a residential area containing more than four (4) lots in which access to the subdivision streets is restricted by the use of a guard house or electronic arm and in which residents may gain entry by using electronic cards, identification stickers, codes, or remote control devices. This definition of gated community shall also include large scale developments, residential or otherwise.
- 2) As it is unlawful to block public roads, roads in said communities or subdivisions must be private and thus the County will not accept the roads or streets for maintenance.
- 3) As there is a possibility in the future that gates may be removed and the residents may desire that the County accept the roads and streets; said roads and streets must still be built to the specifications as set out in the Regulations, Standards, and Specifications for the Division, Development, and Improvement of Unincorporated Land in Washington County, Arkansas (Washington County Code section 11-51 et seq.).
- 4) The County Fire Marshal is authorized to promulgate uniform rules and regulations concerning gated communities or subdivisions, subject to approval by the Quorum Court.
- 5) This ordinance shall be amendatory to Washington County Code section 11-51, et seq., and any violation shall be punishable as set out therein.

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- 6) This ordinance shall be applicable only in the unincorporated areas of Washington County, Arkansas.
([Ord. 2003-045](#), passed 9-12-2003; Am. [Ord. 2008-033](#), passed 6-13-2008)

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**Article V. WATERCOURSE, DRAINAGE, IRRIGATION, FLOOD
CONTROL SERVICES**

A.C.A. §§ 14-121-101-1110. Drainage Improvement Districts Generally.

A.C.A. §§ 14-117-101-427. Arkansas Irrigation, Drainage, and Watershed Improvement District Act of 1949.

A.C.A. § 14-16-112. Flood control improvements.

- (a) (1) The counties of this state are authorized and empowered to enter upon, take, and hold any lands or interest, easement or servitude therein, whether by purchase, grant, donation devise, or otherwise, that may be necessary and proper for the location, construction, operation, repair, or maintenance of any floodway, reservoir, spillway, levee or diversion, or other flood control improvements.
- (2) (A) In order to acquire such rights, easements, and servitudes, the counties are given the authority and power to condemn land or interest therein for these purposes.

(B) In the event it becomes necessary for counties to exercise the right of eminent domain, condemnation proceedings shall be instituted and conducted in the same manner as provided in §§ 18-15-304—18-15-307.
- (b) Nothing in this section shall ever be so construed or applied as to relieve the federal government of any liability or responsibility which it has assumed by the passage of the Flood Control Act of May 15, 1928, or the Flood Control Act of June 15, 1936, or any other existing law, or any law that may hereafter be passed by the Congress of the United States.

Section

Reserved.

WASHINGTON COUNTY CODE OF ORDINANCES
Chapter 13 - Urban / Rural Development