



OC, CORRECTION  
July 2009

**CODE OF ORDINANCES**

**City of**

**JONESBORO, ARKANSAS**

**Looseleaf Supplement**

This OC, CORRECTION is printed to revise pages appearing in the original code and should be inserted as directed below.

*Remove old pages*

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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

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**CODE OF ORDINANCES**  
**OF THE**  
**CITY OF**  
**JONESBORO, ARKANSAS**

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Published by Order of the City Council

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MUNICIPAL CODE CORPORATION

Tallahassee, Florida

2009



OFFICIALS

of the

CITY OF

JONESBORO, ARKANSAS

AT THE TIME OF THIS RECODIFICATION

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Doug Formon  
*Mayor*

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Charles Frierson (Ward 1, position 1)	Cecil Province, Jr. (Ward 1, position 2)
Jim Hargis (Ward 2, position 1)	Chris Moore (Ward 2, position 2)
Ann Williams (Ward 3, position 1)	Harold Perrin (Ward 3, position 2)
John Street (Ward 4, Position 1)	Mitch Johnson (Ward 4, position 2)
Darrel Dover (Ward 5, position 1)	Judy Furr (Ward 5 position 2)
Tim McCall (Ward 6, position 1)	Faye McCall (Ward 6, position 2)

*City Council*

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Donna Jackson  
*City Clerk*

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Phillip Crego  
*City Attorney*



## PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Jonesboro, Arkansas.

Source materials used in the preparation of the Code were the 2006 Code, embracing ordinances through March 21, 2006, and ordinances adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of this Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2006 Code and any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

### *Chapter and Section Numbering System*

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of

the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

### *Page Numbering System*

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CODE INDEX	CDi:1

### *Index*

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

### *Looseleaf Supplements*

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

### *Acknowledgments*

This publication was under the direct supervision of Roger D. Merriam, Senior Code Attorney, and Ricardo Lewis, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to City Clerk Donna Jackson and City Attorney Phillip Crego for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

### *Copyright*

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**PART I**  
**GENERAL ORDINANCES**

Chapter 1

**GENERAL PROVISIONS**

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- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Catchlines of sections; history notes; references.
- Sec. 1-4. Effect of repeal of ordinances.
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**Sec. 1-1. How Code designated and cited.**

The ordinances embraced in the following chapters and sections shall constitute and be designated as the "Code of Ordinances of the City of Jonesboro, Arkansas," and may be so cited.

(Code 2006, § 1.04.01)

**State law reference**—Authority to codify ordinances, A.C.A. § 14-55-701.

**Sec. 1-2. Definitions and rules of construction.**

The following definitions and rules of construction shall apply to this Code and to all ordinances unless the context requires otherwise:

*Generally.*

- (1) When provisions conflict, the specific prevails over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated.
- (2) Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings shall be construed according to such meanings.
- (3) Provisions shall be interpreted and applied so as to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.
- (4) Grammatical errors shall not vitiate, and a transposition of words

and clauses may be resorted to when the sentence or clause is without meaning as it stands.

*A.C.A.* The abbreviation "A.C.A." means the Arkansas Code of 1987 Annotated.

*City.* The term "city" means the City of Jonesboro, Arkansas.

*City council or council.* The term "city council" or "council" means the city council of the City of Jonesboro, Arkansas.

*City water and light or CWL.* The term "city water and light" (also referred to as CWL) means the city water and light plant.

*Code.* The term "Code" refers to the Code of Ordinances of the City of Jonesboro, Arkansas, as designated in section 1-1.

*Computation of time.* In computing any period of time prescribed or allowed by ordinance, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, legal holiday or day upon which the city hall is closed. When the period of time prescribed or allowed is less than 14 days, intermediate Saturdays, Sundays or legal holidays shall be excluded in the computation. Legal holiday means those days designated as a holiday by the President or Congress of the United States or designated by the laws of the state.

*Conjunctions.* In a provision involving two or more items, conditions, provisions or events, which items, conditions, provi-

sions or events are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows, except that the terms "and" and "or" may be interchangeable when the context so requires:

- (1) "And" indicates that all the connected terms, conditions, provisions or events apply.
- (2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) "Either . . . or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

*County.* The term "county" means Craighead County, Arkansas.

*Delegation of authority.* A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

*Gender.* Words of one gender include all other genders.

*Include, including.* The term "include," "including" or any other similar term of inclusion means without limitation or restriction.

*May.* The term "may" is to be construed as being permissive and not as being mandatory.

*May not.* The term "may not" has a prohibitory effect and states a prohibition.

*Metropolitan Area Planning Commission, planning commission.* The term "Met-

ropolitan Area Planning Commission" and "planning commission" are synonymous and refer to the Metropolitan Area Planning Commission.

*Municipality.* The term "municipality" means the City of Jonesboro, Arkansas.

*Must.* The term "must" is to be construed as being mandatory and not as being permissive.

*Number.* Words in the singular include the plural. Words in the plural include the singular.

*Oath.* The term "oath" includes an affirmation in all cases where by law an affirmation may be substituted for an oath.

*Officers, departments, etc.* References to officers, departments, board, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

*Owner.* The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.

*Person.* The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any limited liability company, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

*Personal property.* The term "personal property" includes money, goods, chattels, things in action, evidences of debt and energy.

*Planning commission or MAPC.* The term "planning commission" means the Metropolitan Area Planning Commission, also referred to in this Code as the MAPC.

*Preceding, following.* The terms "preceding" and "following" mean next before and next after, respectively.

*Premises.* The term "premises," as applied to real property, includes lands and structures.

*Property.* The term "property" includes real and personal property.

*Real estate or real property.* The term "real estate" or "real property" includes lands, tenements and hereditaments and all rights thereto and interests therein.

*Shall.* The term "shall" is to be construed as being mandatory.

*Sidewalk.* The term "sidewalk" means that portion of the street between the curblin and the adjacent property line intended for the use of pedestrians.

*Signature or subscription by mark.* If the signature of any person is required, it shall always be in the handwriting of such person or if he is unable to write, his mark or his name written by some person at his request and in his presence.

*State.* The term "state" means the State of Arkansas.

*Street.* The term "street" includes any street, avenue, boulevard, road, alley, lane, viaduct or other public highway in the city.

*Tenant or occupant.* The term "tenant" or "occupant," as applied to premises, include any person holding a written or

oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

*Tenses.* The present tense of a verb includes the past and future tenses. The future tense includes the present tense.

*Week.* The term "week" means seven consecutive days.

*Writing.* The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means.

*Year.* The term "year" means a calendar year.  
(Code 2006, § 1.08.01)

### **Sec. 1-3. Catchlines of sections; history notes; references.**

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) History notes, that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) Editor's notes, state law references and other references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(d) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code. (Code 2006, § 1.08.01)

**Sec. 1-4. Effect of repeal of ordinances.**

(a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any previously repealed ordinance.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

(c) The repeal or amendment of an ordinance does not affect any vested right, privilege, obligation or liability. (Code 2006, § 1.16.01)

**Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances passed subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. In the case of repealed chapters, sections or subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and

subsequent ordinances numbered or omitted are readopted as a new Code by the city council.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "Section (insert number) of the Code of Ordinances of the City of Jonesboro, Arkansas is amended to read as follows:" The new provisions shall then be set out in full.

(c) The following language may be used to add a new section: "The Code of Ordinances of the City of Jonesboro, Arkansas is hereby amended by adding a section (number) to read as follows:" The new provisions may then be set out in full.

(d) All sections, articles, chapters or provisions desired to be repealed should be specifically repealed. (Code 2006, § 1.24.01)

**Sec. 1-6. Supplementation of Code.**

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be removed from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified Code. For example, the person may:

- (1) Arrange the material into appropriate organizational units.
- (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
- (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
- (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
- (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections \_\_\_\_ to \_\_\_\_" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).
- (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

**Sec. 1-7. General penalty; continuing violations.**

(a) In this section the term "violation of this Code" means any of the following:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code, or by order, rule or regulation authorized by ordinance.
- (2) Failure to perform an act that is required to be performed by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by order, rule or regulation authorized by ordinance.
- (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by order, rule or regulation authorized by ordinance.

(b) In this section the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$500.00, or double such sum for each repetition thereof. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed \$250.00 for each day that the same is unlawfully continued.

(d) If a violation of this Code is also punishable under state law, the penalty for the violation shall be as prescribed by state law for the state offense.

(e) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.

(f) Violations of this Code that are continuous with respect to time, are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

(Code 2006, § 1.32.01)

**State law reference**—Penalties for ordinance violations, A.C.A. § 14-55-501 et seq.

**Sec. 1-8. Severability.**

The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this Code or of any

provision adopted by reference in this Code, for the board declares that it is its intent that it would have enacted this Code and all provisions adopted by reference in this Code without such invalid or unconstitutional provisions.

(Code 2006, § 1.20.01)

**Sec. 1-9. Continuation of existing ordinances.**

The provisions of this Code, so far as they are the same as ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

**Sec. 1-10. Prior acts, obligations or uses unaffected.**

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code does not authorize or permit any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

**Sec. 1-11. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code affects any ordinance:

- (1) Extending or contracting the boundaries of the city.
- (2) Promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the

- city's indebtedness, or any contract or obligations assumed by the city.
- (3) Prescribing the number, classification, benefits or compensation of any city officers or city employees.
  - (4) Making any appropriation.
  - (5) Adopting a budget or amending same.
  - (6) Providing for purchasing policies.
  - (7) Granting any right or franchise.
  - (8) Establishing or prescribing grades of any street.
  - (9) Providing for local improvements and assessing taxes therefor.
  - (10) Dedicating or accepting any plat or subdivision in the city.
  - (11) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city.
  - (12) Levying or imposing taxes not codified in this Code.
  - (13) Providing traffic regulations for specific locations.
  - (14) Adopting or amending zoning maps or street master plans.
  - (15) That is temporary, although general in effect.
  - (16) That is special, although permanent in effect.
  - (17) The purpose of which has been accomplished.





## Chapter 2

### **ADMINISTRATION**

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## ADMINISTRATION

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Sec. 2-431. Created.

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## ADMINISTRATION

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- Sec. 2-573. Fees and charges.
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- Sec. 2-601. Exception for property governed by Unclaimed Property Act.
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- Sec. 2-603. Sale.
- Sec. 2-604. Proceeds of sale to owner.
- Sec. 2-605. Proceeds remaining after six month.



## ARTICLE I. IN GENERAL

### Sec. 2-1. Operation as first class city.

The city shall operate as a city of the first class under the laws of the state.

(Code 2006, § 2.04.01)

**State law reference**—First class cities, A.C.A. § 14-43-201 et seq.

### Sec. 2-2. Issuance of citations.

All city officers and city employees are authorized to issue citations for violations of ordinances that they are authorized to enforce.

### Sec. 2-3. Official map of city on file.

The boundaries and limits of the city shall be as set forth and described on the official map of the city, on file in the office of the clerk.

(Code 2006, § 2.08.01)

**State law reference**—Annexation generally, A.C.A. § 14-40-201 et seq.

### Sec. 2-4. Referendum petitions.

(a) *Filing date.* All referendum petitions under Amendment No. 7 to the Constitution of the state must be filed with the clerk within 30 days after passage and publication of such ordinance.

(b) *Sufficiency of petition.* The sufficiency of the petition shall be decided by the city clerk.

(c) *City council calls election.* If the city council finds that such petition is signed by the requisite number of petitioners, it may order a special election or place the question on the ballot at the next municipal general election to determine by vote of the qualified electors whether the ordinance shall stand or be revoked. The

date for any special election shall be set less than 30 days and said special elections shall be had and conducted as general municipal elections held in the city.

(d) *Upon defeat of ordinance.* If any ordinance referred to the people is defeated at the polls, the city council shall make a note of such fact and shall expunge such ordinance from its files.

(Code 2006, §§ 1.36.01—1.36.04)

**State law reference**—Referendum, A.C.A. §§ 7-9-101 et seq., 14-55-203.

### Sec. 2-5. City seal.

(a) *Need found.* A need exists for the establishment and creation of a seal of the city in order that the city clerk and other deemed city officials, may attest, certify and authenticate records and documents of the city.

(b) *Seal.* The city council does hereby approve and adopt as and for the corporate seal of said city, the seal, with lettering, form, arrangement and designs all as set forth and shown in the embossed or stamped impression which is attached to the ordinance from which this section is derived.

(c) *Official use.* It shall be unlawful for any person to make or use the seal of the city, or any cut, facsimile, or reproduction of said seal, or make or use any seal or any design which is an imitation of said seal, or of the design thereof, or which may be mistaken for the seal of said city, or the design thereof, for any purpose other than for the city purposes, or for the purposes of any board, officer, or department thereof.

(d) *Private use.* It shall be unlawful for any person to display or place, either temporarily or permanently, the official seal of said city, or any facsimile, representation thereof on any privately owned vehicle, unless by express written permit first hand and obtained from the city council of said city to do so. In the event any such permit is so granted by said council, it shall be unlawful for any person to place or display such seal in any manner, or at any time contrary to or in violation of the provision of such permit. (Code 2006, §§ 7.88.01, 7.88.02, 7.88.04, 7.88.05; Ord. No. 2345, §§ 1, 2, 4, 5)

**State law reference**—City seal, A.C.A. § 14-43-406.

**Secs. 2-6—2-28. Reserved.**

## ARTICLE II. MAYOR

**Sec. 2-29. Office created.**

The office of mayor is hereby created. (Code 2006, § 2.24.01)

**State law reference**—Mayor required, A.C.A. § 14-42-102.

**Sec. 2-30. Election.**

On the Tuesday following the first Monday in November 1966, and every four years thereafter, the qualified voters of the city shall elect a mayor for four years. (Code 2006, § 2.24.02; Ord. No. 3664, § 2, 9-15-2006)

**State law reference**—Similar provisions, A.C.A. § 14-43-305.

**Sec. 2-31. Duties.**

As chief executive of the city the mayor shall preside over all meetings of the city

council and shall perform such duties as may be required of him by state statute or city ordinance.

(Code 2006, § 2.24.03)

**Sec. 2-32. Appointment of officers.**

The mayor shall appoint, with the approval of the city council, where such approval or confirmation is required, all officers of the city whose election or appointment is not provided for by state statutes or city ordinance.

(Code 2006, § 2.24.04)

**Sec. 2-33. Salary.**

The rate of pay of the mayor shall be determined by ordinance of the city council from time to time in a manner that will comply with the state Constitution. (Code 2006, § 2.24.05)

**State law reference**—Salaries of officials, A.C.A. § 14-42-113.

**Secs. 2-34—2-54. Reserved.**

## ARTICLE III. CITY COUNCIL

### DIVISION 1. GENERALLY

**Sec. 2-55. Wards.**

The city is divided into six wards with boundaries as established by ordinance and shown on a map on file in the office of the clerk.

(Code 2006, § 2.08.02; Ord. No. 3341, § 1)

**State law reference**—Wards, A.C.A. § 14-43-311.

**Secs. 2-56—2-83. Reserved.**

## DIVISION 2. MEETINGS\*

**Sec. 2-84. City council meetings.**

(a) *Regular meetings.* The city council shall meet in regular session on the first and third Tuesday of each month at 6:30 p.m. When a holiday occurs on any such Tuesday, the regular meeting shall be held on the following Thursday at the same hour unless otherwise provided for by motion. The regular meeting time may be rescheduled by the city council in special circumstances, but when done so the change must be made far enough in advance to allow normal public notification.

(b) *Location.* The place of the city council meetings shall be in the city council chambers at the Huntington building unless another place has previously been set by the city council.

(c) *Special meetings.* Special meetings may be called by three or more aldermen, or by the mayor. Notification of a special meeting, including specific items to be considered, shall be given by the city clerk at least two hours prior to the meeting. Such notification shall be made by personal service to each member or by telephone specifying time and place of the meeting. The city clerk or his designee shall keep the record of the meeting. Only the aldermen who requested the special meeting or the mayor, if he requested the special meeting, may cancel the special meeting.

(d) *Executive session.* An executive session may be convened on the request of any member of the city council or the

**\*State law reference**—Authority to provide rules of procedure, A.C.A. § 14-43-501.

mayor. Executive session will be permitted only for the purpose of considering the employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee.

(e) *Quorum.* A majority of the city council shall be necessary to constitute a quorum to do business. The mayor shall have a vote to establish a quorum of the city council at any regular meeting of the city council. The concurring vote of a majority of those elected, providing a quorum is present, shall represent the acts of the city council except where otherwise provided by law.

(f) *Public notification and participation.*

- (1) The city will, if necessary, go further than legally required in order to inform citizens of the items to be considered by the city council. The means used will include publication in a local newspaper, Legistar via the internet, special notice to citizens who have shown a direct interest in matters to be considered, and copies of the agenda will be placed at the entrance to the city council meetings.
- (2) Members of the audience will be offered an opportunity to speak on all questions before the city council. Individuals shall provide his name and address immediately after being recognized by the presiding officer. Repetitive comments should be avoided; this applies to comments made previously either to the city council or to the planning commission when those planning commission minutes have been

provided to the councilmembers. All remarks shall be addressed to the city council as a whole and not to any particular member of the city council. No person other than the city councilmembers and the person having the floor shall be permitted to enter into any discussions without permission of the presiding officer. No questions shall be asked a city councilmember or city employee except through the presiding officer. All members of the public are requested to accord the utmost courtesy to members of the city council, to other members of the public appearing before the city council, and to city staff, and are asked to refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities.

(g) *Smoking prohibited.* There will be no smoking allowed in the city council chambers or in any committee meeting room.

(h) *Cell phones and pagers.* With the exception of on-duty emergency services personnel, cell phones and pagers must be turned off or put in silent mode and not used within the council chambers or committee meeting rooms during meetings.

(Ord. No. 09:001, § 1(2.20.01), 1-20-2009)

**State law references**—Calling special meetings, A.C.A. § 14-43-502; purposes of executive sessions, A.C.A. § 29-19-106; quorum, A.C.A. § 14-43-501.

**Sec. 2-85. Duties and privileges of aldermen and other city officials at city council meetings.**

(a) *Seating.* Members shall occupy the respective seats in the council chambers assigned by position number. The presiding officer (mayor, president pro tempore, or designee) shall be seated in the center of the councilmembers table. Seated to either side of the presiding officer shall be the city clerk and the city attorney or, in their absence, their designees. Aldermen shall be seated according to their ward beginning on the presiding officer's far left with Ward 1, Pos. 1; Ward 1, Pos. 2; Ward 2, Pos. 1; Ward 2, Pos. 2; Ward 3, Pos. 1; Ward 3, Pos. 2; then beginning on the presiding officer's far right with Ward 4, Pos. 1; Ward 4, Pos. 2; Ward 5, Pos. 1; Ward 5, Pos. 2; Ward 6, Pos. 1 and Ward 6, Pos. 2.

(b) *Conduct.*

(1) During city council meetings, aldermen shall preserve order and decorum and shall neither by conversation nor by otherwise delay or interrupt the proceedings. Neither shall they refuse to obey the orders of the presiding officer or the rules of the city council.

(2) Every member of the city council desiring to speak shall address the chairperson and, upon recognition by the presiding officer, shall confine himself to the questions under debate and shall avoid all personalities and indecorous language. A city councilmember, once recognized, shall not be interrupted while speaking unless called to order by

the presiding officer, or unless a point of order is raised by another member or unless the member chooses to yield to questions from another member.

- (3) If a member is called to order while he is speaking, he shall cease speaking immediately until the question of order is determined. If ruled to be not in order, he shall remain silent or shall alter his remarks so as to comply with the rules of the city council.
- (4) Aldermen and other elected city officials shall accord the utmost courtesy to each other, to city employees, and to members of the public appearing before the city council, and shall refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities. City councilmembers shall confine their questions as to the particular matters before the city council and in debate shall confine their remarks to the issues before the city council. To keep or restore order and dignity to a council meeting, the city council, by a majority vote, reserves the right to remove from a council meeting any individual who repeatedly violates this rule for conduct.

(c) *Personal interest.* No alderman or other elected city official with a direct or indirect financial or personal interest in any item before the city council shall participate in the discussion of or voting on such matter.

(d) *Voting.* Every member present when a question is put to a vote shall vote either "Yea" or "Nay", except that a member may abstain from voting: (a) if he has not participated in the preceding discussion of the question, and (b) if that member briefly states the reason for the abstention. The aldermen will vote at city council meetings in the order of their position number, with a different position voting first, as determined by the city clerk, on each vote taken.

(e) *Roll call.* Upon every vote, a voice vote of the affirmative and negative votes shall be called and be recorded on every motion, resolution, and ordinance. The presiding officer or any alderman may call for a roll call vote. A roll call vote shall be taken when enacting an emergency clause, repealing an initiated measure, or when otherwise required by law.

(f) *Presiding officer.*

- (1) The mayor shall be ex officio president of the city council and shall preside at its meetings.
- (2) The mayor shall have a vote when his vote is needed to pass any ordinance, bylaw, resolution, order, or motion. Per A.C.A. § 14-43-501.

(g) *President pro tempore.* The city council shall annually, at the time of organizing, in public session, elect one of its members as president pro tempore. Any alderman may nominate any other member of the city council for this position, and no second of a nomination is required. Each alderman shall vote by naming his choice by voice vote if there is more than one nominee for the position. A majority vote of the city council shall be required for election. In the absence of

the mayor, the presiding officer duties shall be performed by the president pro tempore; in the absence of the president pro tempore, those duties shall be performed by a designated alderman. Designation shall be by majority vote of the council present at any meeting where a clear designation of presiding officer has not been made.

(h) *Privileges of the president pro tempore.* The president pro tempore or designee acting as the presiding officer may move, second, and debate from the chair and shall not be deprived of the rights and privileges of being a member of the city council by reason of his acting as the presiding officer.

(Ord. No. 09:001, § 1(2.20.02), 1-20-2009)

**State law reference**—Selection of president pro tempore, A.C.A. § 14-43-501(b)(2).

### **Sec. 2-86. Freedom of information procedure.**

All meetings of the city council shall be public meetings. Notice of the time, place and date of all special meetings shall be given to representatives of the newspapers and radio stations located in Craighead County which have requested to be notified at least two hours before the special meeting takes place. Any news media located elsewhere that regularly covers the meetings of the council and which have requested notification shall also be notified at least two hours before the meeting takes place.

(Ord. No. 09:001, § 1(2.20.03), 1-20-2009)

**State law reference**—Open meetings required and exceptions thereto, A.C.A. § 25-19-106.

### **Sec. 2-87. Procedures and parliamentary rules.**

(a) *Order of business.*

(1) The city council's agenda order shall be coordinated by the city clerk. All items for discussion or action at the regular council meeting shall be organized under the following headings:

- a. Call to order by the mayor;
- b. Pledge of Allegiance and Invocation;
- c. Roll Call by the City Clerk;
- d. Special Presentations;
- e. Consent Agenda;
- f. Unfinished Business;
- g. New Business;
- h. Mayor's Report;
- i. City Council Reports;
- j. Public Comment;
- k. Adjournment.

(2) The mayor shall delegate collection, initial organization, and distribution of the final draft to the city clerk; however, the mayor shall maintain responsibility for and control of the agenda. At the regular meeting of the council, the city council, by majority vote, may rearrange the order of the agenda.

(b) *Agenda items and public comment.*

(1) The deadline for agenda items shall be at the city clerk's office on or before 10:00 a.m. on Thursday immediately preceding each regular city council meeting, except when the regular meeting time has changed due to holidays or resched-

uling of the meeting. In such cases the deadline for agenda items will be adjusted to accommodate the meeting. All items for discussion or action at the regular city council meeting shall be included in an agenda provided by the city clerk to the aldermen, the mayor, and the city attorney via Legistar by 4:00 p.m. on Thursday, or by delivery by 12:00 noon on Friday, immediately preceding the regular council meeting.

- (2) The city clerk shall place the items on the tentative agenda in the order that each item is received in the clerk's office. Before 12:00 noon on the day of the council meeting, if requested by the mayor or any three aldermen, the mayor and the city clerk may change the final arrangement of the meeting agenda.
- (3) Any ordinance or resolution which was not included on the final agenda may only be brought before the city council after approval by unanimous vote of any city council committee with four or more councilmembers. The city council, by majority vote, at the regular council meeting, must then suspend the rules and bring the item to the floor for consideration.
- (4) The city council shall provide 15 minutes during each regular council meeting for public comment on non-agenda business. Each individual is required to limit his comments to five minutes. The city council reserves the right to suspend the rules for extra time, if necessary.

(c) *Precedence of motions.* The city council shall follow the precedence and classification of motions as given in the most recent edition of the Arkansas Municipal League's "Procedural Rules for Municipal Officials" or successive publications. In the event the handbook does not cover the matter, the most recent edition of Robert's Rules of Order shall apply. On questions of appeal, a majority of those present is required to overturn a ruling of the chairperson.

- (1) *Motions to be stated by the chairperson/withdrawal.* When a motion is made and seconded, it shall be stated by the presiding officer before debate. After being stated by the presiding officer, a motion may not be withdrawn by the mover without the consent of the member seconding it and approval of the city council.
- (2) *Reconsideration.* After the decision of any question, any member of the majority may request a reconsideration of any action at the same or the next succeeding meeting; provided, however, that a resolution authorizing or relating to any contract may be reconsidered at any time before final execution thereof. A motion to reconsider requires a simple majority for passage. After a motion for reconsideration has once been acted on, no other motion for reconsideration thereof shall be made without unanimous consent.
- (3) *Readings.* All ordinances shall be read aloud at three different meet-

ings unless the city council votes to dispense the rules by a two-thirds majority.

(Ord. No. 09:001, § 1(2.20.04), 1-20-2009)

**State law reference**—Authority to provide rules of procedure, A.C.A. § 14-43-501.

**Sec. 2-88. Absence from council meetings.**

Any councilmember shall be entitled to be absent from two regularly scheduled council meetings per year with pay beginning January 1 of each calendar year for the following reasons:

- (1) Sickness or illness of the councilmember who is confined to his bed or a hospital and is under the care of a medical doctor.
- (2) Death of an immediate member of a councilmember's family. Immediate family is defined as to include: Husband, wife, father, son, daughter, brother, sister, mother-in-law, father-in-law, grandmother and/or grandfather.
- (3) Absence due to being on other official city business which requires said councilmember's presence on the same night that the city has scheduled its regular session.
- (4) Absence due to other work-related obligations.

(Ord. No. 09:001, § 1(2.20.05), 1-20-2009)

**Sec. 2-89. Appeals to council.**

Appeals to the city council of decisions of commissions and boards shall be in writing signed by the party appealing, dated and filed with the clerk within 30 days following the decision of the board and/or commission. The appeal shall set

forth the objection to the decision rendered by said commission and/or board. Decisions shall be considered final if no appeal is perfected within the 30-day period.

(Ord. No. 09:001, § 1(2.20.06), 1-20-2009)

**Sec. 2-90. Hearings.**

Appeals shall be heard by the city council meeting in official session. The city council may call a special meeting to hear said appeal.

(Ord. No. 09:001, § 1(2.20.07), 1-20-2009)

**Sec. 2-91. Notice.**

The city council shall notify the party appealing by certified mail, return receipt requested, of the date of hearing. The notice shall contain the following statements:

- (1) The appealing party shall be entitled to counsel at the hearing;
- (2) The appealing party shall be able to discuss their proposal with the council;
- (3) The appealing party may introduce any information they might have concerning the matter;
- (4) The rules of evidence and the rules of procedure established for the judicial system of the state shall not be applicable at said hearing;
- (5) The appealing party shall be entitled, upon request, to a written statement from the city council which shall state the facts and reasons for denying the appealing party's appeal if same is denied.

(Ord. No. 09:001, § 1(2.20.08), 1-20-2009)

**Sec. 2-92. Action.**

The city council shall either approve or reject the appealed decision by a majority vote. Failure to act on the appeal within 60 days after same is filed will be deemed approval of the decision of the board and/or commission. Decision not approved by the city council may be resubmitted through proper channels not less than six months following the council's action or sooner if there is a material change in circumstances or conditions.

(Ord. No. 09:001, § 1(2.20.09), 1-20-2009)

**Sec. 2-93. Bring ordinances before council.**

(a) Once an item is brought before the city council, there shall exist a three month time limit within which to obtain a ruling by the city council. Failure to meet the deadline will result in the item not being brought before the council again for a one-year period, and starting the procedural process over.

(b) Once an item has been tabled or pulled three times, the item may not be brought before the council again for a one-year period, and must start the procedural process over.

(c) Once the Metropolitan Area Planning Commission has granted approval, there shall exist a six-month time limit for bringing the matter before the council.

(Ord. No. 09:001, § 1(2.20.10), 1-20-2009)

**State law reference**—Ordinances, A.C.A. § 14-55-101 et seq.

**Sec. 2-94. Publication reimbursement cost.**

(a) The publication cost shall be set by the finance department at a flat rate to cover costs for the publication of ordi-

nances and notices. These rates may fluctuate based on current publication pricing.

(b) The publication cost shall be collected by the city collector prior to an item being placed on the agenda. Failure to pay the publication cost shall result in the item not being placed on the agenda.

(c) Should an ordinance be denied by the city council, the publication cost shall be reimbursed by the finance department. Reimbursement shall not include public hearing or appeal hearing notices, since these must be published prior to an ordinance being adopted.

(Ord. No. 09:001, § 1(2.20.11), 1-20-2009)

**Sec. 2-95. Internal boards, committees, commissions, and appointments.**

(a) *Membership.*

(1) The only standing internal committee of the city council shall be the nominating and rules committee. The nominating and rules committee shall be made up of aldermen from Wards 1, 2, and 3 on odd-number years and aldermen from Wards 4, 5, and 6 on even-numbered years. The nominating and rules committee shall determine the number of city council committees, their function, and membership of such committees. Any alderman who desires to serve on any particular committee shall so inform the nominating and rules committee. The nominating and rules committee shall, at its discretion, attempt to assign aldermen who have expressed a preference for

any particular committee to the committee. The members of each committee shall designate the member who is to serve as chairperson of each committee. In the case of a tie for committee chairperson, the nominating and rules committee shall appoint the chairperson from those nominated by the committee. Any alderman dissatisfied with committee assignments can appeal to the whole city council.

- (2) Ad hoc committees to study special problems and projects of the city may be created by a majority vote of the city council. The mayor and the nominating and rules committee shall recommend to the city council appointees for ad hoc committees. The city council, by majority vote, shall appoint members to ad hoc committees.

(b) *Meetings.*

- (1) All aldermen, representatives of the news media who have requested notification, and all other persons who have requested notification of committee meetings shall be notified of city council committee meetings by the city clerk's office.
- (2) Committee meetings shall be held when possible at times that allow all members of the committee to attend. In order for a committee to make an official recommendation to the city council, a majority of the committee must agree on that recommendation. Aldermen who are not members of a particular city council committee may participate in the meeting of that committee

except for voting on committee recommendations. Minutes of meetings involving the city council shall be the responsibility of the city clerk or his designee. The minutes shall reflect recommendations of the committee to the full council.

(c) *Quorum.* A majority of the committee shall be necessary to constitute a quorum to do business. The concurring vote of a majority of those attending a meeting, providing a quorum is present, shall represent the acts of the committee.

(d) *Voting.* Every member present when a question is put to a vote shall vote either "Yea" or "Nay", except that a member may abstain from voting if he has not participated in the preceding discussion of the question and that member briefly states the reason for the abstention. Pursuant to "Robert's Rules of Order", in the absence of a recommendation by the "Procedural Rules for Municipal Officials" the chairperson of the committee will not vote unless his vote is necessary to break a tie.

(e) *City council representation on other governmental groups.* When it is necessary to appoint an alderman to an external board, commission, or committee, selection of that alderman shall be made by the mayor and a majority vote of the city council shall be required for confirmation of the mayor's appointment.

(Ord. No. 09:001, § 1(2.20.12), 1-20-2009)

**Sec. 2-96. Mayor relationship.**

(a) *Defining authority.* In exercising its management responsibilities, the city council reserves its authority to approve policy which represents broad statements

of its intentions, approves plans and programs, and delegate authority of administration to the mayor, except those rights that are by law conferred upon or reserved to the city council. The city council delegates the authority of the mayor to hire capable personnel within an approved wage and salary policy, to plan and establish schedules and to train, supervise and terminate employees. Per A.C.A. § 14-42-110, the city council reserves the authority to review the hiring or removal of a department head and may overturn the hiring or removal of a department head by the mayor upon two-thirds majority of the total membership of the city council.

(b) *Definition of responsibilities.*

- (1) The mayor has the principal responsibility for directing the operations of the city government and for advising and assisting the city council in its deliberations. In connection with the latter responsibility, the city council expects and requests the mayor to furnish it with whatever data, information, and material it may need to properly carry out its functions in an informed manner.
- (2) The mayor also has the principal responsibility to ensure that the city's administrative officers and department heads understand and obey all local, state, and federal laws pertaining to the city's operations, and when a violation of any law is discovered, that immediate disclosure is made to the city council and proper and adequate disci-

plinary measures are taken against the responsible employee or employees.

- (3) The city council also expects the mayor to abide by the city's Code of Ethics, the city council also expects the mayor to require the city's administrative officers and department heads to abide by the city's Code of Ethics.
- (c) *City council / mayor cooperation.*
- (1) Efficient management of the city can exist only through mutual understanding and complete cooperation between the city council and the mayor. The mayor's performance cannot be of the best unless he is given the latitude to exercise independent judgment in executing policies of the city council. The city council acknowledges that obligation and gives the mayor the latitude of judgment and discretion, and expects faithful performance in carrying out the policies of the city council.
  - (2) It shall be understood that administrative authority for the management of the city rests with the mayor. Members of the city council should refrain, as individuals, from giving specific direction or instruction to city personnel pertaining to the discharge of assigned duties, however, open communication between aldermen and city employees is encouraged and expected to guarantee sound decisions based upon the free flow of information.
- (Ord. No. 09:001, § 1(2.20.13), 1-20-2009)

**Sec. 2-97. Citizen committees.**

(a) *Authorization by the city council.* The city council may authorize citizen advisory boards, committees, and commissions to assist the city council in discharging its responsibilities more effectively. Authorization will be made by a majority vote of the city council.

(b) *Selection guidelines.* The mayor shall have the responsibility of coordinating the selection process of members for the citizen advisory groups prior to the final city council approval. The objectives of the selection process shall be as follows:

- (1) To provide a broad cross section of qualified individuals for service on the appointed bodies;
- (2) To provide an opportunity for participation in city affairs by interested citizens; and
- (3) To provide a means for involvement of all city councilmembers in the selection process.

The city council will act officially on all appointments in public session.

(c) *Vacancy policy for boards and commissions.* In cases in which this division is not in conflict with state or federal law, any city board or commission position which term has expired for a period longer than 60 days shall be declared vacant. (Ord. No. 09:001, § 1(2.20.15), 1-20-2009)

**Sec. 2-98. Code of ethics.**

(a) *General.* Aldermen, other elected city officials and the city's administrative officers and department heads occupy positions of public trust. All business transactions of such officials dealing in any manner with public funds, either directly

or indirectly must be subject to the scrutiny of public opinion both to the legality and to the propriety of such transactions.

(b) *Conflict of interest.* Alderman, other elected officials and the city's administrative officers and department heads shall refrain from making use of special knowledge or information gained by virtue of their elected office or position before it is made available to the general public; shall refrain from making or influencing decisions involving business associates, customers, clients, competitors, and immediate family members and shall comply with all lawful actions, directives and orders of duly constituted municipal officers as such may be issued in the normal and lawful discharge of the duties of these municipal officers. Nothing herein, however, shall serve to deny any of the above-mentioned of their legal rights and privileges available to all citizens of the city.

(c) *Responsibility to all citizens.* Aldermen, other elected officials and the city's administrative officers and department heads shall conduct themselves so as to bring credit upon the city as a whole and so as to set an example of good ethical conduct for all citizens of the community. Aldermen, other elected officials and the city's administrative officers and department heads shall bear in mind at all times their responsibility to all Jonesboro citizens, shall refrain from actions benefiting special interest groups at the expense of the city as a whole, and shall do everything in their power to ensure equal and impartial law enforcement throughout the city without respect to race, creed, color, sex, or the economic or social position of individual citizens.

(d) *Responsibility to disclose.*

- (1) In an effort to allow the public full knowledge of financial and personal interests, aldermen and other elected city officials are expected to file an annual statement of financial interest as required in A.C.A. § 21-8-701. Aldermen, other elected officials and the city's administrative officers and department heads are also expected to disclose all real estate holdings within the city limits and any business or financial interest which could affect or be affected by decisions of the city council, other elected city officials or the city's administrative officers or department heads. This language shall be interpreted to include real estate holdings and business or financial interests held by the individual, his spouse, children, parents or siblings or beneficial interests in a partnership, corporation or any other legal entity.
- (2) Aldermen, other elected officials and the city's administrative officers and department heads shall also disclose any familial relationships with any other city official or employee which could affect or be affected by decisions of the city council, the mayor, a city administrative officer or department head.
- (3) The financial and familial disclosures should be made in writing and filed with the city clerk before February 1 of each year; any changes in disclosure information during the year must be filed with the city clerk's office within 30 days of such change.

- (4) No non-elected city officials and employees are required to include his home address on disclosure documents, per Act 213 of 2003 (A.C.A. § 25-19-105).  
(Ord. No. 09:001, § 1(2.20.14), 1-20-2009)

**Secs. 2-99—2-122. Reserved.**

## **ARTICLE IV. OFFICERS AND EMPLOYEES**

### **DIVISION 1. GENERALLY**

**Sec. 2-123. Appointment.**

The mayor or city council committee recommending a person for appointment to a city board or commission shall submit a resolution containing the appointee's name, the name of the board or commission and the term of the appointment to the city council for approval.  
(Ord. No. 3503, § 5, 12-20-2004)

**Sec. 2-124. Oath of member.**

(a) Within 15 days after a board member or commissioner has been approved the appointee shall forward a duplicate oath to the office of city clerk to be recorded and filed in his office as provided in attachment (A) to Ord. No. 3503.

(b) In case any appointee shall fail or neglect to apply for or procure his oath of office, or shall, after the commission has been obtained, fail or neglect to forward to the office of city clerk his duplicate oath for recordation in that office, within the time specified in subsection (a) of this section, then the office to which that person was commissioned shall be deemed vacant.

(c) The city council, on being satisfied from the official records of the office of city clerk that the board member or commission has not complied with subsection (a) of this section, shall remove the member in the manner provided by law. (Ord. No. 3503, §§ 2—4, 12-20-2004)

**State law reference**—Official oaths, A.C.A. § 21-2-105.

**Sec. 2-125. Code of ethics.**

(a) *General.* Aldermen, other elected city officials and the city's administrative officers and department heads, occupy positions of public trust. All business transactions of such officials dealing in any manner with public funds, either directly or indirectly, must be subject to the scrutiny of public opinion both to the legality and to the propriety of such transactions.

(b) *Conflict of interest.* Aldermen, other elected officials and the city's administrative officers and department heads shall:

- (1) Refrain from making use of special knowledge or information gained by virtue of their elected office before it is made available to the general public;
- (2) Refrain from making or influencing decisions involving business associates, customers, clients, competitors and immediate family members; and
- (3) Comply with all lawful actions, directives and orders of duly constituted municipal officers as such may be issued in the normal and lawful discharge of the duties of these municipal officers.

Nothing herein, however, shall serve to deny any of the above-mentioned of their legal rights and privileges available to all citizens of the city.

(c) *Responsibility of all citizens.* Aldermen, other elected officials and the city's administrative officers and department heads shall conduct themselves so as to bring credit upon the city as a whole and so as to set an example of good ethical conduct for all citizens of the community. Aldermen, other elected officials and the city's administrative officers and department heads shall bear in mind at all times their responsibility to all citizens of the city, shall refrain from actions benefiting special interest groups at the expense of the city as a whole, and shall do everything in their power to ensure equal and impartial law enforcement throughout the city without respect to race, creed, color, sex, age, disability and natural origin, or the economic or social position of individual citizens.

(d) *Responsibility to disclose.*

- (1) The term "administrative officer" means a person making managerial, directorial, organizational, executive decisions or recommendations on behalf of the city similar to or on par with a department head.
- (2) In an effort to allow the public full knowledge of financial and personal interest, aldermen and other elected city officials are expected to file an annual statement of financial interest as required in A.C.A. § 21-8-701. Aldermen, other elected officials and the city's administrative officers and department heads are also expected to disclose all

real estate holdings within the city limits of the city and any business or financial interest which could affect or be affected by decisions of the city council, other elected city officials or the city's administrative officers or department heads. This language shall be interpreted to include real estate holdings and business or financial interest held by the individual, his spouse, children, parents or siblings or beneficial interests in a partnership, corporation or any other legal entity.

- (3) Aldermen, other elected officials and the city's administrative officers and department heads shall also disclose any familial relationships with any other city official or employee which could affect or be affected by decisions of the city council, the mayor, a city administrative officer or department head.
- (4) The financial and familial disclosures should be made in writing and filed with the city clerk before February 1 of each year.
- (5) No nonelected city officials and employees are required to include his home address on disclosure documents pursuant to A.C.A. § 25-19-105.  
(Code 2006, § 2.20.14; Ord. No. 3394, § 14; Ord. No. 3502, § 4, 12-20-2004)  
**State law reference**—Disclosure of home address, A.C.A. § 29-19-105.

**Secs. 2-126—2-148. Reserved.**

## DIVISION 2. EMPLOYEE BENEFITS

### **Sec. 2-149. Compensation of elected officials.**

The compensation of elected officials shall be as established by the city council. (Ord. No. 07:3166, § 1, 12-18-2007)

**State law reference**—Salaries, A.C.A. §§ 14-42-113, 14-43-409.

**Secs. 2-150—2-168. Reserved.**

## DIVISION 3. CITY CLERK\*

### **Sec. 2-169. Duties.**

The duties of the city clerk shall include those duties specifically enumerated in the state laws and ordinances. There shall be a detailed list of duties and responsibilities of the city clerk, prepared by the personnel director of the city, immediately upon taking office, and submitted to and approved by the general and personnel committee of the council and thereafter submitted to and adopted by resolution of the city council.

(Code 2006, § 2.28.01; Ord. No. 2462, § 1; Ord. No. 2465, § 1)

**State law reference**—Duties of clerk generally, A.C.A. § 14-43-506.

### **Sec. 2-170. Records.**

It shall be the responsibility of the city clerk to maintain proper records of all laws and ordinances of the city and keep a regular and correct journal of the proceedings of the city council.

(Code 2006, § 2.28.02; Ord. No. 2462, § 2)

**\*State law references**—City clerk generally, A.C.A. § 14-43-506; clerk to give bond, A.C.A. § 14-43-313.

**State law reference**—Similar provisions, A.C.A. § 14-43-506.

**Sec. 2-171. Official seal.**

It shall be the city clerk's responsibility to affix the official seal of the city to all transcripts, orders, bylaws, proclamations, certificates, ordinances and resolutions for proper authentication.  
(Code 2006, § 2.28.03; Ord. No. 2462, § 3)

**State law reference**—City seal, A.C.A. § 14-43-406.

**Sec. 2-172. Financial report.**

It shall be the responsibility of the city clerk to provide a financial report quarterly, of the city's finances, to the city council in open session, based upon the records provided by the finance department of the city and the city collector.  
(Code 2006, § 2.28.04; Ord. No. 2462, § 4)

**State law reference**—Similar provisions, A.C.A. § 14-43-506.

**Sec. 2-173. Annual report to fire and police pension review board.**

It shall be the duty and responsibility of the city clerk to file on or before December 31 of each year a report with the state fire and police pension review board with all information as required by state law.  
(Code 2006, § 2.28.05; Ord. No. 2462, § 5)

**Sec. 2-174. Public records.**

It shall also be the duty and responsibility of the city clerk to maintain all public records in addition to ordinances, bylaws and meetings and to allow and to set proper procedures to provide citizens

with access to view, inspect and copy all public records during regular business hours of the city.

(Code 2006, § 2.28.06; Ord. No. 2462, § 6)

**Sec. 2-175. Notifying the media.**

It shall be the responsibility of the city clerk to notify the media of any and all regular, called, or public meetings as required under the Freedom of Information Act (A.C.A. § 14-19-101 et seq.). It shall be the duty and responsibility of the city clerk to prepare an agenda for each regularly scheduled meeting and to ensure that proper written procedures as set forth in city ordinances have been followed with respect to the agenda for a city council meeting.

(Code 2006, § 2.28.07; Ord. No. 2462, § 7)

**Sec. 2-176. Salary.**

The salary for the fulltime city clerk shall be established initially and thereafter annually in connection with budget procedures by recommendation through the finance committee of the city council to the full city council for adoption. The salary for the clerk shall not be decreased during the term for which the clerk has been elected, or in the case of a vacancy, appointed, except as provided by A.C.A. § 14-42-113.

(Code 2006, § 2.28.08; Ord. No. 2462, § 3)

**Sec. 2-177. Records keeper.**

The office of city clerk shall be the keeper of all city board and commission records, including, but not limited to, the oath of office.

(Ord. No. 3503, § 1, 12-20-2004)

**Secs. 2-178—2-207. Reserved.**

## DIVISION 4. CITY TREASURER\*

**Sec. 2-208. Appointment.**

The city council of the city hereby appoints the city's finance director, or in his absence the interim finance director, as city treasurer.

(Code 2006, § 2.32.01; Ord. No. 3466, § 1; Ord. No. 3664, § 3, 9-15-2006)

**Sec. 2-209. Duties.**

The duties of the position of city treasurer shall be those as specified by A.C.A. §§ 14-43-507, 14-59-115, any other relevant state laws, and any and all ordinances related to the office of city treasurer.

(Code 2006, § 2.32.02; Ord. No. 3466, § 2)

**Sec. 2-210. Replacement.**

The city council reserves the right to replace the city treasurer during his term at such time that he no longer serves in the position of finance director of the city.

(Code 2006, § 2.32.03; Ord. No. 3466, § 3)

**Sec. 2-211. Pension plan.**

The city council hereby elects to keep this position under the city's nonuniformed employees pension plan, and specifically rejects the provisions of A.C.A. § 24-12-125.

(Code 2006, § 2.32.04; Ord. No. 3466, § 4)

**Secs. 2-212—2-230. Reserved.**

\***State law reference**—City treasurer generally, A.C.A. § 14-43-507.

## DIVISION 5. CITY ATTORNEY

**Sec. 2-231. Appointment.**

The city attorney shall be elected at the November 1986, general election and every four years thereafter to a four-year term commencing the next following January 1.

(Code 2006, § 2.36.01)

**State law reference**—Similar provisions, A.C.A. § 14-43-319.

**Sec. 2-232. Duties.**

The city attorney shall perform the following duties:

- (1) In addition to the duties set forth herein, the following language shall be added: the city attorney shall represent the city on a fulltime basis in all legal proceedings in matters and areas not in conflict with state or federal law and provide representation in such other legal matters as may be required on behalf of the city. Provided, however, nothing set forth herein shall prevent the mayor and the city council from referring matters to outside attorneys or counsel, as circumstances permit or require. Further, no outside practice of law shall be allowed for the city attorney except in matters concerning family or uncompensated legal representation.
- (2) Confer with the mayor and city council on matters affecting the city when requested. Requests shall be in writing if time permits.

(3) Draft or review all ordinances and resolutions, contracts, lease agreements, etc., required by the city.

(4) In addition, the city attorney shall attend the regular meetings of the Metropolitan Area Planning Commission for the city.

(Code 2006, § 2.36.02; Ord. No. 2313, § 1; Ord. No. 2721, § 1)

**Sec. 2-233. Salary.**

(a) The salary of the city attorney is set by annual budget ordinance as approved by the council. The city attorney shall not charge the city for any additional services.

(b) The salary for the city attorney shall not be decreased during the term for which the city attorney has been elected, or in the case of a vacancy, appointed, except as provided by A.C.A. § 14-42-113. (Code 2006, § 2.36.03; Ord. No. 1795, § 2; Ord. No. 1875, §§ 1, 2)

**State law reference**—Fees and costs generally, A.C.A. § 16-7-212.

**Sec. 2-234. Retirement benefits.**

(a) As authorized by A.C.A. § 24-12-120, any person who served as a city attorney for a period of not less than ten years, upon reaching the age of 60, shall be entitled to retire at an annual retirement benefit during the remainder of his natural life, payable at the rate of one-half of the salary payable to the city attorney at the time of his retirement.

(b) Any person who shall serve as a city attorney for a period of not less than 20 years, without regard to age shall be entitled to retire at an annual benefit during the remainder of his natural life

payable at the rate of one-half the salary payable to the city attorney at the time of his retirement.

(c) All payments of retirement benefits under this section shall be payable monthly and shall be paid from the general funds of the city.

(Ord. No. 37-2007, §§ 1—3, 4-3-2007)

**State law references**—City attorneys, A.C.A. §§ 14-43-313, 14-43-314, 14-43-410; authority to so provide, A.C.A. § 24-12-120.

**Secs. 2-235—2-261. Reserved.**

**ARTICLE V. DEPARTMENTS**

**DIVISION 1. GENERALLY**

**Secs. 2-262—2-285. Reserved.**

**DIVISION 2. FIRE DEPARTMENT\***

**Sec. 2-286. Created.**

The Jonesboro Fire Department is hereby created.

(Code 2006, § 2.44.01)

**State law reference**—Fire departments required, A.C.A. § 14-53-101.

**Sec. 2-287. Appointment of fire chief.**

(a) When a vacancy occurs at the level of chief, the city civil service commission shall constitute a committee of the whole to be a search committee to seek a replacement. The commission will elect a chairperson of the search committee. The commission shall conduct a search both from within the department and from outside the department. The commission shall

**\*State law reference**—Fire departments, A.C.A. § 14-53-101 et seq.

receive nominations from the mayor and others and will accept applications from candidates.

(b) Candidates for the position of chief shall submit a resume, three letters of reference and other documentation as desired by the candidate or the commission. The commission will carefully study the applicants' submitted materials and schedule an oral interview with at least two candidates. The commission shall invite the mayor to have an interview with the candidate and to provide recommendation to the commission.

(Code 2006, § 2.44.02)

**Sec. 2-288. Establishment of civil service system and board of commissioners.**

(a) There is hereby created and established a civil service system and board of civil service commissioners for the fire department of the city, pursuant to A.C.A. title 14, ch. 51 (A.C.A. § 14-51-101 et seq.).

(b) The provisions of this section shall apply only to certified or uniformed employees of the fire department and shall not apply to any noncertified or nonuniformed employees of the said department.

(Code 2006, § 2.40.01; Ord. No. 1857, § 1; Ord. No. 2067, § 1)

**Secs. 2-289—2-309. Reserved.**

**DIVISION 3. POLICE DEPARTMENT\***

**Sec. 2-310. Definitions.**

The following words, terms and phrases, when used in this division, shall have the

\***State law reference**—Police departments, A.C.A. § 14-52-101 et seq.

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Complainant* means the person providing the information constituting the basis for official departmental charges alleging improper conduct.

*Formal proceeding* means a proceeding heard before any officer, committee, or other body of city government with the authority to take disciplinary action against a law enforcement officer.

*Law enforcement officer* means any member of the Jonesboro Police Department vested by law with a duty to maintain order or to make arrests for offenses.

*Official departmental charges* mean a written document from the chief of police, or other lawful authority, notifying the accused law enforcement officer that charges of misconduct have been made and setting forth the specifics of the alleged misconduct.

(Code 2006, § 2.48.01; Ord. No. 3040, § 1; Ord. No. 3457, § 1; Ord. No. 07.72, § 1, 7-3-2007)

**Sec. 2-311. Minimum standards while under investigation.**

Whenever a law enforcement officer is under investigation for alleged improper conduct with a possible result of termination, demotion or other disciplinary action causing loss of pay or rank, the following minimum standards shall apply:

- (1) No adverse inference shall be drawn and no punitive action taken from a refusal of the law enforcement officer being investigated to partic-

ipate in such investigation or be interrogated other than when such law enforcement officer is on duty, or is otherwise fully compensated for such time spent in accordance with city and departmental overtime policies and state and federal law.

- (2) Any interrogation of a law enforcement officer shall take place at the office of those conducting the investigation, the place where such law enforcement officer reports for duty or such other reasonable place as the investigator may determine.
- (3) The law enforcement officer being investigated shall be informed, at the commencement of his interrogation, of:
  - a. The nature of the investigation;
  - b. The identity and authority of the person conducting the investigation; and
  - c. The identity of all persons present during the interrogation.
- (4) During the interrogation of the law enforcement officer, questions will be posed by or through only one interrogator at a time.
- (5) Any interrogation of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of such law enforcement officer.
- (6) No threat, harassment, promise or reward shall be made to any law

enforcement officer in connection with an internal affairs investigation in order to induce the answering of any questions that the law enforcement officer has a legal right to refrain from answering, but immunity from prosecution may be offered to induce such response. The giving of a Garrity warning to an officer shall not constitute a threat or harassment. In a criminal investigation, the prosecuting authority may grant immunity from prosecution to induce cooperation in the investigation.

- (7) All interrogations of a law enforcement officer in connection with an investigation against him shall be recorded in full. The law enforcement officer shall be allowed to make his own independent recording of his interrogation and have one witness of his choosing present. The witness must be an attorney or a member of the city's police department that is in no way related to the matter under investigation.
- (8) No formal proceeding which has the authority to administer disciplinary action against a law enforcement officer may be held except upon official departmental charges.
- (9) Official departmental charges shall contain the specific conduct that is alleged to be improper, the date and the time of the alleged misconduct, the witnesses whose information provided the basis for the

charges, and the specific rules, regulation, orders or laws alleged to have been violated.

- (10) Any law enforcement officer under official departmental charges shall be entitled to a predisciplinary hearing before the chief of police if the disciplinary action being considered is termination. At such hearing, the law enforcement officer shall have the opportunity to have a person of his choosing present and to present information to clear his name and/or refute the charges against him.
- (11) No formal proceeding which has authority to penalize a law enforcement officer may be brought except upon charges signed by the person making those charges.

(Code 2006, § 2.48.02; Ord. No. 3040, § 2; Ord. No. 3457, § 1; Ord. No. 07.72, § II, 7-3-2007)

**State law reference**—Similar provisions, A.C.A. § 14-52-203.

**Sec. 2-312. Departmental rules and regulations.**

Officers and civilian employees of the city's police department shall be governed by rules and regulations which shall be drawn up by the chief of police and formally adopted by the city council. (Code 2006, § 2.48.03; Ord. No. 3040, § 3; Ord. No. 07.72, § III, 7-3-2007)

**Sec. 2-313. Demotions and terminations.**

No employee of the city's police department who has completed his probationary period shall be demoted or terminated except for just cause. (Code 2006, § 2.48.04; Ord. No. 3040, § 4; Ord. No. 07.72, § IV, 7-3-2007)

**Sec. 2-314. Reductions and reinstatements.**

If it should become necessary to reduce the personnel of the city's police department, reduction shall be from the lowest rank, seniority having priority. In the event the personnel is subsequently increased, any employee who has been transferred to another department, or discharged, by reason of the reduction shall have seniority rights over any other employee, or any applicant for employment, to any position created on account of the increase in personnel.

(Code 2006, § 2.48.05; Ord. No. 3040, § 5; Ord. No. 07.72, § V, 7-3-2007)

**Sec. 2-315. Employment of new hires.**

Qualifications for new hires shall be determined by the chief of police and shall be included in the department's rules and regulations manual. The city police department shall be responsible for hiring its employees. The department shall advertise, receive applications, conduct testing, conduct background investigations, and compile its own new hire eligibility list. These qualifications shall be fairly and equally applied to all applicants. Any changes in the qualifications must be approved by action of the city council upon the recommendation of the chief of police. No newly employed or reemployed law enforcement officer, except for the chief of police, shall begin his employment with the department except at the rank of patrolman.

(Code 2006, § 2.48.06; Ord. No. 3457, § 1; Ord. No. 07.72, § VI, 7-3-2007)

**Sec. 2-316. Promotional procedures within the department.**

The city police department under the direction and authority of the chief of

police shall conduct and be responsible for testing for promotions within the department and compiling eligibility lists for promotions in each rank. The human resources department shall be responsible for providing the written examination for the police promotional exam.

(1) *Eligibility for promotion.*

- a. An officer must have served at least five years as a patrolman with the city police department before the date of the written test to be eligible to test for promotion to sergeant. Officers who have joined the department as certified officers from other agencies must have a total of five years experience as a certified officer and may test for promotion after two years with the department.
- b. A sergeant must have served at least one year in grade before the written testing date to be eligible to test for promotion to lieutenant.
- c. A lieutenant must have served at least one year in grade before the written testing date to be eligible to test for promotion to captain.
- d. A captain must have served at least one year in grade before the written testing date to be eligible to test for promotion to assistant chief.
- e. The chief of police shall have sole authority to appoint an officer to the criminal investigation division. This appoint-

ment will not constitute a promotion in rank, but is only a transfer of assignment. The officer need not be on the current promotional eligibility list in order to be eligible for permanent appointment to the position of detective, but must have passed the promotional tests for the position of sergeant at any time prior to the appointment. Temporary appointments to the criminal investigation division without meeting this criterion in emergency circumstances are permitted but are not to last beyond the cessation of the emergency.

- (2) *Testing coordinator and testing procedure security.* The human resources department and the assistant chief of police shall act in conjunction with each other as the testing coordinators for the written promotional examination. The human resources department shall be responsible for security of the written test until the time that the test is administered. The assistant chief of police additionally will act as the testing coordinator for all other portions of the testing process. All portions of the test, scores and associated procedures shall be kept confidential during the testing process to ensure the integrity of the test. The assistant chief of police shall be responsible for making testing announcements and disseminating pertinent information to the police department about the promotional testing procedure.

- (3) *Testing procedures and scoring values.*
- a. The human resources department shall obtain a written test from an outside firm which will contractually guarantee the security of their test. The test must be applicable to the job description for each rank and adhere to the standards which meet legal requirements in force at the time of testing. The written test shall count for 50 percent of the total promotional score. The human resources department shall ensure that no person, other than the human resources representative listed on the test security agreement, shall have access to the written test prior to delivery of the test to the testing site. The assistant chief of police shall be listed on the test security agreement for the purpose of obtaining pertinent testing information such as study lists, and for the purpose of proctoring the written exam on the day of the test. The human resources representative or assistant chief of police shall ensure that the test remains secure and sealed during delivery of the test to the testing site, and during the return of the test to the human resources department. The elected police department representative or his designee, shall verify that test security was maintained during this phase of the testing process.
  - b. The city police department will use a job performance rating board consisting of all captains and the assistant chief of police. Each promotional applicant shall be rated by each board member and given a composite score. This score shall count for 20 percent of the total promotional score.
  - c. An assessment board composed of the assistant chief of police, one captain, one lieutenant and one sergeant will interview/test each applicant for promotion and be given a composite score. This score shall count for 20 percent of the total promotional score. No person on the interview board shall conduct an interview of any other applicant that may be in competition for the same rank position. (Example: A sergeant that has passed the written test cannot sit on the assessment board of another sergeant that is competing for the same rank position.) In the event of any conflict regarding the makeup of the assessment board the chief of police reserves the right to make personnel adjustments to the assessment board to resolve the conflict.
  - d. Each applicant will be given one point for each year in grade served prior to the written testing date up to a total of ten points. This score shall count for ten percent of the total promotional score.

e. For promotions to the rank of captain and above, the chief of police may conduct additional testing as needed to help determine the best applicant for staff level positions.

(4) *Eligibility list.* An eligibility list for promotions, for each rank shall be compiled in descending order of total testing scores. The list for each rank will continue in effect for 24 months or less should one of the lists be depleted though promotions. Should a need arise to promote from a depleted list, a new test shall be administered for that rank only. Each officer who tests for promotion will be given written notice of his score on each portion of the test and his total composite score on the test.

(5) *Promotions.* The chief of police shall have sole authority to promote any one of the top five candidates on each promotional list. All candidates below the one promoted shall move up one position on the list.

(Code 2006, § 2.48.07; Ord. No. 3040, § 7; Ord. No. 3188, § 2; Ord. No. 07.72, § VII, 7-3-2007)

**Secs. 2-317—2-335. Reserved.**

**DIVISION 4. CODE ENFORCEMENT DEPARTMENT**

**Sec. 2-336. Liability of code enforcement.**

Any code enforcement officer, or code enforcement director, acting in good faith and without malice for the city in the discharge of their duties, shall not hereby

render themselves liable personally and they are hereby relieved from all personal liability for any damage that may accrue to person or property as a result of any act required or by reason of any act or omission in the discharge of their duties. Any suit brought against any code enforcement officer or director because of such act or omission performed by said officer or director in the enforcement of any provisions of codes and ordinances shall be defended by the legal department of the city until final termination of the proceedings.

(Code 2006, § 11.40.05; Ord. No. 2163, § 5)

**Secs. 2-337—2-350. Reserved.**

**ARTICLE VI. BOARDS AND COMMISSIONS**

**DIVISION 1. GENERALLY**

**Sec. 2-351. Citizen committees.**

(a) *Authorization by the city council.* The city council may authorize citizen advisory boards, committees and commissions to assist the city council in discharging its responsibilities more effectively. Authorization will be made by a majority vote of the city council.

(b) *Selection guidelines.* The mayor and the nominating and rules committee shall have the responsibility of coordinating the selection process of members for the citizen advisory groups prior to the final city council approval. The objectives of the selection process shall be as follows:

- (1) To provide a broad cross section of qualified individuals for service on the appointed bodies.

- (2) To provide an opportunity for participation in city affairs by interested citizens.
- (3) To provide a means for involvement of all city councilmembers in the selection process.

The city council will act officially on all appointments in public session.

(c) *Vacancy policy for boards and commissions.* In cases in which this division is not in conflict with state or federal law, any city board or commission position which term has expired for a period longer than 60 days shall be declared vacant. (Code 2006, § 2.20.15; Ord. No. 3394, § 15; Ord. No. 07:3161, § 1, 11-20-2007)

**Secs. 2-352—2-362. Reserved.**

DIVISION 2. CITY WATER AND LIGHT BOARD OF DIRECTORS

**Sec. 2-363. Membership.**

Two members of the city water and light board shall be from members of the city council, and at least one councilmember shall be a member of the finance committee of the city water and light board. (Ord. No. 3663, § 5(2.60.07), 9-5-2006)

**Sec. 2-364. Nomination.**

No person shall be elected nor certified nor serve as an elected member of the board of directors of the city water and light unless such person first shall have been nominated as a candidate for such office in the following manner:

- (1) At least three persons qualified to vote at such election pursuant to the laws governing said district

shall first sign and file with the clerk not less than ten full days before the day fixed for the election.

- (2) A written nomination of such candidate stating therein the name of the member he is nominated to succeed.
- (3) The clerk shall copy such nomination on a record, showing the date and hour of filing the nomination.
- (4) Such record or a copy certified by the clerk shall be competent evidence of such filing.
- (5) The written nomination shall immediately be posted by the clerk at a conspicuous place in his office in the city hall and said nomination, signatures and record shall be subject to inspection by any qualified voter in the district at any time during office hours of said clerk.

(Code 1962, § 2-68; Code 2006, § 2.60.01; Ord. No. 722, § 1, 12-4-1944)

**Sec. 2-365. Form of nominating petition.**

Nominations substantially in the following form shall be sufficient:

"We, the undersigned persons legally entitled to vote at said election, hereby nominate (insert name of candidate) to succeed (insert name of member to succeed whom the candidate is nominated) as a member of the Board of Directors of the City Water and Light of the City of Jonesboro, Arkansas, at the next election therein."

(Code 1962, § 2-69; Code 2006, § 2.60.02; Ord. No. 722, § 2, 12-4-1944)

**Sec. 2-366. Certification of nomination by clerk.**

On the day following the expiration of the time for filing nominations or not less than nine days before the election, the clerk shall certify to the secretary of the city water and light board for the use of judges and clerks of the election the names of all candidates legally nominated within the period named, naming also the member to succeed whom such candidate is nominated, and no other names. The secretary of the city water and light shall have ballots printed and delivered to the judges and clerks containing only the names so certified.  
(Code 1962, § 2-70; Code 2006, § 2.60.03)

**Sec. 2-367. Writing in names of candidates prohibited; certification of election.**

It shall be unlawful to write in any additional names and the judges and clerks shall disregard any and all votes cast for any person not so certified by the clerk as legally nominated and shall issue a certificate of election to the legal nominee receiving the highest number of votes in the manner provided by the several laws governing said district.  
(Code 1962, § 2-71; Code 2006, § 2.60.04; Ord. No. 722, § 14, 12-4-1944)

**Sec. 2-368. Contesting election; grounds.**

No persons except those nominated legally in accordance with this division shall serve as an elected member of the board of directors of the city water and light and if the judges or clerks of the election violate or disregard the provisions of this division or certify any person

as elected who has not been legally nominated hereunder, this shall be just cause for contest in the circuit court of the Jonesboro District of Craighead County, either by any other candidate at said election or by a majority of the board of directors of the city water and light.  
(Code 1962, § 2-72; Code 2006, § 2.60.05)

**Sec. 2-369. Vacancies to be filled by city council until next election.**

Vacancies occurring on the board shall be filled by the city council until the next ensuing election.  
(Code 1962, § 2-73; Code 2006, § 2.60.06)

**Secs. 2-370—2-396. Reserved.**

DIVISION 3. MUNICIPAL AIRPORT COMMISSION\*

**Sec. 2-397. Established.**

Pursuant to the provisions of A.C.A. title 14, ch. 359 (A.C.A. § 14-359-101 et seq.), there is hereby created a commission to be known as the city municipal airport commission.

**Secs. 2-398—2-422. Reserved.**

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\*State law reference—Airport commissions, A.C.A. § 14-359-101 et seq.

DIVISION 4. AUDITORIUM  
COMMISSION\*

**Sec. 2-423. Created; membership.**

There is hereby created an auditorium commission, hereafter known as the forum commission, to be composed of seven members.

(Code 2006, § 2.72.01; Ord. No. 1639, § 1; Ord. No. 3663, § 4, 9-5-2006; Ord. No. 08-32, § 2, 7-15-2008)

**State law reference**—Auditorium commissions, A.C.A. § 14-41-101 et seq.

**Secs. 2-424—2-430. Reserved.**

DIVISION 5. ADVERTISING AND  
PROMOTIONS COMMISSION

**Sec. 2-431. Created.**

The city advertising and promotion commission is hereby created.

(Code 2006, § 2.76.01; Ord. No. 3663, § 1, 9-5-2006)

**State law reference**—Advertising and promotion commission required, A.C.A. § 26-75-605.

**Sec. 2-432. Organization; meetings; powers and duties.**

(a) The city advertising and promotion commission shall meet within two weeks of its appointment and shall be organized by electing a chairperson, a secretary and a treasurer. Thereafter, the commission shall meet as often as may be necessary and also shall be subject to special call by the chairperson.

**\*State law references**—Authority to create auditorium commission, A.C.A. § 14-141-102; commission membership, A.C.A. §§ 14-141-104, 14-141-105.

(b) The commissioners shall adopt such rules and regulations as they may deem necessary and expedient for the proper operation of said commission, and they shall have the authority to alter, change or amend such rules and regulations at their discretion.

(c) The commissioners appointed, in addition to their other powers enumerated herein, shall have the right and power to make purchases of all supplies necessary for the management and operation of the commission.

(d) The commissioners shall have authority to employ the necessary personnel to assist in the administration and operation of the city advertising and promotion fund, and shall have the authority to fix the salaries for such personnel.

(e) The commissioners shall make quarterly reports to the mayor and city council of the city beginning three months after their oath of office reporting in full on the operation of the commission including an accounting of receipts and disbursements and shall request of the city council furnish such reports and data as may be required. The commissioners shall select a recognized auditing firm to submit an annual audit of the operations of the commission to the mayor and city council of the city.

(Code 2006, § 2.76.02)

**Secs. 2-433—2-446. Reserved.**

DIVISION 6. NORTHEAST  
ARKANSAS INDUSTRIAL  
DEVELOPMENT COMMISSION

**Sec. 2-447. Established.**

The city agrees to the establishment of an entity to coordinate and allocate the

expenditures of monies appropriated by the city for industrial development, said organization being necessary and appropriate to produce the optimum use of personnel, equipment and efficiencies of scale in industrial recruitment and development.

(Code 2006, § 2.80.01; Ord. No. 1999, § 1)

**Sec. 2-448. Purpose.**

The organization authorized to be formed shall be named Northeast Arkansas Industrial Development Commission which shall be an unincorporated entity designated to receive and disburse funds to appropriate affiliated organizations, both public and nonpublic for industrial development.

(Code 2006, § 2.80.02; Ord. No. 1999, § 2)

**Sec. 2-449. Composition; appointment of members.**

The commission shall be comprised of seven commissioners, each to be appointed for staggered three-year terms, appointed by the mayor and approved by the city council; two commissioners, initially, one serving a three-year term and one serving a one-year term, to be appointed by the county judge; and one commissioner to be the president of the Jonesboro Economic Development Corporation or his designee.

(Code 2006, § 2.80.03; Ord. No. 1999, § 3; Ord. No. 3548, § 1, 6-21-2005; Ord. No. 3663, § 7, 9-5-2006; Ord. No. 08-32, § 4, 7-15-2008)

**Sec. 2-450. Contribution.**

The city shall, commencing in 2006, contribute to the commission, in monthly installments or as otherwise agreed by

the city, a sum of no less than \$90,000.00 per year. The county shall, commencing in 2006, contribute to the commission, in monthly installments or as otherwise agreed by the county, a sum of no less than \$45,000.00 per year.

(Code 2006, § 2.80.04; Ord. No. 1999, § 4; Ord. No. 3548, § 1, 6-21-2005)

**Sec. 2-451. Participation.**

Participation by incorporated cities other than Jonesboro, Arkansas, or organizations other than those designated in section 2-449 shall be permitted; provided that said cities or organizations provide and remit contributions as designated by the commission in order to establish their affiliation with the commission.

(Code 2006, § 2.80.05; Ord. No. 1999, § 5)

**Sec. 2-452. Disbursement of funds.**

(a) The commission will annually or at more frequent intervals as determined by it, disburse all funds received by it based on contract for industrial services entered into with the following organizations:

- (1) Greater Jonesboro Chamber of Commerce;
- (2) Jonesboro Unlimited;
- (3) Jonesboro Industrial Development Commission; and
- (4) Any other active industrial development entities in Craighead County.

(b) All organizations receiving funds shall comply with the requirements as described in section 2-575 in requesting an application.

(Code 2006, § 2.80.06; Ord. No. 1999, § 6)

**Sec. 2-453. Reports.**

The organizations designated in section 2-452 will provide to the commission a quarterly annual report and analysis regarding utilization and expenditure of commission-distributed funds and the progress of all industrial development efforts.

(Code 2006, § 2.80.07; Ord. No. 1999, § 7)

**Sec. 2-454. Chairperson.**

The commission will on an annual basis designate a chairperson who shall be elected by a majority vote of its members.

(Code 2006, § 2.80.08; Ord. No. 1999, § 8)

**Sec. 2-455. Annual meeting.**

The commission will meet at least annually for the specified purpose of establishing the following:

- (1) Amounts to disburse to each participating organization;
- (2) A program to inform all county residents of the need and benefits of industrial development; and
- (3) Guidelines for each organization to prevent inefficiencies and duplication of effort.

(Code 2006, § 2.80.09; Ord. No. 1999, § 9)

**Sec. 2-456. Communication.**

The commission will annually communicate information regarding its activities to all participating cities and organizations in the county and to the city council and quorum court regarding fund disbursements.

(Code 2006, § 2.80.10; Ord. No. 1999, § 10)

**Sec. 2-457. Job production.**

All industrial development activities sponsored and funded hereunder must be related to anticipated new-job production.

(Code 2006, § 2.80.11; Ord. No. 1999, § 11)

**Sec. 2-458. Audits.**

The commission shall be empowered to request audited financial statements on fund utilization by any participating organizations.

(Code 2006, § 2.80.12; Ord. No. 1999, § 12)

**Secs. 2-459—2-484. Reserved.**

DIVISION 7. PARKS AND  
RECREATION PLANNING AND  
ADVISORY COMMITTEE

**Sec. 2-485. Established.**

There is hereby created and established the city parks and recreation planning and advisory committee. Membership of the committee shall consist of seven members not to exceed 12 members. The members to be appointed to the committee initially are the current seven parks and recreation commission members. The committee members shall maintain their current term expiration dates previously established during their service on the parks and recreation commission.

(Code 2006, § 12.04.01; Ord. No. 2607, § 2)

**Sec. 2-486. Composition; appointment of members.**

The parks and recreation planning and advisory committee members shall be ap-

pointed by the mayor and approved by the city council. The members shall be composed of representative public spirited citizens and residents of the city. In addition to the qualifications set forth in this section, the members may also be identified with organized civic activities, provided that a majority of the committee shall not at any one time consist of representatives of one nonpublic organization.

(Code 2006, § 12.04.02; Ord. No. 2607, § 3)

**Sec. 2-487. Election of officers.**

The committee shall each year elect one of its members as chairperson and such officers as may be deemed proper and necessary and shall establish such rules and bylaws as it deems necessary for its guidance.

(Code 2006, § 12.04.03; Ord. No. 2607, § 4)

**Sec. 2-488. Vacancies; appointment of successors.**

In the event of a vacancy caused by death, incapacity, resignation or for any other reason, a successor shall be appointed by the mayor and approved by the city council. Appointment to any term on the committee shall begin on the day following the first council meeting in January of each year and said committee member shall serve and hold office until their successor is appointed and qualified.

(Code 2006, § 12.04.04; Ord. No. 2607, § 5)

**Sec. 2-489. Purpose.**

The purpose of the parks and recreation planning and advisory committee

shall be to advise the city council on matters relating to long range plans for the parks department growth and activities, to better serve the citizens of the city. The committee shall assist in establishing priorities for community recreation needs, developing effective expansion strategy and funding sources. The committee shall meet as needed, with the minimum quarterly meeting. The committee chairperson shall serve as an ad hoc member of and primary liaison with the parks committee of the city council.

(Code 2006, § 12.04.05; Ord. No. 2607, § 6)

**Sec. 2-490. Removal of member.**

Any committee member may be removed for cause upon a vote of two-thirds of the duly elected and qualified members of the city council.

(Code 2006, § 12.04.06; Ord. No. 2607, § 7)

**Sec. 2-491. Duties.**

The parks committee of the city council shall function in the place of the former Jonesboro Parks and Recreation Commission, to review all rules, regulations, schedules, and the management of the parks department on a basis consistent with other city departments.

(Code 2006, § 12.04.07; Ord. No. 2607, § 8)

**Secs. 2-492—2-520. Reserved.**

DIVISION 8. SOLID WASTE  
AUTHORITY\*

**Sec. 2-521. Regional authority.**

The city shall join in the creation of a Craighead County Solid Waste Disposal Authority, along with the following cities and towns:

- (1) Bay;
- (2) Black Oak;
- (3) Bono;
- (4) Brookland;
- (5) Caraway;
- (6) Cash;
- (7) Egypt;
- (8) Lake City; and
- (9) Monette.

(Code 2006, § 5.04.01; Ord. No. 1916, § 1)

**Sec. 2-522. Initial member.**

The city is hereby authorized to become an initial member of the Craighead County Solid Waste Disposal Authority.

(Code 2006, § 5.04.02; Ord. No. 1916, § 2)

**Sec. 2-523. Powers.**

The powers of the county solid waste disposal authority shall be as follows:

- (1) To own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning or otherwise deal in or dispose of any real property, personal property or mixed property of any kind and every kind

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\*State law reference—Joint County and Municipal Solid Waste Disposal Act, A.C.A. § 14-233-101 et seq.

that can be used or that will be useful in the controlling, storing, removing, handling, reducing, disposing of, treating, and otherwise dealing in and concerning solid wastes, including, without limitation, property that can be used or that will be useful in extracting, converting to steam, including the acquisition, handling, storage, and utilization of coal, lignite or other fuels of any kind or water that can be used or that will be useful in converting solid waste to steam, and distributing such steam to users thereof, or otherwise separating and preparing solid wastes for reuse;

- (2) To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;
- (3) To adopt an official seal and alter the same at pleasure;
- (4) To maintain an office at such places as it may determine;
- (5) To sue and be sued in its own name and to plead and be impleaded;
- (6) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under the Joint County and Municipal Solid Waste Disposal Act (A.C.A. § 14-233-101 et seq.), including contracts with persons, firms, corporations and others;

- (7) To apply to the appropriate agencies of the state, the United States or any state thereof, and to any other proper agency for such permits, licenses, certificates or approvals as may be necessary, to construct, maintain and operate projects in accordance with, and to obtain, hold and use, such licenses, permits, certificates or approvals in the same manner as any other person or operating unit of any other person;
  - (8) To employ engineers, architects, attorneys, real estate counselors, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;
  - (9) To purchase all kinds of insurance including, but not limited to, insurance against tort liability, business interruption, and/or risks of damage to property;
  - (10) To fix, charge and collect rents, fees and charges for the use of any project or portion thereof or for steam produced and any byproducts therefrom;
  - (11) To accomplish projects as authorized by the Joint County and Municipal Solid Waste Disposal Act (A.C.A. § 14-233-101 et seq.) and the ordinances creating the authority;
  - (12) To distribute steam or any other product produced by a project to any person, municipality or county;
  - (13) To buy, sell, exchange, own and generally deal in real property, municipality or county;
  - (14) To pledge or hypothecate any and all property of the authority, both real, personal and mixed owned or leased by the authority for cash, on credit and time payment and to generally finance any property, both real, personal and mixed, sold or leased by the authority;
  - (15) To issue tax-exempt bonds pursuant to the terms and provisions authorized in the Joint County and Municipal Solid Waste Disposal Act (A.C.A. § 14-233-101 et seq.); and
  - (16) To do any and all other acts and things necessary, convenient or desirable to carry out the purposes, and to exercise the power granted to the authority herein.
- (Code 2006, § 5.04.03; Ord. No. 1916, § 3)

**Sec. 2-524. Directors.**

The number of directors of the county solid waste disposal authority and the voting rights of each director shall be as follows:

- (1) The number of directors under the authority will be 12 with the maximum number of directors never to be more than 15.
- (2) Selection of directors will be made by the governing authority for the counties, municipalities and towns.
- (3) All towns under 5,000 in population will be considered in county population for purposes of selection of directors.

- (4) Municipalities with populations of 5,000 or more will select their directors.
- (5) The directors will be divided between the counties, municipalities and towns according to population based upon the U.S. Census figures from 1980.
- (6) Adjustment to the number of directors allocated to each governing body will be changed within one year of each official U.S. Census.
- (7) The directors will follow all other regulations governing conduct of the authority as contained in the Joint County and Municipal Solid Waste Disposal Act (A.C.A. § 14-233-101 et seq.).
- (8) The term of each director will be three years. This initial term will be determined by lot.
- (9) The towns under 5,000 in population shall appoint two of the board of directors allocated to the county.
- (10) The mayors and city councilmembers of the towns of Black Oak, Caraway, Lake City and Monette shall appoint one board member.
- (11) The mayors and city councilmembers of the towns of Bay, Bono, Brookland, Cash and Egypt shall appoint the other member.

(Code 2006, § 5.04.04; Ord. No. 3440, § 1; Ord. No. 3663, § 6, 9-5-2006; Ord. No. 08-32, § 3, 7-15-2008)

**State law reference**—Board of directors, A.C.A. § 13-233-108.

**Secs. 2-525—2-541. Reserved.**

## DIVISION 9. RESIDENTIAL HOUSING AND HEALTH CARE FACILITIES BOARD

### **Sec. 2-542. Findings.**

The city council hereby finds and determines:

- (1) There exists within and near the city a shortage of decent, safe and sanitary residential housing facilities available for rehabilitation, construction or purchase on terms that persons and families of low and moderate income can afford to pay.
- (2) Existing economic conditions including high rates of interest on residential mortgage loans and a shortage of funds within lending institutions in the state for residential mortgage loans are operating:
  - a. To further restrict the rehabilitation, construction and purchase of residential housing by persons of low and moderate income at reasonably affordable costs;
  - b. To create unemployment and hardship within the residential construction industry, adversely affecting residents of the city; and
  - c. To reduce and limit the value of property within the city, all of which adversely affects the city's tax revenues and which, if not alleviated will lead to further urban blight and decay and result in disproportionately large expenditures for services by the city.

- (3) The availability of mortgage financing to assist such persons and families in the rehabilitation, construction or purchase of decent, safe and sanitary residential housing facilities will be aided by the providing of funds for mortgage financing of residential housing facilities by the creation of a public facilities board pursuant to the provisions of the Public Facilities Board Act.
- (4) The providing of financial assistance in order to enable persons and families of low and moderate income to finance the costs of decent, safe and sanitary residential housing facilities is a proper public purpose as declared by the Public Facilities Board Act and this determination of the city council.
- (5) The public purpose of financing residential housing facilities may best be served by establishing a public facilities board to purchase mortgages on such residential housing facilities as provided in the Public Facilities Boards Act (A.C.A. § 14-137-101 et seq.).
- (6) There exists within and near the city a shortage of adequate health care facilities to adequately provide for the health care needs of the citizens and residents of the city which cannot reasonably be met by presently available health care facilities.
- (7) The availability of financing to assist in the constructing, acquiring, or equipping of health care facilities will be aided by the expansion of the powers of the public facilities

board created by the city council in its Ordinance No. 1657, pursuant to the provisions of the Public Facilities Boards Act (A.C.A. § 14-137-101 et seq.).

- (8) The providing of financial assistance in order to enable the constructing, acquiring or equipping of health care facilities within or near the city is a proper public purpose as declared by the Public Facilities Board Act and this determination of the city council.

(Code 2006, § 11.48.01; Ord. No. 1607, § 1; Ord. No. 1717, § 1)

**Sec. 2-543. Created.**

Pursuant to the authority of the Public Facilities Board Act there is hereby created and established the "City of Jonesboro, Arkansas, Residential Housing and Health Care Facilities Board," hereinafter referred to as the "board," with authority as hereinafter provided:

- (1) To accomplish, finance, contract and make or purchase mortgage loans concerning residential housing facilities and otherwise act in such manner as may be permitted by the Public Facilities Boards Act (A.C.A. § 14-137-101 et seq.) to provide decent, safe and sanitary residential housing facilities within or near the city; and
- (2) To accomplish, finance, contract concerning and otherwise deal with or dispose of health care facilities, and otherwise act in such manner as may be permitted by the Public

Facilities Board Act to provide adequate health care facilities within or near the city.

(Code 2006, § 11.48.02; Ord. No. 1717, § 2)

**Sec. 2-544. Powers.**

(a) The board is empowered, from time to time:

- (1) To loan, acquire, construct, reconstruct, extend, equip, improve, sell, lease and contract, which shall include the purchase of mortgage loans and the making of loans to mortgage lenders, residential housing facilities as shall be determined by the board to be necessary to effect the purposes of this division to provide decent, safe and sanitary residential housing facilities within or near the city; and
- (2) To own, acquire, construct, reconstruct, equip, improve, sell, lease and contract concerning health care facilities as shall be determined by the board to be necessary to effect the purposes of this division to provide adequate health care facilities within or near the city.

(b) The board shall require that a majority of the funds made available for the purchase of mortgages or making loans to mortgage lenders shall be used for residential housing facilities located within the corporate limits of the city as now existing or as may hereafter be extended. In addition, the board shall have each of the powers set forth in A.C.A. § 14-137-111, and appropriate to the purposes for which the board is created.

(c) The board may enter into such contractual or cooperative agreements with such persons as may, in its discretion, be advisable to accomplish the purposes of this division, including without limitation, departments, agencies or instrumentalities of the United States of America, the state or the city, e.g., the Department of Housing and Urban Development, the Federal Housing Administration and the Arkansas Housing Development Agency. (Code 2006, § 11.48.04; Ord. No. 1717, § 3)

**Sec. 2-545. Issuance of bonds.**

The board is authorized to issue revenue bonds, from time to time, and to use the proceeds, either alone or together with other available funds and revenues, to accomplish the purposes for which the board is created as the same relate to the providing of decent, safe and sanitary residential housing facilities or adequate health care facilities. Such revenue bonds shall be obligations only of the board and shall not constitute an indebtedness of which the faith and credit of the city or any of its revenues are pledged and the principal and interest on the bonds shall be payable from and secured by a pledge of revenues derived residential housing facilities or health care facilities, respectively, financed in whole or in part, from bond proceeds and as authorized by and in accordance with the provisions of the Public Facilities Boards Act (A.C.A. § 14-137-101 et seq.), together with such other collateral as may properly be pledged under the Public Facilities Boards Act and as the board, in its discretion, may determine.

(Code 2006, § 11.48.05; Ord. No. 1717, § 4)

**Sec. 2-546. Organization.**

As soon as practicable after the adoption of the ordinance from which this section is derived, the board shall meet and elect such officers as shall be required by the Public Facilities Boards Act (A.C.A. § 14-137-101 et seq.). The board may adopt such bylaws and other rules and regulations as shall be necessary for the conduct of its business and consistent with the provisions of the Public Facilities Boards Act. The board shall cause to be filed with the city clerk the annual report described in A.C.A. § 14-137-123. (Code 2006, § 11.48.06; Ord. No. 1657, § 6)

**Sec. 2-547. Excess revenues.**

Any revenues of the board accumulated in excess of the amount necessary to accomplish the purposes for which the board is created and to comply with all covenants and agreements of the board in connection with any outstanding bond or other obligation shall be reported to the city council which may direct the payment of such excess revenues into the general fund of the city. (Code 2006, § 11.48.07; Ord. No. 1717, § 6)

**Secs. 2-548—2-558. Reserved.**

DIVISION 10. URBAN FORESTRY  
COUNCIL

**Sec. 2-559. Established.**

The city has determined that a definite plan for the care, preservation, and disposition of the trees on public property is necessary; and that there is hereby established the Jonesboro Urban Forestry Council

in order to carry out these objectives for the preservation of the public health, safety, and welfare. (Ord. No. 3588, § I, 10-18-2005)

**Sec. 2-560. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Public property* means areas owned, leased, or occupied by the city.

*Public tree* means any tree as defined in this section growing on public property as defined in this section.

*Tree* means any self-supporting woody perennial plant, usually having a main trunk and many branches, and, at maturity, normally attaining a trunk diameter greater than six inches at breast height and height of over ten feet. (Ord. No. 3588, § II, 10-18-2005)

**Sec. 2-561. Membership; term; duties.**

(a) In order to develop a community forest management plan, the Jonesboro Urban Forestry Council (JUFC) will be established for the city.

(b) The JUFC shall consist of seven members, all citizens and residents of this city, who shall be appointed by the mayor with the approval of the city council. At least two members shall be members of the Jonesboro Regional Chamber of Commerce, at least one member shall be a business owner in the city and at least one member shall be an employee of city water and light appointed by city water and light management. One member shall be a member of the state for-

estry commission and one member shall be a citizen at large. At least one member shall be a nurseryman, professional horticulturalist or landscape architect. No less than two city employees shall serve on the JUFC as non-voting ex officio members. Members of the JUFC shall serve without compensation.

(c) The JUFC, when requested by the city council, shall make reports and recommendations upon any special matter within the scope of its duties and responsibilities.

(d) The JUFC, as it deems necessary for guidance, shall choose its own officers, establish its own rules and by-laws, and keep a record of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(e) The term of the persons to be appointed by the mayor shall be three years with staggered terms. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

(f) The JUFC shall assist the community and its officials in disseminating information about the protection, maintenance, and improvement of the city's tree population.

(g) The JUFC shall propose such legislation as may be necessary and practicable to pursue the ends for which the JUFC was created.

(h) The JUFC shall develop tree-planting programs in conjunction with other public agencies, private agencies and with city council approval.

(i) The JUFC shall educate the public concerning tree maintenance and the benefits of trees.

(j) The JUFC shall provide technical advice and assistance to developers, builders, contractors, etc., upon request in the selection and protection of naturally occurring trees, during the development of wooded areas.

(k) The JUFC shall communicate with such professional and technical services as it may see fit, within the scope of this division.

(Ord. No. 3588, § III, 10-18-2005; Ord. No. 3615, § I, 2-21-2006; Ord. No. 3659, § I, 8-15-2006)

**Sec. 2-562. Maintenance of trees on public property.**

In order to maintain trees on public property:

- (1) Trees planted on public property shall become city property.
- (2) The city and city water and light shall have the authority to prune, maintain and remove trees, plants and shrubs within the rights of way of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to insure public safety or preserve or enhance the symmetry and beauty of such public grounds. The city and city water and light shall follow American National Standards Institute pruning standards.
- (3) The city and city water and light may remove or cause or order to be removed, any public tree or part thereof which is in an unsafe condition of which by reason of its

nature is injurious to sewers, electric power lines, gas lines, water lines, phone lines, cable lines, underground drainage (piped or open) or other public improvements, or is affected with any injurious fungus, insect or other pest.

- (4) Under disaster or emergency circumstances, the city and city water and light may remove or prune any trees severely damaged by storms or other natural causes.
- (5) By reasons of its nature and practicality, the city and city water and light shall have the authority to prune, maintain, and remove trees, plants, and shrubs as necessary during any season or time of year.
- (6) All supervisory personnel of city and city water and light employees who may prune trees in a non-emergency situation shall participate in an educational course on basic tree science and proper techniques of pruning.

(Ord. No. 3588, § IV, 10-18-2005)

**Secs. 2-563—2-572. Reserved.**

**ARTICLE VII. FINANCE**

**Sec. 2-573. Fees and charges.**

All fees and charges that the city may impose or require shall be as established by ordinance, resolution or other method authorized by law. Whenever in this Code it is provided that a fee or charge is as established by the council, such language

shall mean that such fee shall be as established by ordinance, resolution or other method authorized by law.

**Sec. 2-574. Settlement of claims.**

All persons having claims against the city may file them with the clerk. The clerk shall present them to the council. The council may grant a hearing for the claimant and may authorize a settlement.

(Code 2006, § 7.20.02)

**Sec. 2-575. Requirements for outside agency applications of funding through city council appropriations; reporting requirements.**

(a) It is the desire of the city to support various organizations, boards and commissions throughout the city with annual appropriations administered by the department of community and economic development through the outside agencies budget.

(b) In an effort to comply with A.C.A. § 14-58-203 and federal requirements for receiving application requests for appropriations, documenting city appropriations and the use of such appropriations, a prescribed process is necessary.

(c) Any agency, board or commission desiring an annual appropriation through the outside agency budget, must submit a proposal for funding to the department of community and economic development no later than July 31 of each year. The submitted proposal must include the following:

- (1) Dollar amount of request;

- (2) Stated/goals objectives of the agency, board or commission;
- (3) General proposed use of funds; and
- (4) Current balance sheet and copy of most recent annual budget

(d) Any agency, board or commission which receives appropriations as part of the city outside agency budget are hereby required to submit an annual report, no later than December 31 of each year, outlining the activities on which city appropriations were used. These reports are separate and in addition to any required financial reporting requirements under state or federal laws. All reports must be filed in duplicate to the city clerk's office. Failure to submit reports in duplicate or by the stated deadline will result in a hold being placed on further appropriation disbursements.

(Ord. No. 3559, §§ 1—4, 7-19-2005)

**Sec. 2-576. Procurement of professional services.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Professional services* includes and is defined as legal services, architectural, engineering, land surveying, appraisers, auctioneers, accounting services and investment advisors.

(b) *Contracting authority.* The contracting authority is hereby authorized and instructed to negotiate contracts for professional services as defined in subsection (a) of this section.

(Code 2006, §§ 3.12.01, 3.12.02; Ord. No. 3315, § 2; Ord. No. 3348, § 1)

**Secs. 2-577—2-600. Reserved.**

**ARTICLE VIII. UNCLAIMED PROPERTY**

**Sec. 2-601. Exception for property governed by Unclaimed Property Act.**

Tangible and intangible property as defined in A.C.A. title 18, ch. 28, subch. 2 (A.C.A. § 18-28-201 et seq.) the Unclaimed Property Act shall be handled in accordance with the provisions of A.C.A. title 18, ch. 28, subch. 2 (A.C.A. § 18-28-201 et seq.).

(Code 2006, § 2.16.05)

**Sec. 2-602. Disposal.**

The police chief under the direction hereinafter set out is hereby authorized and directed to dispose of, at public auction, all unclaimed personal property rightfully coming into the hands of his office and to dispose of other confiscated property that was confiscated under the orders of the city court with the exception of confiscated liquor and property subject to A.C.A. title 18, ch. 28, subch. 2 (A.C.A. § 18-28-201 et seq.).

(Code 2006, § 2.16.01)

**Sec. 2-603. Sale.**

All unclaimed personal property coming in to the hands of the police chief will be held by him for a period of six weeks or longer. If property remains unclaimed, he shall periodically advertise such property in some newspaper of general circulation in the city once each week for three consecutive weeks setting forth in notice the time for the sale which shall not be

earlier than five days after the last publishing of the notice and no later than ten days thereafter, designating an easily accessible place for the sale thereof, and giving a complete list and description of unclaimed articles to be sold. The police chief shall have the right to refuse any and all bids not satisfactory and will then proceed to advertise these items for sale at a later date. Terms of such sale shall be for cash only. Nothing in this chapter shall prohibit any person who properly identifies any of the property as being their own before the sale from claiming and having property restored to them.

(Code 2006, § 2.16.02)

**Sec. 2-604. Proceeds of sale to owner.**

The police chief shall deposit the receipt from the aforesaid sale of unclaimed property in the treasury and the director of finance is to keep these funds in a special account for a period of six months and any person identifying as his own any of such property within the six-month period shall upon the presentation of satisfactory proof be paid by the city out of the special account the amount of which the property was sold. The police chief or some person designated by him shall keep in a well bound book an accurate record and description of each piece of unclaimed property passing through his office and the price for which it was sold and the date, the name and address of those who purchased same, as well as a complete record of those who identified and claimed any of the property before it was sold.

(Code 2006, § 2.16.03)

**Sec. 2-605. Proceeds remaining after six month.**

All proceeds from the sale remaining in the special fund for a period of six months

shall by the director of finance be transferred to the city's general fund and no further payment shall be made therefrom to anyone who thereafter claims ownership.

(Code 2006, § 2.16.04)

Chapters 3—5

**RESERVED**





## Chapter 6

### ALCOHOLIC BEVERAGES\*

#### Article I. In General

- Sec. 6-1. Definitions.
- Sec. 6-2. Applicability.
- Sec. 6-3. Annexed areas; continuance of business.
- Sec. 6-4. Dispensing outside of licensed premises.
- Sec. 6-5. Unlawful activities; prohibited activities; warning notice.
- Sec. 6-6. Private club permits; supplemental privilege license permit.
- Secs. 6-7—6-30. Reserved.

#### Article II. Permits

- Sec. 6-31. Required.
- Sec. 6-32. Application.
- Sec. 6-33. Right of city to inspect records.
- Sec. 6-34. Qualifications of applicants.
- Sec. 6-35. Property survey to accompany application.
- Sec. 6-36. Operating without a city permit.
- Sec. 6-37. Zoning requirements for business location.
- Sec. 6-38. Fraud and misrepresentation by applicant.
- Sec. 6-39. Issuance; payment of fee.
- Sec. 6-40. Business to open within six months from permit issuance.
- Sec. 6-41. Effect of failure to operate business for six consecutive months.
- Sec. 6-42. Fee payment dates; proration; delinquency penalty.
- Sec. 6-43. Term of permit.
- Sec. 6-44. Transferability.
- Sec. 6-45. Notice of transfer of business.
- Sec. 6-46. Display required.
- Sec. 6-47. Suspension or revocation.
- Sec. 6-48. Furnishing to/consumption by minors.

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\***State law references**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.; Arkansas Alcoholic Control Act, A.C.A. § 3-1-101 et seq.; local regulation of alcohol, A.C.A. § 3-4-202.



**ARTICLE I. IN GENERAL****Sec. 6-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic beverages* means all intoxicating liquors of any sort, including beer and wine.

*Beer* means any fermented liquor made from malt or any similar substance therefor and having an alcohol content not in excess of five percent or less than one-half of one percent by weight.

*Controlled beverages* means all beverages of any kind subject to regulation under any alcoholic beverage control law of the state and this chapter.

*Light wine* means the fermented juices of grapes, berries or fruits and any other mixture containing the fermented juice of grapes, berries or fruits, having an alcoholic content between one-half of one percent and five percent alcohol by weight.

*Malt beverage products* means any liquor brewed from the fermented juices of grain having an alcoholic content of not less than five percent nor more than 21 percent by weight.

*Malt liquor* means liquor brewed from the fermented juices of grain.

*Nuisance* means any unlawful conduct or activity or the tolerance of any unlawful conduct or activity by the permittee, or his agent, which constitutes a detriment to the health, safety and welfare of the citizens of the city.

*On-premises consumption* means the sale or dispensing of alcoholic beverages by the drink or in broken or unsealed containers for consumption on the premises where sold or dispensed.

*Permit* means any authorization issued by the Alcoholic Beverage Control Division of the state and/or by the city pursuant to any state Alcoholic Beverage Control Division regulation and/or this Code whether described as a permit, license or otherwise.

*Permittee* means the person to whom a permit or license to sell, dispense or distribute alcohol has been granted.

*Police chief* means the chief of police of the city police department or his designee.

*Private club* means a nonprofit corporation organized and existing under the laws of this state, no part of the net revenues of which shall inure directly or indirectly to the benefit of any of its members or any other individual, except for the payment of bona fide expenses of the club's operations, conducted for some common recreational, social, patriotic, political, national, benevolent, athletic, or other nonprofit object or purpose other than the consumption of alcoholic beverages. The nonprofit corporation shall have been in existence for a period of not less than one year before application for a permit. At the time of application for the permit, the nonprofit corporation must have not less than 100 members, and, at the time of application, must own or lease, or be the holder of a buy-sell agreement or offer and acceptance, or have an option to lease a building, property, or space therein for the reasonable comfort

and accommodation of its members and their families and guests, and restrict the use of club facilities to such persons.

*Spirituous* means liquor distilled from the fermented juices of grains, fruits or vegetables containing more than 21 percent alcohol by weight, or any other liquids containing more than 21 percent alcohol by weight.

*Sunday sales* means the sales of alcoholic beverages on Sunday shall be limited to those businesses within the city which possess a current and valid permit for the sale of alcoholic beverages on Sunday issued by the Alcoholic Beverage Control Division.

*Supplemental privilege license permit* means a permit issued by the city for the privilege of operating a private club within the city. A supplemental privilege license permit is required, which shall be in addition to the regular business privilege license.

*Supplemental privilege license permit fee* means a fee established by the city for the privilege of operating a private club within the city, there is hereby levied an annual supplemental privilege license permit fee which shall equal 50 percent of the regular business privilege license fee not to exceed \$250.00.

*Vinous* means the fermented juices of fruits containing more than five percent and not more than 21 percent alcohol by weight.

(Ord. No. 18-2007, § 4.32.02, 2-20-2007)

### **Sec. 6-2. Applicability.**

(a) It is hereby declared that the business of manufacturing, transporting, storing, handling, receiving, distributing, sell-

ing, serving or dispensing, any controlled beverage within the city, is a privilege, and for the exercise of such privilege there are hereby imposed the regulations, requirements, restrictions, fees and taxes as set forth in this chapter.

(b) These general provisions shall apply to all permittees in addition to any specific provisions under individual headings for each type of permit.

(Ord. No. 18-2007, § 4.32.01, 2-20-2007)

### **Sec. 6-3. Annexed areas; continuance of business.**

Where an alcoholic beverage establishment exists in an area outside the city limits, upon annexation of such area, the same may be continued as a nonconforming use and shall be subject to all remaining provisions of this chapter.

(Ord. No. 18-2007, § 4.32.11, 2-20-2007)

### **Sec. 6-4. Dispensing outside of licensed premises.**

It shall be unlawful for any alcoholic beverage to be dispensed, or otherwise provided outside of the enclosed building, premises or place of business licensed for such, except as permitted by this chapter.

(Ord. No. 18-2007, § 4.32.18, 2-20-2007)

### **Sec. 6-5. Unlawful activities; prohibited activities; warning notice.**

(a) *Generally.* It shall be unlawful for the holder of any permit issued under the provisions of this chapter to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practices in the permitted premises or to operate the business in such manner as to constitute a nuisance.

(b) *Disturbances.* It shall be unlawful for any permittee, or permittee's agent or employee to fail to report to the police department any disturbance which occurs inside or immediately outside the permitted premises or in the parking facilities, of which any of them have knowledge which would, under normal circumstances require or give rise to police intervention.

(c) *Hiring persons with convictions of felonies or misdemeanors.* It shall be unlawful for any permitted establishment to employ any person who has been convicted of, entered a plea to or has otherwise been found guilty of a felony, a misdemeanor involving moral turpitude or the sale of alcoholic beverage violation.

(d) *Availability of telephone.* It shall be the requirement that every permitted premises have a telephone and have such telephone available during the hours of operation. Failure to have a telephone shall constitute grounds for suspension or revocation of all permits.

(e) *Illegal drugs or narcotics.* It shall be the duty and responsibility of the permittee, or permittee's agent or employee to report to the police department any usage or possession of illegal drugs or narcotics on a permitted premises.

(f) *Assistance to law enforcement officers.* It shall be unlawful for any permittee, or permittee's agent or employee to fail to assist any law enforcement officer in the performance of his duty while the officer is on a permitted premises.

(g) *Refusal to admit law enforcement officers.* It shall be unlawful to refuse to grant admission to any permitted premises at any time upon the verbal re-

quest of any law enforcement officer, who displays proper identification for the purpose of inspecting the premises to ensure compliance with this chapter. It shall be unlawful to refuse to open any cabinet, storage room or any other area within the permitted premises.

(h) *Minors/persons under 21 years of age.* Any person to which a controlled beverage permit has been issued shall comply with all laws and regulations of the state, the Alcoholic Beverage Control Division of the state, and the city regarding the control and regulation of controlled beverages, including but not limited to, the following:

- (1) Purchase by or for minors, sale to minors or handling by minors prohibited;
- (2) It shall be unlawful for any person under the age of 21 years to have in his possession, to purchase or attempt to purchase, or otherwise obtain any controlled beverages except as provided by A.C.A. § 3-3-202(a)(1).
- (3) It shall be unlawful for any person to, knowingly or unknowingly, purchase on behalf of, furnish to, give away to, or otherwise dispose of, to any person under the age of 21 years any controlled beverages; however, this provision shall not apply to the serving of such to members of one's family or to the use of wine in any religious ceremony or rite in any established church or religion.

(i) *Warning notice.* A warning notice regarding dispensing to, possession or purchase by, or furnishing to minors of

controlled beverages shall be posted in a conspicuous place in public view in each place of business where controlled beverages are dispensed. The warning notices shall be of the size, have the content, and be posted in the manner as prescribed by the state Alcoholic Beverage Control Division.

(j) *Nudity*. No person who has received a permit under any ordinance of the city for the sale or dispensing of alcoholic beverages for on premises consumption including private club permits shall suffer or permit any person to appear on the permitted premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals or any simulation thereof, nor suffer or permit any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.

(k) *Nudity; consumption / possession of alcoholic beverages on premises prohibited*. No person shall bring into or consume or allow to be brought into or allow to be consumed intoxicants or alcoholic beverages of any kind, in any commercial establishment, or business, which suffers or permits any person to appear on the premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals or any simulation thereof, or suffers or permits any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.

(l) *Revocation of permit*. If any person engaged in dispensing controlled beverages in the city shall conduct his place of business in a manner as to constitute a

nuisance, the city council shall revoke the permit of such person to dispense controlled beverages in the city.

(Ord. No. 18-2007, § 4.32.26, 2-20-2007)

**State law references**—Unknowingly furnishing or selling to minor, A.C.A. § 3-3-201; knowingly furnishing or selling to minor, A.C.A. § 3-3-203.

**Sec. 6-6. Private club permits; supplemental privilege license permit.**

(a) *Private club permit*. Authorizes the purchase of any controlled beverages from persons holding an off-premises retail liquor or beer permit who have been designated by the director of the state Alcoholic Beverage Control Board as a private club distributor, and authorizes the dispensing of such beverages for consumption on the premises of the private club to members and guests only of the private club. Private clubs holding a retail beer on premises permit may purchase beer, light wine or malt liquor containing not more than five percent alcohol by weight from holders of valid wholesale beer permits.

(b) *Supplemental privilege license permit—Required*. For the privilege of operating a private club within the city, a supplemental privilege license permit is required which shall be in addition to the regular business privilege license.

(c) *Same—Fee*. For the privilege of operating a private club within the city, there is hereby levied an annual supplemental privilege license permit fee which shall equal half of the regular business privilege license fee not to exceed \$250.00.

(d) *Supplemental beverage tax.* In addition to the supplemental privilege license permit fee, there is hereby imposed and levied a city supplemental tax of five percent upon the annual gross receipts which are derived by such private club from charges to the members and/or their guests for the following services:

- (1) The preparation and serving of mixed drinks; and
- (2) The cooling and serving of beer, light wine, and wine.

The city's supplemental beverage tax is in addition to the state supplemental tax on private clubs and shall be paid to the appropriate city official, shall be due monthly at the same time that the state supplemental tax is due, and shall be accompanied by one copy of the state supplemental tax return. If any permittee shall fail to remit the supplemental tax within the time period that the state tax is due, a penalty of ten percent of the tax due shall be due and payable in addition to the tax.

(e) *Hours of operation.* It shall be unlawful for the owner, operator or any employee of a private club to dispense or permit the consumption of any controlled beverages on the premises of said private club between the hours of 2:00 a.m. and 10:00 a.m. on any day.

(f) *Vacation of premises by patrons, members and guests.* It shall be unlawful for any patron, member or guest to remain upon the premises of any private club for more than 30 minutes after the established closing hour of 2:00 a.m. for the dispensing or consumption of controlled beverages. The term "premises" includes the entire property to wit; build-

ing, foyers, attached structures and the parking areas. It shall be the responsibility of the permittee to ensure compliance. (Ord. No. 18-2007, § 4.32.31, 2-20-2007; Ord. No. 09:016, 5-5-2009)

**Secs. 6-7—6-30. Reserved.**

## ARTICLE II. PERMITS\*

**Sec. 6-31. Required.**

(a) It shall be unlawful for any person to engage in the business of manufacturing, transporting, storing, handling, receiving, distributing, selling or dispensing within any private club any controlled beverage, within the city without a permit issued by the city or with an expired permit.

(b) The provisions of this chapter shall not apply to the manufacture, sale and distribution of wines or vinous liquors manufactured, sold and distributed by residents of the state. (Ord. No. 18-2007, § 4.32.03, 2-20-2007)

**State law references**—Authority to require license, A.C.A. § 3-4-202; exempted products, A.C.A. § 3-1-103.

**Sec. 6-32. Application.**

(a) Application for a permit required by this chapter shall be in writing on a form prescribed by the city and shall be accompanied by the required fee and a copy of the applicant's state permit. No city permit will be issued until applicant has received a state permit.

**\*State law reference**—Alcoholic beverage permits, A.C.A. § 3-4-401 et seq.

(b) It shall be unlawful for any person to make any false statement or representation in any application required by this chapter or to give any false answer to any question contained therein.

(c) Permits required by this chapter shall run for a calendar year. Annual permit renewal fees shall be due and payable on December 31 of each year for the succeeding year beginning January 1.

(d) The city will not issue or renew any permits pursuant to this chapter until all outstanding hotel, motel and restaurant taxes and/or supplemental beverage taxes, if applicable, are paid.

(e) All permits issued by the city pursuant to this chapter shall be prominently displayed on the permitted premises by the permittee in the same manner as required by the state for state permits.

(f) When any state permit is revoked by the state or required to be returned to the state for any reason, the city permit shall be returned to the city. The city will restore the permit upon proof that the state permit has been restored to the applicant, provided that no reclaimed permit will be restored to an applicant until all outstanding hotel, motel and restaurant taxes and/or supplemental beverage taxes, if applicable, are paid.

(g) All fees taxes and penalties received by the city pursuant to this chapter shall be used for general purposes within the city pursuant to A.C.A. § 3-9-223(f).

(h) Permits shall not be transferable or assignable unless and until approval is granted by the Alcoholic Beverage Con-

trol Division and notice is provided to the city and all other requirements of this chapter are met.

(Ord. No. 18-2007, § 4.32.04, 2-20-2007)

**State law reference**—Applications for state permit, A.C.A. § 3-4-208.

### **Sec. 6-33. Right of city to inspect records.**

The city collector or the chief of police or his designee shall have the right to inspect and examine the records of any permittee subject to any tax or permit fee based on gross sales or receipts pursuant to A.C.A. § 3-2-211 and any other employee information required pursuant to the regulations of the Alcoholic Beverage Control Division, title 1, subtitle G, section 1.79(37).

(Ord. No. 18-2007, § 4.32.05, 2-20-2007)

### **Sec. 6-34. Qualifications of applicants.**

Persons to whom a state alcohol permit has been issued are presumed qualified to hold a city alcoholic beverage permit.

(Ord. No. 18-2007, § 4.32.06, 2-20-2007)

**State law reference**—Qualifications for state permit, A.C.A. § 3-4-205 et seq.

### **Sec. 6-35. Property survey to accompany application.**

(a) *Survey certificate required.* All applications for permit shall include a certificate from a registered survey or showing a scale drawing of the location of the proposed premises and the distance, measured as provided herein from the proposed premises to the nearest church, school and residence and the nearest five occupied commercial establishments.

(b) *Proximity to single-family dwellings.* No permits of any type shall be issued to any location which is within 50 feet of any single-family dwelling. The distance shall be measured from the nearest point of the proposed business to the nearest point of the residential building along or across the closest public right-of-way.

(c) *Alcoholic treatment center.* No permits shall be issued to any location which is within 100 yards of any alcoholic treatment center.

(d) *Exceptions.*

- (1) Permits in existence at the time of the passage of the ordinance form which this article is derived are exempt from the aforementioned distance requirements as they pertain to existing single-family dwellings.
- (2) For the purposes of this article multifamily dwellings and/or loft apartments existing or constructed in a commercial area ((C-1), (C-2), (C-3)) do not qualify as single-family dwellings.

(Ord. No. 18-2007, § 4.32.09, 2-20-2007)

**State law reference**—Location restrictions, A.C.A. § 3-4-206.

### **Sec. 6-36. Operating without a city permit.**

(a) *Beer or light wine.* Any person who sells, serves, barters, dispenses, exchanges or gives away beer or light wine at an establishment or event open to the public without having a valid city permit as provided by this chapter shall, upon conviction, be deemed guilty of a class B misdemeanor. Each day of such operation

without a valid city permit shall constitute a separate and distinct offense. This section is in no way intended to restrict activities in private residences when there is no charge to attend or no sale of alcohol is occurring, providing no other state or local laws are being violated.

(b) *On-premises consumption, including private clubs.* Any person who sells, serves, dispenses, barters, exchanges or gives away controlled beverages at an establishment or event for on-premises consumption without having a valid city permit as provided by this chapter shall, upon conviction, be deemed guilty of a class B misdemeanor. Each day of such operation without a valid city permit shall constitute a separate and distinct offense.

(c) *General.* Any person, except as provided in subsection (a) and (b) of this section, who sells, serves, barters, dispenses, exchanges or gives away controlled beverages, without having a valid city permit as provided in this chapter shall, upon conviction, be deemed guilty of a class B misdemeanor. Each day of such operation without a valid city permit shall constitute a separate and distinct offense. This section is in no way intended to restrict activities in private residences when there is no charge to attend or no sale of alcohol is occurring, providing no other state or local laws are being violated.

(Ord. No. 18-2007, § 4.32.28, 2-20-2007)

**State law reference**—Beer and light wine, A.C.A. § 3-5-201 et seq.

### **Sec. 6-37. Zoning requirements for business location.**

No permit to dispense alcoholic beverages shall be issued unless the location

has been zoned for retail commercial on the city zoning map. Such dispensing of alcoholic beverages shall occur in commercially zoned districts which shall include C-1, downtown core commercial district and C-3, general commercial district. Dispensing of alcoholic beverages may be permitted in the C-2, downtown fringe commercial or I-1, limited industrial district only after review and approval as a conditional use by the Metropolitan Area Planning Commission (MAPC).

(Ord. No. 18-2007, § 4.32.10, 2-20-2007)

**State law reference**—Location restrictions, A.C.A. § 3-4-206.

**Sec. 6-38. Fraud and misrepresentation by applicant.**

(a) Any person who acquires a permit or a renewal of same, in violation of this chapter by any misrepresentation or fraudulent statement shall be deemed guilty of an offense and upon conviction thereof shall be punished in accordance with the penalties outlined in this chapter.

(b) Any untrue or misleading information contained in, or material omission left out of, an original, renewal or transfer application for a permit shall be cause for the denial thereof and, if any permit has been granted under these circumstances, there shall be cause for the revocation of the permit.

(Ord. No. 18-2007, § 4.32.12, 2-20-2007)

**Sec. 6-39. Issuance; payment of fee.**

(a) All permits must be obtained and fees paid not later than two weeks from the date of the delivery of the application to the city and, if not so obtained, the issuance granted by the city shall lapse.

(b) When a permit has been issued and the applicant has deposited with the city the required fee, the fee shall be paid to the municipal revenue collector and a permit issued.

(Ord. No. 18-2007, § 4.32.13, 2-20-2007)

**Sec. 6-40. Business to open within six months from permit issuance.**

All holders of permits shall, within six months after the issuance of the permit, open the establishment referred to in the permit for business and begin dispensing the products authorized by the permit. Failure to open the establishment and begin business within the six-month period required in this section shall serve as automatic forfeiture and cancellation of the unused permit, and no refund of permit fees shall be made to the permit holder.

(Ord. No. 18-2007, § 4.32.16, 2-20-2007)

**Sec. 6-41. Effect of failure to operate business for six consecutive months.**

Any holder of a permit who shall begin the operation of the business and dispensing the products as authorized in the permit, but who shall, for a period of six consecutive months thereafter, cease to operate the business or dispensing the products authorized in the permit, shall upon completion of the six-month period automatically forfeit the permit, which permit shall, by virtue of that failure to operate, be canceled without the necessity of any further action of the city.

(Ord. No. 18-2007, § 4.32.17, 2-20-2007)

**Sec. 6-42. Fee payment dates; proration; delinquency penalty.**

All permit fees shall be paid between December 1 and December 31 each year. Permits obtained after June 30 of each year shall pay one half of the annual fee. Delinquent permit fees shall be subject to a delinquent penalty of 25 percent of the permit fee for each 30-day period the fee remains unpaid.  
(Ord. No. 18-2007, § 4.32.19, 2-20-2007)

**Sec. 6-43. Term of permit.**

No permit shall issue for more than the remainder of the calendar year, and all shall expire at midnight, December 31 of each year. In case of the revocation or surrender of such permit before the expiration of such calendar year period, the holder thereof shall not be entitled to receive any refund whatsoever.  
(Ord. No. 18-2007, § 4.32.20, 2-20-2007)

**Sec. 6-44. Transferability.**

(a) Permits to engage in the business of dispensing alcoholic beverages shall not be transferable, except as otherwise provided herein. Provided however, that if the modification of this chapter since the issuance of the prior permit would prevent the issuance of a new permit at the same location previously permitted because of modifications in the distance requirements, then the location shall be considered a nonconforming use and a permit may issue if the applicant otherwise meets the requirements of this chapter.

(b) All applications for transfer of locations shall comply with the provisions herein set forth governing new permits and shall include an investigation fee.  
(Ord. No. 18-2007, § 4.32.21, 2-20-2007)

**Sec. 6-45. Notice of transfer of business.**

Should any alcoholic beverage permit holder make a request to the Alcoholic Beverage Control Division to transfer their permit to another location, individual or organization, the police chief shall be notified in writing of such request within seven days.  
(Ord. No. 18-2007, § 4.32.22, 2-20-2007)

**Sec. 6-46. Display required.**

Every person or organization issued a permit pursuant to this chapter shall be required to display this permit in the same location as is displayed the state controlled beverage permit.  
(Ord. No. 18-2007, § 4.32.23, 2-20-2007)

**Sec. 6-47. Suspension or revocation.**

(a) Whenever the state shall revoke any permit, the city permit to deal in such products shall thereupon be automatically revoked without any action by the city or any municipal officer.

(b) No permit which has been issued or which may hereafter be issued by the city shall be suspended or revoked, except for due cause, and after notice and a hearing. Such notice shall include the time, place and purpose of the hearing and a statement of the charge upon which such hearing shall be held and shall give a reasonable time to prepare a defense.

(c) Due cause for the suspension or revocation of such permit shall consist of the violation of any laws or ordinances regulating such business, or violation of regulations made pursuant to authority granted for the purpose of regulating such business, or for the violation of any state or federal law related to alcoholic beverages, gambling, narcotics or any crime of moral turpitude. Such violation may be an act of the permittee or of any agent, officer or employee of the permittee.

(d) Hearings shall be conducted by the public safety committee, with the chairperson of the committee acting as the presiding officer of the hearing. At any hearing the permittee shall have the right to represent himself or be represented by counsel, may cross examine all witnesses offered by the city, and may present evidence in his own behalf. Evidence, including testimony, may be tendered by affidavit. Formal rules of evidence shall not apply to hearings under this section, although the fact finder shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation. Both the city and the permittee shall have the right to present witnesses. The public safety committee shall render a decision by majority vote in writing within ten working days of the completion of the hearing.

(e) If, after the hearing, the public safety committee finds a violation has occurred, the permit may be placed into probationary status, suspended or revoked depending upon the severity, facts and circumstances of the violation or violations. If any offenses occur during an active pro-

bationary period, the permit shall be revoked. Once this decision is rendered by the public safety committee a permittee has the right to appeal the decision to the full city council within ten working days for consideration.

(f) In the event a permit is revoked pursuant hereto, no permit shall be issued to the same person, for a period of five years.

(Ord. No. 18-2007, § 4.32.24, 2-20-2007)

#### **Sec. 6-48. Furnishing to/consumption by minors.**

(a) Any person who shall unknowingly sell, give away or otherwise dispose of intoxicating liquor to a minor shall be guilty of a violation and punished by a fine of not less than \$200.00 nor more than \$500.00 for the first offense. For the second and subsequent offenses, a person shall be guilty of a class A misdemeanor.

(b) It shall be unlawful for any person to knowingly give, procure or otherwise furnish any alcoholic beverage to any person under 21 years of age, other than one's family or for the use of wine in a religious ceremony or rite in any established church or religion. Upon a first conviction, a person shall be guilty of a class C misdemeanor. Upon a second conviction within three years, a person shall be guilty of a class D felony.

(c) It shall be unlawful for any person to knowingly sell or otherwise furnish for money or other valuable consideration any alcoholic beverage to any person under 21 years of age. Upon a first conviction, a person shall be guilty of a class D felony. Upon a second conviction within

five years a person shall be guilty of a class C felony and may be punished in accordance with law.

(d) Any person under the age of 21 years who purchases or has in his possession any controlled beverage shall, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than \$100.00 nor more than \$500.00.

(Ord. No. 18-2007, § 4.32.27, 2-20-2007)

**State law references**—Unknowingly furnishing or selling to minor, A.C.A. § 3-3-201; knowingly furnishing or selling to minor, A.C.A. § 3-3-203; purchase or possession by minor, A.C.A. § 3-3-203.



Chapters 7—9

**RESERVED**





## Chapter 10

### **ANIMALS\***

#### **Article I. In General**

- Sec. 10-1. Cruelty.
- Sec. 10-2. Dangerous animal at large prohibited; permit required to exhibit.
- Sec. 10-3. Killing dangerous animals.
- Sec. 10-4. Noises.
- Sec. 10-5. Running at large.
- Sec. 10-6. Diseased animals.
- Sec. 10-7. Keeping of swine.
- Sec. 10-8. Stables, etc., to be kept clean.
- Sec. 10-9. Interfering, tampering, etc., with city kennel.
- Sec. 10-10. Limitations and restrictions on keeping of domestic animals and/or fowl.
- Sec. 10-11. Keeping of lion prohibited.
- Secs. 10-12—10-42. Reserved.

#### **Article II. Dogs**

##### Division 1. Generally

- Sec. 10-43. Definitions.
- Sec. 10-44. Vicious dogs.
- Sec. 10-45. Number of dogs regulated.
- Sec. 10-46. Vaccination required; tag to be worn.
- Sec. 10-47. Confinement of dogs.
- Sec. 10-48. Dangerous dogs.
- Sec. 10-49. Tag required; disposition of untagged dogs.
- Sec. 10-50. Running at large.
- Sec. 10-51. Diseased dogs; disposition.
- Sec. 10-52. Dogs suspected to be rabid.
- Sec. 10-53. Barking and howling.
- Sec. 10-54. Inspection and confinement of certain dogs.
- Sec. 10-55. Condition of pens and premises.
- Secs. 10-56—10-85. Reserved.

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\***State law references**—Authority to legislate on matters pertaining to municipal affairs A.C.A. § 14-63-601 et seq.; general authority to regulate animals, A.C.A. § 14-54-1101 et seq.

## JONESBORO CODE

### Division 2. Impoundment

Sec. 10-86. Dogs impounded; how redeemed.

Sec. 10-87. Public notice.

Sec. 10-88. Claiming impounded animal.

## ARTICLE I. IN GENERAL

### Sec. 10-1. Cruelty.

No person shall cruelly treat any animal within the city in any way. Any person who inhumanely beats, underfeeds, overloads or abandons any animal shall be deemed guilty of a misdemeanor. (Code 2006, § 6.04.01; Ord. No. 952, art. 1, § 1)

**State law reference**—Similar provisions, A.C.A. § 5-62-101.

### Sec. 10-2. Dangerous animal at large prohibited; permit required to exhibit.

It shall be unlawful to permit any dangerous animal or vicious animal of any kind to run at large within the city. Exhibitions or parading of animals which are *ferae naturae* in the eyes of the law may be conducted only upon securing a permit from the chief of police.

(Code 2006, § 6.04.02; Ord. No. 952, art. 1, § 2)

### Sec. 10-3. Killing dangerous animals.

The members of the police department and any other person in the city are authorized to kill any dangerous animal of any kind when it is necessary for the protection of any person or property.

(Code 2006, § 6.04.03; Ord. No. 952, art. 1, § 5)

### Sec. 10-4. Noises.

It shall be unlawful to harbor or keep any animal or fowl which disturbs the

peace and quiet by loud, unusual or obnoxious noises at any time of the day or night.

(Code 2006, § 6.04.04; Ord. No. 952, art. 1, § 3)

### Sec. 10-5. Running at large.

It shall be unlawful to permit any cattle, horses, swine, sheep, goats or poultry or any other animals of like kind to run at large in the city. It shall further be unlawful to picket or tie any such animal in any of the streets or street rights-of-way of the city for the purpose of grazing or feeding same. The owner of any such animal running at large or so picketed or tied shall be deemed guilty of a misdemeanor.

(Code 2006, § 6.04.05; Ord. No. 952, art. 1, § 4)

### Sec. 10-6. Diseased animals.

(a) No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at large or to be exposed to any public place wherever the health of man or beast may be affected, nor shall such diseased animal be shipped or removed from the premises of the owner thereof, except under the supervision of the animal control officer.

(b) It is hereby made the duty of the animal control officer to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagious or infection, except in cases where the state or city veterinarian is empowered to act.

(Code 2006, § 6.04.06; Ord. No. 2769, § A)

**Sec. 10-7. Keeping of swine.**

It shall be unlawful to keep any live swine within the corporate limits of the city.

(Code 2006, § 6.04.07; Ord. No. 952, art. 1, § 7)

**Sec. 10-8. Stables, etc., to be kept clean.**

No person shall cause or allow any stable or place where any animal is or may be kept to become unclean or unwholesome.

(Code 2006, § 6.04.08; Ord. No. 952, art. 1, § 6)

**Sec. 10-9. Interfering, tampering, etc., with city kennel.**

It shall be unlawful for any person excepting the kennel keeper and persons authorized by him to open the gate of the city kennel, or to break the lock thereon or to break down, injure, remove, deface or destroy the fence or gate enclosing the kennel, or any part thereof or to liberate in any manner any animals placed in the kennel.

(Digest 1934, § 5809; Code 2006, § 6.04.09)

**Sec. 10-10. Limitations and restrictions on keeping of domestic animals and/or fowl.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Owner* means every person, firm, corporation, association or household, when

the parties reside on the same property, keeping or harboring a domestic animal and/or fowl within the corporate limits of the city.

(b) *Limitation on number of domestic animals and/or fowl.* It shall be unlawful for any person to own or possess more than five domestic animals and/or fowl except cattle and horses, at any one time.

(c) *Restriction on keeping of horses and cows.* It shall be unlawful for any owner to maintain horses and cows within the corporate limits of the city within 150 feet of any residence, except that this subsection shall not apply to pasture lands which exceed two acres or more in area.

(d) *Animal control officer to enforce section.* The animal control officer shall be authorized to enforce this section and shall issue a warning to an owner giving said owner two weeks notice to remove said violation before a warrant of arrest is issued.

(e) *Exemptions.* Pet stores and veterinary hospitals shall be excluded from the provisions of this section.

(f) *Vaccination required.* It shall be the duty of said owner or person having the control of said each cat over three months of age to cause a metal vaccination tag to be securely attached around the cat's neck and kept there at all times.

(Code 2006, § 6.04.10(A)—(E), (G); Ord. No. 3179, § 1)

**Sec. 10-11. Keeping of lion prohibited.**

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Lion* means a large carnivorous mammal of the cat family.

(b) It shall be unlawful for any person to keep or harbor a lion within the city. (Code 2006, §§ 6.12.01, 6.12.02; Ord. No. 1886, §§ 1, 2)

**Secs. 10-12—10-42. Reserved.**

**ARTICLE II. DOGS**

**DIVISION 1. GENERALLY**

**Sec. 10-43. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Collector* means the city revenue collector or his duly authorized agent.

*Dangerous animal* means:

- (1) Any animal that attacks or bites a human being or domestic animals without provocation.
- (2) Any animal for which compelling evidence is presented to show that the animal manifests the disposition to bite, attack or injure a human being or other domestic animal while off the owner's premises and without provocation.

*Dogs* include animals of all ages, both female and male which are members of the canine or dog family.

*Muzzle* means appropriate material with sufficient strength to restrain the dog from biting. No such muzzle employed shall be made from any material or maintained on the dog in any manner so as to cut or injure the dog.

*Owner* means every person owning, keeping or harboring a dog within the corporate limits of the city.

*Severe injury* means any physical injury to a human being or domestic animal that results in muscle tears or disfiguring lacerations, or require multiple sutures or corrective cosmetic surgery.

*Unconfined* means an animal that is not securely confined indoors or confined in a securely enclosed and locked pen, as described hereinafter, or structure upon the premises of the owner.

*Vaccination* means an injection of any vaccine for rabies approved by the state veterinarian and administered by a licensed veterinarian or agent of the health officer.

*Vicious animal* means any of the following:

- (1) Any animal, which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being or domestic animal; or
- (2) Any animal previously determined to be and currently listed as a dangerous animal which, after its

owner or custodian has been notified of this determination, continues the dangerous behavior.

(Code 1962, § 4-16; Code 2006, § 6.08.01; Ord. No. 2126, §§ 1, 2; Ord. No. 3635, § 1, 4-19-2005; Ord. No. 3585, §§ 1, 2, 10-18-2005)

**Sec. 10-44. Vicious dogs.**

(a) When, upon investigation, the animal control department determines that an animal is vicious, the department shall impound the animal and shall notify the owner or custodian of the impoundment and declaration of the animal as vicious within 48 hours. If the owner or custodian is unable to be located, written notice shall be posted at the last known address.

(b) If the owner of the animal contests the animal control department's determination that the animal is vicious, the animal control department shall issue to the owner a citation to appear in the city municipal court for maintenance of a vicious animal. The animal shall remain in the custody of the animal control department pending the trial and the owner shall be responsible for boarding fees.

(c) An owner or custodian found guilty of violating this section may be required to pay the costs of boarding and veterinary care for said animal and shall be fined no less than \$100.00 and no more than \$500.00. The animal shall be surrendered to the department to ascertain whether the animal is rabid or otherwise diseased. Thereafter, the animal shall be euthanized.

(d) If an owner or custodian is convicted of a second or subsequent violation of this section, he may be imprisoned in the county jail for up to one year.

(e) It shall be an affirmative defense if the victim or intended victim of any attack has made an unlawful entry into the dwelling of the owner.

(f) This section shall not apply to dogs kept and maintained by a police department or law enforcement agency.

(Code 2006, § 6.08.02; Ord. No. 2126, §§ 3, 4; Ord. No. 3835, § 3, 10-18-2005)

**State law reference**—Penalties for ordinance violations, A.C.A. § 14-55-501 et seq.

**Sec. 10-45. Number of dogs regulated.**

It shall be unlawful for any person to own, keep or harbor more than five dogs over three months of age within the corporate limits of the city except that this provision shall not apply to proprietors of dog hospitals and veterinarians when such dogs are kept upon premises used by such dog hospital and veterinarians as their normal place of business. Keeping on the premises of the owner of more than five dogs shall be prima facie evidence of violation of this section and the burden of proof shall be on the owner to show the ages of such dogs.

(Code 2006, § 6.08.03; Ord. No. 2769, § B)

**Sec. 10-46. Vaccination required; tag to be worn.**

All dogs from three months of age kept in the city shall be vaccinated at least once a year against rabies and it is made the duty of all owners of dogs or persons having the possession or control of dogs within the city to have such animals vaccinated with vaccine against rabies in an amount, quantity and quality to be approved by the state veterinarian. It shall be the duty of said owner or person

having the control of said dog to cause a metal vaccination tag to be securely attached around the dog's neck and kept there at all times.

(Code 2006, § 6.08.04; Ord. No. 2769, § C)

**State law reference**—Rabies vaccination, A.C.A. § 20-19-202.

### **Sec. 10-47. Confinement of dogs.**

(a) *Access to water and shelter.* Any person owning or keeping a dog confined outside must provide the dog with access to fresh clean water and an appropriate dog shelter. The dog shelter must allow the dog to remain dry and protected from the elements. Such shelter shall be fully enclosed on three sides, roofed, and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of wind and rain. The shelter shall be small enough to retain the dog's body heat and large enough to allow the dog to stand and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage must be provided so that water is not standing in or around the shelter. The director of animal control shall have the authority to determine the suitability of a particular shelter should any questions arise and he shall make this determination based upon industry standards.

(b) *Dog pens.* Unless otherwise permitted under subsection d, outdoor dog pens shall be located 25 feet from any dwelling other than the person owning or controlling the dog. There shall be at least 75 square feet in such pen for each dog kept therein which is over six months of age over 20 pounds. Said pen shall be constructed of wood, metal or wire in such a

fashion and manner of construction as to prevent the animal from escaping and to prevent the animals head from protruding through any section or part thereof.

(c) *Tethering.* Unless otherwise permitted under subsections (d) and (e) of this section, it shall be unlawful for any person to tether, fasten, chain, tie, restrain or cause a dog to be fastened, chained, tied or restrained to houses, trees, fences, garages or other stationary or highly immobile objects by means of rope, chain, strap, or any other physical restraint for the purpose of confinement, except an adult dog age one year or over and less than 20 pounds may be so tied for a time period not to exceed two hours.

(d) *Trolley systems.* A trolley system is a method to confine a dog by tethering the dog to a cable that is no less than 15 feet in length and elevated seven feet off the ground in a manner that allows the tether to move freely along the length of the cable. Only one animal may be attached to each running cable line or trolley system. Unless otherwise permitted under subsection (d) of this section, it shall be unlawful for any person to confine a dog through the use of a trolley system as follows in subsections (d)(1) through (6) of this section:

- (1) For more than 12 consecutive hours or more than 18 total hours in any 24-hour period;
- (2) For a puppy under the age of three months to be attached to a running cable line or trolley system for more than one consecutive hour or more than eight hours in a 24-hour period;

- (3) For dogs that are not spayed or neutered for any period of time. Unaltered dogs must be in a completely fenced yard, defined within the same parameters as a "pen" to wit: "pen" shall be constructed of wood, metal or wire in such a fashion and manner of construction as to prevent the animal from escaping and to prevent the animals head from protruding through any section or part thereof, or housed indoors;
  - (4) That is located within 25 feet from any dwelling other than the person owning or controlling the dog;
  - (5) Any tethering system employed shall not allow the dog or puppy to leave the owner's property; or
  - (6) In a manner that poses harm to the dog, including without limitation:
    - a. The use of a collar or harness that is ill fitting or constructed of any material other than leather or nylon;
    - b. The use of a tether that exceeds one-fifth of the body weight of the dogs or ten pounds total weight; or
    - c. The use of trolley system in an area that contains hazards to the dog or deprives the dog of food, water, and shelter.
- (e) *Permitting.* The director of animal control is hereby authorized to issue permits to allow trolleying of a dog in a manner that would otherwise be prohibited by this section if the following criteria are met:
- (1) *Criteria.* No permit shall be issued unless the director determines that:
    - (i) unusual circumstances warrant confinement of the dog in this manner; (ii) the welfare of the dog will not be harmed by the confinement; and (iii) the neighborhood will not be adversely impacted by the confinement.
  - (2) *Inspection.* All permits issued under this subsection shall require consent to both scheduled and unscheduled inspections of the animal and confinement area.
  - (3) *Revocation.* The director shall revoke a permit issued under this subsection if:
    - a. The holder of the permit is convicted of any offense under local, state, or federal laws involving animal cruelty; or
    - b. An inspection indicates that the criteria authorizing the permit are no longer met.
  - (4) *Punishment.* Any revocation of permit will be accompanied by a fine of no less than \$250.00 and revocation of permit privileges.
  - (5) *No prohibition to hand-held leashes.* Nothing in this section shall be construed to prohibit walking dogs with a hand-held leash.
  - (f) *Fines.* Any person owning, possessing or keeping a dog which has been tethered contrary to the permitted allowances in this section shall be deemed guilty of a misdemeanor and shall, upon conviction for the first offense, be subject to a fine of \$75.00. If that same person is convicted of tethered contrary to the permitted allowances in this section a second time, said person shall be subject to a fine

of \$100.00; if a person is convicted of a third offense of tethered contrary to the permitted allowances in this section, that party shall be subject to a fine of \$450.00 and a summons/warrant to appear in court will be issued. Each subsequent offense shall constitute a fine of \$500.00, an issuance of a summons/warrant to appear in court, court costs and potential permanent removal of pet and a mandatory jail time of five days. The fine shall be in addition to all charges imposed upon said party in claiming and retrieving such dog from animal control. (Ord. No. 08:072, § 3(6.08.05), 3-17-2009)

**Sec. 10-48. Dangerous dogs.**

(a) *Confinement.* All dangerous dogs shall be securely confined as follows:

- (1) Indoors;
- (2) In a secure, enclosed, locked pen having minimum dimensions of five feet by 20 feet for each animal so designated. It must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet. All pens must be clean and sanitary at all times as well as provide protection from the elements. Electronic containment devices shall not be used to confine dangerous dogs;
- (3) When the dangerous animal is a dog, the owner shall not allow the dog to go outside its legal confinement as described in subsection (a)(2) of this section unless the dog is muzzled and restrained by a leash not more than four feet in

length, and under the physical control of a person capable of controlling the dog. The muzzle must not cause injury to the dog or interfere with its vision or respiration, but must prevent the dog from biting any human or other animal.

- (b) *Other provisions of ownership.*
  - (1) *Signs posted.* The owner of a dangerous dog shall display in a prominent place, on the owner's premises, a clearly visible warning sign indicating that there is a dangerous animal on the premises. The required signs must be purchased from the city animal control department. Signs and symbols must also be posted on the animal's pen. The name, address and telephone number of the owner or responsible person will be also posted on the animal's pen.
  - (2) *Identification and sterilization.* Within five working days of the declaration of an animal as dangerous, the owner or custodian shall surrender the animal to an animal control officer for proper identification and sterilization. Such identification shall include, at the owner's expense two clear color photographs of such animal clearly showing the color and approximate size of the animal and implantation of a microchip in the animal by a licensed veterinarian. Said animal shall also be spayed or neutered at the owner's expense.
- (c) *Change of ownership.* If the owner of a dangerous animal sells, gives away or otherwise transfers custody of the an-

imal, the owner shall, within five working days, provide the animal control department with the name, address and telephone number of the new owner or custodian. The previous owner shall notify the new owner of the animal's designation as a dangerous animal and of the requirements and conditions of keeping a dangerous animal and provide written proof thereof to the animal control department. In the event of the death, natural or otherwise, of the dangerous animal, the owner will be required to notify the animal control department for proper identification within 24 hours.

(d) *Impoundment.* If determined by the animal control department upon investigation that an animal is dangerous, the animal control shall impound the animal.

(e) *Escaped or at large dangerous animals.* Where an animal determined by the animal control department to be a dangerous animal has escaped and is at large, the owner or custodian is in violation of this section, and the animal control department shall:

- (1) Cause the owner to immediately seize and securely confine the animal, if the owner is readily ascertainable and available; or
- (2) Cause the animal to be immediately seized and impounded if the owner is not readily ascertainable and available.

Where an animal determined by the animal control department to be a dangerous animal has caused serious physical harm or death to any person, the animal control department shall cause said animal to be immediately seized and impounded. A dangerous animal may be killed if sei-

zure and impoundment are not possible without further risk of serious injury or death. Upon impoundment of an animal determined to be dangerous, the animal control department shall notify the owner, if known, that the animal has been determined a dangerous animal pursuant to this section by hand delivery, or by certified mail to the owner.

(f) *Impoundment period.* Should it become necessary to impound an animal under the provisions of this section the animal shall be impounded for a period of ten days at the end of which time the animal shall be destroyed in a humane manner unless custody of such animal is released prior thereto under the following additional conditions:

- (1) During the first six days of the ten-day impoundment, the animal control department shall make a diligent effort to determine the owner of the dangerous animal and notify the owner of the impoundment.
- (2) The owner may claim and repossess the animal by paying the cost of impoundment, and any other costs for complying with this section.
- (3) The owner must also execute an affidavit with the animal control department acknowledging that the owner will comply with this section.

(g) *Appeal.* If an animal owner who has received notice that his animal has been determined by the animal control department to be a dangerous animal feels that such determination was made in error, the owner may appeal the

department's decision within ten days after receiving the notice by requesting a hearing in the civil division of the county district court. Upon the request of this hearing, the animal control department will stay the destruction of the animal until the hearing. The owner will be required to pay any costs associated with the impoundment, pending the outcome of the hearing.

(h) *Fine.* Animal owners found in violation of this section shall be fined \$100.00 to \$250.00 for the first and second offense and \$250.00 to \$1,000.00 for the third and subsequent offenses.

(i) *Inspection.* The owner of any animal determined to be dangerous pursuant to this section shall consent to inspection of the property where the animal is kept upon 24 hours' notice by the animal control department. Said inspection shall be set at a reasonable time and in a reasonable manner to verify full compliance with the requirements of this section.

(Ord. No 3535, §§ 2, 3, 4-19-2005)

**Sec. 10-49. Tag required; disposition of untagged dogs.**

(a) All dogs within the corporate limits of the city shall be required to have attached to a collar or harness a tag which shall state the name, address and telephone number, if applicable of the owner.

(b) Any dog picked up without a tag shall be considered to be a stray or abandoned dog for the purposes of this section and may be humanely destroyed within 24 hours unless reclaimed by its owner within the 24 hour period.

(Code 2006, § 6.08.06; Ord. No. 1651, § 2)

**Sec. 10-50. Running at large.**

(a) *Prohibited.* No person owning, possessing or keeping a dog shall allow the same to run at large within the city. Certified police canines being utilized by law enforcement personnel in a valid law enforcement function or incident are exempted from the provisions of this section.

(b) *Fees and penalties.* Any person owning, possessing or keeping a dog which has been allowed to run at large within the city:

(1) Which has been impounded may retrieve such dog from the city pound kennel by a payment of a fee in the amount established by the council. The burden of proof to the vaccination of the dog shall be upon the party attempting to claim the dog from the animal control officer under this section.

(2) Shall be deemed guilty of a misdemeanor. The fine shall be in addition to all charges imposed upon said party in claiming and retrieving such dog from the city pound kennel.

(Code 2006, §§ 6.08.07, 6.08.19; Ord. No. 2316, § 1; Ord. No. 1633, §§ 1, 2)

**Sec. 10-51. Diseased dogs; disposition.**

The animal control officer shall immediately take any injured, ill or diseased dog to the city veterinarian who shall examine the dog or have the agent or employee examine the dog and shall determine whether or not the dog has contracted a disease or illness which is infectious or contagious to other animals or

humans or is injured to such an extent that the dog will not recover from its injury or is in severe pain and if it is determined by the city veterinarian or his agent or employee that the dog had contracted an infectious disease or is so injured or is in severe pain, the city veterinarian or his agent or employee shall immediately and humanely destroy the dog.

(Code 2006, § 6.08.12; Ord. No. 1651, § 3)

**Sec. 10-52. Dogs suspected to be rabid.**

Any dog having rabies or symptoms thereof or suspected of having rabies or which has been exposed to rabies shall immediately be released by the owner or custodian of such dog to the police or animal control officer of the city for disposal or confinement in a veterinary hospital approved by the city for a period of time specified by the state health department or the physician who treats the bite victim, whichever period is longer.

(Code 2006, § 6.08.13; Ord. No. 1805, § 1)

**Sec. 10-53. Barking and howling.**

It shall hereafter be unlawful for any person to keep on his premises, or under his control, any dog which by loud and frequent barking and howling shall disturb the peace and quiet of any reasonable person who may reside within reasonable proximity of the place where such dog is kept.

(Code 2006, § 6.08.14; Ord. No. 1266, § 13)

**Sec. 10-54. Inspection and confinement of certain dogs.**

(a) When any dog has bitten, scratched or otherwise attacked a person, that person or anyone having knowledge of such

incident shall immediately notify the city police department or animal control officer.

(b) Such dogs shall be confined at a veterinary hospital at the dog owner's expense, for a period of ten days as specified by the state health department or the physician who treats the bite victim.

(c) If the owner is able to provide proof of a rabies vaccination by a licensed veterinarian within the past 12 months, and the victim waives the requirement for confinement at a veterinary hospital, the animal may be confined, by the owner, and segregated from all other animals for a ten-day period.

(d) Failure to keep the dog confined will result in impoundment of the animal.

(e) At the end of the ten-day confinement, if confinement is by the owner, the dog must be made available for inspection by the animal control officer. If necessary the animal control officer can order the animal examined by a licensed veterinarian at the expense of the owner. (Code 2006, § 6.08.15; Ord. No. 2394, § 1)

**Sec. 10-55. Condition of pens and premises.**

It shall be unlawful for any person keeping or harboring dogs to fail to keep the premises where such dogs are kept free from offensive dog odors to the extent that such odors are disturbing to any person residing within reasonable proximity of the said premises; and it shall be unlawful to allow premises where dogs are kept to become unclean and a threat

to the public health by failing to diligently and systematically remove all animal waste from the premises.  
(Code 2006, § 6.08.16; Ord. No. 1266, § 15)

**Secs. 10-56—10-85. Reserved.**

**DIVISION 2. IMPOUNDMENT**

**Sec. 10-86. Dogs impounded; how redeemed.**

The owner of any dogs that are impounded under this division may redeem the same by paying all of the costs, charges and penalties assessed, if any, that have accrued up to the time of making the redemption, including the cost of having the dog vaccinated. When all the charges have been paid to the animal control officer, it shall be his duty to release the dog from the kennel and deliver him to the owner.

(Code 2006, § 6.08.09; Ord. No. 1804, § 1(b))

**Sec. 10-87. Public notice.**

(a) Immediately after impounding any dog pursuant to this division, it shall be the duty of the animal control officer to enter upon the records of the kennel in a book kept by him for such purposes, the following:

- (1) The date of impounding;
- (2) A description of the dog impounded; and
- (3) A record as to whether or not such dog has been vaccinated and tagged as required by the ordinances of said city.

(b) The book shall be open to the public for the inspection of any interested party.  
(Code 2006, § 6.08.10; Ord. No. 1804, § 1(c))

**Sec. 10-88. Claiming impounded animal.**

(a) Any person owning, possessing or keeping an animal which has been allowed to run at large and which has been impounded may retrieve such animal from the city kennel by payment of a fee in the amount established by the city council.

(b) Upon the third offense, the animal control officer shall issue a citation to the city municipal court.

(c) The reclamation of two or more animals by the same owner or household shall constitute separate charges.  
(Code 2006, § 6.08.11; Ord. No. 2352, § 1)



Chapters 11—13

**RESERVED**





## Chapter 14

### **AVIATION\***

- Sec. 14-1. Dropping handbills, printed matter, etc., from aircraft prohibited.
- Sec. 14-2. Municipal airport designated.

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\***State law reference**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.



**Sec. 14-1. Dropping handbills, printed matter, etc., from aircraft prohibited.**

(a) It shall be unlawful for any person to drop any handbill or printed matter or other object from the air, from any airplane or other craft, upon the city.

(b) It shall be unlawful for any person who is piloting or who is in control of an airplane or other aircraft, while in the air over the city, to permit or allow any person in the aircraft to use the aircraft for the purpose of dropping any handbill, printed matter or other objects from the aircraft.

(Code 1962, § 303; Code 2006, § 8.20.02)

**Sec. 14-2. Municipal airport designated.**

The following described real estate in the Western District of Craighead County, Arkansas, is designated as the municipal airport:

The northwest quarter and northeast quarter of southwest quarter of Section 22, Township 14 North, Range 4 East, less the right-of-way of the Missouri-Pacific and J.L.C. & E. (now Frisco) Railroads.

(Code 1962, § 3-1; Code 2006, § 8.20.01)



Chapters 15—17

**RESERVED**





## Chapter 18

### **CEMETERIES\***

- Sec. 18-1. Duty of sexton, undertaker, etc.
- Sec. 18-2. Monuments.
- Sec. 18-3. Grave containers.
- Sec. 18-4. Inspection of construction.
- Sec. 18-5. Repairs by the city; charges.
- Sec. 18-6. Driving.
- Sec. 18-7. Negligence.
- Sec. 18-8. Obstructing driveways.
- Sec. 18-9. Planting of trees and flowers.
- Sec. 18-10. Cost of lots and fees for opening graves.
- Sec. 18-11. Hours of operation.

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\***State law references**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.; authority as to cemeteries, etc., A.C.A. §§ 14-54-802, 14-54-803; death and disposal of the dead, A.C.A. § 20-17-101 et seq.



**Sec. 18-1. Duty of sexton, undertaker, etc.**

No sexton, undertaker, or other person shall assist in or assent to or allow any interment or aid or assist in preparing any grave or place of deposit for any body for which a permit has not been given authorizing the same.

(Code 1962, § 12-7; Code 2006, § 5.20.05)

**Sec. 18-2. Monuments.**

It shall be unlawful for any contractor or other person, to erect a monument or tombstone within any cemetery of the city unless the same shall be placed upon a concrete base, made perfectly level and all such monuments shall be constructed in a substantial and permanent manner and approved by the city sexton. Such approval shall be granted upon a showing that the work complies with all laws and ordinances.

(Code 2006, § 2.68.02)

**Sec. 18-3. Grave containers.**

Rigid outside containers made of concrete, metal or fiberglass shall be used for all burials in city cemeteries.

(Ord. No. 3527, § 1, 4-5-2005)

**Sec. 18-4. Inspection of construction.**

The city sexton is hereby authorized to inspect and to regulate the construction of the base or foundation for all monuments or tombstones and the construction of all monuments and tombstones and shall have authority to prevent erection of any such tombstone or monument, without proper foundations, or in a negligent, impermanent or unskillful manner.

(Digest 1934, § 784; Code 1962, § 6-3; Code 2006, § 2.68.03)

**Sec. 18-5. Repairs by the city; charges.**

If any person shall undertake to erect a monument or tombstone in the cemeteries of the city and on account of negligent or unskilled workmanship, or on account of the lack of foundation, the same shall become uneven or insecure, or shall sink or fail, or become in danger of doing so, then the city sexton may have the same repaired or made level and secure, and the charges for such work shall be paid, either by the person who erected the monument or tombstone or by the person controlling the lot, whereon it stands.

(Digest 1934, § 785; Code 1962, § 6-4; Code 2006, § 2.68.04)

**Sec. 18-6. Driving.**

It shall be unlawful for any person to drive any vehicle or cause it to be driven in any part of the cemetery owned or controlled by the city, except in driveways therein provided.

(Digest 1934, § 780; Code 1962, § 6-5; Code 2006, § 2.68.05)

**Sec. 18-7. Negligence.**

It shall be unlawful for any person to drive any vehicle within any cemetery of the city or permit it to be driven or to negligently or carelessly cause it to be drawn over, across or upon or against any of the walls or enclosures or any monuments upon or within any of the lots or graves of said cemeteries.

(Digest 1934, § 780-A; Code 1962, § 6-6; Code 2006, § 2.68.06)

**Sec. 18-8. Obstructing driveways.**

It shall be unlawful for any person to obstruct any driveway in any cemetery of

the city with any kind of material or substance used in protecting, ornamenting or decorating any lot or grave therein or to leave or permit to remain any rubbish or surplus material or substance within or upon any driveway or upon any lot or grave owned or controlled by another.

(Digest 1934, § 780-C; Code 1962, § 6-7; Code 2006, § 2.68.07)

**Sec. 18-9. Planting of trees and flowers.**

No shrubs or trees shall be planted in the city cemeteries. Persons planting such trees or shrubberies shall be assessed the cost of their removal by the city. Nothing herein shall prevent the city acting through its parks and recreation department, the cemetery division thereof, from landscaping and planting such trees, shrubberies and other plants in such spots as may be designated and directed by the director of the parks department.

(Code 2006, § 2.68.08; Ord. No. 2123, §§ 1, 2; Ord. No. 3462, § 1, 3-1-2004)

**Sec. 18-10. Cost of lots and fees for opening graves.**

Cost for all city-owned and controlled cemetery lots and fees for opening graves shall be established by the city council. Twenty-five percent of the selling price of each lot shall be designated for perpetual care of the cemetery.

(Code 2006, § 2.68.09)

**Sec. 18-11. Hours of operation.**

(a) All cemeteries shall be closed from one-half hour after sunset until one-half hour before sunrise the following day.

(b) The closing time of a cemetery, or any portion thereof, may be extended or shortened by the director of parks, recreation and cemeteries when necessary to accommodate or regulate any permitted activity.

(c) For purposes of security or public safety, the director may exclude members of the public, on a temporary basis, from a cemetery or any portion thereof, including any trail or road, when it is determined by the director, the director of public safety, or the mayor that such closing is necessary to protect public safety or public property. No person shall enter or remain in any cemetery, any portion thereof, or any trail or road that has been ordered closed.

(d) No person shall enter or remain in any cemetery during the hours it is closed. (Code 2006, § 2.68.10; Ord. No. 3358, §§ 1—7)

Chapters 19—21

**RESERVED**





## Chapter 22

### COMMUNITY DEVELOPMENT\*

#### Article I. In General

Secs. 22-1—22-18. Reserved.

#### Article II. Economic Development Grant Program

Sec. 22-19. Established.

Sec. 22-20. Purpose.

Sec. 22-21. Funds.

Sec. 22-22. Recipients.

Sec. 22-23. Information on forms.

Sec. 22-24. Application.

Sec. 22-25. Grantee's report.

Sec. 22-26. Monitoring funds.

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\***State law reference**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.



**ARTICLE I. IN GENERAL****Secs. 22-1—22-18. Reserved.****ARTICLE II. ECONOMIC  
DEVELOPMENT GRANT  
PROGRAM****Sec. 22-19. Established.**

There is hereby established the Jonesboro Economic Development Grant Program, to be administered by the mayor or his designee, appointed by him with the advice and consent of the city council. (Code 2006, § 2.84.01; Ord. No. 2198, § 1)

**Sec. 22-20. Purpose.**

(a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Economic development* means any activity related to the encouragement of the location, relocation, creation or development of a business, industry, manufacturing facility, transportation facility or other economic unit which creates jobs, employs people or generates economic activity.

(b) *Purpose.* It shall be the purpose of this program, established under the provisions of the city and county Economic Development Grant Authority Act (A.C.A. § 14-173-101 et seq.), to award grants to certain nonprofit corporations to be used by the grantee in aiding or assisting or

otherwise promoting economic development throughout the city and an area adjacent thereto.

(Code 2006, § 2.84.02; Ord. No. 2198, § 2)

**Sec. 22-21. Funds.**

Funds available for this program shall be as may from time to time be appropriated by the city council, and no awards shall be made unless funds are on hand to satisfy the award.

(Code 2006, § 2.84.03; Ord. No. 2198, § 3)

**Sec. 22-22. Recipients.**

Recipients eligible for grants shall include, but not be limited to, local industrial development corporations, the local chamber of commerce, or other nonprofit corporation having as its primary corporate function and activity the promotion and support of economic development within the city or any portion thereof, under the definition of economic development in section 22-20.

(Code 2006, § 2.84.04; Ord. No. 2198, § 4)

**Sec. 22-23. Information on forms.**

The administrator shall establish and provide application forms to be used by all applicants. Applicants shall be required to furnish, along with any other information required by the administrator, the following information:

- (1) Corporate, nonprofit status of applicant.
- (2) Evidence of purpose for which organized.
- (3) Names, addresses and telephone numbers of its officers, and, if different, its executive committee members.

- (4) Description of current activities of applicant.
- (5) Description of economic development project for which an award is requested, including a budget or other economic outline of financing.
- (6) Estimate of:
  - a. When funds will be needed;
  - b. Where grant can be paid in installments;
  - c. Estimate of time; and
  - d. Amount of each.
- (7) Description of projected final economic benefit when entire project, including the use of these grant funds, has been completed.

(Code 2006, § 2.84.05; Ord. No. 2198, § 5)

**Sec. 22-24. Application.**

Application shall be filed in triplicate with the administrator. The administrator shall have 30 days from the receipt of a satisfactorily completed application in which to approve or reject funding of a grant. No application shall be approved unless funds are available, unless the award is to be made in installments, in which case future installments shall always be conditioned upon appropriations by the city council. If funds are not available, the application shall be denied, but may be carried over for the next available appropriation, and considered at that time, being given preference only as to order of consideration, based on time of filing. Awards may be made for all or any part of the amount requested, at the discretion of the administrator.

(Code 2006, § 2.84.06; Ord. No. 2198, § 6)

**Sec. 22-25. Grantee's report.**

The grantees which have received funds from this program during the preceding calendar year, shall file a report with the city council and the administrator, no later than January 30. The report shall explain the exact amount of expenditures of the grant funds, the purpose for which the grant was awarded and expended and the economic development goals and objectives that were accomplished as a result of the expenditure.

(Code 2006, § 2.84.07; Ord. No. 2198, § 7)

**Sec. 22-26. Monitoring funds.**

The administrator shall establish a procedure for monitoring the ultimate expenditure of grant funds, to ensure that they are used in accord with the purposes for which they are awarded, and are expended in accord with all applicable state laws and local ordinances and procedures.

(Code 2006, § 2.84.08; Ord. No. 2198, § 8)

Chapters 23—25

**RESERVED**





## Chapter 26

### **EMERGENCY MANAGEMENT AND EMERGENCY SERVICES\***

#### **Article I. In General**

Sec. 26-1. Ambulance service standards.  
Secs. 26-2—26-20. Reserved.

#### **Article II. Civil Emergencies**

Sec. 26-21. Mayor's judgment to declare; impose curfew.  
Sec. 26-22. Congregating, etc., on streets during curfew prohibited.  
Secs. 26-23—26-47. Reserved.

#### **Article III. Emergency 911 System**

Sec. 26-48. System implemented.  
Sec. 26-49. Funding.  
Sec. 26-50. Collection.  
Sec. 26-51. Service charge.  
Sec. 26-52. Administrative fee.  
Secs. 26-53—26-77. Reserved.

#### **Article IV. Burglar and Fire Alarms**

Sec. 26-78. Purpose.  
Sec. 26-79. Definitions.  
Sec. 26-80. Installation and response.  
Sec. 26-81. False alarms—Errors, mistakes or malfunctions.  
Sec. 26-82. Same—Intentional; penalty.  
Sec. 26-83. Failure to pay fines; authority of chief of police or fire chief.

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\***State law references**—Arkansas Emergency Services Act of 1973, A.C.A. § 12-75-101 et seq.; authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.



**ARTICLE I. IN GENERAL****Sec. 26-1. Ambulance service standards.**

(a) No person shall furnish, operate, maintain, conduct, advertise or in any way engage in or profess to engage in the business of providing emergency or nonemergency transport of patients upon the streets and highways of the city unless that person shall provide a standard of service equal to or greater than the specific standards of paramedics as defined by the rules and regulations pertaining to emergency medical services as promulgated by the state pursuant to the Emergency Medical Services Act (A.C.A. § 20-13-201 et seq.). Each company must operate/maintain its business from a physical address within the city.

(b) No person shall furnish, operate, maintain, conduct, advertise or in any way engage in or profess to engage in the business of providing emergency or nonemergency transport of patients upon the streets and highways of the city unless that person shall provide a standard of service equal to those set out in the following guidelines:

- (1) An ambulance service must operate four paramedic level ambulances between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Each service must have sufficient staff on hand to operate four paramedic level ambulances. This number would include units that are on transports outside the city. Any stretcher ambulance service must meet all criteria as set forth within this section, as accepted by the city council for the

city, and follow the standards according to the state department of health rules and regulations.

- (2) An ambulance service must operate two paramedic level ambulances between the hours of 5:00 p.m. and 8:00 a.m., Monday through Friday, and 24 hours a day on Saturday and Sunday.
- (3) Upon annual renewal of an ambulance service license, each ambulance service will be required to submit a copy of the license renewal, issued by the EMS and trauma system division of the state department of health, to the director of the E-911 communications center, within 30 days of the inspection. If there is an unsatisfactory inspection of the ambulance service during annual inspections, the inspections must be reported to the director of the E-911 communications center within 24 hours, and an explanation will be required of how the deficiencies will be corrected.
- (4) Upon receiving any written formal complaint from the EMS trauma systems division of the state department of health, against any ambulance service, paramedic or EMT of that service, a copy of that complaint will be submitted to the director of the E-911 communications center for the city within 24 hours of receiving the complaint.
- (5) Complaints received regarding patient care and/or response times regarding an ambulance service, paramedic, or EMT operating in

the city shall be reviewed by the joint 911 advisory board in order to provide better service for the citizens of the county and the city.

- (6) The joint 911 board reserves the right to evaluate such complaints and determine a fair disciplinary basis for those variances, in order to correct those deficiencies. Such complaints may be handled in the following manner:
  - a. A written warning indicating the shortcoming and the punishment if the actions continue.
  - b. Thirty days suspension from receiving calls from the E-911 communications center.
  - c. Sixty day suspension from receiving calls from the E-911 communications center.
  - d. One year suspension from receiving calls from the E-911 communications center.
  - e. In the event of ongoing problems with any ambulance service doing business in the city, the city reserves the right to skip levels one, two, and three and suspend said company for one year, as described in subsection (b)(6)d of this section.
- (7) Any disciplinary actions ordered by the joint 911 board may be appealed to the board in writing within ten working days from receipt of said action.
- (8) An ambulance service must furnish to the city, proof of \$1,000,000.00 professional liability insurance coverage, to be forwarded to the director of the E-911 center for the city.
- (9) An ambulance service must furnish to the city, proof of \$1,000,000.00 liability insurance coverage for vehicles, to be forwarded to the director of the E-911 center for the city.
- (10) An ambulance service providing services in an emergency capacity must be licensed by the state department of health at a paramedic level.
- (11) An ambulance service providing services in an emergency capacity must employ personnel certified by the state department of health at a paramedic, EMT-I, or EMT-A level of certification.
- (12) An ambulance service must provide all city 911, fire, police and other standby calls at no charge to the city. Normal and customary rates may be charged to any patient transported.
- (13) An ambulance service must notify the E-911 communications center within two minutes of any 911 call received by them from the communications center, in the event such ambulance service is unable to respond to said call.
- (14) An ambulance service must have on-hand extrication equipment: Jaws of Life, cutter, spreader, and other extrication equipment, as directed by 911 policy, and compatible with the city's extrication equipment.

- (15) Any ambulance service wishing to be on the rotation list for the city will purchase and maintain an AVL (automatic vehicle locator) system on their ambulance units. Said system will be such that it is monitored by E-911 communications personnel and must be compatible with the city's AVL system.
- (16) A representative from the city police department will have the authority to inspect all ambulance companies doing business within the city. The purpose for the local inspections will be to ensure that all companies are fulfilling their obligations by maintaining the minimum level of paramedic ambulances as defined in subsection (b)(1) and (2) of this section.
- (c) The city council upon passage of the ordinance from which this section is derived agrees that two ambulance companies will be allowed to provide emergency medical services in the city, unless an air ambulance service is required, or in the event of a mass disaster which mutual aid may be required.
- (d) In the event that an ambulance service would discontinue providing emergency and nonemergency services for the city, a new EMS company would be allowed to operate in the city for a period of one year prior to being added to the E-911 rotation list with the 911 communication center. Said service must request and be approved to do business in the city from the city council.  
(Code 2006, § 8.12.07; Ord. No. 3478, §§ 1—5)

**Secs. 26-2—26-20. Reserved.**

## **ARTICLE II. CIVIL EMERGENCIES**

### **Sec. 26-21. Mayor's judgment to declare; impose curfew.**

The mayor, any time a condition which in his judgment constitutes a civil disturbance, riot, insurrection or time of local disaster has arisen or is imminent, may declare a state of emergency and impose a curfew for such time and for such areas as he deems necessary to meet such emergency. Provided, however; such curfew shall not extend a period of 48 hours unless extended by a majority vote of the members of the city council.

(Code 2006, § 7.08.01; Ord. No. 1171, § 1)

### **Sec. 26-22. Congregating, etc., on streets during curfew prohibited.**

No person shall congregate, operate any businesses or be upon the streets or other public ways, unless on official business for the city or state, in any area designated by the mayor as curfew areas in the city during the time of any declared emergency.

(Code 2006, § 7.08.02; Ord. No. 1171, § 2)

**Secs. 26-23—26-47. Reserved.**

## **ARTICLE III. EMERGENCY 911 SYSTEM**

### **Sec. 26-48. System implemented.**

An emergency response 911 system shall be implemented providing 24-hour 911 emergency dialing for all telephone systems within the city. The service shall be

linked directly to a computer system providing the callers address and telephone number to emergency personnel.

(Code 2006, § 2.92.01; Ord. No. 2283, § 1)

#### **Sec. 26-49. Funding.**

The service shall be funded pursuant to Arkansas Public Safety Communications Act (A.C.A. § 12-10-301 et seq.). Pursuant to this act a service charge of five percent shall be levied on the telephone tariff rate approved by the Arkansas Public Service Commission, for each telephone access line of any telephone system within the corporate limits of the city.

(Code 2006, § 2.92.02; Ord. No. 2283, § 2)

**State law reference**—Authority for above charge, A.C.A. § 12-10-318.

#### **Sec. 26-50. Collection.**

The percentage of the service charge may be modified by the city council from time to time as necessary to fund the operation of the 911 system and communications center by simple amendment to the ordinance from which this article is derived. Collection may be suspended for a short period of time if it is determined that adequate revenue is currently available.

(Code 2006, § 2.92.03; Ord. No. 2283, § 3)

#### **Sec. 26-51. Service charge.**

The service charge shall be collected by each telephone service provider who provides telephone access service within the corporate limits of the city. Collection shall begin at such time as all service suppliers establish appropriate billing collection procedures, which meet the approval of the city council.

(Code 2006, § 2.92.04; Ord. No. 2283, § 4)

#### **Sec. 26-52. Administrative fee.**

Revenue collected shall be remitted by the service provider to the city within 30 days after the close of each monthly billing period. The service suppliers shall be entitled to retain as an administrative fee, an amount equal to one percent thereof. The total amount collected to be handled in accordance with the proper 911 system and the city's finance procedures.

(Code 2006, § 2.92.05; Ord. No. 2283, § 5)

**State law reference**—Emergency 911 system, A.C.A. § 12-10-301 et seq.

#### **Secs. 26-53—26-77. Reserved.**

### **ARTICLE IV. BURGLAR AND FIRE ALARMS\***

#### **Sec. 26-78. Purpose.**

When the city has determined that a problem exists within the city as to the erroneous and mistaken use of burglar and fire alarms and those that are not installed and maintained properly and that this problem has resulted in increased service calls by the city police and fire departments and is creating a hazard to the members of those departments and to the general public, it is the city council's purpose to control that misuse.

(Code 2006, § 7.32.01; Ord. No. 1811, § 1)

#### **Sec. 26-79. Definitions.**

The following words, terms and phrases, when used in this section, shall have the

**\*State law reference**—Local regulation of alarm systems and installers, A.C.A. § 17-40-106.

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alarm system* means any assembly or equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry, fire or other activity requiring urgent attention to which police or firefighters are expected to respond.

*False alarm* means the following:

- (1) *Error or mistake.* Any action by any person or other entity owning or operating any dwelling, building or place or any action by an agent or employee of said person or other entity which results in the activation of an alarm system when no emergency exists.
- (2) *Malfunction.* An unintentional activation of any alarm system caused by a flaw in the design, installation or maintenance of the system. This shall not include any activation caused by violent conditions of nature or other extraordinary circumstances, not reasonably subject to control of the alarm user (i.e., thunderstorms, hail, wind storms, electrical storms, city power failures, etc.). Rain or wind, do not in and of themselves, constitute a violent condition.
- (3) *Intentional misuse.* Any intentional activation of an alarm system when no burglary, holdup, fire or other emergency is in progress.

(Code 2006, § 7.32.02; Ord. No. 1811, § 2; Ord. No. 3110, § 1)

**Sec. 26-80. Installation and response.**

(a) No alarm system shall be placed in service, after installation in any dwelling, business or place within the city until,

such time as notification of said installation shall have been given to the police or fire department. At the time of notification, alarm response, fines, and other procedures relating to false alarms shall be explained by police and/or fire personnel. In addition, companies in the business of installing alarm or security systems must make their customers aware of this article prior to activation of the system.

(b) Any person causing any alarm system to be installed in any dwelling, building or place shall, prior to placing such alarm in service, have in their possession the names, addresses and telephone numbers of at least two persons who shall have access to said dwelling, building or place, and the knowledge and ability to make said system secure in case of activation. They shall also have posted, the name, address and telephone number of any person responsible for servicing the alarm system.

(c) Alarms shall be monitored by the alarm installation company or the alarm notification/answering service retained by the user. They shall immediately advise the police and/or fire department when an alarm has been activated and make the information in subsection (b) of this section, available to the police or fire response personnel. Where no alarm notification/answering service is used, it is suggested the names of the two persons be posted in a conspicuous location for response personnel. This request will be made to the system owner or alarm company at the time the police or fire department is notified of an installation. The city police and/or fire departments shall not monitor alarm systems.

(d) The alarm company or the service agency retained to monitor said alarm system, in addition to notifying the police and/or fire departments, shall immediately notify the persons whose names are required in subsection (b) of this section. In addition, they will advise them to meet with response personnel at the alarm site to secure said premises and to reset the alarm. The police and/or fire department will respond to all alarms when notified.

(e) Should any person responsible for any alarm system, when notified of its activation, refuse to respond pursuant to subsection (c) of this section, the police and/or fire units on the scene shall check the property thoroughly and secure the location as much as possible. The city police and fire department shall not be required to make any further responses to that building, dwelling or place until such time as said alarm system has been properly reset.  
(Code 2006, § 7.32.03; Ord. No. 1811, § 2)

**Sec. 26-81. False alarms—Errors, mistakes or malfunctions.**

(a) No alarm system shall be activated by error, mistake or malfunction in any dwelling, building or place, when no emergency exists, which results in the response of the city police or fire department.

(b) Service charges in the amount established by the city council shall be levied upon any person owning or operating said dwelling, building or place for violation of subsection (a) of this section.  
(Code 2006, § 7.32.04; Ord. No. 1811, § 4; Ord. No. 3110, § 3)

**Sec. 26-82. Same—Intentional; penalty.**

(a) No person shall knowingly or intentionally activate any alarm system when no emergency situation exists.

(b) No person shall knowingly or intentionally test any alarm system without first notifying the city police department or fire department of such test and receiving approval for same.  
(Code 2006, § 7.32.05; Ord. No. 1811, § 5)

**Sec. 26-83. Failure to pay fines; authority of chief of police or fire chief.**

If any person fails to pay, within 30 days, any fine levied under section 26-80 or 26-81, it shall be the right of the police department and/or the fire department to notify such person that they will no longer respond to their alarms.  
(Code 2006, § 7.32.06; Ord. No. 3110, § 4)

Chapters 27—29

**RESERVED**





## Chapter 30

### **ENVIRONMENT\***

#### **Article I. In General**

- Sec. 30-1. Nuisances against public health.
- Sec. 30-2. Removal from private property.
- Secs. 30-3—30-21. Reserved.

#### **Article II. Lot Clearing and Cleaning**

- Sec. 30-22. Unlawful storage.
- Sec. 30-23. Violations.
- Sec. 30-24. Exceptions for large tracts of land.
- Sec. 30-25. Summons issuance.
- Sec. 30-26. Notice procedure; time limitations.
- Sec. 30-27. Responsibility for maintenance of commercial or industrial property.
- Sec. 30-28. Liens.
- Sec. 30-29. Weeds to be cut, etc.; removal of trash, etc., from lots; stagnant water.
- Sec. 30-30. Statement of costs.
- Sec. 30-31. Minimum requirements for weeds, vines, grass or low-hanging limbs.
- Secs. 30-32—30-52. Reserved.

#### **Article III. Mosquito Control**

- Sec. 30-53. Standing of water where mosquitoes may breed.
- Sec. 30-54. Treatment.
- Sec. 30-55. Evidence of mosquito breeding.
- Sec. 30-56. Unused wells, etc., to be covered.
- Sec. 30-57. Authority of code enforcement officer.
- Secs. 30-58—30-89. Reserved.

#### **Article IV. Open Burning**

- Sec. 30-90. Residential vegetation abatement.
- Sec. 30-91. Construction or site improvement burning.
- Sec. 30-92. Agricultural burning.
- Sec. 30-93. Prohibited acts.

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\***State law reference**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.

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- Sec. 30-94. Exceptions.
- Sec. 30-95. Nuisance or safety hazard.
- Sec. 30-96. Violations.

## ARTICLE I. IN GENERAL

### Sec. 30-1. Nuisances against public health.

It shall be a misdemeanor for any person, whether owner or tenant, to fail promptly to remove or abate any nuisance, source of foulness, offensive odors or cause of sickness hazardous to public health upon order of the code enforcement officer.

(Code 1962, § 12-1; Code 2006, § 5.20.01)

### Sec. 30-2. Removal from private property.

(a) The term "inoperable motor vehicle," for the purpose of this section, means a motor vehicle that is in a state of disrepair and incapable of being moved under its own power or one that does not have current, valid license plates.

(b) It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of such residential property for the open storage of any inoperable motor vehicle, icebox, refrigerator, stove, tires, glass, building material, paper, building rubbish and/or similar unsightly and unsanitary items.

(c) It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove all such items from the premises.

(d) Any owner or occupant that fails to remove an inoperable motor vehicle or all such previously listed and/or similar items, after written notice to do so from the office of the code enforcement officer, within ten days after receipt of said notice, shall

be in violation of this section and said items shall be removed by the city upon orders of county district court. If said property in violation of this section is owned by the owner of the real property and said items are removed by the city, a lien shall be imposed upon said real property from which it was removed. The city attorney is hereby authorized and directed to take the necessary legal action to establish and perfect a lien against such property.

(Code 1962, § 15-24.1; Code 2006, § 8.28.10)

### Secs. 30-3—30-21. Reserved.

## ARTICLE II. LOT CLEARING AND CLEANING\*

### Sec. 30-22. Unlawful storage.

It shall be unlawful for the owner or occupant of a commercial and/or residential building structure or property to utilize the premises of such property for the open storage of any icebox, refrigerator, stove, tires, building material, paper, building rubbish and/or similar unsightly and unsanitary items.

(Code 2006, § 5.16.21; Ord. No. 2124, § 1)

### Sec. 30-23. Violations.

Any owner or occupant that fails to remove all of the items listed in section 30-22 and/or similar items after written notice to do so from the office of the city code enforcement officer, within seven days after receipt of said notice, shall be

\***State law reference**—Authority to define and abate nuisances, A.C.A. § 14-54-104.

in violation of this article and shall be notified of said violation as described in section 30-25.

(Code 2006, § 5.16.23; Ord. No. 2124, § 2)

**Sec. 30-24. Exceptions for large tracts of land.**

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Buffer* means cutting of the grass, weeds, brush, vines, etc., completely around the tract of land to at least a width of 150 feet.

*Large tract of land* means any tract of land that is five acres and not a subdivision.

*Subdivision* means the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development.

(b) Buffers shall be allowed to be cut around any large tract of land that is not a subdivision provided, however, that if the tract of land is shown to be a danger to the public peace, health and safety, the entire tract will be cut.

(c) In the event of a conflict between the provisions of this section and other ordinances, this section shall control.

(Ord. No. 07:3137, §§ 1—4, 11-16-2007)

**Sec. 30-25. Summons issuance.**

If the owner or occupant of any lot or real property in the city shall permit any weeds, grass, garbage, rubbish, rotting or

dead limbs or trees or other thing or condition existing upon the property within 150 feet of a dwelling or structure to become unsafe, unsightly or unsanitary or maintain a condemned structure on the property, the city code enforcement officer is hereby authorized to issue a summons in person or by written notice citing the owner and/or occupant for violation of the provisions of section 30-29.

(Code 2006, § 5.16.17; Ord. No. 3435, § 1)

**Sec. 30-26. Notice procedure; time limitations.**

(a) If the owner or occupant of any lot or other real property in the city shall permit any garbage, rubbish or other thing or condition existing upon the property to become unsightly or unsanitary, the waste inspector officer shall give written notice by either hand or by mail, certified addressee only to said owner and/or occupant to remove such unsanitary or unsightly condition.

(b) If the condition has not been removed and/or corrected within seven days of posting the same where the owner is a nonresident and his whereabouts unknown, the waste inspector officer is hereby authorized to issue a summons in person citing the owner and/or occupant to municipal court for first offense violation of the provisions of this article. Such summons will require the appearance of the owner and/or occupancy and shall carry a fine of \$25.00 plus court costs.

(c) Upon failure of the owner and/or tenant to remedy said violation within ten days of the date cited for the first offense, the waste inspector officer is authorized to issue a second offense summons in the same manner as the first

offense summons, which shall carry an additional fine of \$100.00 plus court costs.

(d) Upon failure of the owner and/or tenant to remedy said violation within ten days to the date of the second summons, the waste inspecting officer is authorized to issue a third offense summons in the same manner as the first offense summons, which shall carry an additional fine of \$250.00 plus court costs. (Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 30-27. Responsibility for maintenance of commercial or industrial property.**

It shall be the duty and responsibility of every such owner or occupant to keep the premises of such commercial and/or industrial property clean and to remove all such items from the premises. (Code 2006, § 5.16.22; Ord. No. 2124, § 2)

**Sec. 30-28. Liens.**

The expenses of the city in correcting violations of this article shall become a lien in the manner provided in A.C.A. title 14, ch. 54, subch. 9 (A.C.A. § 14-54-901 et seq.).

**Sec. 30-29. Weeds to be cut, etc.; removal of trash, etc., from lots; stagnant water.**

It shall be unlawful for any person owning any lot or real property within the city to allow weeds to grow thereon to a greater height of more than 12 inches or to become unsightly or unsanitary, or to allow garbage, rubbish, rotting or dead limbs or trees and other unsafe, unsightly or unsanitary articles and things to accumulate on such lots and real property or to fail to eliminate, fill up or

remove stagnant pools of water or other unsanitary things or conditions which might become a breeding place for mosquitoes, flies and germs harmful to the health of the community.

(Code 2006, § 5.16.16; Ord. No. 3326, § 1)

**Sec. 30-30. Statement of costs.**

The code enforcement officer, acting on behalf of the city is authorized to assess a property fee in the amount established by the city council to cover the cost of administering the removal and correction of conditions described in section 30-25. This fee shall be in addition to the actual cost of the work involved in correcting the conditions and is to be in addition to any fines imposed by the district court.

(Code 2006, § 5.16.18; Ord. No. 3426, § 1, 8-4-2003)

**Sec. 30-31. Minimum requirements for weeds, vines, grass or low-hanging limbs.**

(a) It shall be unlawful for any person to have, keep, maintain, cause or permit within the city any weeds, vines, grass or low-hanging limbs on vacant lots, ditch banks or railroad rights-of-way or improved property in such a manner as to foster the harboring or breeding of mosquitoes.

(b) Weeds, grass or vines on such property as specified in this section shall be cut when same attain a height of 12 inches and vines and low-hanging limbs shall be cut when the same are shown to foster the harboring and breeding of mosquitoes. The presence of grass or weeds or vines of more than 12 inches in height on

such property shall be prima facie evidence that mosquitoes are breeding there and/or being harbored therein.

(c) Failure to cut such weeds and grass or vines shall be prima facie evidence of violation of this section and punishable as prescribed herein.

(d) All lands within the city limits cultivated to growing crops shall be exempt from this section, but only the area actually cultivated is appraised to be growing crops.

(e) Every person convicted of a violation of any provision of this section shall be fined not to exceed \$100.00 for the first offense and \$250.00 for subsequent offenses, within a year's time.  
(Code 2006, § 5.16.20; Ord. No. 1402, §§ 1—3)

**State law reference**—Penalties for ordinance violations, A.C.A. § 14-55-501 et seq.

**Secs. 30-32—30-52. Reserved.**

**ARTICLE III. MOSQUITO CONTROL**

**Sec. 30-53. Standing of water where mosquitoes may breed.**

It shall be unlawful for any person to have, keep, maintain, cause or permit within the city any collection of standing or flowing water in which mosquitoes breed, or are likely to breed, unless such collection of water is treated so as to eventually prevent such breeding. Collection of water in which mosquitoes breed or are likely to breed are those contained in ditches, pounds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells,

barrels, troughs, except horse troughs in frequent use, urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets or other similar water containers.  
(Code 2006, §§ 5.24.01, 5.24.02; Ord. No. 1016, § 1, 6-20-1960)

**Sec. 30-54. Treatment.**

It shall be unlawful to have water containers as specified in section 30-53 unless the same shall be treated by one or more of the following treatments under the supervision of the city inspector:

- (1) Screening with wire netting of at least 14 meshes each way to the inch or with any other material which will effectively prevent the ingress or egress of mosquitoes.
- (2) Complete emptying every seven days of unscreened containers together with their thorough drying or cleaning.
- (3) Using a larvicide approved and applied under the direction of the mosquito control personnel.
- (4) Cleaning and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito destroying fish.
- (5) Filling or draining to the satisfaction of the mosquito control personnel, his agent or accredited representative.
- (6) Proper disposal by removal or destruction of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water.

(Code 2006, § 5.24.03; Ord. No. 1016, § 2, 6-20-1960)

**Sec. 30-55. Evidence of mosquito breeding.**

The presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there and failure to prevent such breeding within ten days after notice by the code enforcement officer shall be deemed a violation of this article.

(Code 2006, § 5.24.04; Ord. No. 1016, § 3, 6-20-1960)

**Sec. 30-56. Unused wells, etc., to be covered.**

All unused cesspools, wells, cisterns or other places shall be filled up or covered with cement, mortar or other substances so as to prevent the ingress or egress of the mosquito.

(Code 2006, § 5.24.05; Ord. No. 671, §§ 1, 5, 6, 11-1-1937)

**Sec. 30-57. Authority of code enforcement officer.**

The code enforcement officer is authorized to enter any premises where mosquitoes are breeding and take the necessary steps to prevent such breeding. The cost of such work shall be a charge against the property owner.

(Code 2006, § 5.24.06)

**Secs. 30-58—30-89. Reserved.**

**ARTICLE IV. OPEN BURNING\***

**Sec. 30-90. Residential vegetation abatement.**

(a) In accordance with A.C.A. § 8-6-1703(d), instances of open burning of yard waste by residents are expressly discour-

\***State law reference**—Open burning of residential yard waste, A.C.A. § 8-6-1701 et seq.

aged within the corporate boundaries of the city. For the purpose of open burning, the term "yard waste" shall be defined in accordance with A.C.A. § 8-6-1701(2) as grass clippings, leaves, and shrubbery trimmings collected by a resident or property owner from residential property.

(b) Open burning of yard waste shall not be allowed unless the following conditions are met:

- (1) Yard waste materials to be burned may be placed in a pile no larger than three feet in diameter and two feet in height. No more than one pile may be burned at any given time by an individual resident or property owner.
- (2) Burning must be at least 25 feet from the nearest structure, and must be at least 25 feet from the nearest property line.
- (3) The fire must be attended at all times. The person attending the fire must have a charged hose and/or sufficient water supply available to completely extinguish the fire in the event that fire spread happens to occur.
- (4) Burning shall not commence before one hour after sunrise, and shall not extend beyond one hour before sunset.

(Code 2006, § 7.37.01; Ord. No. 3479, § 1)

**Sec. 30-91. Construction or site improvement burning.**

Open burning of trees, limbs or vegetation removed during the process of site improvement shall not be allowed unless the following conditions are met:

- (1) The site consists of a parcel of real estate no less than one acre in size.

- (2) The burning is to occur at least 100 feet from all property lines encompassing the parcel.
- (3) All surface vegetation must be removed from all surface areas adjacent to the burning materials for a distance of no less than 100 feet in all directions.
- (4) The fire must be attended at all times.
- (5) Notification must be given to the city fire department at least 24 hours prior to the intended burning of said trees, limbs or vegetation, and authorization must be obtained from the fire marshal, assistant chief, or chief of the city fire department before burning may begin.

(Code 2006, § 7.37.02; Ord. No. 3479, § 2)

**Sec. 30-92. Agricultural burning.**

Open burning in the course of agricultural operations shall not be allowed unless the following conditions are met:

- (1) The parameter of the parcel to be burned is tilled, disked or plowed in order to remove vegetation from the ground surface. Vegetation removal must be no less than 50 feet in width.
- (2) The fire must be attended at all times.
- (3) Burning shall not commence before one hour after sunrise, and shall not extend beyond one hour before sunset.

(Code 2006, § 7.37.03; Ord. No. 3479, § 3)

**Sec. 30-93. Prohibited acts.**

The following open burning practices shall be prohibited within the corporate boundaries of the city:

- (1) Open burning of trash, garbage, and/or rubbish by any resident or business for the purpose of incineration. Burn barrels or other makeshift containers shall not be considered sufficient for controlling fuel-air ratio mixtures and will not be allowed.
- (2) Open burning of construction waste of any kind on the premises of a construction site except as provided by A.C.A. § 8-4-305(8).
- (3) Open burning of materials resulting from remodeling, dismantling and/or demolition of structures or buildings.
- (4) Open burning of vegetation clippings generated by, or resulting from, commercial activities or establishments that provide lawn maintenance and/or grounds care services through the course of normal business activities.

(Code 2006, § 7.37.04; Ord. No. 3479, § 4)

**Sec. 30-94. Exceptions.**

Provisions of this article do not pertain to the following types of open burning:

- (1) Fires of a controlled and manageable nature used in the course of food preparation that incorporate the use of barbecue equipment, outdoor fireplaces, cooking grilles, or cooking pits specifically designated

and created for the preparation of food. However, such fires must be attended at all times.

- (2) Burning associated with road construction operations and the use of mobile and portable equipment and machinery incident thereto.
- (3) Fires allowed by the city fire department for the purpose of weed abatement or for the prevention and/or elimination of a fire hazard.
- (4) Instruction of fire department employees in methods of firefighting or for civil defense instruction.
- (5) Fires associated with ceremonial or recreational purposes so long as such fires comply with section 30-95. Furthermore, in such instances notification must be given to the city fire department at least 24 hours prior to the intended burning and authorization must be obtained from the fire marshal, assistant chief or chief of the city fire department before burning may begin.

(Code 2006, § 7.37.05; Ord. No. 3479, § 5)

**Sec. 30-95. Nuisance or safety hazard.**

Smoke emissions from permissible open burning shall not be allowed to become a nuisance or safety hazard. In the event that such emission are identified by the city fire department to be of an offensive nature to surrounding landowners and/or is determined to be detrimental to the general safety and well-being of the pub-

lic, the city fire department may require discontinuance of such open burning without recourse.

(Code 2006, § 7.37.06; Ord. No. 3479, § 6)

**Sec. 30-96. Violations.**

Violation of this article may result in fines and or imprisonment pursuant to A.C.A. §§ 5-38-302, 5-38-303, 5-38-310 and 8-6-1703, and any other applicable codes, regulations and laws as provided by state and federal statutes.

(Code 2006, § 7.37.07; Ord. No. 3479, § 7)



Chapters 31—33

**RESERVED**





## Chapter 34

### **FIRE PREVENTION\***

#### **Article I. In General**

- Sec. 34-1. Novelty lighters.
- Sec. 34-2. Selling or discharging.
- Sec. 34-3. Inspection and records.
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#### **Article II. Fire Prevention Code**

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- Sec. 34-36. Licensing of fire sprinkler, fire extinguisher, hood suppression, and fire alarm system contractors.
- Sec. 34-37. Acceptance test.
- Sec. 34-38. Inspections.
- Sec. 34-39. Correction of deficiencies.

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\***State law references**—Fire prevention generally, A.C.A. §§ 12-13-101 et seq., 20-22-201 et seq.; authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.



**ARTICLE I. IN GENERAL****Sec. 34-1. Novelty lighters.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Novelty lighter.*

- (1) The term "novelty lighter" means a lighter that has entertaining audio or visual effects, or that depicts logos, decals, art work, etc., or resembles in physical form or function articles commonly recognized as appealing to or intended for use by children ten years of age or younger. This includes, but is not limited to, lighters that depict or resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or play musical notes, or have flashing lights or other entertaining features. A novelty lighter may operate on any fuel, including butane or liquid fuel.
- (2) The term "novelty lighter" excludes any lighter which lacks fuel storage capabilities or a device necessary to produce combustion or a flame.

(b) *Prohibition.* The retail sale, offer of retail sale, gift or distribution of any novelty lighter within the city limits is prohibited.

(c) *Exception.* The prohibition in subsection (b) of this section is inapplicable to novelty lighters that are:

- (1) Only being actively transported through the city; or

- (2) Located in a warehouse closed to the public for purposes of retail sales.

(d) *Enforcement.* The provisions of this section shall be enforced by the fire marshal or police officers.

(Ord. No. 07:3164, § 1, 2-7-2008)

**Sec. 34-2. Selling or discharging.**

It shall be unlawful for any person to keep for sale or offer for sale, or to sell, shoot, fire or explode any firecrackers, Roman candles, skyrocket, toy pistols, torpedo or fireworks of any description within the corporate city limits. Any person found guilty of violating this article, shall be guilty of a class C misdemeanor, and fined an amount not to exceed \$500.00. (Code 2006, § 7.36.01; Ord. No. 2693, § 1)

**State law reference**—Fireworks, A.C.A. § 20-22-701 et seq.

**Sec. 34-3. Inspection and records.**

(a) The property owner or lessee shall be responsible for the inspection of the hydrants monthly to make sure they are not obstructed by storage, weeds, etc., conveniently accessible, visible and with caps in place. At least once a year, they shall be opened and closed to ensure proper operation and drainage, and shall be properly lubricated. Records shall be kept on the premises of these inspections and shall be available to the fire official.

(b) It shall be unlawful for any person to open or turn on or carry water from any public hydrant for private use or for the purpose of sprinkling any street or private property, without having first secured authority therefor in writing from the city water and light company.

(Digest 1934, § 897; Code 2006, §§ 7.32.09, 7.32.10; Ord. No. 2501, § 3)

**Secs. 34-4—34-26. Reserved.**

**ARTICLE II. FIRE PREVENTION CODE**

**Sec. 34-27. Purpose.**

(a) The purpose of this article is the practical safeguarding of persons, buildings and their contents from the dangers and hazards arising from fire and life safety emergencies.

(b) The requirements of this article constitute a minimum standard only. The provisions of this article shall not be regarded as a design specification or as an instruction manual.

(c) This article is not to affect the city fire department standard operating guidelines.  
(Ord. No. 08:036, § 1(11.28.01), 6-3-2008)

**Sec. 34-28. Adopted.**

There is hereby adopted by the city council of the city, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain codes known as:

- (1) The 2007 Arkansas Fire Prevention Code, Volumes I and II, including any and all future editions;
- (2) The National Fire Codes including any and all future editions thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended;

are hereby adopted and incorporated as fully as if set out at length herein and from the date on which the ordinance from which this section is derived shall

take effect, the provisions thereof shall be controlling within the municipal boundaries of the city.  
(Ord. No. 08:036, § 1(11.28.02), 6-3-2008)

**Sec. 34-29. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Authority having jurisdiction* means the city fire department, office of the fire marshal.

*Municipality* means the City of Jonesboro, Arkansas.  
(Ord. No. 08:036, § 1(11.28.03), 6-3-2008)

**Sec. 34-30. Department of fire prevention.**

(a) The department of fire prevention shall be established as the city fire marshals' office and shall be under the direct supervision of the city fire chief.

(b) The function of the fire marshals' office shall be the implementation, administration, and enforcement of the provisions of this article. Other duties to be performed by the fire marshals' office shall be established by the fire chief. These duties shall include, but are not limited to:

- (1) Public education;
- (2) Fire investigation;
- (3) Fire suppression; and
- (4) Training.

(Ord. No. 08:036, § 1(11.28.04), 6-3-2008)

**Sec. 34-31. Flammable and combustible liquids.**

(a) The storage and handling of flammable and combustible liquids and the installation and maintenance of related equipment shall comply with all current applicable NFPA and National Fire Prevention Code requirements, state fire prevention code requirements and be subject to the approval of the city fire marshals' office.

(b) Construction documents for new installations shall be submitted to the city fire marshals' office for review.  
(Ord. No. 08:036, § 1(11.28.05), 6-3-2008)

**Sec. 34-32. Liquified petroleum gases.**

(a) The storage and handling of LP gas and the installation and maintenance of related equipment shall comply with all current applicable NFPA and National Fire Prevention Code requirements, state fire prevention code requirements, and be subject to the approval of the city fire marshals' office.

(b) Construction documents for new installations shall be submitted to the city fire marshals' office for review.  
(Ord. No. 08:036, § 1(11.28.06), 6-3-2008)

**Sec. 34-33. Review of plans.**

All plans, drawings, construction documents, and proposals pertaining to public buildings submitted to the city for review shall be reviewed by the city fire marshals' office. The fire marshals' office shall review all documents submitted to ensure compliance with this article. All plans, drawings, construction documents, and proposals submitted to the fire marshals'

office shall meet the requirements set forth by the city and the fire marshals' office.

(Ord. No. 08:036, § 1(11.28.07), 6-3-2008)

**Sec. 34-34. Permits.**

(a) Any person desiring to install fire sprinkler systems, hood suppression systems, fire alarm systems and any life safety and or fire suppression systems that require a licensed contractor by the state shall, before commencing any work, apply for a permit from the city fire marshals' office. The person applying for a permit from the fire marshals' office must submit all information required by the fire marshals' office for the type of work to be performed. All such applications shall be reviewed by the city fire marshals' office. Only after a review by the fire marshals' office can an applicant receive a permit. Permit fees will be as established by the city council.

(b) It shall be unlawful to commence work until the fire marshals' office has issued a permit for such work.

(c) Before beginning any work, the person responsible for such work shall make application for a permit and shall pay all fees for such work. A double fee shall be assessed to any person commencing work prior to issuance of a permit, and for nonpayment of the fee for the permit.  
(Ord. No. 08:036, § 1(11.28.08), 6-3-2008)

**Sec. 34-35. Appeals.**

Whenever the fire marshals' office shall disapprove an application or refuse to grant a license or permit applied for or when it is claimed that the provisions of this article do not apply or that the true

intent and meaning of this article have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the fire marshals' office to the city council within 20 days.

(Ord. No. 08:036, § 1(11.28.09), 6-3-2008)

**Sec. 34-36. Licensing of fire sprinkler, fire extinguisher, hood suppression, and fire alarm system contractors.**

(a) All persons performing work that requires a license through the state shall maintain a current license for the type of work being performed. This work includes fire sprinkler systems, fire extinguishers, hood suppression systems and fire alarm systems.

(b) Only individuals holding a current state license in the respective discipline will be permitted to obtain a permit to do work in the jurisdiction of the city. No contractor shall allow any person or employee to work under his permit without that individual also having a current state license for the type of work being performed.

(Ord. No. 08:036, § 1(11.28.10), 6-3-2008)

**Sec. 34-37. Acceptance test.**

All work for which permits are required by this article shall have an acceptance test performed to verify proper operation. This test must be witnessed by a city fire marshal. The equipment being tested must meet all requirements set forth by the fire marshals' office before it may be accepted by the owner and put into operation or use. The person to whom any such permit is issued shall notify the

fire marshals' office and set an appointment for testing when the equipment is ready.

(Ord. No. 08:036, § 1(11.28.11), 6-3-2008)

**Sec. 34-38. Inspections.**

All public buildings within the city shall be inspected by the city fire department to verify life safety through code compliance. The frequency of inspections will be determined by the fire chief. The inspections shall be conducted by individual fire companies on shift or by the fire marshals' office. Where it is necessary to make an inspection to enforce the provisions of this article, or where the fire marshals' office has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this article which makes the structure or premises unsafe, dangerous or hazardous, individual fire companies or the fire marshals' office is authorized to enter the structure or premises at reasonable times to inspect or to perform duties imposed by this article; provided that if such structure or premises is occupied that credentials are presented to the occupant and entry requested. If such structure or premises is unoccupied, fire companies or the fire marshals' office shall first make a reasonable effort to locate the owner or other person having charge or control to the structure or premises and request entry. If entry is refused, the fire marshals' office shall have recourse to the remedies provided by law to secure entry.

(Ord. No. 08:036, § 1(11.28.12), 6-3-2008)

**Sec. 34-39. Correction of deficiencies.**

(a) If code violations are found, a form stating the violations shall be issued. If the violation warrants, immediate com-

pliance may be enforced. (Example: Locked or blocked exit doors.) The fire marshals' office shall conduct a followup inspection to verify compliance.

(b) If compliance is not achieved in a timely manner a warning notice can be issued by the fire marshals' office stating the number of days allowed for compliance. If compliance is not achieved in the time set forth on the warning notice, a court citation can be issued by the fire marshals' office. If necessary the fire marshals' office may issue multiple citations. If a building is found to have a condition that is immediately dangerous to life and health, the fire marshals' office may require all occupants to evacuate the property until the situation can be remedied. (Ord. No. 08:036, § 1(11.28.13), 6-3-2008)



Chapters 35—37

**RESERVED**





Chapter 38

**HEALTH AND SANITATION\***

**Article I. In General**

Secs. 38-1—38-17. Reserved.

**Article II. Clean Indoor Air Act**

Sec. 38-18. Fine.

Sec. 38-19. Municipal buildings.

Sec. 38-20. Smoking area.

Sec. 38-21. Definitions.

Sec. 38-22. Signs.

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\***State law reference**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.



**ARTICLE I. IN GENERAL****Secs. 38-1—38-17. Reserved.****ARTICLE II. CLEAN INDOOR AIR ACT****Sec. 38-18. Fine.**

Violation of this article, as related to all tobacco products other than smoking, which is governed by the Arkansas Clean Air Act of 2006 (A.C.A. § 20-27-1801 et seq.), shall be deemed a misdemeanor offense and punishable by a fine of not less than \$25.00 and not more than \$100.00.

(Code 2006, § 7.84.05; Ord. No. 2549, § 5; Ord. No. 3654, § 5, 7-6-2006)

**Sec. 38-19. Municipal buildings.**

The use of all tobacco products, be it smoked, chewed, dipped or in any way placed in direct contact with the mouth, is prohibited in all city-owned or leased buildings, vehicles and equipment.

(Code 2006, § 7.84.01; Ord. No. 2549, § 1; Ord. No. 3654, § 1, 7-6-2006)

**Sec. 38-20. Smoking area.**

Tobacco use areas shall be designated by the mayor of the city and shall be located a minimum of 25 feet from any building entrance so as not to affect the public or any other city employees.

(Code 2006, § 7.84.02; Ord. No. 2549, § 2; Ord. No. 3654, § 2, 7-6-2006)

**Sec. 38-21. Definitions.**

The following words, terms and phrases, when used in this article shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Smoking* means carrying or holding a lighted cigarette, cigar or pipe of any kind or the lighting, emitting or exhaling of smoke from a cigarette, cigar or pipe of any kind.

(Code 2006, § 7.84.03; Ord. No. 2549, § 3)

**Sec. 38-22. Signs.**

Tobacco use areas shall be designated by signs provided by the city administration.

(Code 2006, § 7.84.04; Ord. No. 2549, § 4; Ord. No. 3654, § 3, 7-6-2006)



Chapters 39—41

**RESERVED**





## Chapter 42

# LICENSES, PERMITS, AND MISCELLANEOUS BUSINESS REGULATIONS\*

### Article I. In General

Secs. 42-1—42-18. Reserved.

### Article II. Secondhand Dealers

Sec. 42-19. Definitions.  
Sec. 42-20. Registration.  
Sec. 42-21. Exemptions.  
Sec. 42-22. Log.  
Sec. 42-23. Notification to police of altered goods.  
Sec. 42-24. Pawnbrokers.  
Secs. 42-25—42-51. Reserved.

### Article III. Pool Rooms and Similar Places of Amusements

Sec. 42-52. Unobstructed interior view of premises.  
Sec. 42-53. Minors excluded.  
Sec. 42-54. Pool rooms, bowling alleys, etc.  
Sec. 42-55. Certain persons ineligible for license.  
Sec. 42-56. Term of license; license to designate location of business.  
Sec. 42-57. Amount of license fee.  
Sec. 42-58. Licenses not transferable; collector to issue; change in location of business.  
Sec. 42-59. Revocation of license; notice and hearing.  
Secs. 42-60—42-76. Reserved.

### Article IV. Taxicabs

#### Division 1. Generally

Sec. 42-77. Vehicle safety; maintenance; inspection.  
Sec. 42-78. Display of inspection certificate sticker required.  
Sec. 42-79. Requirements—Liability insurance.  
Sec. 42-80. Same—Vehicles identification.  
Sec. 42-81. Driver identification and rate card legibly posted.  
Sec. 42-82. Application for police permit requirements; fees.

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\***State law reference**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.

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Secs. 42-83—42-107. Reserved.

### Division 2. Permit

- Sec. 42-108. Required.
- Sec. 42-109. Application—Financial requirements.
- Sec. 42-110. Same—Notice and hearing.
- Sec. 42-111. Nontransferable.
- Sec. 42-112. Revocation; notice.
- Secs. 42-113—42-137. Reserved.

### Article V. Yard Sales

- Sec. 42-138. Definitions.
- Sec. 42-139. Notice to city.

**ARTICLE I. IN GENERAL**

**Secs. 42-1—42-18. Reserved.**

**ARTICLE II. SECONDHAND DEALERS\***

**Sec. 42-19. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Precious metals* means any form of gold, silver or platinum.

*Precious metals dealer* means a person dealing in or purchasing antique, used or scrap jewelry and precious metals, whether for cash or trade, and whether or not a fixed place of business is maintained for such purposes.

*Used auto dealer* means any person or entity engaged in the business of selling, offering to sell, soliciting, or advertising the sale of used motor vehicles which has been purchased by said person or entity for the purpose of resale, either on their own account or on behalf of another, either as their primary business or incidental thereto. The term "used auto dealer" does not include:

- (1) Receivers, trustees, administrators, executors, guardians or other persons or entities appointed by law or acting under judgments, decree or order of any court;

**\*State law reference**—Municipal authority to regulate pawnbrokers, A.C.A. § 14-54-103.

- (2) Public officers while performing their duties as officers;

- (3) Persons or entities whom are engaged in selling their own titled used motor vehicles which were acquired for purposes primarily other than resale to the public; or

- (4) Motor vehicle auctioneers as defined by state law.

(Code 2006, § 4.04.11; Ord. No. 1749, § 1; Ord. No. 2291, § 2)

**Sec. 42-20. Registration.**

Any person purchasing or otherwise dealing in antique, used or scrap jewelry and precious metal, where the said purchase is for resale in its original form or as changed by remounting, melting, reforming, remolding or recasting or for resale as scrap, or in bulk, shall be required to register with the chief of police of the city and sheriff of the county.

(Code 2006, § 4.04.12; Ord. No. 1749, § 2)

**Sec. 42-21. Exemptions.**

- (a) This article shall have no application to financial institutions chartered under state or federal banking laws, nor to security firms duly licensed under federal or state customers.

- (b) This article shall have no application to transactions involving loose teeth.

- (c) This article shall have no application to the purchase of coins except that when coins are purchased, the precious metal dealer must verify the seller's identification by taking down his name, address, driver's license and retain a complete description of the coins.

(Code 2006, § 4.04.17; Ord. No. 1749, § 7)

**Sec. 42-22. Log.**

Every person dealing in the items described in section 42-20 shall keep a log in duplicate and shall enter on said log a clear and accurate description of any items of jewelry or precious metals purchased and the date and amount of money paid for said items and the name, race and residence and address of the seller. The seller and the purchaser shall sign the log below the description of each transaction. On each day the purchaser shall transact business of the type described herein, he shall deliver to the sheriff and the chief of police of the county or city a copy of the log concerning that day's business, and said copy of said log shall be delivered by noon of the following date of said transaction. The said book shall be carefully preserved without alteration and shall at all times be opened to the inspection of the sheriff of the county and the chief of police or any deputy or police officer of the city or county.

(Code 2006, § 4.04.13; Ord. No. 1749, § 3)

**Sec. 42-23. Notification to police of altered goods.**

In the event any article sold to any person regulated by the article, which normally carry or have a serial number or other means of identification, which shall have said serial number or other means of identification removed, mutilated, defaced or destroyed, or melted down, such fact shall be immediately reported by the dealer to the chief of police or the sheriff or his duly authorized agent.

(Code 2006, § 4.04.15; Ord. No. 1749, § 5)

**Sec. 42-24. Pawnbrokers.**

(a) Under no circumstances shall a pawnbroker, or his agent, servant, and/or employee transact any business relating

to the pawning of merchandise with any individual under the age of 18 years. The city shall provide all necessary forms to the pawnbrokers located in the city and shall pick up said forms daily.

(b) Any individual who fails to provide the daily report or information required in this section or who shall conduct a transaction with an individual under the age of 18 years shall be subject to a fine for the first offense of no greater than \$100.00; for a second offense, an individual shall be fined no more than \$250.00 and for each subsequent offense, an individual shall be subject to a fine of no more than \$500.00.

(Code 2006, § 4.04.27; Ord. No. 1846, § 1)

**Secs. 42-25—42-51. Reserved.**

**ARTICLE III. POOL ROOMS AND SIMILAR PLACES OF AMUSEMENTS**

**Sec. 42-52. Unobstructed interior view of premises.**

The view from the sidewalk or street into any pool room or billiard hall shall not be obstructed by frosting or paint on the windows, by screens, blinds or other obstructions; and any owner, proprietor or manager of such hall or room who shall fail, neglect or refuse to remove any such obstruction after two days' notice to do so, either oral or written, from the chief of police or his deputy, shall be guilty of a misdemeanor.

(Digest 1934, § 886; Code 2006, § 4.04.34)

**Sec. 42-53. Minors excluded.**

It shall be unlawful for any person owning, controlling or managing any pool

room or billiard hall within the city to permit any person under the age of 18 years to play pool or billiards within such hall or place.

(Digest 1934, § 887; Code 2006, § 4.04.35; Ord. No. 1071, § 2)

**Sec. 42-54. Pool rooms, bowling alleys, etc.**

It shall be unlawful for any person to engage in the business of operating a billiard room, pool room, smoker room, a room or place where dominoes are played or bowling alley for a profit, without first having obtained a license and permit from the city.

(Code 2006, § 4.04.28; Ord. No. 721, § 1)

**Sec. 42-55. Certain persons ineligible for license.**

No license or permit to operate the businesses set out in section 42-54 shall be granted to any of the following persons:

- (1) Any person under the age of 18 years.
- (2) Any person who has not complied with all the laws of the state governing the laws of such places of business.
- (3) Any person who has had his permit or license issued for the operation of such business revoked by the state within two years prior thereto.

(Code 2006, § 4.04.29)

**Sec. 42-56. Term of license; license to designate location of business.**

Licenses and permits issued under section 42-54 shall expire on January 1 of each year and licenses and permits shall designate location and place of business. (Code 2006, § 4.04.31; Ord. No. 721, § 4)

**Sec. 42-57. Amount of license fee.**

The amount of the annual license fee shall be as established by the city council. The city council may permit the payment of a portion of the license fee for the remaining part of any year only after July 1 of any year.

(Code 2006, § 4.04.32; Ord. No. 1071, § 1)

**Sec. 42-58. Licenses not transferable; collector to issue; change in location of business.**

No licenses or permits issued under the authority of section 42-54 shall be transferable, and all licenses shall be issued by the city collector. No change in the location of the business may be made under the license.

(Code 2006, § 4.04.33; Ord. No. 721, § 6)

**Sec. 42-59. Revocation of license; notice and hearing.**

Any license or permit issued under the authority of section 42-54 may be revoked by the district court at a hearing before it, after notice to the licensee of the time and place of the hearing for any one of the following reasons:

- (1) The licensee has been convicted of a felony and is not entitled to be

granted a license because of lack of qualifications set out in section 42-55.

- (2) The licensee permits persons of low, degraded and immoral character to become habitues of such place, or permits known criminals to loiter around such places.
- (3) The licensee engages in, encourages or permits knowingly, the sale of alcoholic liquors in such places or permits gambling in such places of business.

(Code 2006, § 4.04.30; Ord. No. 721, § 3)

**Secs. 42-60—42-76. Reserved.**

**ARTICLE IV. TAXICABS\***

**DIVISION 1. GENERALLY**

**Sec. 42-77. Vehicle safety; maintenance; inspection.**

(a) It shall be unlawful for any person to drive or operate any taxicab within the city unless the taxicab is in good and safe operating condition and is equipped with proper brakes, lights, tires, horn, muffler, rear vision mirror and windshield wipers, and any other component which is necessary for the public's health, safety, and welfare. All taxicabs must meet the state inspection guidelines as required by the state and must display a state for hire license plate on each vehicle. All taxicabs must be kept in a clean and sanitary condition both inside as well as the outside of the vehicle. No taxicabs shall exceed eight years in age. It shall be an

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\***State law reference**—Local regulation of taxicabs, A.C.A. § 14-57-301 et seq.

exception to the age limits of the vehicles used as taxicabs within the city limits if said vehicle constitutes a limousine. For the purpose of this article, the term "limousine" means a vehicle mounted upon an enlarged or extended automobile chassis which chassis has been specially modified for operation as a luxury vehicle to provide additional seating capacity and amenities for the passengers. Any firm or individual desiring to use said vehicle and claim an exception under the provisions of this article, must comply with all other terms and conditions under the provisions of this article and first obtain a written waiver for operation of said vehicle in the city through application to the city.

(b) No operator shall operate and no driver shall drive a taxicab which is in an unsanitary condition or is mechanically unsafe so as to not comply with the standards of the state motor vehicle inspection for any reason whatsoever. The city administrator, or his designated agent is hereby authorized to order any operator and/or driver to immediately discontinue the use of any vehicle as a taxicab until specific, designated unsanitary conditions have been remedied and/or until such vehicle is in sufficient mechanical condition to be successfully reinspected by any designated station for the state motor vehicle safety inspection. The provisions of the preceding sentence shall be in addition to any other penalty or remedy provided for in this article.

(Code 2006, § 8.24.06; Ord. No. 2644, § 6)

**Sec. 42-78. Display of inspection certificate sticker required.**

It shall be unlawful for any person to operate any taxicab unless there is dis-

played upon the taxi in a conspicuous place in the lower left-hand corner of the front windshield, a sticker certifying that the taxicab has been duly inspected by the state and that it is in safe operating condition and that all of the required equipment is in good repair.

(Code 2006, § 8.24.07; Ord. No. 2644, § 7)

**Sec. 42-79. Requirements—Liability insurance.**

Before commencing to operate a taxicab, every operator shall deposit with the city collector a commercial policy of liability insurance, or a certificate of insurance, issued by a qualified insurance company duly licensed to transact such business in the state, such insurance to be in amounts as required by A.C.A. § 27-22-104. Such policy shall provide that it may not be canceled without first giving the city a ten-day written notice, and shall be valid for a period of no less than six months. The operator's license shall be suspended immediately at the end of the ten-day cancellation period, unless a new certificate of coverage is provided to the city collector. Copies of all subsequent renewals shall be provided as well.

(Code 2006, § 8.24.08; Ord. No. 2644, § 8)

**Sec. 42-80. Same—Vehicles identification.**

Each and every operator of a taxicab shall cause the trade or business name of the taxicab operator and a taxicab number, consisting of no more than two numerals to be shown on each side and the rear of each taxicab in contrasting colors and in letters and numerals not less than three inches in height. Each and every

taxicab shall have a lighted sign on the center of the roof for proper identification.

(Code 2006, § 8.24.09; Ord. No. 2644, § 9)

**Sec. 42-81. Driver identification and rate card legibly posted.**

A sign must be maintained on the interior portion of the vehicle in print of sufficient size to be visible and legible by the passengers containing the following information:

- (1) Driver's name, photograph and taxicab number;
- (2) Current information regarding the fare and/or cost of said service. This information should include, but is not limited to, any:
  - a. Per trip charge;
  - b. Mileage;
  - c. Cost for additional passengers;
  - d. Luggage; and/or
  - e. Additional fees or costs;
 as may be assessed for each trip; and
- (3) A rate sheet, showing in numerical form the prices, should be displayed as well.

(Code 2006, § 8.24.10; Ord. No. 2644, § 10)

**Sec. 42-82. Application for police permit requirements; fees.**

(a) An application for a permit required by section 42-109 shall be submitted in writing to the police department,

on forms provided by the police department for that purpose, for a taxicab driver's certificate.

(b) Such application shall contain the applicant's name, age and address. The applicant shall submit to fingerprinting by the city police department. In addition, one print of a photograph of the applicant and proof of a current drivers' license issued by the state qualifying said individual to drive the vehicle shall be provided. In addition, proof of insurance coverage for said driver for a minimum of six months must be submitted.

(c) The police department of the city shall issue a permit to such driver, to operate a taxicab within five days and no more than ten days from the application, or to provide notification within said time; that such permit will not be issued and the reasons stated therefor. Said notice shall be by regular mail to the address set forth in the application for permit, or any written change of address provided subsequent thereto. Any fee charged by the state police for obtaining criminal history shall become part of the permit fee. (Code 2006, § 8.24.11; Ord. No. 2644, § 11)

**Secs. 42-83—42-107. Reserved.**

DIVISION 2. PERMIT\*

**Sec. 42-108. Required.**

No person shall engage in or carry on the business of motor-driven taxicab service in the city without first procuring from the city council a permit to do so. (Code 2006, § 8.24.01; Ord. No. 2644, § 1)

\***State law reference**—Local taxicab permits, A.C.A. § 14-57-304 et seq.

**State law reference**—Similar provisions, A.C.A. § 14-57-304 et seq.

**Sec. 42-109. Application—Financial requirements.**

(a) Before granting such permit, the applicant shall file with the clerk an application, verified by oath and setting forth the facts showing his qualifications to render the services for which he seeks the permit, together with the facts which he considers justify and require the rendering to the public of such service.

(b) No permit shall be granted until and unless the applicant therefor shall possess and have available for immediate use in establishing and maintaining the services described in his application not less than a \$25,000.00 surety bond, which bond shall remain in full force and effect throughout the period of time the business is operating within the city, or a certified letter from a lending institution certifying said funds or on deposit in this amount within the institution and shall remain there throughout the period of time as long as the business is in operation within the city. These facts shall be set forth in his application designating:

- (1) Which method is chosen;
- (2) Who is providing the surety bond; or
- (3) The name of the bank and address which it is located.

(Code 2006, § 8.24.02; Ord. No. 2644, § 2)

**State law reference**—Application and bond, A.C.A. §§ 14-57-305, 14-57-306.

**Sec. 42-110. Same—Notice and hearing.**

Upon filing of such application, the city council shall hold a public hearing on the

application for a permit required by the provisions of this division, shall cause a notice of such public hearing to be published in a local newspaper having general circulation in the city at least two times and at least 15 days prior to the date of such public hearing and shall cause a written notice of such hearing to be given to all taxicab operators holding permits from the city. After such public hearing, the city council in its discretion, shall determine whether the public convenience and necessity requires the granting of the application. Any final action of the city council in respect of any such application shall be subject to judicial review.

(Code 2006, § 8.24.03; Ord. No. 2644, § 3)

**State law reference**—Notice, hearing and judicial review, A.C.A. §§ 14-57-307, 14-57-308.

**Sec. 42-111. Nontransferable.**

No permit issued under the provisions of this division shall be transferable, by assignment, lease, or other disposition. All persons desiring to operate a taxicab service within the city must apply for a separate permit to be approved by the city council. Any and all taxi businesses shall maintain a city site location in compliance with the zoning laws and regulations of the city. Further, all taxi businesses operating on a regular basis with the city limits shall comply with the terms and conditions of this article or provide proof of compliance with similar laws and provisions of another jurisdiction comparable to the ordinance adopted by the city. Any person or entity seeking to establish compliance with law of another jurisdiction shall provide in writing a copy of said provisions and proof of compliance.

(Code 2006, § 8.24.04; Ord. No. 2644, § 4)

**Sec. 42-112. Revocation; notice.**

If any licensee or person fails to operate the taxicab for a period of ten consecutive days, or if any section, provision or requirement contained in this article be violated, then, and in either of such events, the license or franchise to operate may be revoked by the city council upon the giving of ten days' notice so to revoke by certified mail addressed to the address of the cab company set forth in its original application. Any changes of address must be reported in writing to the city within five business days.

(Code 2006, § 8.24.05; Ord. No. 2644, § 5)

**Secs. 42-113—42-137. Reserved.**

**ARTICLE V. YARD SALES**

**Sec. 42-138. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Yard sale* means the selling of miscellaneous goods such as, but not limited to, clothing and housewares on property zoned for residential or agricultural use. Yard sales are also commonly known as rummage sales, garage sales, and carport sales, such activities may take place inside or outside of a house, garage or carport.

(Code 2006, § 7.92.01; Ord. No. 2520, § 1)

**Sec. 42-139. Notice to city.**

Prior to holding a yard sale, the property owner or tenant shall notify the code

enforcement officer of the sale. The notice shall be given during regular business hours at least 48 hours prior to the sale.

Chapters 43—45

**RESERVED**





Chapter 46

**OFFENSES AND MISCELLANEOUS PROVISIONS\***

**Article I. In General**

Sec. 46-1. State criminal statutes adopted.  
Secs. 46-2—46-20. Reserved.

**Article II. Offenses Involving Property Rights**

Sec. 46-21. Using poles.  
Secs. 46-22—46-47. Reserved.

**Article III. Offenses Involving Public Safety**

Sec. 46-48. Discharging firearms.  
Secs. 46-49—46-69. Reserved.

**Article IV. Offenses Involving Public Peace and Order**

Division 1. Generally

Sec. 46-70. Loud noises.  
Secs. 46-71—46-98. Reserved.

Division 2. Juvenile Curfew

Sec. 46-99. Definitions.  
Sec. 46-100. Findings.  
Sec. 46-101. Penalty.  
Sec. 46-102. Judgment by police officer.  
Sec. 46-103. Responsible parents.  
Sec. 46-104. Times of curfew.  
Secs. 46-105—46-127. Reserved.

**Article V. Offenses Involving Public Morals**

Sec. 46-128. Attendance at X-rated movies by minors.

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\***State law reference**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.



**ARTICLE I. IN GENERAL****Sec. 46-1. State criminal statutes adopted.**

All criminal statutes of the state relating to misdemeanors and violations and the laws of criminal procedure in connection therewith, three copies of which are on file in the clerk's office, are hereby enacted by the city council to form a part of the laws of the city and any person being found guilty of the violation of any such laws shall be deemed guilty of a violation of the ordinances of the city, and shall be fined or imprisoned or both in the manner set out under state statutes.

(Code 2006, § 7.04.01)

**State law reference**—Arkansas Criminal Code, A.C.A. § 5-1-101 et seq.

**Secs. 46-2—46-20. Reserved.****ARTICLE II. OFFENSES INVOLVING PROPERTY RIGHTS****Sec. 46-21. Using poles.**

The posting of any bills, cards, notices, signs or advertising of any kind whatever upon any public telephone, telegraph or electric light pole or post within the city is hereby prohibited.

(Digest 1934, § 5840; Code 2006, § 7.68.01)

**Secs. 46-22—46-47. Reserved.****ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY****Sec. 46-48. Discharging firearms.**

The discharging or firing of any weapon, air rifle, pellet gun or firearms of any description within the city is prohibited with the following exceptions:

- (1) When discharged or fired by a duly constituted law enforcement officer and when necessary in the performance of his duty.
- (2) The discharge of any firearm on any public or private rifle or pistol range, or shooting gallery approved for use in writing by the city and the chief of police, and in accordance with the Model Code for Gallery Shooting Ranges, which is hereby adopted by reference.
- (3) When discharged for functional tests only by a qualified gun repair person and only when such safety equipment used is approved by the chief of police.

(Code 2006, § 7.16.01; Ord. No. 2196, § 1)

**Secs. 46-49—46-69. Reserved.****ARTICLE IV. OFFENSES INVOLVING PUBLIC PEACE AND ORDER****DIVISION 1. GENERALLY****Sec. 46-70. Loud noises.**

(a) The creating of any unreasonably loud, disturbing and unnecessary noise within the limits of the city, including noise of such character, intensity or duration as to be detrimental to the life,

health or safety of any reasonable individual or in disturbance of the public peace and welfare is prohibited.

(b) The following acts, among others, are declared to be noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

- (1) *Horns, etc.* The sounding of any horn or signal device on any automobile, motorcycle, bus, taxicab or other vehicle while not in motion except as a danger signal if another vehicle is approaching apparently out of control or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended, the creation by means of any such signal device of any unreasonable loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
  - (2) *Playing radios, loudspeakers, etc.* The playing of any radio, juke box or similar device, phonograph or any other kind of musical instrument or loudspeaker device in such a manner or with such volume, as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital or in any dwelling, hotel or other type of residence or of any persons in the vicinity.
  - (3) *Shouting.* Yelling, shouting, hooting, whistling or singing on the public streets at any time or place so as to annoy or disturb the quiet, comfort or repose of any persons in any hospital, dwelling, hotel or any other type of residence or of any person in the vicinity.
  - (4) *Disrepaired vehicles.* The use of any automobile, truck, motorcycle, motor bicycle, bus, tractor, motor propelled vehicle of whatsoever kind, design or name or any other vehicle so out of repair, so loaded or in such manner as to cause loud and unnecessary grating, grinding, rattling or other noise.
  - (5) *Mufflers, steam engines, etc.* To discharge into the open air of the exhaust of any stationary steam engine, stationary internal combustion engine automobile, truck, motorcycle, motor bicycle, bus, tractor, motor propelled vehicle of whatsoever kind, design or name or any other vehicle or motorboat engine, including outboard motors, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
  - (6) *Disturbing schools, churches, courts, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session or adjacent to any hospital which unreasonably interferes with the workings of sessions thereof.
- (c) Provided, that none of the terms or prohibitions of this section shall apply to or be enforced against any vehicle of the city while engaged upon necessary public business or any ambulance while being operated in cases of emergency.  
(Code 2006, § 7.52.01)

**Secs. 46-71—46-98. Reserved.**

## DIVISION 2. JUVENILE CURFEW

**Sec. 46-99. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Juvenile* or *minor* means any person under the age of 18.

*Parent* means person having custody of a juvenile:

- (1) As a natural or adoptive parent;
- (2) As a legal guardian;
- (3) As a person who stands in loco parentis; or
- (4) As a person to whom legal custody has been given by order of a court of competent jurisdiction.

*Remain* means to stay behind, linger and to stay unnecessarily upon the streets, including the congregation of groups, or interacting minors, totaling three or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere passage or going home. To implement that thought with additional precision and precaution, numerous exceptions are expressly defined in this division so that this is not a mere prohibition of presence of juveniles. More and more exceptions become available with increasing years and advancing maturity as appropriate in the interest of reasonable regulations.

*Street* means a way of place, of whatever nature, open to the use of the public

as matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term "street" includes that legal right-of-way, including, but not limited to, traffic lanes, the curb, the sidewalks whether paved or unpaved and any grass plots or other grounds found within the legal right-of-way of a street. The term "street" applies irrespective of what it is called or formally named, whether alley, avenue, drive road or otherwise. The term "street" also includes shopping centers, parking lots, parks, playgrounds, public buildings, the common areas of public housing developments, and similar areas that are open to the use of the public.

*Time of day* means the prevailing standard of time, whether central standard time or central daylight savings time, generally observed at that hour in the city police station.

*Years of age* means from one birthday, such as the 17th, but not including the day, to the next, such as the 18th birthday, making it clear that 17 or less years of age be treated as equivalent to the phrase "under 18 years of age."

(Code 2006, § 7.08.07; Ord. No. 2513, § 4)

**Sec. 46-100. Findings.**

The city council hereby finds there has been a significant increase in crime and unacceptable behavior involving juveniles within the city which includes, but is not limited, to noisy and rowdy behavior, breaking and entering, public drinking and littering, harassment of residents, and more serious and violent crimes including battery and murder. The city council further finds that the offensive activities of the juveniles are not easily

controlled by existing laws and ordinances because the activities are concealed whenever police officers are present and that the establishment of reasonable curfew regulations will enable the police to act reasonably and fairly to prevent the violation of laws and ordinances by juveniles. Due to the increase in illegal and unacceptable behavior, a curfew to regulate the activities of juveniles within the city limits is necessary in an attempt to eliminate such illegal and unacceptable behavior by juveniles.

(Code 2006, §§ 7.08.04—7.08.06; Ord. No. 2513, § 1)

**Sec. 46-101. Penalty.**

If after the warning notice pursuant to section 46-103 of a first violation by a juvenile, a parent violates section 46-102, in connection with a second violation by the juvenile, this shall be treated as a first offense by the parent. For parental offenses, a parent may be fined not less than \$100.00, nor more than \$500.00. Any juvenile who shall violate any of the provisions of this division more than three times shall be reported by the chief of police to the juvenile authorities and/or other appropriate authorities as a juvenile in need of supervision.

(Code 2006, § 7.08.12; Ord. No. 2513, § 9)

**Sec. 46-102. Judgment by police officer.**

If a police officer reasonably believes that a juvenile is on the streets in violation of this division, the officer shall notify the juvenile that he is in violation of this division and shall require the juvenile to provide his name, address and telephone number and how to contact his

parent or guardian. In determining the age of the juvenile and in the absence of convincing evidence, a police officer shall use his best judgment in determining age.

(Code 2006, § 7.08.11; Ord. No. 2513, § 8)

**Sec. 46-103. Responsible parents.**

It shall be unlawful for a parent of a juvenile to permit or allow the juvenile to be or remain upon any city street under circumstances not constituting an exception to, or otherwise beyond the scope of, this division. This division is intended to hold neglectful and careless parents to a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent was indifferent to the activities or conduct or whereabouts of such juvenile.

- (1) Police procedures shall be refined in light of experience and may provide that the police officer may deliver to a parent or guardian thereof a juvenile under appropriate circumstances.
- (2) When a parent or guardian has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released in accordance with state and federal law.
- (3) In the case of a first violation by a juvenile, the police department shall by certified mail or direct service, send and/or deliver to a parent written notice of the violation with

a warning that any subsequent violation will result in full enforcement of the curfew division, including enforcement of parental responsibility and of applicable penalties.

(Code 2006, § 7.08.10; Ord. No. 2513, § 7)

**Sec. 46-104. Times of curfew.**

(a) It shall be unlawful for any person under the age of 18, as defined in section 46-99, to be or remain in or upon the streets within the city at night during the time of 12:00 midnight to 5:00 a.m. on Sunday through Thursday nights and from 1:00 a.m. to 5:00 a.m. on Friday and Saturday nights.

(b) The following exceptions to this division shall allow a minor on a city street during the hours prescribed and shall not be considered a violation of this division.

- (1) When accompanied by a parent of such minor.
- (2) When accompanied by an adult, at least 21 years of age, who is not the parent and who is authorized by the parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specified area.
- (3) When exercising first amendment rights protected by the United States constitution, such as the free exercise of religion, freedom of speech and the right of such exercise by first delivering to the person designated by the chief of police to receive such information, at the police department, a written communication, signed by the ju-

venile and countersigned by a parent of the juvenile with their home address and telephone number, specifying when, where and in what manner the juvenile will be on the streets at night, during the hours when this curfew division is otherwise applicable to said minor, in the exercise of a first amendment right.

- (4) When returning home from and within one hour after the termination of a school or city-sponsored activity, or an activity of a religious or other voluntary association, of which prior notice, indicating the place and probable time of termination, has been given in writing, to and duly filed for immediate reference by the person designated by the chief of police on duty at the police station, this encouraging, as in other exceptional situations, responsible conduct on the part of juveniles involved in such activities and striking a fair balance for any conflicting interest.
- (5) When engaging in the duties of bona fide employment or traveling directly, without undue delay or detour from home to the place of employment, or from the place of employment to the home.
- (6) When the minor is in a motor vehicle for the purpose of interstate travel, wither through, beginning or ending in the city.

(Code 2006, §§ 7.08.08, 7.08.09; Ord. No. 2513, § 5)

**Secs. 46-105—46-127. Reserved.**

**ARTICLE V. OFFENSES  
INVOLVING PUBLIC MORALS**

**Sec. 46-128. Attendance at X-rated  
movies by minors.**

(a) *Admittance prohibited.* Any person who shall knowingly admit any child under the age of 18 years to any motion picture which shall have been classified by the motion picture industry as an X-rated movie shall be guilty of a misdemeanor.

(b) *Duty to ascertain legal age; fictitious identification.* It shall be the duty of any person who owns or operates a motion picture theater within the corporate limits of the city, to ascertain the legal age of all children who shall present themselves for admission to a movie with the classification of X. Presentation of fictitious identification by the male or female child shall not constitute a defense to subsection (a) of this section, but shall be taken to mitigation thereof by a court of competent jurisdiction.

(c) *Display of rating.* All persons who own or operate motion picture theaters within the corporate limits of the city shall forthwith display prominently and legible in all newspaper advertisements and on their theater marquees and ticket windows the motion picture industry rating for the film which is being currently shown. No advertisement, trailer or preview of an X-rated movie will be shown during the showing of a G or PG rated movie.

(Code 2006, § 7.56.01; Ord. No. 1250, §§ 1—3)

Chapters 47—49

**RESERVED**





Chapter 50

**PARKS AND RECREATION\***

**Article I. In General**

Secs. 50-1—50-18. Reserved.

**Article II. Park Rules**

Sec. 50-19. Closing of parks.

Sec. 50-20. Exceptions.

Sec. 50-21. Extended or shortened time.

Sec. 50-22. Security.

Sec. 50-23. Reserved areas.

Sec. 50-24. Remaining in park after hours.

Sec. 50-25. Motor vehicles.

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\***State law references**—Municipal parks and recreational programs, A.C.A. § 14-54-1301 et seq.; authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.



## ARTICLE I. IN GENERAL

### Secs. 50-1—50-18. Reserved.

## ARTICLE II. PARK RULES

### Sec. 50-19. Closing of parks.

All parks shall be closed from one-half hour after sunset until one-half hour before sunrise the following day.

(Code 2006, § 12.08.01; Ord. No. 3358, § 1)

### Sec. 50-20. Exceptions.

In parks which are controlled by gates or other devices, normal park hours are as posted except in the cases of prearranged, special group activities or regularly established concessions.

(Code 2006, § 12.08.02; Ord. No. 3358, § 2)

### Sec. 50-21. Extended or shortened time.

The closing time of any park, or any portion thereof, may be extended or shortened by the director of parks, recreation and cemeteries when necessary to accommodate or regulate any permitted activity.

(Code 2006, § 12.08.03; Ord. No. 3358, § 3)

### Sec. 50-22. Security.

For purposes of security or public safety, the director may exclude members of the public, on a temporary basis, from a park or any portion thereof, including any trail or road, when it is determined by the director, the chief of police, or the mayor that such closing is necessary to protect

public safety or public property. No person shall enter or remain in any park any portion thereof, or any trail or road that has been ordered closed.

(Code 2006, § 12.08.04; Ord. No. 3358, § 4)

### Sec. 50-23. Reserved areas.

Whenever any area of any park has been reserved for the exclusive use of another, that area may be posted as being closed to the use of all other persons and persons not associated with exclusive use may thereby be prevented from using or entering that area of the park.

(Code 2006, § 12.08.05; Ord. No. 3358, § 5)

### Sec. 50-24. Remaining in park after hours.

No person shall enter or remain in any park during the hours it is closed.

(Code 2006, § 12.08.06; Ord. No. 3358, § 6)

### Sec. 50-25. Motor vehicles.

(a) It shall be a violation of the laws of the city for any person to ride or drive any motor vehicle, including automobiles, trucks, motorcycles, motor scooters, three-wheelers and four- or six-wheeled all-terrain vehicles in Craighead Forest Park except on paved roads, parking areas, or other designated areas.

(b) This article shall not apply to authorized maintenance or utility vehicles and to emergency vehicles of any kind.

(c) Any person adjudged guilty of violation of this article shall upon conviction be fined an amount of not less than \$150.00.

(Code 2006, § 12.12.01; Ord. No. 1868, §§ 1—3; Ord. No. 3515, §§ 1, 2, 2-1-2005)



Chapters 51—53

**RESERVED**





## Chapter 54

### **SOLID WASTE\***

#### **Article I. In General**

- Sec. 54-1. Sanitation department waste inspectors.
- Sec. 54-2. Littering.
- Secs. 54-3—54-28. Reserved.

#### **Article II. Collection and Disposal**

##### Division 1. Generally

- Sec. 54-29. Definitions.
- Sec. 54-30. Grace period and penalty.
- Sec. 54-31. Variances.
- Sec. 54-32. City sanitation department policies.
- Sec. 54-33. City collection generally.
- Sec. 54-34. Scavenging and salvaging.
- Sec. 54-35. Containers.
- Sec. 54-36. Containment and disposal requirements.
- Sec. 54-37. Owner/occupant responsibility.
- Sec. 54-38. Curbside pickups.
- Sec. 54-39. Time of collection.
- Sec. 54-40. Hauling.
- Sec. 54-41. Illegal disposal.
- Sec. 54-42. Disposal of special wastes.
- Sec. 54-43. Yard waste collection.
- Sec. 54-44. Animal waste.
- Sec. 54-45. Friable asbestos material.
- Secs. 54-46—54-61. Reserved.

##### Division 2. Containers

- Sec. 54-62. Collection regulations.
- Sec. 54-63. Commercial, industrial and institutional solid waste containment.
- Sec. 54-64. Depositing solid waste other than in authorized containers.

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\***State law references**—The Water, Sewer, and Solid Waste Management Systems Finance Act of 1975, A.C.A. § 14-230-101 et seq.; solid waste disposal generally, A.C.A. § 14-232-101 et seq.; Joint County and Municipal Solid Waste Disposal Act, A.C.A. § 14-233-101 et seq.; Arkansas Solid Waste Management Act, A.C.A. § 8-6-201 et seq.; Litter Control Act, A.C.A. § 8-6-401 et seq.; unlawful dumping, A.C.A. § 8-6-501 et seq.; authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.

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- Sec. 54-65. Unobstructed access to containers.
- Sec. 54-66. Disturbing contents of containers.
- Secs. 54-67—54-90. Reserved.

### Division 3. Landfills

- Sec. 54-91. City to provide class IV waste disposal site.
- Sec. 54-92. Class I and IV solid waste landfill user requirements.
- Sec. 54-93. Hazardous waste.

## ARTICLE I. IN GENERAL

### Sec. 54-1. Sanitation department waste inspectors.

(a) The sanitation superintendent requests authorization by the city council granting waste inspection authority, to such officer and/or sanitation route supervisor or his agent.

(b) The sanitation superintendent may impose operational regulations on the disposal processes, such as determining character and kinds of solid waste authorized for disposal at a city disposal facility, routing of traffic, and designating time and location that dumping may occur at city disposal facilities. Any such regulation shall be conspicuously displayed or shall be construed so as to infringe or supplant the authority of the CCSWMD, the ADEQ or the United States Environmental Protection Agency.

(c) Rules and regulations imposed by the sanitation superintendent which are consistent with and supplementary to this chapter may be changed or amended from time to time by the sanitation superintendent or city council and shall become a part of this chapter.

(d) These waste inspectors shall have the same authority as the city code enforcement officer except their jurisdiction shall be limited to these currently effective codes and ordinances, and any future revisions to same as follows:

- (1) This chapter.
- (2) Any waste inspector acting, in good faith and without malice, for the city in the discharge of their duties, shall not hereby render themselves liable personally and they

are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required, or by reason of any act or omissions, in the discharge of their duties. Any suit brought against any waste inspector in the enforcement of any provisions of codes and ordinances shall be defended by the legal department of the city until final termination of the proceeding.

- (3) It shall be the duty of a waste inspector to make all inspections necessary to ensure compliance with current code and ordinances of the city to include city ordinances pertaining to the accumulation of garbage, trash, litter, debris or other unsightly items on private or public property and all ordinances or codes designating the waste inspector as the enforcement authority.
- (4) The superintendent of the sanitation department shall have the power to delegate all duties set out above to his agent or employee who shall have the same power and authority as the sanitation superintendent.
- (5) The sanitation superintendent or waste inspector or person so delegated shall have the authority to remove, and clean up all trash, garbage, litter, debris, or other unsightly items when same has become, in the opinion of the sanitation superintendent, or waste inspector, unsightly, unsafe, unsanitary or obnoxious or detrimental to the public welfare.

(Code 2006, § 5.16.01)

**Sec. 54-2. Littering.**

(a) *Prohibited.* It shall be unlawful for any person to throw, place or otherwise deposit any paper, cans, bottles, or other trash, refuse or garbage upon the streets in the city.

(b) *Vehicle load spillage.* It shall be unlawful for any person to drive or operate any vehicle of any kind or character upon any of the streets in the city, unless such vehicle is so constructed or loaded as to prevent any part of its load from dropping, sifting, leaking, spilling or otherwise escaping from said vehicle and onto the streets of the city.

(c) *Writ of attachment.* A writ of attachment may be issued against any vehicle used in violating the provisions of this section for the collection of any fine assessed for such violation.

(d) *Liable for damage.* Any person driving or operating any vehicle upon any of the streets in the city shall be liable for all damages which said streets or structures may sustain as a result of a violation of this section.

(Code 2006, §§ 5.08.01—5.08.04; Ord. No. 989, §§ 1—4)

**State law reference**—Litter Control Act, A.C.A. § 8-6-401 et seq.

**Secs. 54-3—54-28. Reserved.**

**ARTICLE II. COLLECTION AND DISPOSAL\***

**DIVISION 1. GENERALLY**

**Sec. 54-29. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*ADEQ* means the Arkansas Department of Environmental Quality.

*Class I landfill* means a solid waste facility that accepts nonhazardous household, commercial and industrial solid waste defined herein; and small quantities of conditionally exempt hazardous wastes.

*Class I wastes* means nonhazardous household, commercial and industrial solid waste as defined herein, and small quantities of conditionally exempt hazardous wastes.

*Class IV landfill* means a solid waste facility that accepts nonhazardous bulky, inert, nonputrescible solid waste that degrade very slowly. The term "class IV wastes" includes, but is not limited to, construction and demolition waste, furni-

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**\*State law references**—The Water, Sewer, and Solid Waste Management Systems Finance Act of 1975, A.C.A. § 14-230-101 et seq.; solid waste disposal generally, A.C.A. § 14-232-101 et seq.; Joint County and Municipal Solid Waste Disposal Act, A.C.A. § 14-233-101 et seq.; Arkansas Solid Waste Management Act, A.C.A. § 8-6-201 et seq.; Litter Control Act, A.C.A. § 8-6-401 et seq.; unlawful dumping, A.C.A. § 8-6-501 et seq.; authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.

ture, stumps, limbs, and other bulky wastes that are not normally collected with other household or commercial waste.

*Class IV wastes* means nonhazardous, bulky, inert, nonputrescible solid wastes that degrade very slowly, and are permitted by the ADEQ to be disposed of in a Class IV landfill. The term "class IV wastes" includes construction and demolition waste, furniture, stumps, limbs and other bulky wastes that are not normally collected with other household or commercial waste.

*Collection routes* means an area designated by the sanitation department of the city to receive household collection. Routes are not fixed areas of the city and may in the future be changed or reshaped to better accommodate household solid waste collection and the efficiency of the sanitation department.

*Collective container or dumpster* means large metal commercial container used by those residents living within multiple-unit residential housing or other situations as deemed necessary by the city, that are allowed to combine their waste into one container of commercial size and not each be assigned single residential containers.

*Composting* means the deliberate aerobic, biological decomposition of yard waste or other solid waste, resulting in a stable humus-like product.

*Composting facility* means a facility that accepts yard waste or other solid waste for an aerobic, biological decomposition of such waste.

*Craighead County Regional Solid Waste Management District (CCRSWMD)* means

a regional solid waste management district formed pursuant to A.C.A. title 8, ch. 6, subch. 7 (A.C.A. § 8-6-701 et seq.), comprised of representatives from each separate governmental entity within county charged with regulating all solid waste operations within its boundaries.

*Customer* means a person owning, leasing, occupying or managing any premises within the city for which solid waste services are provided under the provisions of these rules and regulations.

*Disposal* means abandoning, depositing, releasing, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water. The term "disposal" does not include composting.

*Disposal facility* means any place at which solid waste is dumped, abandoned or disposed of for final disposition by incineration, landfilling, composting or any other method.

*Garbage* means vegetable waste resulting from the preparation, processing, cooking, serving, and/or the storage and sale of food, feed, or produce, and will include the plastics, tin, cans, glass containers, and papers derived from these processes or putrescible animal waste which is organic matter capable of being decomposed by micro-organisms and of such a character and proportion as to be capable of attracting or providing food for animals and other potential vectors.

*Grace period* means a period of time following a notification of violation in which a violator of any provision of these

rules and regulations, except in regard to payment for services, may be given an opportunity to correct the violation without being considered in violation.

*Illegal dumpsite* means any place at which wastes defined in this article are placed, deposited, abandoned, dumped or otherwise disposed of in a manner that is prohibited by this chapter or other statutes, rules, or regulations and which constitute one or more of the following:

- (1) Attractive nuisance;
- (2) Public or private nuisance;
- (3) Fire, health or safety hazard;
- (4) Potential sources of surface water or groundwater contamination; and
- (5) Other contamination that is hazardous to the public health or endangers the environment.

*Incineration* means a controlled process by which solid waste is burned and changed into gases and residue produced which is relatively free of combustible materials.

*Incinerator* means all enclosed devices intended or used for the reduction of solid waste.

*Industrial waste* means solid waste generated by manufacturing or industrial processes that is not a hazardous waste, mining waste or is waste generated in natural petroleum oil or gas processing.

*Infectious waste* means residential, industrial, hospital, clinic or laboratory medical, health, or biological solid waste consisting of any matter that may harbor or transmit pathogenic organisms, and includes any equipment, utensils, clothing, bandages, or any disposed material or

substances of any nature that may have contacted or been in use in close proximity to pathogenic organisms.

*Recycling* means the systematic collection, sorting, decontaminating, and returning of waste material to commerce as commodities for sale, use, or exchange by separating or diverting an item from the solid wastestream for the purpose of processing it or causing it to be processed into a material product, including compost, in order to provide for the final disposition of the material product in a manner other than landfilling or incineration.

*Recycling receptacle* means approved recycling container provided by the city at a designated location for the purpose of receiving recyclables.

*Responsible party* means an owner, operator, occupant, resident, lessor, manager, licensee or other person having control over a structure or parcel of land.

*Scavenging* means illegal manual sorting of refuse, either in the containers, trucks, at the working face of landfill, or in unconfined truck discharge areas by individuals for their own personal gain, pleasure, or benefit.

*Solid waste fee* means a fee assessed by the city for any solid waste services provided by the city.

*Wastestream* means the organized flow of solid waste from generation to disposal involving waste generation, collection, recycling, transport, sorting and disposal of solid waste matter within the city and

includes solid waste entering and existing the city during any part of the handling of the waste.

(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-30. Grace period and penalty.**

(a) Except in cases of failure to pay for services rendered, a ten-day grace period following notification of a violation may be afforded violators of the provisions of these rules and regulations unless, in view of extenuating circumstances, the sanitation superintendent or his designee deems it in the best interest of the city, the environment, the surrounding residents, and/or the persons involved to shorten or eliminate the grace period.

(b) Failure to correct a violation of these rules and regulations or any other sanitation department solid waste related regulation within the designated grace period and not show a good faith effort to correct the violation for the offense shall place the person in violation of these rules and regulations.

(c) Any person who violates any provision of this article shall be guilty of a misdemeanor and shall be fined in an amount not to exceed \$250.00. Each day or part of a day during which a violation is continued or repeated shall constitute a separate offense. In addition to said fine or in lieu thereof, the sentencing body may require such person to remove and clean up the solid waste for which he was responsible. Any person found guilty of any provision of this article, may in addition to the preceding penalties or in lieu thereof, be required to assist in the clean up of general city litter. If the latter penalty is imposed, the person shall not

be required to work no more than eight hours in any one day nor shall he be required to work more than seven days in such cleanup project. The sanitation superintendent and/or his designee shall have the right to enter upon private property to ensure compliance with the sanitation ordinances and for violations thereof to cite the responsible party to municipal court.

(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-31. Variances.**

The sanitation superintendent may grant exceptions to any section of this article based on circumstances such as, but not limited to, physical limitation, terrain difficulties or right-of-way accessibility. All requests for variances will be considered on a case-to-case basis.

(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-32. City sanitation department policies.**

(a) The city shall develop policies to facilitate the orderly collection of solid waste and recyclables. These policies shall be reviewed at least annually and any proposed amendments to this article shall be recommended.

(b) The city's sanitation department is responsible for collecting all solid waste from a residence if the solid waste is placed in the location, position and condition as prescribed and allowed by the sanitation department, all solid waste must be in the assigned residential container. No bagged or loose solid waste outside of the residential container shall be allowed for pickup. Solid waste containers should be placed within five feet of the street edge for collection.

(c) Containers should not be placed out for collection prior to 6:00 p.m. the day preceding the normal collection day. The containers should be removed within 24 hours of completion of solid waste collection.

(d) Only solid waste described and defined by the rules and regulation shall be placed into disposal container to be provided by the city.

(e) It shall be unlawful for any person, who is not a city resident, as defined in the rules and regulations, to place solid waste of any kind into a city container.

(f) It shall be unlawful for any person to deface, destroy, burn, or otherwise tamper with any disposal carts or their contents or the equipment provided and owned by the city.

(g) Any littering resulting from the tipping of a container not completely closed or resulting from solid waste being placed outside of a residential container or resulting from excessive liquid content within a container is the responsibility of the person assigned the container. The responsible party at each dwelling unit is responsible for maintaining the sanitary condition of solid waste containers and area of placement of containers.

(h) Persons shall be allowed to deposit their solid waste in their city-approved containers in any type of enclosed bag, closed small box or tight container which reduces the amount of loose refuse in the containers and reduces to the possibility of odor and vector problems. Long objects must not prevent the lid of the residential container from closing completely.

(i) Unless otherwise indicated, all recyclables will be collected utilizing a manual collection system.

(j) Recycling bags should be placed out for collection within five feet of the street edge.

(k) Recycling bags should not be placed out for collection prior to 6:00 p.m. the day preceding the normal collection day.

(l) All recyclables will be collected from the street in front of each dwelling unit.

(m) Residents of the city may use the transfer station for turning in certain recyclables free of charge so long as the material is properly sorted and is not contaminated.

(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-33. City collection generally.**

(a) All permanently or temporarily occupied residences in the city shall be provided with house-to-house street side waste collection service.

(b) Collection service for residential containers will consist of one pickup per residential unit each week.

(c) Residents living within multiple-unit residential housing will be furnished individual residential containers if, in the judgment of the sanitation superintendent or his designee, their household solid waste can be best serviced in residential containers. Each unit of housing within multiple-unit housing with adequate access will be a separate residential unit with its own container.

(d) The city will provide solid waste collection service to the following:

- (1) Single dwelling units.

- (2) All apartments.
- (3) Apartments converted to condominiums.
- (4) A carryout service for persons with disabilities residing in dwelling units receiving city solid waste collection and recycling services. This service is provided at no additional charge to an individual who is disabled and is thus incapable of conveying their solid waste or recycling container to the designated collection location. The sanitation department shall verify that an individual meets the criteria of this section upon receipt of a request for carryout service. Prior to receiving this service, the requester will be required to produce reasonable evidence of disability. This service does not include collection personnel entering the dwelling unit to provide such service.
- (e) Curbside recycling service will be provided to all dwelling units that are provided solid waste collection service by the city.
- (f) A large collective container shall be provided for multiple unit housing establishments and mobile home parks when it is judged by the sanitation superintendent that individual residential containers are not appropriate or practical.
- (g) No commercial or industrial waste will be allowed to be mixed in with any collective container without sanitation department approval.  
(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-34. Scavenging and salvaging.**

(a) Persons found scavenging any solid waste material from within collection or transport trucks, the landfill or from within any residential or commercial containers shall be in violation of these rules and regulations.

(b) It shall be a violation of these rules and regulations for any person not designated by the sanitation department to remove or interfere with a recycling container or its contents.

(Code 2006, § 5.16.01; Ord. No. 3135, § 15)

**Sec. 54-35. Containers.**

(a) A blue recycling bag owned by the city will be made available to residents for their usage as part of the city's recycling program.

(b) The city will furnish residential customers a city-owned 65- or 95-gallon plastic solid waste container with attached lid, wheels and integral pickup attachments for utilization with automated collection systems.

(c) City-owned front and rear load dumpster may be rented to individuals for placement of solid waste.

- (1) A mechanical solid waste collection system will be utilized by the city to pickup city-provided containers for collection by solid waste vehicles equipped with lifting devices. Except as designated by the city council, the mechanical solid waste collection system will be the method of collection for household waste collection service provided to citi-

zens in the city. Where it is impractical for city collection vehicles to operate due to terrain or other conditions, an alternate collection method will be provided.

- (2) A recycling collection system utilizing manual labor will be used to load recyclables from the city-provided recycling bags.

(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-36. Containment and disposal requirements.**

(a) All responsible parties using or occupying dwelling units within the corporate limits of the city shall contain all putrescible solid waste in bags that are securely tied prior to depositing into city-provided containers.

(b) All loose yard waste including, but not limited to, grass, weeds, leaves and brush vegetation clippings must be:

- (1) Placed curbside;
- (2) Bagged, not weighing more than 50 pounds: and
- (3) Securely tied before being placed curbside.

(c) Explosives of any kind, such as small arms ammunition, black powder, blasting agents, compressed gas cylinders or any kind of flammable materials shall not be placed in any solid waste container.

(d) Tires, batteries, gas, oil and hazardous chemicals will not be collected by the city. Such material shall not be placed with other solid waste and is the responsibility of the dwelling unit's responsibility party for removal and proper disposal.

(e) Ashes will be collected if they have been soaked with water to extinguish any live embers and are then securely tied in bags before depositing into a solid waste container. Ashes from medical waste, hazardous waste or special materials waste will not be collected by the city.

(f) It is the container users and responsible parties' responsibility to keep the area around the solid waste container continuously free and clear of all debris and litter.

(g) Persons shall maximize the use of their assigned containers by crushing and condensing the waste deposited in the containers and shall avoid the placing of solid waste outside the container for pickup.

(h) Unless otherwise notified by the city, the approved place for the residential container to be picked up on a scheduled day shall be at the corner of the resident's driveway and the nearest place that is accessible to the collection truck. Accessibility is based on the judgment of the sanitation superintendent with consideration for the needs of the sanitation department and is contingent upon having a turnaround area, ample street width, street quality, adequate tolerances, liability and other factors that may be deemed significant for consistent safe and economical weekly collection service.

(i) If a person desires their container emptied, the residents shall have their container positioned and their pickup site accessible to the collection truck.

(j) Leaving the pickup site inaccessible or repeatedly improperly positioning and orientating a residential container when automated pickup is in use is a violation of these rules and regulations.

(k) All boxes and large pieces of cardboard shall be broken down or cut up prior to placement in solid waste containers.

(l) No bulk waste shall be placed in city-provided containers.

(m) No yard waste shall be placed in city-provided containers.

(n) No yard waste, bulk waste, medical waste, household waste or garbage shall be placed into recycling bags.

(o) Sharps, needles or lancets will be collected by the city only if disposed of in proper closed containers.

(p) Provisions shall be made for regular inspections of solid waste containers by city employees to the responsible party of the property upon which violations occur. Notification shall consist of tagging the solid waste container with clear indication as to the nature of the violation.

(q) The city may issue a notice of violation to any person violating any provisions of this chapter. If the violation has not been corrected within the specified time period, a citation may be issued.

(r) In addition to any civil penalties that may be authorized by law, any person found in violation of any provisions of this article shall be subject to the penalties in accordance with section.  
(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-37. Owner/occupant responsibility.**

(a) The owner or lessee of any dwelling unit or commercial establishment shall be responsible for the sanitary condition of said premises and for the proper stor-

age, containment and placement for collection of all wastes as defined in this article.

(b) The city shall bill each residential unit the monthly collection charge. For purpose of this article, each dwelling unit located at a multifamily unit shall be considered a separate residence for billing purposes.

(c) It is the responsibility of the owner, lessee, tenant and other occupier of a residential unit to pay the city for the refuse collection service when due irrespective of the use or nonuse of the refuse collection service.

(d) The rate shall be established by the city council.  
(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-38. Curbside pickups.**

(a) The city will do pick ups curbside for all bagged yard waste which include grass clippings and bagged leaves only. The initial schedule for said curbside pickups shall be one day per week commencing at 7:00 a.m. Said pickup times and days may be varied in the future by the sanitation director after consultation and approval of the sanitation committee for the city council.

(b) The sanitation department will chip brush and limbs up to ten inches in diameter and no longer than 12 feet. All brush and limbs to be chipped must be free from obstructions, such as utility poles, utility boxes, guy wires, overhead utility lines mailboxes and vehicles.

(c) All brush and limbs will be chipped according to automated trash routes. Residents will be notified in advance as to their week for chipping.

(d) The city's class IV landfill will accept yard waste, bagged, or loose, brush, limbs, tree trunks and stumps from tree service companies, lawn maintenance, lawn care services and contractors with payment of current tipping fees.

(e) The sanitation department will not pick up curbside any brush, tree trunks, stumps, construction waste, tires, appliances, furniture or any other debris left on vacant lots parkways, streets.

(f) All bulk waste such as furniture, stoves, washers, dryers, mattresses, box springs, hot water heaters, sinks, commodes, bathtubs, televisions, microwaves, air conditioners, freezers and refrigerators may be brought to the county landfill by city residents and property owners free of charges. However, all Freon or refrigerant must have a certificate of removal.

(g) Any debris left at vacated apartments or houses shall be the sole responsibility of the resident. In the event the resident cannot be located then the owner is responsible in bringing the property into compliance with the city ordinances. Any property not brought up to ordinance can result in an ordinance violation for the resident/owner with removal costs, applicable tipping fee and a surcharge in the amount established by the city council levied. In the event of noncompliance an action can accrue under the nuisance abatement law.

(h) The exception to this article will be any debris brush, limbs, tree trunks, stumps that is left by natural disasters and/or storm damage.  
(Code 2006, §§ 5.16.27, 6.16.10; Ord. No. 2505, § 1; Ord. No. 3445, §§ 1—12)

#### **Sec. 54-39. Time of collection.**

Garbage containers shall be placed on the curb no later than 6:00 a.m. and shall not remain on the curb longer than 24 hours. The superintendent of sanitation will establish provisions to waive curbside pickup for the physically challenged where such an arrangement would constitute an unusual burden or hardship on any citizen. Fees for such waivers will be the same as for curbside collections. Request for waiver must be reviewed annually.  
(Code 2006, §§ 5.16.27, 6.16.10; Ord. No. 2505, § 1; Ord. No. 3445, §§ 1—12)

#### **Sec. 54-40. Hauling.**

Care shall be taken in the loading and transportation of solid waste so that none of the materials is left either on private property or on the streets or alleys. The city recognizes that an occasional emergency or hot load may require the unloading of solid waste from a solid waste collection vehicle. Solid waste may be unloaded for emergency purposes if, and only if, all solid waste unloaded is recollected within two hours of the unloading, unless prohibited by emergency response personnel. The area must be litter free after the recollection, and the unloading shall not obstruct traffic.  
(Code 2006, § 5.16.01; Ord. No. 3135)

#### **Sec. 54-41. Illegal disposal.**

(a) It shall be a violation of this article for any person to illegally dispose, or cause to be illegally disposed, any waste as defined in this article.

(b) No owner or occupant of any premises which are adjacent to any portion of an open area, vacant lot, ditch, deten-

tion pond, storm drain or watercourse shall cause the accumulation of refuse, rubbish or storage of any material within or upon such adjacent areas.

(c) The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that refuse and rubbish from construction being carried by the elements to adjoining premises.

(d) The accumulation of refuse and rubbish which constitutes or may create a fire, health, or safety hazard or harborage for rodents is unlawful and is hereby declared to be a nuisance and a nonconforming use of premises.

(e) In accordance with state and federal laws, accumulations of solid waste proven to be illegal dumping done by a third party on any private or public lands shall not be the responsibility of the landowner. The responsible person shall be held liable for any and all damages to the private or public lands affected by the illegal dumping of solid waste.

(f) Littering that shall result from any person storing, collecting, or hauling solid waste within the city shall be the responsibility of the person storing, collecting, or hauling solid waste and is a violation of these rules and regulations.

(Code 2006, § 5.16.01; Ord. No. 3135)

**State law reference**—Litter Control Act, A.C.A. § 8-6-401 et seq.

#### **Sec. 54-42. Disposal of special wastes.**

(a) *Bulk*. Bulk waste manufactured items such as appliances, furniture, and other large waste will be the responsibility of the responsible party.

(b) *Nonresident*. Disposal for all types of solid waste generated by stores, offices, restaurants, warehouses and nonmanufacturing activities will be the responsibility of the responsible party.

(c) *Construction*. Disposal of all construction waste such as building materials including, but not limited to, dirt, rocks, concrete and brick, asphalt, lumber and processed wood products, roofing, sheetrock, and plaster, doors and windows that result from construction, remodeling and repair of commercial, institutional and industrial establishments, dwelling units, garages, pavements, streets, alleys, trenches, ditches, underground utilities, excavations and other structures will be the responsibility of the responsible party.

(d) *Demolition*. Disposal of demolition waste such as material resulting from the demolition or razing of buildings, and other manmade structures, excluding friable asbestos material or other materials excluded by federal or state environmental laws and regulation will be the responsibility of the responsible party.

(Code 2006, § 5.16.01; Ord. No. 3135)

#### **Sec. 54-43. Yard waste collection.**

(a) Since it is a violation of state Solid Waste Regulation 22 for other than very small amount of yard waste to enter the solid wastestream going to any landfill within the state, yard waste generated by residents must not be placed in the residential containers. Violators will be in violation of state law and these rules and regulations.

(b) The city shall encourage the use of individual compost piles by providing public information on designing and operat-

ing home compost piles. Yard waste brought to the landfill is not subject to disposal fees but must be free of plastic, refuse, garbage, trash, paper, nonwood debris, and excessive soil. The resident is responsible for making sure the yard waste is free of such inappropriate waste matter, and must comply with the directions for sorting given by landfill personnel in order to have free disposal of the yard waste.

(c) Any quantity of yard waste that is free of inappropriate solid matter shall be exempt from all disposal fees at the landfill as long as the city resident unloads the yard waste and removes contaminants.

(d) All yard waste material must be placed within five feet of the street edge for collection.

(e) Yard waste may be placed out for collection with no restriction on the day or time of such placement.

(f) An occupant of any single-family residence may maintain a compost pile that is a separated area containing alternate layers of plant refuse materials and soil maintained to facilitate decomposition and produce organic material to be used as a soil conditioner. A compost pile shall be maintained to prevent it becoming a nuisance by putrefying or attracting insects or animals.

(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-44. Animal waste.**

(a) Animal waste from small animals or pets shall be placed in a plastic bag, securely tied, and then placed in an approved solid waste container.

(b) Animal waste from larger animals, such as horses and other livestock, may be placed out for collection provided such waste is completely dry, placed in a plastic bag, securely tied and placed in an approved solid waste container.

(c) All animal waste shall be removed from pens, stables, yards, cages and other enclosures and disposed of as described in this section or by composting as often as necessary to prevent the occurrence of a public nuisance, public health or safety hazard or an environmental hazard.

(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-45. Friable asbestos material.**

Asbestos material wastes shall be handled in accordance with Federal National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations in the removal, containerizing, storage and transporting of the materials. Such wastes shall also be handled, contained, stored, transported and disposed according to the requirements of ADPC&E Regulation 22, 40 CFR 61, subparts A and M, as amended, and 29 CFR 1910 as amended. (Code 2006, § 5.16.01; Ord. No. 3135)

**Secs. 54-46—54-61. Reserved.**

DIVISION 2. CONTAINERS

**Sec. 54-62. Collection regulations.**

(a) Containers may be used only for the storage of solid waste materials collected by the city.

(b) Only city provided containers shall be used for collection of household waste. Only items placed within the container

will be collected. Additional cans, or bags separate from the city container will not be collected.

(c) A single container will be issued to each dwelling unit. An additional container may be issued upon request for a fee to be set by the city council.

(d) All city provided containers shall remain the property of the city. The city is responsible for repairs to city-owned containers when damage is a result of proper disposal of solid waste pursuant to this article.

(e) Containers shall be stored between collections so as not to impede pedestrian or vehicular along sidewalks, alleys, streets, and other rights-of-way. The container shall be set behind front edge of house. Within a reasonable and practical time after being emptied by the sanitation department, the person assigned a residential container shall return the container to a secure place away from the street. A reasonable and practical time means within 24 hours after the trash pickup.

(f) Assigned persons are responsible for the safe use, care and storage of residential containers and shall not allow children to play in, with or in close contact with the containers.

(g) Vandalism or theft of any container shall be investigated and prosecuted to the full extent of the law.

(h) Damage to a container due to negligence or abuse by a person shall be the full responsibility of the person or resident assigned the container.

(i) The replacement cost of a container will be charged to a person assigned a residential container if the assigned container is removed from active service for any reason. If a person takes their assigned container from active service, the person assigned the container is to either immediately pay the sanitation department the replacement cost of the container or immediately place the container back in active service. Replacement cost of container shall be current bid container price.

(j) Residential containers can not be swapped between persons for any reason. The using of the container for any use other than the collection of residential household or small business solid waste is in violation of these rules and regulation.

(k) A person moving into or out of a residence within the city shall notify the sanitation department in order to begin service or terminate service during the first or last two weeks of occupancy. (Code 2006, § 5.16.05; Ord. No. 3135)

**Sec. 54-63. Commercial, industrial and institutional solid waste containment.**

(a) Each commercial, industrial and institutional establishment may contract with any licensed hauler for the storage, collection and disposal of all solid waste. Each such establishment shall have on location storage containers of sufficient capacity to contain all solid waste between collection cycles. Containers shall be constructed of durable, nonabsorbent, noncombustible material with suitable watertight covers. Covers shall be kept closed except when containers are being

loaded or emptied. All containers shall be maintained in a sanitary condition. Containers shall not be stored or maintained in such a manner as to constitute a public nuisance, public health or safety hazard or environmental hazard. The containers shall be placed in such a manner as to minimize visibility from streets or pedestrian walkways.

(b) All solid waste generated by commercial, industrial and institutional establishments is prohibited from being deposited, or disposed of, in any city provided container unless collection service is being provided to such establishment by the city or its designee.  
(Code 2006, § 5.16.05; Ord. No. 3135)

**Sec. 54-64. Depositing solid waste other than in authorized containers.**

It shall be unlawful for any person to keep solid waste or animal waste unless the waste is kept as prescribed in this chapter or, is being composted as prescribed by this chapter and ADPC&E Regulation 22, as may be amended. No person or entity shall be permitted to bury, dump or deposit, or cause to be buried, dumped or deposited, solid waste of any kind whatsoever upon any street, alley or property for which a permit has not been issued by the ADPC&E.  
(Code 2006, § 5.16.05; Ord. No. 3135)

**Sec. 54-65. Unobstructed access to containers.**

(a) It is the responsibility of the responsible party to trim trees, brush and shrubbery on their property and in the adjacent right-of-way when such vegetation inter-

feres with the movement of pedestrians or vehicles, specifically solid waste collection vehicles.

(b) There shall be no street obstruction in any manner within five feet on either side of a city-provided solid waste container placed out for collection, nor shall there be any obstruction between the solid waste container and the street.

(c) The sanitation department shall receive notice of any excavation, construction, repairs or utility work that will necessitate the closure of any street or alley, with dates and locations of closure, at least 24 hours prior to commencing work. In emergency situations, the solid waste collection section shall be notified the next working day of locations and length of expected closure.

(d) Recycling containers shall not be placed on top or in front of city-provided carts.  
(Code 2006, § 5.16.06; Ord. No. 3135, § 7)

**Sec. 54-66. Disturbing contents of containers.**

It shall unlawful for any person:

- (1) Not authorized by the city to utilize, for other than its intended purpose, any container provided by the city.
- (2) Not authorized by the responsible party to remove, collect or disturb any solid waste stored in containers placed out for collection by the city or its designee.
- (3) To scatter, litter, drop, deposit, discard or otherwise dispose of solid waste upon any private or public property.

- (4) Not authorized by the city to remove or disturb any recyclables placed out for collection by the city or its designee.
- (5) To utilize a solid waste container assigned to another person for disposal of solid waste without the other person's permission.

Law enforcement officers, including state, local and federal officers are exempt from any and all of the regulations of this section while performing their duties as law enforcement officers.

(Code 2006, § 5.16.06; Ord. No. 3378, § 1; Ord. No. 3135)

**Secs. 54-67—54-90. Reserved.**

DIVISION 3. LANDFILLS

**Sec. 54-91. City to provide class IV waste disposal site.**

The mayor and city council shall provide a suitable place where all class IV waste may be hauled and disposed of. The site will only accept class IV solid waste. No liquids of any kind will be disposed of at the city's waste disposal site. Fees for dumping shall be established by resolution by the city council.

(Code 1962, § 10.4; Code 2006, § 5.16.04)

**Sec. 54-92. Class I and IV solid waste landfill user requirements.**

(a) Landfill users must obey all traffic signs and stay on designated roadways at all times.

(b) Landfill users are to follow all instructions given to them by any landfill personnel.

(c) Landfill users will dump solid waste only in the designated area as directed by landfill personnel.

(d) No alcohol beverages are permitted on the landfill site.

(e) All users of the landfill facility must be dressed in appropriate attire, i.e., no thong sandals or bare feet, for public health and safety reasons.

(f) Landfill personnel have the right to inspect any load and may disallow dumping of nonauthorized solid waste.

(g) Children and pets must remain in the vehicle at all times.

(h) No person engaged in the business of hauling and disposing of solid waste will be allowed access to the city landfill until such time that they have been issued a hauler's license by the CCRSWMD and have affixed the annual permit visible on the driver's side door of the solid waste collection vehicle.

(i) Access to the city landfill is permitted only during the hours when landfill operating personnel are on the site.

(j) Violation of these requirements may lead to permanent expulsion from the city landfill facility.

(k) All nonmetal and metallic class IV solid waste, both residential and commercial, that is too large or heavy to be placed in a person's closed residential container, must be taken to the landfill.

(l) Haulers bringing solid waste belonging to someone else to the landfill must upon request provide the landfill personnel or operator with the name, phone number and address of the person for whom they are hauling and the source of

the waste before the waste can be accepted and recorded. Also, before accepting the waste, the landfill personnel or operator may require verification of this information. Providing false information is a violation of these rules and regulations.

(m) Building and demolition contractors, roofers, landscapers, handyman services, remodelers, cleanup services, and other business or individual that generates large amounts of demolition, building, yard waste, or other class IV solid waste must transport all solid waste they generate to the city landfill for disposal sorting of the material for disposal or recycling at the landfill is the hauler's responsibility.

(Code 2006, § 5.16.01; Ord. No. 3135)

**Sec. 54-93. Hazardous waste.**

Pursuant to ADEQ Regulation 22, section 22.701(b), as amended, materials known to be hazardous waste are restricted from disposal at the city class IV landfill facility.

(Code 2006, § 5.16.01; Ord. No. 3135)

Chapters 55—57

**RESERVED**





## Chapter 58

### **STREETS, SIDEWALKS AND OTHER PUBLIC PLACES\***

#### **Article I. In General**

- Sec. 58-1. Gutters or ditches.
- Sec. 58-2. Temporary storing.
- Sec. 58-3. Drainage; obstructing.
- Sec. 58-4. Stormwater management.
- Sec. 58-5. Advertising by defacing streets and sidewalks.
- Sec. 58-6. Railroads obstructing crossings.
- Secs. 58-7—58-30. Reserved.

#### **Article II. Street Specifications**

- Sec. 58-31. Street improvement program standards manual.
- Sec. 58-32. Curb and gutters required.
- Sec. 58-33. Asphalt specifications.
- Sec. 58-34. Proof rolling requirements.
- Secs. 58-35—58-56. Reserved.

#### **Article III. City Maintenance Responsibilities**

- Sec. 58-57. Drainage ditches.
- Sec. 58-58. Mowing.
- Sec. 58-59. Curb and gutter construction.
- Sec. 58-60. Storm sewer and driveway tile.
- Secs. 58-61—58-78. Reserved.

#### **Article IV. Excavations and Alterations**

- Sec. 58-79. Permit procedure; deposit.
- Sec. 58-80. Excavations to be restored.

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\***State law references**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.; general authority relative to streets and sidewalks, A.C.A. §§ 14-54-104, 14-54-601 et seq.



**ARTICLE I. IN GENERAL****Sec. 58-1. Gutters or ditches.**

No person shall allow any dirt, filth or obstruction of any kind to accumulate in the gutter or ditch in front of his premises, and all owners or occupants of property are required to keep the gutter or ditch in front of their premises clean, open and free from trash and weeds, and all obstructions to the easy and rapid flow of water.

(Code 2006, § 9.04.02)

**Sec. 58-2. Temporary storing.**

It shall be unlawful for persons to use the streets or alleys for the temporary storing of lumber or other material. Special temporary permission may be granted by the city council upon written request describing the closure method, protection of the public and length of closing.

(Code 2006, § 9.12.04)

**Sec. 58-3. Drainage; obstructing.**

It shall be unlawful for any person to impede, block, dam or otherwise obstruct in any manner whatsoever the free flow of surface and rainwater flowing from streets and private property into and with ditches, drains and all other water-courses either natural or artificial where any of said ditches, drains and water-courses are contiguous to any public street or alley.

(Code 2006, § 9.12.08; Ord. No. 806, § 1, 1-16-1950)

**Sec. 58-4. Stormwater management.**

Stormwater management systems shall be designed and approved in accordance with chapter 112.

(Ord. No. 09:009, § 9.32.01(D), 2-17-2009)

**Sec. 58-5. Advertising by defacing streets and sidewalks.**

It shall be unlawful for any person to deface the sidewalks and paved streets of the city by writing, printing, painting or drawing on same. Provided the chief of police may do such painting, printing, writing or drawing as shall be necessary in the enforcement of traffic rules and the parking of motor vehicles. Such painting may be done by the chief of police or any one designated by him.

(Digest 1934, § 924; Code 2006, § 9.12.16)

**Sec. 58-6. Railroads obstructing crossings.**

It shall be unlawful for any person owning or operating railroad trains in the city to suffer or permit the same to remain standing across any public highway, street, alley or when it becomes necessary to stop such trains across any public highway, street or alley for more than ten minutes and fails to leave a space of 60 feet across such public highway, street or alley.

(Digest 1934, § 525; Code 2006, § 9.12.05; Ord. No. 1418, § 1, 9-9-1974)

**Secs. 58-7—58-30. Reserved.****ARTICLE II. STREET SPECIFICATIONS****Sec. 58-31. Street improvement program standards manual.**

The city does hereby adopt the street specifications contained in the final draft of the Street Improvement Program Stan-

dards Manual, as recommended and provided by the engineering firm of Garver & Garver.

(Code 2006, § 9.44.01; Ord. No. 2667, § 1)

**Sec. 58-32. Curb and gutters required.**

(a) The city does hereby amend the Street Improvement Program Standards Manual by allowing low back, four-inch, curb and gutter in residential zoning. All low-back curb and gutter must be accompanied by an engineering design containing the spacing of inlets to allow for proper water drainage. The design shall conform to drawing CG-3 and DW-6 as set forth by the city engineering department.

(b) Regular high-back curb and gutter are required on all of the following type streets:

- (1) Major collector;
- (2) Arterial; and
- (3) Commercial.

(c) The city does hereby amend the Street Improvement Program Standards Manual by allowing 18 inch wide high-back curb and gutter. The design shall conform to drawing CG-4 as set forth by the city engineering department.

(Code 2006, § 9.44.03; Ord. No. 2767, §§ 1, 2; Ord. No. 08:006, § 1, 2-19-2008)

**Sec. 58-33. Asphalt specifications.**

All references to asphalt specifications referred to in this section shall be governed by the Standard Specification for

Highway Construction of the state highway transportation department AHTD, 1996 Edition.

- (1) The city does hereby amend the street specification regarding asphalt mix for use of nonstate projects within the city as contained in table 407-1 of AHTD 1996 Edition.
- (2) The asphalt mix design shall be performed by two laboratories that are on the list of the department of the state highway and transportation department of approved asphalt mixed designed laboratories or one QPL and approved by the engineer of materials of the AHTD and a copy of the mixed design and a copy of the approval form shall be provided to the city engineer. A report from a QPL on all asphalt production for nonstate projects shall be submitted to the city engineer of the city, for every 750 tons to ensure quality control and the city engineer shall determine if the reported sample submitted is in compliance with the requirements set forth in table 407-1 of AHTD 1996 Edition.
- (3) Any asphalt plant inspection required shall conform to section 409 of AHTD 1996 Edition and be performed by a QPL or the state highway and transportation department.
- (4) Scales used by an asphalt plant shall be certified in accordance with state law.

(Code 2006, § 9.44.04; Ord. No. 3421, §§ 1—5)

**Sec. 58-34. Proof rolling requirements.**

Proof rolling of subgrade and base materials shall be performed prior to the placement of curb and gutter, base material and flexible or rigid pavement, as applicable. All tests shall be performed under the direction of the professional engineer responsible for project construction. Said engineer shall notify the office of the city engineer at least 24 hours prior to the proof rolling so that the test may be witnessed, as necessary. Failure of city staff to witness the proof rolling tests in no way relieves contractor or project engineer of their responsibility to comply with these requirements. All proof roll tests will be performed with a rubber-tire tandem-axle dump truck with a minimum gross weight of 45,000 pounds unless otherwise approved in writing by the city engineer. A current weight ticket must be provided at time of the proof roll test to verify loading criteria. Proof rolled material shall show no significant signs of movement during proof rolling. (Ord. No. 08:006, § 2(9.44.05), 2-19-2008)

**Secs. 58-35—58-56. Reserved.****ARTICLE III. CITY MAINTENANCE RESPONSIBILITIES****Sec. 58-57. Drainage ditches.**

The city will no longer maintain drain ditches other than those located on city street rights-of-way unless an emergency is declared to exist by the city council. (Code 2006, § 9.36.01; Ord. No. 1711, § 1)

**Sec. 58-58. Mowing.**

The city will limit its mowing operations to city property and street rights-of-

way and only that portion of the right-of-way that is necessary to be mowed for public safety.

(Code 2006, § 9.36.02; Ord. No. 1711, § 2)

**Sec. 58-59. Curb and gutter construction.**

The city will no longer participate in the cost or furnish labor to construct curb and gutter on city streets unless directed by the city council.

(Code 2006, § 9.36.03; Ord. No. 1711, § 3)

**Sec. 58-60. Storm sewer and driveway tile.**

The city will no longer participate in the cost or provide labor for the installation of storm sewer and/or driveway tile in ditches on city street rights-of-way unless directed by the city council.

(Code 2006, § 9.36.04; Ord. No. 1711, § 4)

**Secs. 58-61—58-78. Reserved.****ARTICLE IV. EXCAVATIONS AND ALTERATIONS****Sec. 58-79. Permit procedure; deposit.**

(a) No person shall cut into, tunnel under, or in any manner disturb the surface of any street, alley or sidewalk in the city without first applying for and obtaining from the chief engineer a written permit to do so, which shall:

- (1) Be dated;
- (2) Give the name and address of the person to whom the permit is granted;

- (3) Give the location of the place where the street, alley or sidewalk is to be cut into or tunneled under; and
- (4) Give the purpose for which said permit is granted.

All excavations shall be restored in accordance with the city's engineering standards.

(Code 2006, § 9.08.03; Ord. No. 3054, § 1)

(b) Any person applying for said permit shall estimate in writing the number of square feet to be cut or tunneled. Before such permit is granted the application shall deposit with the city collector for the purpose of ensuring that the street is properly restored the sum of \$5.00 per square foot for cutting concrete or other bituminous surface and \$2.00 per square foot for cutting into gravel surface; provided the minimum deposit shall be \$25.00 irrespective of the estimate.

(c) An inspection fee shall be charged with the issuance of a building permit for new construction for each separate driveway and for existing driveways. Said fees shall be subject to review by the city council.

(d) The inspection cost shall be set by the inspection department at a flat rate to cover expenses occurring from such inspections.

(e) The inspection cost shall be collected by the city collector at the time of issuance of a building permit. Failure to pay the inspection fee shall result in the building permit not being granted.

(Code 2006, §§ 9.08.01, 9.08.02; Ord. No. 2779, §§ 1—3; Ord. No. 3026, § 1)

**Sec. 58-80. Excavations to be restored.**

All material excavated for the street cut shall be removed and disposed of by the person performing said excavation.

Chapters 59—61

**RESERVED**





## Chapter 62

### **TAXATION\***

#### **Article I. In General**

Secs. 62-1—62-18. Reserved.

#### **Article II. Sales, Use and Related Taxes**

##### Division 1. Generally

Secs. 62-19—62-39. Reserved.

##### Division 2. Hotel and Motel Occupancy Tax

Sec. 62-40. Definitions.  
Sec. 62-41. Gross receipt tax.  
Sec. 62-42. Taxable businesses.  
Sec. 62-43. Fund for collections.  
Secs. 62-44—62-74. Reserved.

##### Division 3. Sales and Use Tax

Sec. 62-75. Tax imposed.  
Sec. 62-76. Proceeds.  
Sec. 62-77. Collection.  
Secs. 62-78—62-97. Reserved.

##### Division 4. Water

Sec. 62-98. Levied; amount; collection.  
Sec. 62-99. Transmission to director of finance.  
Sec. 62-100. Termination of utility services for failure to pay tax.  
Secs. 62-101—62-128. Reserved.

#### **Article III. Occupational License**

Sec. 62-129. Required.  
Sec. 62-130. Used auto dealers.  
Sec. 62-131. Term of license.  
Sec. 62-132. Engaging in more than one business.  
Sec. 62-133. Posting of license.

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\***State law references**—Municipal taxation, A.C.A. § 26-73-201 et seq.; occupational licenses and taxes, A.C.A. § 26-77-101 et seq.; authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.

## JONESBORO CODE

- Sec. 62-134. Doing business without license.
- Sec. 62-135. False statements in application for license.
- Sec. 62-136. Definitions.
- Sec. 62-137. Inventory of stock.
- Sec. 62-138. Estimate of stock.
- Sec. 62-139. Schedule of license taxes.
- Sec. 62-140. Penalty.
- Sec. 62-141. License required to do business with city.
- Sec. 62-142. Circuses, tent shows, etc.
- Sec. 62-143. Coin-operated machines, venders, devices, etc.
- Sec. 62-144. State license required.
- Sec. 62-145. License to be displayed; penalty.
- Sec. 62-146. Itinerant merchants, etc.

**ARTICLE I. IN GENERAL****Secs. 62-1—62-18. Reserved.****ARTICLE II. SALES, USE AND RELATED TAXES\*****DIVISION 1. GENERALLY****Secs. 62-19—62-39. Reserved.****DIVISION 2. HOTEL AND MOTEL OCCUPANCY TAX†****Sec. 62-40. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Gross receipt tax* means a tax of three percent upon the gross receipts or gross proceeds from renting, leasing or otherwise furnishing of motel or hotel accommodations in the city.

*Hotel or motel accommodations* means the renting, leasing or otherwise furnishing of accommodations in hotels or motels upon a day-to-day basis or a week-to-week basis. Provided, however, that this shall not include the renting, leasing or furnishing of accommodations upon month-to-month tenancies or tenancies of a longer duration.

(Code 1962, § 13-83; Code 2006, § 3.08.01; Ord. No. 1361, § 1, 5-21-1973; Ord. No. 23-2007, § 1, 3-6-2007)

\***State law reference**—Municipal sales and use taxes, A.C.A. § 26-75-101 et seq.

†**State law reference**—Hotel and motel occupancy tax authorized, A.C.A. § 25-75-602.

**Sec. 62-41. Gross receipt tax.**

From and after the passage and approval of the ordinance from which this division is derived section, a tax in the sum of three percent shall be levied upon the gross receipts or gross proceeds upon the renting, leasing or otherwise furnishing of hotel and motel accommodations for profit within the corporate limits of the city.

(Code 1962, § 13-84; Code 2006, § 3.08.02; Ord. No. 1361, § 2, 5-21-1973; Ord. No. 23-2007, § 2, 3-6-2007)

**State law references**—Authority to levy above tax, A.C.A. § 26-75-602; payment of tax, A.C.A. § 26-75-603.

**Sec. 62-42. Taxable businesses.**

The city advertising and promotion commission shall prepare and maintain a current list of the business establishments in the city, subject to the tax in section 62-41.

(Code 1962, § 13-85; Code 2006, § 3.08.03; Ord. No. 1361, 5-21-1973)

**Sec. 62-43. Fund for collections.**

There is hereby created the city advertising and promotion fund, to which fund there shall be credited all collections of the tax.

(Code 2006, § 2.76.04; Ord. No. 2787, § 2)

**State law reference**—Use of funds collected, A.C.A. § 25-75-606.

**Secs. 62-44—62-74. Reserved.****DIVISION 3. SALES AND USE TAX****Sec. 62-75. Tax imposed.**

Under the authority of the authorizing legislation, there is hereby levied a one

percent tax for a maximum period of 24 months, beginning October 1, 2006, on the gross receipts from the sale at retail within the city of all items which are subject to the Arkansas Gross Receipts Act of 1941 (A.C.A. § 26-52-101 et seq.), and the imposition of an excise or use tax on the storage, use, distribution or other consumption within the city of tangible personal property subject to the Arkansas Compensating Tax Act of 1949 (A.C.A. § 26-53-101 et seq.), at a rate of one percent of the sale price of the property or, in the case of leases or rentals of the lease or rental price, collectively, the "sales and use tax". The sales and use tax shall be levied and collected only on the first \$2,500.00 for each single transaction.

(Code 2006, § 3.16.01; Ord. No. 3633, § 1)

**State law reference**—Authority for above tax, A.C.A. § 26-75-207.

**Sec. 62-76. Proceeds.**

The proceeds derived from the sales and use tax will be used to finance the acquisition and subsequent leasing of convention, meeting, and event facilities, related parking facilities, and other capital improvements related thereto; and to finance the construction, equipping, staffing, and operation of a centrally-located fire station and related parking facilities. (Code 2006, § 3.16.02; Ord. No. 3633, § 2)

**Sec. 62-77. Collection.**

The sales and use tax shall be levied and collected until the sooner of the following events occurs:

- (1) Proceeds from the sales and use tax have reached the sum of \$21,000,000.00; or

- (2) The sales and use tax has been levied and collected for 24 months. (Code 2006, § 3.16.03; Ord. No. 3633, § 3)

**Secs. 62-78—62-97. Reserved.**

DIVISION 4. WATER

**Sec. 62-98. Levied; amount; collection.**

There is hereby levied upon each user of water as fixed and determined by the existence of each water meter in service within the city a monthly privilege tax of ten percent of the gross water bill which shall be added to each monthly bill and collected for the city by the city water and light plant.

(Code 2006, § 10.12.01; Ord. No. 1269, § 1, 7-6-1970)

**Sec. 62-99. Transmission to director of finance.**

The city water and light plant shall pay the entire amount collected during the previous calendar month to the director of finance of the city within 15 days after the end of each month. This payment shall be in addition to any and all sums paid to or collected for the by the city water and light pursuant to existing agreements, contracts, laws or order of court. (Code 1962, § 19-41; Code 2006, § 10.12.02)

**Sec. 62-100. Termination of utility services for failure to pay tax.**

The city water and light plant is authorized to terminate any or all utility services to any consumer who fails to pay such charge when due and shall make

available to the city on request the names and amounts of all who may be delinquent in such payment.

(Code 2006, § 10.12.03; Ord. No. 1269, § 3, 7-6-1970)

**Secs. 62-101—62-128. Reserved.**

**ARTICLE III. OCCUPATIONAL  
LICENSE\***

**Sec. 62-129. Required.**

It shall be unlawful for any person who lives in or lives outside of the corporate limits of the city and/or who has a business, occupation, vocation, profession, trade or calling in or outside of the corporate limits of the city and who engages in, carries on or conducts said business, occupation, vocation, profession, trade or calling within the corporate limits of the city for which a license is required by this article without having first paid the privilege tax and procured a license therefore from the city. This section shall not apply to those persons who have a current privilege tax from some other city in the state, unless such person is maintains a place of business in the city.

(Code 2006, § 4.04.01; Ord. No. 1468, § 1)

**Sec. 62-130. Used auto dealers.**

No city license shall be issued to any person or entity engaging in the business of a used auto dealer unless the same has procured a state license as provided by A.C.A. § 23-112-606.

(Code 2006, § 4.04.01; Ord. No. 2291, § 1)

\***State law reference**—Occupational licenses and taxes, A.C.A. § 26-77-101 et seq.

**Sec. 62-131. Term of license.**

(a) All annual licenses prescribed and annual occupation taxes shall be due and payable on January 1 of each year, and shall be paid to the city collector, and the city collector shall issue a receipt for the proper amount of money received, and shall issue the proper license therefor upon the payment of such sum of money and such license shall be good and valid for the year so paid; provided that any business, occupation, vocation, profession or calling begun within the calendar year shall be prorated by the number of months left in the calendar year and shall be charged an annual license fee based upon the number of calendar months left in the year.

(b) All persons failing, neglecting or refusing to pay their licenses or occupation tax within 45 days from the date the same becomes due shall be subject to penalties as follows:

- (1) If paid between 45 days and 75 days from due date, ten percent of the amount of tax due.
- (2) If paid between 75 days and 135 days from due date, 20 percent of the amount due.
- (3) If not paid within 135 days from the date due, 40 percent of the amount of tax due.

Such penalties shall be in addition to any fines which may be levied as a result of the violation of this article. The city collector shall publish, in a local newspaper of general citywide circulation, a list of all persons failing, neglecting or refusing to pay their license or occupation tax. Said

list of delinquencies shall be published by the city collector on or before July 1 of each year.

(Code 2006, § 4.04.02; Ord. No. 1664, § 1)

**Sec. 62-132. Engaging in more than one business.**

Where any person engaged in any business which includes separate kinds of business which might be required to pay an occupation tax under this article and the business is operated under one roof as a single line of business, the operator of such business shall be required to pay the highest license fee or occupation tax of said separate business, provided, however, where two or more separate and distinct businesses are operated under the same roof, each business shall be required to pay a license fee and occupation tax as provided herein, except where it is specifically provided herein that certain kinds of businesses or callings shall include more than one calling or business.

(Code 2006, § 4.04.03; Ord. No. 757, § 17, 7-28-1947)

**Sec. 62-133. Posting of license.**

Each license shall be posted in a conspicuous place where such business or occupation is carried on or the holder of such license shall upon demand show the same to the city collector or any police officer.

(Code 2006, § 4.04.04; Ord. No. 757, § 8, 7-28-1947)

**Sec. 62-134. Doing business without license.**

The amount of any license imposed by this article shall be deemed as a debt due

the city, and in addition to the penal remedies and punishments herein prescribed, any person commencing, engaging in or carrying on any trade, business, occupation, vocation, calling or profession without first having obtained a license to do so, shall be liable to an action in the name of the city in any court of competent jurisdiction for the amount of license by this chapter imposed on such trade, business, occupation, vocation, calling or profession.

(Code 2006, § 4.04.05; Ord. No. 757, § 15, 7-28-1947)

**Sec. 62-135. False statements in application for license.**

It shall be unlawful to willfully and knowingly make any false statement in the application for license hereunder for the purpose of defrauding the city of its just tax or license fee.

(Code 2006, § 4.04.06; Ord. No. 757, § 13, 7-28-1947)

**Sec. 62-136. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Stock* means only goods, wares and merchandise, but all other articles and things carried for sale or distribution by any person.

(Code 2006, § 4.04.07; Ord. No. 757, § 2, 7-28-1947)

**Sec. 62-137. Inventory of stock.**

All businesses, merchants or traders for which the occupation tax or license fee is based upon the value of stock or mer-

chandise are required to submit to the city collector an inventory of stock of merchandise as delineated in an audit, such as used for reporting federal income tax or certified to by a licensed certified public accountant.

(Code 2006, § 4.04.08; Ord. No. 1664, § 22)

**Sec. 62-138. Estimate of stock.**

(a) As a basis for computing the occupation tax or license fee on the basis of the value of stock or merchandise, each person applying for license shall furnish to the city collector a written sworn statement of the volume of such goods or stock and such further proof as the city collector shall demand to show the actual amount of capital invested, value of goods or stock, and the said city collector shall not be required to receipt for any money until such proofs are furnished.

(b) The written sworn statement of estimate so furnished shall be used as the basis of computing the amount of occupation tax or license fee due from each applicant as required by section 62-137. Such sworn statement and all information furnished to the city collector for the computation of such tax shall be kept strictly confidential and not revealed except to city officials in their official capacity, and not used against applicant in any other connection.

(Code 2006, § 4.04.09; Ord. No. 757, §§ 4, 5, 7-28-1947)

**Sec. 62-139. Schedule of license taxes.**

The occupation tax or license fee to be paid in order to obtain the license to carry

on or engage in the businesses, occupations, vocations, professions, or callings shall be as established by the council.

(Code 2006, § 4.04.10; Ord. No. 1664, § 3)

**Sec. 62-140. Penalty.**

Any person who shall violate any part of this article, in addition to the penalty provided in sections 62-131 and 1-7, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than 150 percent of the amount of the license fee or occupation tax due by the offender, and each and every day shall constitute a separate offense, and the offending party, in addition shall be required to take out and pay for a license as required by the provisions of this article.

(Code 2006, § 4.04.19; Ord. No. 757, § 11, 7-28-1947)

**Sec. 62-141. License required to do business with city.**

From and after passage and adoption of the ordinance from which this section is derived, it shall be unlawful for the city to engage in or carry on any business with any person which has not paid a privilege tax and procured a license to operate in the city as required by this article.

(Code 2006, § 4.04.20; Ord. No. 1180, § 1)

**Sec. 62-142. Circuses, tent shows, etc.**

(a) All tent shows including circuses, wild west shows, dog and pony shows, minstrels, carnivals and all public tent shows or exhibitions of whatever name or nature, using only one tent for its shows or exhibits, shall pay a license fee as established by the council. Provided lec-

tures on science, historical or literary subjects, or tent shows or exhibits appearing in conjunction with or as a part of a general countywide exhibition for the promotion of better farm-urban relationships and which are subsidized by state funds and which features livestock and general farm products shall not be included within the provisions of this section.

(b) No tent shows including wild west shows, circuses, dog and pony shows, minstrels, carnivals and all other public tent shows or exhibitions of whatever name or nature shall locate any of its structures, fence, exhibitions or any other structures of any nature whatsoever closer than 300 feet of any public street or right-of-way.

(c) No permit or license to conduct any show specified in subsection (a) of this section shall be issued or granted except upon the deposit with the city collector of the sum of \$100.00 conditioned upon and to guarantee that the premises occupied by said shows or exhibitions herein mentioned shall be left in a clean and sanitary condition and that all paper, trash and rubbish of any nature whatsoever shall be picked up and disposed of as now provided by the city garbage collection laws and all laws then in effect. Said deposit to be returned after inspection of said premises by the chief of police or some person designated by him and found to be in a clean and sanitary condition and all such trash being disposed of, a violation of which shall constitute a misdemeanor.

(d) Any person owning or having control of any land or premises leased or rented, for the use of any shown herein

specified and any person owning, operating or having control of any such show, exhibit or structure of any nature whatsoever violating the provisions of this section shall be guilty of a misdemeanor. (Code 2006, § 4.04.22; Ord. No. 940, § 1)

**Sec. 62-143. Coin-operated machines, venders, devices, etc.**

(a) There is hereby levied upon each of the following described coin-operated machines, games, devices and mechanical venders, and, upon machines, games, venders or devices of like character, an annual city license tax in the amount established by the city council.

(b) On each machine, game, mechanical vender, or device upon which a tax is levied pursuant to this section the city collector shall issue a license and charge therefor the sum of money required for each machine by this section, said licenses to be due and payable on January 1 of each year and expiring on December 31 of each year.

(Code 2006, § 4.04.23; Ord. No. 683, §§ 1, 2)

**Sec. 62-144. State license required.**

No city license shall be issued upon any machine, device, game or mechanical vender, until a state license has been issued thereon where a state license is required by law.

(Code 2006, § 4.04.24; Ord. No. 683, § 3)

**Sec. 62-145. License to be displayed; penalty.**

No machine, device, game, or mechanical vender described in section 62-143 shall be exhibited or operated until the license hereby required shall have been

obtained and said license shall be at all times displayed upon, and affixed to said machine, device, mechanical vender or game. Any person operating or exhibiting any machine, game, device or mechanical vender, without the license hereby required shall be guilty of a misdemeanor. (Code 2006, § 4.04.25; Ord. No. 683, § 4)

**State law reference**—Licensing and taxation of coin-operated machines, A.C.A. § 25-77-101 et seq.

**Sec. 62-146. Itinerant merchants, etc.**

Each itinerant person engaged in the business of merchant, vendor, solicitor, door to door canvasser, photographer or salesman in the city shall pay to the city collector as a license fee in the sum established by the council. And as a means of determining who shall pay said license, any person beginning any of said occupations in the city shall pay to the city collector as a deposit said license fee in the sum established by the city council and the same shall be returned if the person making the deposit shall remain in continuous operation within the city for six consecutive months, and such party shall pay only the amount of tax prescribed for parties regularly engaged in business within the city as prescribed by section 62-137. If the party making said deposit does not remain continuously engaged in business for said six-month period, then said deposit shall be applied on the itinerant license hereinbefore prescribed.

(Code 2006, § 4.04.26; Ord. No. 780)



Chapters 63—65

**RESERVED**





Chapter 66

**TRAFFIC AND VEHICLES\***

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\***State law references**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.; Uniform Act Regulating Traffic on Highways of Arkansas, A.C.A. § 27-49-101 et seq.; powers of local authorities, A.C.A. § 27-49-106.

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## TRAFFIC AND VEHICLES

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## ARTICLE I. IN GENERAL

### Sec. 66-1. Adoption of state laws.

The Uniform Act Regulating Traffic on Highways of Arkansas (A.C.A. § 27-49-101 et seq.), three copies of which are on file in the office of the clerk, are hereby adopted as traffic rules and regulations within and for the city. Any person convicted of violation of said statutes shall be deemed guilty of the violation of the ordinances of the city, and shall be fined or imprisoned or both in the manner set out under the state statutes.  
(Code 2006, § 8.04.01)

### Sec. 66-2. Roadblocks for solicitations.

(a) It shall be unlawful for any person from any organization, club or corporation to sell, solicit and/or collect gifts, donations or contributions of money or goods of any kind for any purpose whereby roadblocks of traffic are utilized.

(b) It shall be further prohibited and shall constitute a violation of this section for any person, organization, firm, club or corporation to enter into or upon said roadway or intersection for the purpose of selling, soliciting and/or collecting gifts, donations or contributions of goods or monies of any kind for any purpose.

(c) For purpose of this article entry into or upon the roadway or intersection shall include specifically the traveled portion of said roadway or intersection together with the adjacent right-of-way.

(d) Any violation of this article shall be termed a violation in keeping with the provision A.C.A. § 5-1-105 and shall be punishable by a fine of \$50.00.  
(Code 2006, § 8.28.12; Ord. No. 3370, § 1)

### Sec. 66-3. Hitchhiking.

It shall be unlawful for any person to hitchhike or solicit rides in vehicles or to loiter on or near any street or filling station with the intention of soliciting such a ride.  
(Code 2006, § 8.28.16; Ord. No. 636, § 1)

### Sec. 66-4. Objects blocking streets and view; storm debris.

(a) It shall be unlawful for any person to place or allow to remain within the street right-of-way located within the municipal boundaries of the city as they now exist or may later be extended, any signs, motor vehicles, disabled vehicles, vehicles whether motorized or not, shrubs, bushes, trees, fences, trash, or other obstructions to vision.

(b) Obstruction to vision shall be defined as any object which impedes a normal person's sight.  
(Code 2006, § 8.28.19; Ord. No. 3402, § 1)

### Secs. 66-5—66-28. Reserved.

## ARTICLE II. ADMINISTRATION AND ENFORCEMENT

### DIVISION 1. GENERALLY

### Secs. 66-29—66-59. Reserved.

### DIVISION 2. TRAFFIC CONTROL REVIEW COMMITTEE

### Sec. 66-60. Established.

The city council hereby creates and establishes a permanent traffic control review committee to advise and make recommendations to the city council, or

the appropriate city council committee, regarding the need and/or placement of traffic control signage, signals or other devices.

(Code 2006, § 8.52.01; Ord. No. 3485, § 1; Ord. No. 3660, § 2, 8-15-2006)

**Sec. 66-61. Composition.**

The committee shall be composed of the following:

- (1) Uniform patrol/traffic captain (chairperson);
- (2) City planner;
- (3) Streets superintendent; and
- (4) Street department team leader for signs and signals.

(Code 2006, § 8.52.02; Ord. No. 3485, § 2; Ord. No. 3660, § 2, 8-15-2006)

**Sec. 66-62. Guidelines.**

The manual on uniform traffic control shall be used as reference but shall not be binding in the decision making process. The public's health, safety and welfare shall also be considered before recommendations are made to the city council or a council committee.

(Code 2006, § 8.52.03; Ord. No. 3485, § 3; Ord. No. 3660, § 2, 8-15-2006)

**Secs. 66-63—66-82. Reserved.**

**ARTICLE III. VEHICLE TOWING AND NONOPERATING VEHICLES**

**DIVISION 1. GENERALLY**

**Sec. 66-83. Wreckers.**

(a) The city does hereby promulgate the following regulations and specifications to apply to towing and wrecker companies who receive requests for service from the city police department:

- (1) Each wrecker company who wishes to receive requests for services from the city police department, except calls that arise from the requests of vehicle owners, must immediately conform to the following regulations and specifications. Failure to so conform to these regulations and specifications will constitute grounds for penalties as listed in subsection (b) of this section.
- (2) Each company must provide 24-hour continuous service, both for the acceptance or release of vehicles or property and for request for service.
- (3) Each company must have in continuous effect and provide proof of liability insurance in sufficient amount to cover any claim against them resulting from property damage or injury to persons occurring while they are rendering service upon request of the city police department. Furthermore, each company must maintain a lighted storage area surrounded by fencing adequate to prevent entrance by unauthorized persons and must

- hold itself responsible for any theft or vandalism to vehicles or other property within its care or control. Furthermore, each company must have available for continuous storage use, an area which is secure from entry by all unauthorized persons in which vehicles stored for the purpose of preserving evidence may be held.
- (4) All wreckers must be in good mechanical condition, must bear a current vehicle inspection certificate, and must bear a proper commercial license.
  - (5) All wreckers must be equipped with a fire extinguisher, ABC Type, of not less than ten pounds in size, and sufficient amber lights, visible from both front and rear, to warn approaching traffic.
  - (6) Each wrecker shall be equipped with sufficient tools and accessories to efficiently perform its service.
  - (7) No wrecker shall proceed to an accident scene unless requested to do so by the city police department or the owner or driver of the wrecked vehicle. Should a wrecker company or any of its employees receive notification of an accident from a source other than a police agency, it should immediately notify the proper police agency.
  - (8) Each company must, upon request for service, make available immediately a suitable wrecker and operator, or immediately inform the requesting party that no suitable wrecker is available so that service may be obtained from another company. No more than 35 minutes will be allowed from the time of request for a wrecker to appear at the scene.
  - (9) All wrecker operators shall obey all traffic regulations. Wreckers are not considered an emergency vehicle under state statutes.
  - (10) Upon arrival at an accident scene, the wrecker operator will stand by and will not proceed to work on or remove any vehicle until directed to do so by a police officer.
  - (11) It will be the responsibility of every wrecker operator to remove or provide for the removal of all debris from the highway before leaving an accident scene. See A.C.A. § 27-51-1405.
  - (12) Each company must maintain an adequate record of all vehicles towed at the request of the city police department. Such record to include the date, time, location, make, model, license and serial numbers. Such records shall be made available to the city police department at such times as any member thereof may request.
  - (13) All companies will be required to furnish the city police department with a list of all vehicles stored on their lot over 30 days that were towed at the request of the city police department.
  - (14) All wrecker company vehicles must comply with all state statutes and the requirements as required by the state.

- (15) All companies will be required to provide a list of all authorized drivers. This list shall provide the driver's license number of each driver so that the driving record of each driver may be examined. Drivers with excessive violations may be denied the opportunity to respond to calls for service by the city police department.
- (16) The following amounts will be the maximum that companies may charge when requested to respond by the city police department. This does not apply to accidents requiring the use of large wreckers.

<i>Reason</i>	<i>Charge</i>
Citywide base response rate	\$75.00
Per loaded mile outside city limits	\$2.00
Winch/standby charges per hour	\$25.00
Daily storage per day	\$15.00

These rates will be reviewed on a yearly basis to ensure their conformity with current economic standards.

- (b) Penalty.
  - (1) Any company that violates any of the conditions of this section, with the exception of subsection (a)(16) of this section, will receive a written warning for the first offense. A second violation within a six month period will result in that company's removal from the list for three months. Any further violations af-

ter reinstatement within a 12-month period will result in removal from the list for one year.

- (2) Any violation of subsection (a)(14) of this section will result in that company's being removed from the list for a period of one year.
- (3) All complaints will be investigated by the patrol division commander. A representative of the company alleged to have violated these regulations will be permitted to present their defense prior to any action being taken. The chief of police shall have the final decision as to the action taken.

(Code 2006, § 8.40.13(C), (D); Ord. No. 2302, §§ 1, 2; Ord. No. 3295, § 1)

**Sec. 66-84. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Motor vehicle* means a car, automobile, truck, bus, omnibus, tractor truck, or other vehicle licensed to travel upon the roads of the state, or subject to licensing for travel or intended as a carrier for goods and persons from point to point which uses motive power derived from a motor or engine especially an internal combustion engine, or rotary engine and a Wankle.

*Nonoperating motor vehicles* means a motor vehicle with one or more of the following characteristics:

- (1) The engine or motor is inoperative.

- (2) The wheels, all or any one of them, are removed.
- (3) The motor vehicle has flats on two or more tires.
- (4) Major operating components are missing such as: windshield glass, door glass, fenders, gauges, steering wheel, tie rods, springs, drive train, gear box, rear end, or any parts connected with the steering geometry of the motor vehicle or the seats are removed.
- (5) Any of the major operating components such as those listed in subsection (4) of this definition are in such damaged condition so as to make the motor vehicle useless.
- (6) The motor vehicle does not have a current state registration.

*Prima facie case* means that a motor vehicle is a nonoperating motor vehicle if it does not have a current state motor vehicle inspection sticker demonstrating the motor vehicle has passed a safety inspection as by law required.

(Code 2006, § 8.16.01)

**Sec. 66-85. Prohibiting nonoperating vehicles.**

It is unlawful to have a nonoperating motor vehicle.

(Code 2006, § 8.16.02)

**Sec. 66-86. Exceptions.**

Nothing in this article shall be construed so as to apply to:

- (1) Any motor vehicle that can be started and moved under its own power on demand.
- (2) Motorcycles and motor bikes.

- (3) Antique automobiles, provided the vehicle has an antique license as by law required.
- (4) Temporarily disabled motor vehicles provided they are restored to running condition within 30 days from date of disablement.

(Code 2006, § 8.16.03)

**Sec. 66-87. Violators.**

A person shall be deemed in violation of this article if:

- (1) Such person owns or has registered to him a nonoperating motor vehicle that is in a prohibited area within the terms of this article.
- (2) Such person owns property that nonoperating motor vehicles are placed, parked or found resting on in a prohibited area within the terms of this article.
- (3) It shall be a prima facie case that the record owner is the owner of property in question.
- (4) It shall be a prima facie case that the registered owner of a motor vehicle is the owner of the motor vehicle.

(Code 2006, §§ 8.16.01—8.16.03, 8.16.05)

**Secs. 66-88—66-117. Reserved.**

DIVISION 2. REMOVAL

**Sec. 66-118. Wrecked vehicles.**

The city council hereby finds and declares that the condition of traffic is such on the streets of the city as to endanger the traveling public when illegally stopped, disabled and wrecked vehicles are found

upon the city streets. From and after passage and adoption of the ordinance from which this section is derived, when any police officer finds a vehicle standing upon the streets of the city in violation of the parking regulations of the city or said vehicle is wrecked, disabled or abandoned, such officer is hereby authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the vehicle to the nearest garage or other place of safety.  
(Code 1962, § 15-24; Code 2006, § 8.28.09)

**Secs. 66-119—66-149. Reserved.**

**ARTICLE IV. VEHICLE OPERATION**

**Sec. 66-150. Driving on sidewalk.**

No person shall drive any vehicle on any paved sidewalk or curb unless going into or coming out of premises into which a driveway has been constructed connecting with the street.  
(Code 1962, § 15-10; Code 2006, § 8.28.01)

**Sec. 66-151. Driving through procession.**

No vehicle shall be driven through a procession, except with the permission of a police officer.  
(Code 1962, § 15-11; Code 2006, § 8.28.02)

**Sec. 66-152. Hospital zones.**

Streets in the vicinity of hospitals are hereby designated as hospital zones and it is hereby made the duty of the chief of police to mark such zones by appropriate signs and designate the boundaries of such zones. It shall be unlawful for the driver of any vehicle except apparatus of

the fire department or for any person to make or cause to be made any unnecessary noise or other disturbance within such hospital zones as designated by the chief of police.  
(Code 1962, § 15-12; Code 2006, § 8.28.03)

**Sec. 66-153. Clinging to moving vehicle.**

(a) It shall be unlawful for any person to ride on the fender, bumper, running board, radiator, hood, tire carrier, top or step of any vehicle operated over the streets or alleys of the city.

(b) No person owning or operating a vehicle over the streets or alleys of the city shall permit any person to ride on the fenders, bumper, running board, radiator, hood, tire carrier, top or step of said vehicle or permit any person to alight from the vehicle while the same is in motion.  
(Code 1962, § 15-17; Code 2006, § 8.28.05)

**Sec. 66-154. Alighting from moving vehicle.**

No person riding in any vehicle operated over the streets and alleys of the city shall alight therefrom while the same is in motion, but shall wait until said vehicle comes to a full stop.  
(Code 1962, § 15-18; Code 2006, § 8.28.06)

**Sec. 66-155. Repairing vehicles on streets.**

No vehicle shall be repaired upon the streets; provided, however, it shall not be unlawful to change tires, repair tires or make minor adjustments on any vehicle which has become disabled. It shall be unlawful for the owner, agent, employee or servant of any shop for repairs of

vehicles to make any repairs of any kind on any vehicle on any street adjacent to such shop.

(Code 1962, § 15-21; Code 2006, § 8.28.07)

**Sec. 66-156. Sleds pulled by vehicle.**

(a) It shall be unlawful for any person owning or operating a motor vehicle over the streets or alleys of the city to tow, push or pull a sled, cart or similar conveyance occupied by human beings.

(b) It shall be unlawful for any person to ride on or be pulled by a sled, cart or similar conveyance which is being towed, pushed or pulled by a motor vehicle operated over the streets or alleys of the city. (Code 1962, § 15-23; Code 2006, § 8.28.08)

**Sec. 66-157. Noise from vehicles; hazardous or negligent driving.**

(a) It shall be unlawful for any person to start or accelerate any motor vehicle upon the public way or upon any private driveway within the city in such a manner as to make a loud noise by means of motor exhaust or tires spinning, when no apparent necessity therefore exists.

(b) It shall be unlawful for any person to operate a motor vehicle upon the public way or upon any private driveway within the city in a hazardous or negligent manner. Hazardous or negligent manner of driving is defined as the operation of any motor vehicle on the public way or private driveway within the city without due care for the safety of others or their property upon the public way or private driveway, or for the safety or property of such operator.

(Code 2006, § 8.28.11; Ord. No. 1755, §§ 1—3)

**Secs. 66-158—66-182. Reserved.**

**ARTICLE V. STOPPING,  
STANDING AND PARKING\***

**DIVISION 1. GENERALLY**

**Sec. 66-183. Application.**

The provisions of this article or any traffic ordinance prohibiting the standing or parking of a vehicle shall apply at all times or at those times specified or indicated on official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the direction of a police officer or official traffic control device. The provisions of this article or any traffic ordinance imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or specified times.

(Code 1962, § 15-80; Code 2006, § 8.40.01)

**Sec. 66-184. Prohibited at all times on certain streets.**

When signs are erected on any street or part of street giving notice thereof, no person shall park a vehicle on the sides of any such street or part of street so designated for no parking.

(Code 1962, § 15-81; Code 2006, § 8.40.02)

**Sec. 66-185. Prohibited during certain hours on certain streets.**

When signs are erected on any street or part of street in each block giving notice

**\*State law references**—Authority to regulate standing or parking, A.C.A. § 27-49-106(a)(1); stopping, standing and parking, A.C.A. § 27-51-1301 et seq.

thereof, no person shall park a vehicle on any such street or part of street in each block so designated between the hours specified by the signs, except Sundays and public holidays.  
(Code 1962, § 15-82; Code 2006, § 8.40.03)

**Sec. 66-186. Time limit on certain streets.**

When signs are erected on any street or part of street giving notice thereof, no person shall park a vehicle on any such street or part of street in each block so designated for longer than the time limit specified at any time between the hours of 8:00 a.m. and 6:00 p.m. of any day except Sundays and public holidays.  
(Code 1962, § 15-83; Code 2006, § 8.40.04)

**Sec. 66-187. Signs required.**

Whenever by any provision of this article or any traffic ordinance a parking time limit is imposed or parking is prohibited on any street or part of street, it shall be the duty of the chief of police or some person designated by him, to erect appropriate signs on such street or part of street giving notice thereof and no such regulations shall be effective unless said signs are erected and in place on the side or sides of the street or part of street where parking time is limited or prohibited at the time of any alleged offense.  
(Code 1962, § 15-84; Code 2006, § 8.40.05)

**Sec. 66-188. Parking not to obstruct traffic.**

No vehicle shall be stopped as to obstruct a crossing and shall not be stopped or allowed to stand within the intersection of any street or alley.  
(Code 1962, § 15-85; Code 2006, § 8.40.06)

**Sec. 66-189. Parking close to curb.**

Where diagonal parking is provided and in city parking lots, the vehicle shall be wholly within the painted or marked parking lines and no part of any vehicle shall be allowed to project over or across said diagonal lines, and some part of said vehicle shall be not more than 12 inches from the curb.  
(Code 2006, § 8.40.08; Ord. No. 1782, § 1)

**Sec. 66-190. Parking on private property prohibited.**

It shall be unlawful for any person to park or place any vehicle upon private property without the consent of the owner.  
(Code 2006, § 8.40.09; Ord. No. 779, § 1, 11-22-1948)

**Sec. 66-191. Parking for certain purposes prohibited.**

It shall be unlawful to park any vehicle of any kind or character upon any street or street right-of-way within the city or upon any city owned parking lot for the purpose of displaying said vehicle for sale or for rent or hire or to park any vehicle upon any street, street right-of-way or public parking lot within the city for a period of longer than five minutes from which vehicle merchandise goods, wares, produce or other matter is peddled.  
(Code 2006, § 8.40.10; Ord. No. 779, § 1, 11-22-1948)

**Sec. 66-192. Commercial vehicle parking in the city.**

(a) No person shall park any motor truck, trailer or semitrailer which is rated regularly and commonly as having a load capacity of three-quarter ton or more upon any street or alley within the corpo-

rate limits of the city from the hours of 12:00 midnight and 6:00 a.m. of any day and no such vehicle shall be parked upon the street right-of-way and shall be parked wholly upon private property.

(b) No person shall park a vehicle of any kind or character upon Main Street from the railroad tracks south to Jefferson Avenue, upon either side of said street between the hours of 2:00 a.m. and 5:00 a.m.

(c) No person shall park a vehicle upon either side of Matthews Avenue from Main Street to Carson Street between the hours of 2:00 a.m. and 5:00 a.m.

(d) It shall be unlawful to park any vehicle of any kind or character upon any street or street right-of-way within the city or upon any city-owned parking lot for the purpose of displaying said vehicle for sale, or for rent or hire, or to park any vehicle upon any street, street right-of-way or public parking lot within the city for a period of longer than five minutes from which vehicle merchandise goods, wares, produce or other matter is peddled.

(e) Any person violating any provision of this division shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed \$25.00 and each day said violation is allowed to remain shall constitute a separate offense.

(Code 2006, § 8.40.11; Ord. No. 976, §§ 1—4)

**Sec. 66-193. Loading zones.**

It shall be unlawful for any person to park or leave standing any vehicle within any loading zone except for the purpose of

loading or unloading persons or freight and then only for a period not exceeding 15 minutes.

(Digest 1934, § 649; Code 2006, § 8.40.12)

**Sec. 66-194. Parking in fire lanes prohibited.**

It shall be unlawful for any person, unless duly authorized, or a public officer acting within the scope of their public duties, to park in a designated fire lane. (Code 2006, § 8.40.20; Ord. No. 2640, § 1)

**Sec. 66-195. Requirements for fire lane markings.**

All designated fire lane markings must be done in florescent red paint and a sign shall be posted stating the following:

Fire Lane

No Parking

Minimum \$50.00 Fine

(Code 2006, § 8.40.21; Ord. No. 2640, § 1)

**Sec. 66-196. Penalty for violations.**

Any person violating any of the terms of sections 66-194 or 66-195 shall be guilty of a misdemeanor and subject to a fine of not less than \$50.00 for each offense. In addition to the \$50.00 penalty, when any vehicle is found illegally parked as provided in section 66-194, the fire official is authorized to contact a wrecker service for the purpose of towing such vehicle away. The wrecker may tow the vehicle to the place of business of the owner of the wrecker. Responsibility for any such violation shall rest with the owner of any vehicle illegally parked, regardless of who actually placed the vehicle in the parking area.

(Code 2006, § 8.40.22; Ord. No. 2640, § 1)

**Secs. 66-197—66-215. Reserved.**

DIVISION 2. DOWNTOWN AREA

**Sec. 66-216. Declaration of policy.**

The city council hereby determines and declares that the area of downtown within the confines of the downtown improvement district, suffers from inconsistent and inadequate parking regulations. The city council further hereby determines and declares that the inadequate and inconsistent parking policies create congestion, obstruct the free circulation of traffic, diminish property values, and endanger the health, safety and general welfare of the citizens of the city, and that the passage of regulations for on-street and off-street parking is necessary to alleviate such conditions.  
(Ord. No. 1930, § 1; Ord. No. 07.15, § 1(exh. A, § 8.44.01), 8-7-2007)

**Sec. 66-217. Application of division.**

(a) The provisions of this division or any traffic ordinance prohibiting the standing or parking of a vehicle shall apply at all times or at those times specified or indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the direction of a police officer or official traffic control device. The provisions on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or specified times.

(b) All provisions that are inconsistent with this division are hereby repealed and be it known that all downtown parking shall be governed exclusively by this division.  
(Ord. No. 1930, § 2; Ord. No. 07.15, § 1(exh. A, § 8.44.02), 8-7-2007)

**Sec. 66-218. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Dumpster* means containers designed for receiving, transporting and dumping waste/construction materials.

*Operator* means and includes every individual who shall operate a vehicle as the owner thereof, with or without the permission of the owner thereof.

*Parking lot* means public off-street automobile parking facility which is an accommodation provided by public authority for the parking of automobiles off the street or highway and open to public use with or without charge.

*Vehicle* means any device in, upon or by which any person or property is or may be transported.  
(Ord. No. 1930, § 3; Ord. No. 07.15, § 1(exh. A, § 8.44.03), 8-7-2007)

**Sec. 66-219. Prohibited at all times in certain areas.**

When signs are erected on any street or public parking lot or part thereof giving notice thereof, no person shall park a

vehicle on any such street or public parking lot or part thereof in each area so designated for no parking.

(Ord. No. 1930, § 4; Ord. No. 07.15, § 1(exh. A, § 8.44.04), 8-7-2007)

**Sec. 66-220. Time limit in certain areas.**

When signs are erected on any street or public parking lot or part thereof giving notice thereof, no person shall park a vehicle on any such street or public parking lot or part thereof so designated for longer than the time limit specified at any time between the hours of 7:30 a.m. and 5:30 p.m. of any day except Saturdays, Sundays and public holidays.

(Ord. No. 1930, § 5; Ord. No. 07.15, § 1(exh. A, § 8.44.05), 8-7-2007)

**Sec. 66-221. Prohibited in rented spaces and handicap areas.**

Monies collected for parking violations shall be placed in the parking meter fund, as recommended by the parking committee. Said funds shall not become a part of general revenue, but shall be used to promote and maintain downtown parking updates, enforcement and maintenance.

(Ord. No. 1930, § 6; Ord. No. 07.15, § 1(exh. A, § 8.44.06), 8-7-2007)

**Sec. 66-222. Signs required.**

Whenever any provision of this division or any traffic ordinance, a parking time limit is imposed or parking is prohibited on any street or public parking lot or part thereof or an area is designated for handicap parking, it shall be the duty of the chief of police or some person designated

by him, to erect appropriate signs on such street or public parking lot or part thereof giving notice thereof and no such regulations shall be effective unless said signs are erected and in place on the street or public parking lot or part thereof where parking time is limited or prohibited at the time of any alleged offense.

(Ord. No. 1930, § 7; Ord. No. 07.15, § 1(exh. A, § 8.44.07), 8-7-2007)

**Sec. 66-223. Parking within marked lines.**

Where diagonal or parallel parking is provided, the vehicle shall be wholly within the painted or marked parking lines and no part of any vehicle shall be allowed to project over or across said diagonal lines. It shall be unlawful to park in any location where diagonal and/or parallel parking lines are not clearly provided. Further, all on street diagonal or parallel parking shall be designated as two-hour parking only.

(Ord. No. 1930, § 9; Ord. No. 07.15, § 1(exh. A, § 8.44.09), 8-7-2007)

**Sec. 66-224. Loading zones.**

(a) It shall be unlawful for any person to park or leave standing any vehicle within any loading zone except for the purpose of loading or unloading persons or freight and then only for a period not exceeding 15 minutes. Further, it shall be unlawful to park or leave standing any vehicle for the purpose of loading and unloading other than in marked loading zones.

(b) Due to the need for uniform rules and regulations regarding loading and unloading, the following rules and regu-

lations regarding delivery and loading shall apply to all such activities for the 200, 300, and 400 block of North Main:

- (1) Deliveries shall be unlimited and may use any space available before 10:00 a.m., on Main Street.
- (2) After 10:00 a.m., deliveries shall be made, and loading and unloading shall be had, only in the following three spaces provided as loading zones:
  - a. On southeast corner of Huntington and Main;
  - b. On northwest corner of Huntington and Main;
  - c. Two spaces directly in front of the Forum on Monroe Street;
  - d. After 6:00 p.m. deliveries on Main Street are again unrestricted.

(c) Deliveries may be made in the alley from Monroe to Cate Street in the alley between Main and Church at any time.

(d) Additional loading zones may be designated based upon future development and future needs.  
(Ord. No. 1930, § 10; Ord. No. 07.15, § 1(exh. A, § 8.44.10), 8-7-2007)

**Sec. 66-225. Parking on private property prohibited.**

It shall be unlawful for any person to park or place any vehicle upon private property without the consent of the owner.  
(Ord. No. 1930, § 11; Ord. No. 07.15, § 1(exh. A, § 8.44.11), 8-7-2007)

**Sec. 66-226. Parking for certain purposes prohibited.**

It shall be unlawful to park any vehicle of any kind or character upon any street or street right-of-way within the city or upon any city-owned parking lot for the purpose of displaying said vehicle for sale or for rent or hire or to park any vehicle upon any street or street right-of-way within the city for a period of longer than five minutes unless said vehicle is being loaded and/or unloaded on a continuous basis.

(Ord. No. 1930, § 12; Ord. No. 07.15, § 1(exh. A, § 8.44.12), 8-7-2007)

**Sec. 66-227. Parking in fire lanes prohibited.**

It shall be unlawful for any person to stop or park an automobile, motorcycle or vehicle of any kind whatsoever on any street, avenue or alley within a radius or distance of 15 feet of any fire hydrant within the corporate limits of the city.

(Ord. No. 1930, § 14; Ord. No. 07.15, § 1(exh. A, § 8.44.14), 8-7-2007)

**Sec. 66-228. Parking time limits designated.**

(a) The following named and designated streets, public parking lots or parts thereof in the downtown improvement district to the city are hereby designated with parking time limits as follows:

- (1) All on-street public parking in the area bounded by Matthews Avenue north to Cate/Burke Street and Union Avenue east to Church Street including both sides of the boundary streets shall be designated as two-hour limit public parking un-

less otherwise designated by ordinance, the chief of police, or his designee by the placement of the appropriate signs or markings.

- (2) The following public parking lots or parts thereof shall have two-hour time limits in all marked spaces:
  - a. The parking lot located at the southeast corner of Union and Huntington Avenue.
  - b. The public parking lot at the corner of the 300 block of South Main Street and the 100 block of West Monroe Street.
  - c. The public parking lot on the corner of the 100 block of South Church Street and Burke Street.
  - d. The Forum parking lot.
- (3) The following parking lots shall have no time limits designated:
  - a. The parking lot at South Church Street and connecting to Cate Street.
  - b. The parking lot on the corner of West Monroe and Madison Street.
  - c. The public parking lot in the 300 block of Union Street running westward to Madison Street.
  - d. The public parking lot located in the 200 block of East Monroe street between East Street and Church Street.
  - e. The public parking lot in the 300 block of South Church which encompasses the area of the said lot which runs from

East Street 87 feet west, then 113.5 feet south, 87 feet east, then 113.5 feet north.

(b) Exemptions:

- (1) No judge or his court reporter of any court of this state shall be subject to a fine or other penalty for the offense of overtime parking incurred while the person was on duty as a judge or court reporter.
  - (2) No person shall be subject to a fine or other penalty for the offense of overtime parking incurred while the person is engaged in actual service as a grand or petit juror in any court (federal, state or municipal) in the state. The person may evidence the fact of jury service by exhibiting to the appropriate official of the city or town offended by the violation a certificate of the clerk of the court similar to the form now in use to the effect that the person was engaged in jury service on the date of the violation and the hours of actual service.
  - (3) Any person attempting to enforce any fine or other penalty notwithstanding the provisions of this section shall be subject to contempt proceedings before the judge of the court being served by the person so charged.
  - (4) Nothing contained in this section shall be construed to give immunity from fine or penalty other than for the offenses of overtime parking.
- (c) Moving of vehicle with the same area to circumvent timed parking limits. When any particular parking lot or space

has been designated as a timed parking area or space, it shall be unlawful for any person to park or otherwise cause a vehicle to be parked for a total time exceeding the limit of that particular space by utilizing any combination of spaces located in that particular parking lot or with the same block of any city street located within the area covered by this section.

(Ord. No. 1930, § 15; Ord. No. 07.15, § 1(exh. A, § 8.44.15), 8-7-2007; Ord. No. 08:819, § 1, 4-1-2008)

**Sec. 66-229. Handicap spaces designated.**

It shall be the duty of the chief of police, or his designees, to mark and designate appropriate parking for handicapped spaces in the downtown area. That these spaces may be modified and relocated as future needs develop and shall comply with state regulations.

(Ord. No. 1930, § 16; Ord. No. 07.15, § 1(exh. A, § 8.44.16), 8-7-2007)

**Sec. 66-230. Owner responsible for violation.**

(a) It shall be unlawful and a violation of the provisions of the parking regulations of the city whether or not the owner was the operator of the vehicle at the time the parking violation occurred.

(b) In any hearing in the district court on a charge (violation or civil), of illegally parking a vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the parking regulations of the city and further testimony that the records of the registrar of the motor vehicles for the city or the state that said license plates were issued to the defendant shall be prima

facie evidence that the vehicle was parked unlawfully and was so parked or permitted to be parked by the defendant.

(Ord. No. 1930, § 17; Ord. No. 07.15, § 1(exh. A, § 8.44.17), 8-7-2007)

**Sec. 66-231. Violations.**

(a) Every person in violation of the parking regulations of the city within the downtown district, concerning parking time limits and/or parking in unauthorized locations, shall be punished by a fine of not more that \$10.00 for each violation. The initial fine of \$10.00 for parking violations shall be increased to \$25.00 where the party cited for a violation of any such ordinance shall fail to pay said fine of \$10.00 within seven days of the date of issuance of the citation.

(b) If the space is marked as a two-hour or other time limit, then each additional two hour or marked time period in which the vehicle is parked in the space shall be a separate offense.

(c) Every person in violation of a second or third offense with a 60-day period shall be fined \$25.00 for each such violation.

(d) Every person in violation of a fourth or subsequent offense with a 90 day period shall be subject to towing as authorized herein.

(e) In the event that a person in violation of the parking regulations within the downtown district shall fail to pay their fine as designated shall be subject to issuance of a summons to the small claims division of the county district court for adjudication.

(f) Every person in violation of the parking regulations of the city concerning spaces marked for handicapped persons shall be punished by a fine of not more than \$100.00.

(g) Every person in violation of the parking regulations of the city concerning spaces rented or unlawful to park shall be punished by a fine of not more than \$25.00 for said violation.

(h) Every person in violation of the parking regulations of the city concerning no parking zones or parking where no parking spaces are clearly marked shall be punished by a fine of not more than \$50.00 for said violation.

(i) The parking enforcement officers previously under the supervision of the finance department shall be moved to the city police department subject to the supervision of the chief of police or his designee. It shall be the duty of the parking enforcement officers of the city acting in accordance with the instructions issued to them to report:

- (1) The location where any vehicle has occupied a space in violation of the parking regulations of the city;
- (2) The state license number on such vehicle;
- (3) The date and time of day the officers detected such vehicle parked in violation of the parking regulations;
- (4) Any other facts or knowledge of which is necessary to a thorough understanding of the circumstances attending such violation; and
- (5) Name of the parking enforcement officer detecting such violation.

(j) Each parking enforcement officer observing such violation shall also attach to such vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of the parking regulations of the city.

(k) Every owner or operator of a vehicle found in violation of the parking regulations of the city shall within seven days of the time when notice of the parking violation was attached to such vehicle, pay to the city collector the sums required to satisfy such violation as set forth in the provisions of this section. The failure of such owner or operator to make such payment to the city collector within seven days shall render such owner or operator subject to the penalties currently provided for the violation of the parking regulations of the city.

(l) In addition to the penalties set forth herein, vehicles which accumulate unpaid parking fines in excess of \$100.00 shall be subject to being mechanically disabled, i.e., booted, and said device shall not be removed until such time as parking fines are paid in full.

(m) In addition to the penalties provided in this section, when any vehicle is found illegally parked as provided in section 66-83, the chief of police or his designee is authorized to contact a wrecker service for the purpose of towing such vehicle away. The wrecker may tow the vehicle to the place of business of the owner of the wrecker.

(n) The owner of the vehicle may reclaim it from the wrecker service by paying the standard and customary charge for such towing service plus any additional charges for storage.

(o) Every person in violation of parking regulations of the city concerning a vehicle parked with the left door to the curb, on two-way streets, shall be punished by a fine of not more than \$50.00.

(p) Every person in violation of parking regulations of the city concerning a vehicle parked in a fire lane on any street, avenue or alley or within a radius or distance of 15 feet of any fire hydrant within the corporate limits of the city, shall be punished by a fine of not more than \$50.00.

(Ord. No. 1930, § 18; Ord. No. 07.15, § 1(exh. A, § 8.44.18), 8-7-2007; Ord. No. 08:018, §§ 1, 2, 5-6-2008)

**Sec. 66-232. No parking in alleys.**

(a) There shall be no parking in the alleys located between Main Street and Church Street in the 200 and 300 block of Main Street.

(b) There shall be no parking in the alley between Main Street and Union Street in the 200 block and 400 block of Main Street.

(c) It shall be unlawful to block and park in any public alleyway so as to create an obstruction of traffic as may be necessary for emergency or service vehicles.

(Ord. No. 07.15, § 1(exh. A, § 8.44.19), 8-7-2007)

**Sec. 66-233. Nonconforming use of on-street parking spaces and parking lots.**

There shall be no placing of dumpsters, other such containers or any other items

or equipment in parking spaces on the streets or in the parking lots of the city without obtaining a permit.

(1) Permits shall be for a period not to exceed 30 days and purchased from the city collectors office for the sum of \$100.00 per 30 days.

(2) Parking dumpsters in these parking spaces without a permit shall subject the violator to the same violations and penalties as parking a vehicle over the time limit in section 66-231.

(3) Monies collected for parking permit violations shall be placed in the parking meter fund, as recommended by the parking committee. Said funds shall not become a part of general revenue, but shall be used to promote and maintain downtown parking updates, enforcement and maintenance.

(Ord. No. 1930, § 10; Ord. No. 07.15, § 1(exh. A, § 8.44.20), 8-7-2007)

**Sec. 66-234. Parked left door to curb.**

No person shall park a vehicle with the left door to the curb on two-way streets.

(Ord. No. 08:018, § 3(8.44.21), 5-6-2008)

**Sec. 66-235. Construction parking permits.**

(a) Individuals and companies involved in construction and renovation of buildings and properties in the city downtown improvement district may obtain a temporary parking permit to park their construction vehicles in two-hour parking long enough to conduct the business of that construction and renovation.

(b) Permits shall be obtained from the city police parking enforcement office at the police department and shall be valid for ten days and be vehicle specific.

- (1) Construction vehicles shall be any vehicle used for the delivery of materials and containing tools for the construction and renovation
  - (2) These permits shall be obtained at no cost to the construction workers or companies.
- (Ord. No. 08:018, § 3(8.44.22), 5-6-2008)

**Secs. 66-236—66-261. Reserved.**

DIVISION 3. LARGE VEHICLES

**Sec. 66-262. Regulated.**

It shall be unlawful for any person, firm, corporation, association or partnership to park or cause to be parked any motor vehicle, travel trailer or trailer that is in excess of 20 feet long upon certain streets and street rights-of-way within the city.

(Code 2006, § 8.48.01; Ord. No. 1756, § 1)

**Sec. 66-263. Prohibited areas.**

The streets and street rights-of-way within the city where the parking of the vehicles described in section 66-262 are prohibited are those streets and street rights-of-way located within areas of the city zoned residential R-1, residential R-2 or residential R-3.

(Code 2006, § 8.48.02; Ord. No. 1756, § 2)

**Sec. 66-264. Definition.**

The following words, terms and phrases, when used in this division, shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Street right-of-way* is defined as that area of land lying between the centerline of the existing street to the lot line of abutting real property.

(Code 2006, § 8.48.03; Ord. No. 1756, § 3)

**Sec. 66-265. Exemption.**

This division shall not prohibit or restrict the parking of municipal vehicles and equipment or utility company vehicles or equipment within the existing streets and street rights-of-way as designated in this division in the performance of required duties.

(Code 2006, § 8.48.04; Ord. No. 1756, § 4)

**Sec. 66-266. Loading or unloading.**

This division shall not prohibit or restrict the parking of any vehicle while in the actual process of loading or unloading household goods, construction materials or equipment to service any residentially zoned area that directly abuts a street or street right-of-way as set forth in this division.

(Code 2006, § 8.48.05; Ord. No. 1756, § 5)

**Secs. 66-267—66-295. Reserved.**

**ARTICLE VI. TRAFFIC DEVICES  
AND SCHEDULES**

**Sec. 66-296. Ratification of traffic signs, signals, devices and markings.**

The location and existence of all traffic control signs, signals, devices and markings in place on the adoption date of this Code are ratified and confirmed.

**Sec. 66-297. Authority of chief of police.**

The city council, upon recommendation of the permanent traffic review committee of the city is hereby authorized and directed to determine the installation of such traffic control signs, devices and designations upon the streets and roads within the corporate limits of the city with regard to stop signs, no parking and speed restrictions as he deems necessary to control, regulate, warn or guide traffic. The specifications, limitations and enforcement of traffic control signs, devices and designations hereafter established shall be regulated as set forth in A.C.A. §§ 27-51-213, 27-51-206, and 27-50-408 and any other provisions of the A.C.A. (Code 2006, § 8.32.01; Ord. No. 2142, § 1)

**Sec. 66-298. Sign required.**

The provisions of this article or any traffic ordinance designating one-way streets or alleys shall apply at all times or at those times specified or indicated on official signs, except in compliance with the directions of a police officer. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. (Code 1962, § 15-67; Code 2006, § 8.36.01)

**Sec. 66-299. Stop signs in subdivisions.**

Stops signs are hereby authorized to be installed in appropriate places upon approval of the subdivision plat. (Code 2006, § 8.32.02; Ord. No. 2142, § 2)

**Sec. 66-300. Sign required.**

The provisions of this article or any traffic ordinance designating one-way

streets or alleys shall apply at all times or at those times specified or indicated on official signs, except in compliance with the directions of a police officer. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. (Code 1962, § 15-67; Code 2006, § 8.36.01)

**Sec. 66-301. Truck routes; designated.**

(a) Truck routes for all motor vehicles having a capacity of one ton and over, and proceeding through the city, are hereby established and designated as follows:

- (1) U.S. Highways 49 and 63;
- (2) Arkansas State Highways 1, 18, 91, 141, 63B, 326, 249 and 351.

(b) All such vehicles are hereby prohibited from using any other street, alley or road while proceeding through the city. (Code 2006, § 8.08.01)

Chapters 67—69

**RESERVED**





## Chapter 70

### UTILITIES\*

#### Article I. In General

- Sec. 70-1. General requirements.
- Secs. 70-2—70-20. Reserved.

#### Article II. Backflow Protection

- Sec. 70-21. Statement of purpose.
- Sec. 70-22. Operational criteria.
- Sec. 70-23. Facilities requiring backflow protection.
- Sec. 70-24. Approval of backflow prevention assemblies.
- Sec. 70-25. Discontinuation of service for noncompliance.
- Sec. 70-26. Ownership.
- Sec. 70-27. Installation and costs.
- Sec. 70-28. Testing and maintenance.
- Secs. 70-29—70-59. Reserved.

#### Article III. Sewage and Sewage Disposal

##### Division 1. Generally

- Sec. 70-60. Payment required prior to connection.
- Sec. 70-61. Amount of tap fee.
- Secs. 70-62—70-80. Reserved.

##### Division 2. Sewer Use and Treatment

- Sec. 70-81. Definitions
- Sec. 70-82. Abbreviations.
- Sec. 70-83. Purpose and policy.
- Sec. 70-84. Administration.
- Sec. 70-85. Judicial enforcement remedies.
- Sec. 70-86. Supplemental enforcement action.
- Sec. 70-87. General sewer use requirements.
- Sec. 70-88. Regulation of discharges.
- Sec. 70-89. Pretreatment of wastewater.
- Sec. 70-90. Wastewater discharge permit eligibility.
- Sec. 70-91. Wastewater discharge permit issuance process.
- Sec. 70-92. Reporting requirements.
- Sec. 70-93. Compliance monitoring.

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\***State law references**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.; municipal public utilities, A.C.A. § 14-199-101 et seq.

## JONESBORO CODE

- Sec. 70-94. Confidential information.
- Sec. 70-95. Publication of industrial users in significant noncompliance.
- Sec. 70-96. Administrative enforcement remedies.
- Sec. 70-97. Affirmative defenses to discharge violations.
- Sec. 70-98. Surcharge costs.
- Sec. 70-99. Pretreatment charges and fees.

## ARTICLE I. IN GENERAL

### Sec. 70-1. General requirements.

(a) No water or electricity or gas service shall be turned on for service on the premises in which construction, work or installation does not comply with the codes and ordinances of the city and such service shall not be turned on by the water, electric, or gas utility except upon receipt of authorization by the appropriate code enforcement officer provided that temporary service may be granted for construction work in unfinished buildings.

(b) Any applicant for certification or completion and inspection shall present proof to the appropriate code enforcement officer that the property and nearly completed buildings have been listed for assessment with the county tax assessor of the county and such applicants shall present a copy of such listing for assessment duly signed and certified to by the county tax assessor with his application for final permit of certificate of completion and inspection. The appropriate code enforcement officer shall not issue a certificate of completion and final inspection until a copy of such listing is on file in his office. The appropriate code enforcement officer shall maintain a file record preserving said listings.

(Code 2006, § 11.40.04; Ord. No. 2163, § 4)

**Secs. 70-2—70-20. Reserved.**

## ARTICLE II. BACKFLOW PROTECTION

### Sec. 70-21. Statement of purpose.

In compliance with rules and regulations of the state department of health

pertaining to public water systems, the city council finds it necessary for the health, safety and welfare of the people served within this city by the city water and light plant (hereinafter referred to as CWL), to adopt cross-connection control standards which establish the requirements for the design, construction and maintenance of connections to the public water supply. To protect said system from the possibility of contamination or pollution by containment at the customer service line or internal isolation at the source of potential contamination, which could backflow or back-siphon into the public water system. These standards are supplemental and do not supersede or modify the state plumbing code and its latest revisions which have previously been adopted by the city. CWL is hereby designated in conjunction with the city plumbing inspector as the agency with the responsibility and duty of investigating and enforcing these provisions.

(Code 2006, § 10.08.01; Ord. No. 3042, § 1)

### Sec. 70-22. Operational criteria.

(a) It is the primary responsibility of CWL to evaluate the hazards inherent in supplying a consumer's water system, i.e., determine whether solid, liquid or gaseous pollutants or contaminants are, or may be, handled on the consumer's premises in such a manner as to possibly permit contamination of the public water system. When a hazard or potential hazard to the public water systems is found on the consumer's premises, the consumer shall be required to install an approved backflow prevention assembly in accordance with this article's requirements.

(b) The type of protective assembly required shall depend on the degree of hazard as described in AWWA Manual M-14 or as described in this subsection. Where more than one type of protection is a possibility, the actual method utilized shall be at the discretion of CWL.

- (1) In case of any premises where there is an auxiliary water supply, there shall be no physical connection between said auxiliary water supply and the consumer's water system which is served by the public water supply system. Where such connections are found, disconnections shall be accomplished and the public water system shall be protected against the possibility of future reconnection by an approved reduced-pressure principle backflow prevention assembly at the service connection.
- (2) In case of any premises where there is water or a substance that would be objectionable but not hazardous to health, if introduced into the public water system shall be protected by an approved double check valve assembly.
- (3) In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an approved reduced-pressure principle backflow prevention assembly.
- (4) In case of any premises where there are uncontrolled cross connections, either actual or potential, the pub-

lic water system shall be protected by and approved reduced-pressure principle backflow prevention assembly at the service connection.

- (5) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete implant cross connection survey, the public water system shall be protected by the installation of an approved reduced-pressure principle backflow prevention assembly at the service connection.

(Code 2006, § 10.08.02; Ord. No. 3042, § 2)

**Sec. 70-23. Facilities requiring backflow protection.**

All facilities that, in the opinion of CWL, pose a threat to the safety of the public water system will be required to install an acceptable backflow assembly. Below is a list of high probability facilities that may require an acceptable backflow assembly, the list is not exclusive:

- (1) Automatic carwashes;
- (2) Auxiliary water systems;
- (3) Exterminators;
- (4) Facilities with commercial boilers or chilled water systems;
- (5) Fire systems;
- (6) Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes and clinics;
- (7) Irrigation systems;

- (8) Laboratories (industrial, commercial, medical and school);
  - (9) Laundries;
  - (10) Radiator shops;
  - (11) Restricted, classified or other closed facilities;
  - (12) Sand and gravel pits;
  - (13) Wastewater treatment plants and pump stations;
  - (14) Swimming pools;
  - (15) Apartments;
  - (16) Beauty parlors and barbershops;
  - (17) Doctors and dental offices;
  - (18) Greenhouses and nurseries;
  - (19) Hotels and motels;
  - (20) Laundry and cleaners;
  - (21) Restaurants and food handlers;
  - (22) Service stations; and
  - (23) Others.
- (Code 2006, § 10.08.03; Ord. No. 3042, § 3)

**Sec. 70-24. Approval of backflow prevention assemblies.**

Any backflow prevention assembly required herein shall be a type in accordance with the American Water Works Association specifications C506-78 or its latest revision, which are adopted herein by reference, copies being available at the offices of the city plumbing inspector or ACL. Such assembly shall further meet any additional requirements that may be imposed by the state department of health or by CWL.

(Code 2006, § 10.08.04; Ord. No. 3042, § 4)

**Sec. 70-25. Discontinuation of service for noncompliance.**

(a) In emergency situations when, in the opinion of CWL, the public potable water supply is being contaminated or is in immediate danger of contamination, the water service will be discontinued by CWL.

(b) No water service connection shall be installed on the premises of any consumer unless the public potable water system is protected as required by this article.

(c) Delivery of water to premises of any consumer may be discontinued by CWL if any protective assembly required by this article has not been installed, or is defective, or has been removed or bypassed. Discontinued water service shall not be resumed until conditions at the consumer's premises have been abated or corrected to the satisfaction of CWL.

(d) Upon discovery of a violation of this Code, written notice shall be given to the consumer. If violations are not corrected by date and time as stated on notice, water supply will be discontinued by CWL.

(e) For the purpose of making any inspections or discharging the duties imposed by this article, CWL, the health department, and/or plumbing inspector shall have the right to enter upon the premises of any consumer. Each consumer, as a condition of the continued delivery to his premises of water from the public water supply, shall be considered as having stated his consent to the entry upon his premises of CWL, the health department, and/or plumbing inspector for the purpose stated herein.

(Code 2006, § 10.08.05; Ord. No. 3042, § 5)

**Sec. 70-26. Ownership.**

The consumer shall purchase, own and maintain all backflow prevention assemblies installed at the point of delivery to the consumer's water system. (Code 2006, § 10.08.06; Ord. No. 3042, § 6)

**Sec. 70-27. Installation and costs.**

Customers of water users requiring backflow prevention assemblies shall pay all costs associated with the installation of the appropriate size and type of assembly under private contract. New installations shall be completed prior to the final plumbing inspection so that assembly can be included as part of inspection. Assemblies shall be installed in a location that is readily accessible for maintenance and testing and should be located between 12 and 30 inches above ground. (Code 2006, § 10.08.07; Ord. No. 3042, § 7)

**Sec. 70-28. Testing and maintenance.**

The consumer will be responsible for the annual testing of the backflow prevention assembly by contract with a certified backflow assembly tester. The consumer will annually furnish CWL with a certificate of such satisfactory testing by the anniversary date of the installation of the assembly. In instances where the plumbing inspector deems the hazard to be great enough, testing may be required at more frequent intervals, costs of which would be borne by consumer. Any maintenance fees required as a result of inspections or testing shall be paid by consumer through private contract. Records of inspections, testing or repairs shall be

forwarded to CWL by the consumer. The CWL will make this information available to the health department. (Code 2006, § 10.08.08; Ord. No. 3042, § 8)

**Secs. 70-29—70-59. Reserved.**

**ARTICLE III. SEWAGE AND SEWAGE DISPOSAL\***

**DIVISION 1. GENERALLY**

**Sec. 70-60. Payment required prior to connection.**

It shall be unlawful for any person to tap or connect with the sewer system of the city water and light without having paid the charges hereinafter set forth. (Code 1962, § 19-2; Code 2006, § 10.16.01)

**Sec. 70-61. Amount of tap fee.**

Any person connecting or attempting to connect with the sewer system of the city water and light shall pay to the city water and light as a connection or tap fee and charge such a sum as will equal the proportionate value of the property connected or to be connected and benefited as compared with the value of the property taxed in the original improvement

\***State law references**—Municipal sewage systems, A.C.A. § 14-235-101 et seq.; The Water, Sewer and Solid Waste Management Systems Finance Act of 1975, A.C.A. § 14-230-101 et seq.; Arkansas Sewage Disposal Systems Act, A.C.A. § 14-236-101 et seq.

district and the actual cost of said sewers or such lesser sum as the board of directors of the plant shall fix.

(Code 2006, § 10.16.02; Ord. No. 798, § 2, 10-5-1949)

**Secs. 70-62—70-80. Reserved.**

DIVISION 2. SEWER USE AND TREATMENT

**Sec. 70-81. Definitions**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessible public sewer* means an existing public sewer located so that it may be reached either by a building sewer constructed at the minimum grade recommended by the state department of health, or by a combination of the extension of the existing public sewer and the construction of a building sewer, both of which are constructed at the minimum grade recommended by the state department of health.

*Act or the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

*Approval authority* means the state department of environmental quality (ADEQ).

*Authorized representative of the industrial user.*

- (1) If the industrial user is a corporation, the term "authorized representative" means:
  - a. The president, secretary, treasurer, or a vice-president of

the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

- b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 in second-quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the industrial user is a partnership, or sole proprietorship, the term "authorized representative" means a general partner or proprietor, respectively.

- (3) If the industrial user is a federal, state or local governmental facility, the term "authorized representative" means a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his designee.

The authorized representatives described in this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental

matters for the company, and the written authorization is submitted to the manager.

*Biochemical oxygen demand (BOD<sub>5</sub>)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at 20 degrees centigrade, expressed in terms of mass and concentration (milligrams per liter (mg/l)).

*Board of directors* means the duly elected or appointed board of directors of the city water and light plant.

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

*Building sewer* means the extension from the building drain to the public sewer or other places of disposal.

*Categorical pretreatment standard or categorical standard* means any regulation containing pollutant discharge limits promulgated by the US EPA in accordance with sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of industrial users and which appear in 40 CFR chapter I, subchapter N, parts 405—471.

*City* means the City of Jonesboro, County of Craighead, in the State of Arkansas, or the city council of the City of Jonesboro.

*City water and light plant of the City of Jonesboro, Arkansas (CWL)* means the municipal improvement district, a pub-

licly owned entity, organized and existing under the provisions of A.C.A. § 14-218-101 et seq., as a consolidated municipal improvement district to own and operate the electric power, water and wastewater utilities in the city.

*COD (chemical oxygen demand)* means the measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater expressed in milligrams per liter as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

*Collector building sewer* means a sewer on private property, privately maintained, which serves more than one building sewer. Collector building sewers shall be constructed with manholes at grade changes, changes in alignment and at termini, and with pipe having a diameter of at least six inches, and such sewers shall be located outside building walls and footings.

*Color* means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.

*Combined sewer* means a sewer receiving both surface runoff and sewage.

*Composite sample* means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

*Control authority* means the board of directors of city water and light plant of

the city acting through its designated manager who is charged with certain duties and responsibilities by this division, or his duly appointed or authorized representative.

*Control manhole or control point* means a point of access to a building sewer at a point before wastewater conveyed by the building sewer mixes with other wastewater conveyed by the public sewer.

*Council or city council* means the duly elected or appointed governing body of the city.

*District* means city water and light plant of the city (CWL).

*Environmental Protection Agency or EPA* means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the regional water management division director or other duly authorized official of said agency.

*Existing source* means any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

*Garbage* means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

*Grab sample* means a sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

*Indirect discharge or discharge* means the introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the Act.

*Industrial user or user (IU)* means a source of indirect discharge to the waters of the state, defined by ADEQ as a discharge to a POTW.

*Industrial wastes* means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

*Instantaneous maximum allowable discharge limit* means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Interference* means a discharge which alone or in conjunction with discharges from other sources:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and
- (2) Is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or more stringent state or local regulations:
  - a. Section 405 of the Clean Water Act;
  - b. The Solid Waste Disposal Act (SWDA), including Title II com-

monly referred to as the Resource Conservation and Recovery Act (RCRA);

- c. Any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA;
- d. The Clean Air Act;
- e. The Toxic Substances Control Act; and
- f. The Marine Protection, Research and Sanctuaries Act.

*Manager* means the person appointed by the board of directors of the city water and light plant to manage and supervise the electric, water and wastewater utilities of the district, and who is charged with certain duties and responsibilities by this division, or the duly appointed or authorized representative of such person.

*Medical waste* means isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

*Milligrams per liter (mg/l)* means the same as parts per million and is a weight-to-volume ratio; the milligrams per liter value multiplied by a factor of 8.34 shall be equivalent to pounds per 1,000,000 gallons of water.

*National Pollution Discharge Elimination System or NPDES permit* means a permit issued pursuant to section 402 of the Act (33 USC 1342).

*Natural outlet* means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

*New source* means:

- (1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided that:
  - a. The building, structure, facility or installation is constructed at a site at which no other source is located;
  - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new

source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1) of this definition, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source, as defined under this definition, has commenced if the owner or operator has begun, or caused to begin as part of a continuous on-site construction program:

- a. Any placement, assembly, or installation of facilities or equipment;
- b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

*Noncontact cooling water* means water used for cooling which does not come into

direct contact with any raw material intermediate product, waste product, or finished product.

*Normal domestic wastewater* means wastewater, excluding that from nonresidential uses, discharged by a person into the POTW in which the average concentration of BOD<sub>5</sub> is not more than 250 mg/l and TSS is not more than 250 mg/l.

*Owner* means the person who possess any interest in the structure or property to which such ownership relates.

*Pass through* means a discharge which exits the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

*pH* means a measure of the acidity or alkalinity of a substance, expressed in standard units.

*Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharge equipment, rock, sand, cellar dirt, agricultural industrial wastes, and the characteristics of the wastewater, (i.e., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand, toxicity, odor).

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing

such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

*Pretreatment requirements* means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

*Pretreatment standards* or *standards* means pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and technically based local limits.

*Prohibited discharge standards* or *prohibited discharges* means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 70-88.

*Properly shredded garbage* means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

*Public sewer* means a sewer in which all owners of abutting properties have equal rights, and is controlled by city water and light plant.

*Publicly owned treatment works* or *POTW* means a treatment works as defined by section 212 of the Act (33 USC 1292), which is owned by the state or municipality. This definition includes any devices or systems used in the collection,

storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the public entity having jurisdiction over the POTW industrial users and responsibility for the operation and maintenance of the treatment works.

*Sanitary sewer* means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

*Septic tank waste* means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

*Sewage* means human excrement and gray water, household showers, dish washing operations, etc.

*Sewage treatment plant* means any arrangement of devices and structures used for treating sewage.

*Sewage works* means all facilities for collecting, pumping, treating and disposing of sewage.

*Sewer surcharge* or *surcharge* means a sewer service charge above the normal monthly sewer rate which may be assessed to those nonresidential sewer users who discharge into the POTW wastewater having BOD<sub>5</sub> in excess of 250 mg/l or suspended solids content in excess of 250 mg/l.

*Significant industrial user* (SIU) means:

- (1) Industrial users subject to categorical pretreatment standards; and

- (2) Any other industrial user that:
- a. Discharges an average of 25,000 gpd or more of process wastewater;
  - b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
  - c. Is designated as significant by city water and light plant of the city, on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

*Slug load* means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 70-88 or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge.

*Standard industrial classification (SIC) code* means a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

*Standard methods* means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

*Storm drain* means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial waste, other than unpolluted cooling water.

*Stormwater* means any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.

*Surface waters* means any watercourse, pond, stream, ditch, lake, or other body of water occurring on the earth's surface.

*Suspended solids* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

*To discharge* means to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

*Toxic pollutant* means one of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of section 307 (33 USC 1317) of the Act.

*Trap* means a device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

*Treatment plant effluent* means any discharge of pollutants from the POTW into the waters of the state.

*Unusual BOD* means BOD<sub>5</sub> in excess of 250 mg/l.

*Unusual suspended solids* means total suspended solids in excess of 250 mg/l.

*Wastewater* means liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

*Wastewater treatment plant or treatment plant* means that portion of the POTW designed to provide treatment of sewage and industrial waste.

*Watercourse* means a channel in which a flow of water occurs, either continuously or intermittently.  
(Ord. No. 3126, § 1(10.04.03), 5-3-1999)

**Sec. 70-82. Abbreviations.**

The following abbreviations shall have the designated meanings:

BOD	Biochemical oxygen demand
CFR	Code of federal regulations
COD	Chemical oxygen demand
EPA	U.S. Environmental Protection Agency
gpd	Gallons per day
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
OSHA	Occupational Safety and Health Administration (Title 29, Chapter XVII CFR)
O&M	Operation and maintenance
POTW	Publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
SIC	Standard industrial classifications

SWDA	Solid Waste Disposal Act (42 USC 6901 et seq.)
TSS	Total suspended solids
USC	United States Code

(Ord. No. 3126, § 1(10.04.04), 5-3-1999)

**Sec. 70-83. Purpose and policy.**

This division sets forth uniform requirements for users of the wastewater collection and publicly owned treatment works for the city water and light plant, and enables city water and light plant to comply with all applicable state and federal laws including the Clean Water Act (33 USC 1251 et seq.), and the General Pretreatment Regulations (40 CFR 403).

- (1) The objectives of this division are:
  - a. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW.
  - b. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW.
  - c. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations.
  - d. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public.

- e. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.
  - f. To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW.
  - g. To enable city water and light plant to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.
  - h. To encourage waste minimization, recycling and reuse, and best management practices through pollution prevention activities.
- (2) This division shall apply to all industrial users of the POTW as follows:
- a. Authorizes the issuance of wastewater discharge permits;
  - b. Authorizes monitoring, compliance and enforcement activities;
  - c. Establishes administrative review procedures;
  - d. Requires industrial user reporting; and
  - e. Provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. No. 3126, § 1(10.04.01), 5-3-1999)

**Sec. 70-84. Administration.**

(a) The city water and light plant board of directors shall establish such fees for sewer service, connections, monitoring,

inspections, permits, and surveillance as are necessary to properly administer the city industrial pretreatment program and maintain and operate the POTW. The city water and light plant board of directors may, in compliance with A.C.A. § 8-4-103(g) et seq. authorize any judicial enforcement remedy taken by the city water and light plant against any industrial user in violation of this Code.

(b) Except as otherwise provided herein, the city water and light plant board of directors, through its designated manager, shall administer, implement and enforce the provisions of this division. Any powers granted to or duties imposed upon the manager may be delegated by the manager to other city water and light plant personnel.

(Ord. No. 3126, § 1(10.04.02), 5-3-1999)

**Sec. 70-85. Judicial enforcement remedies.**

(a) *Injunctive relief.* Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this division, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the city water and light plant board may petition a court of competent jurisdiction through the manager of city water and light plant and the city water and light plant attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this division on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the

city water and light plant board. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against an industrial user.

(b) *Civil penalties.*

- (1) Any user which has violated or continues to violate this division, any order or wastewater discharge permit hereunder, or any other pretreatment standard or requirement shall be liable to the city water and light plant for a maximum civil penalty of \$1,000.00 per violation per day, as provided by A.C.A. § 8-4-103(g) et seq. In the case of violation of a monthly or other longterm average discharge limit, penalties shall accrue for each day during the period of the violation.
- (2) Such civil penalties shall be recoverable in a court of competent jurisdiction; but, as provided by A.C.A. § 8-4-103(g) et seq., such civil proceeding may be initiated only after a majority vote of the city water and light plant board of directors resolving to pursue such civil penalty.
- (3) City water and light plant may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by city water and light plant.
- (4) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the

extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation such economic benefit shall minimally be that determined in accord with EPA Guidance Manual for POTW to Calculate the Economic Benefit of Noncompliance dated August, 1997, corrective actions by the user, the compliance history of the user, and any other factors as justice requires.

- (5) Filing a suit seeking civil penalties shall not be a prerequisite for taking any other action against an industrial user.

(c) *Criminal prosecution.*

- (1) Any user that willfully or negligently violates any provision of this division any orders or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 per violation per day, as provided by A.C.A. § 8-4-103.
- (2) Any user that knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this division, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this division shall, upon conviction, be punished by a fine of not more

than \$1,000.00 per violation per day, as provided by A.C.A. § 8-4-103.

- (3) As provided by A.C.A. § 68-4-103(g) et seq., no criminal prosecution under the subsections (c)(1) and (c)(2) of this section, may be initiated except upon a majority vote of the city water and light plant board of directors resolving to pursue such criminal prosecution.
- (4) The criminal penalties provided in subsections (c)(1) and (c)(2) of this section, shall be in addition to any other cause of action for personal injury or property damage available under state law, and shall be in addition to civil penalties which may be assessed under this section.

(d) *Remedies nonexclusive.* The provisions of this section are not exclusive remedies. The city water and light plant reserves the right to take any, all, or any combination of these actions against a noncompliance user. Enforcement of pretreatment violations will generally be in accordance with city water and light plant's enforcement response plan. However, city water and light plant shall have the right to take other action against any user when the circumstances warrant. Further, the city water and light plant is empowered to take more than one enforcement action against any noncompliance user. These actions may be taken concurrently.

(Ord. No. 3126, § 1(10.04.15), 5-3-1999)

**Sec. 70-86. Supplemental enforcement action.**

(a) *Performance bonds.* The manager of city water and light plant may decline to reissue a wastewater discharge permit

to any user which has failed to comply with the provisions of this division, any orders, or a previous wastewater discharge permit issued hereunder, unless such user first files a satisfactory bond, payable to the city water and light plant, in a sum not to exceed a value determined by the manager of city water and light plant to be necessary to achieve consistent compliance.

(b) *Liability assurance.* The manager of city water and light plant may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this division, any order, or a previous wastewater discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(c) *Water supply severance.* Whenever a user has violated or continues to violate the provisions of this division, orders, or wastewater discharge permits issued hereunder, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(d) *Public nuisances.* Any violation of this division, wastewater discharge permits, or orders issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the manager of the city water and light plant or his designee. Any person creating a public nuisance shall be required to reimburse the city water and light plant or the city for any costs incurred in removing, abating or remedying said nuisance.

(Ord. No. 3126, § 1(10.04.16), 5-3-1999)

**Sec. 70-87. General sewer use requirements.**

(a) *Use of public sewers.*

- (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the city or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable wastes.
- (2) It shall be unlawful to discharge to any natural outlet within the city, or in any area served by the city water and light plant, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of division. The issuance of a valid National Pollutant Discharge Elimination System permit authorizing such discharges into a natural outlet shall be considered as meeting all the requirements of this section.
- (3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended to be used for the disposal of sewage.
- (4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located an accessible public sanitary sewer of the city water and light plant is hereby required at

his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper accessible public sewer in accordance with the provisions of the this Code, within 60 days after date of official notice to do so, provided that said accessible public sewer is within 300 feet of the property line. The requirements of this section shall not apply to owners discharging such sewage under the provisions of a valid National Pollutant Discharge Elimination System permit.

- (5) Other than building sewers and collector building sewers, all sewers constructed by owners to connect the building drains of structures to an existing public sewer shall be located within public easements or rights-of-way and shall be constructed by such owner to the standards required by the city water and light plant for public sewers. No sewer shall be constructed within any public easement or right-of-way or connected to an existing public sewer without approval by the manager of city water and light plant.
- (6) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage to the POTW.
- (7) Stormwater and all other surface runoff shall be discharged to such sewers specifically designated as storm sewers, or to a natural outlet.

- (b) *Private sewage disposal.*
- (1) Where a public sanitary sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.
  - (2) Before commencement of construction of a private wastewater disposal system within the city or in any area under the jurisdiction of said city water and light plant, all persons shall first obtain a permit for such construction from the city inspector. The application for such permit shall be made on a form furnished by the city inspector, which the applicant shall supplement by plans, specifications, and construction permits approved by the state department of health and/or the state department of environmental quality. The then current permit and inspection fee prescribed by the city inspector shall be paid to city at the time the application is filed.
  - (3) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the city inspector. The inspector shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the inspector when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the inspector.
  - (4) The type, capacities, locations and layout of private sewage disposal systems shall comply with all applicable requirements of the state department of health and/or the state department of environmental quality. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
  - (5) At such time as an accessible a public sewer becomes available to a property served by a private sewage disposal system the building sewer shall be connected to said available sewer within 60 days, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge, and filled with suitable materials. The requirements of this section shall not apply to persons discharging such sewage under the provisions of a valid National Pollution Discharge Elimination System permit.
  - (6) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city or to the city water and light plant.
  - (7) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the county health department sanitarian.
- (c) *Building sewers and connections.*
- (1) No unauthorized person shall uncover, make any connection with or

opening into, use alter, or disturb any public sewer or appurtenance thereof without first obtaining a permit for such connection from the manager of city water and light plant. No permit shall be issued for a sewer connection until the then current tie-on fee prescribed by the board of directors of the city water and light plant has been paid.

- (2) There shall be two classes of building sewer permits:
  - a. For service to residential and commercial establishments; and
  - b. For service to establishments producing industrial wastes.

In either case, the person shall make application on special forms furnished by the manager of the city water and light plant. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent by the manager.

- (3) Prior to the initiation of sewer service to potential new customers who will discharge industrial process wastes to the POTW, the potential customer shall complete an industrial user survey, on a form furnished by the manager of city water and light plant, no less than 120 days prior to date on which they plan to discharge wastewater to the POTW. If the potential customer will be a significant industrial user, the potential customer shall, pursuant to section 70-90, complete an application for an industrial waste discharge permit,

also on a form furnished by the manager of the city water and light plant, no less than 90 days prior to date on which they plan to discharge wastewater.

- (4) The manager will evaluate applications for industrial waste discharge permits and determine, pursuant to section 70-90 whether or not to issue the applicant an industrial waste discharge permit.
- (5) A separate and independent building sewer shall be provided for each individual building except:
  - a. Where multiple buildings are constructed in an apartment complex or condominium on a single lot or tract of land which cannot be subsequently subdivided and sold in parcels, the individual buildings may be connected to a common building sewer provided that only one person is responsible for maintenance of the building sewer; or
  - b. Temporary buildings, mobile homes, or similar portable structures may be connected to a building sewer installed to serve a previously constructed permanent building provided that both the permanent and temporary buildings are located on a lot or tract and maintained in common ownership.
- (6) Pipe for building sewers for service to the city water and light plant public sewer may be of any ap-

proved material listed in the city plumbing code. The manager shall approve:

- a. The type of material and size of pipe to be used in the construction of building sewers; and
  - b. The methods of installation of building sewer pipe prior to and/or during construction of building sewers.
- (7) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the manager of the city water and light plant to meet all requirements of this Code.
  - (8) The size, slope and alignment of building sewers and methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city water and light plant. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
  - (9) Wherever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
  - (10) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
  - (11) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of city water and light plant (CWL) or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the manager of the city water and light plant before installation.
  - (12) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
  - (13) Persons possessing building sewer permits shall notify the manager when the building sewer is ready for inspection and connection to the POTW. The connection shall be

accomplished only under the supervision of city water and light plant sewer department personnel.

(14) Persons possessing building sewer permits shall indemnify the city and city water and light plant (CWL) from any loss or damage that may directly be occasioned by the installation and/or operation of the building sewer.

(15) Persons possessing building sewer permits shall hold the city and the city water and light plant harmless from any loss or damage that may directly or indirectly be occasioned by the installation and/or operation of the building sewer.

(Ord. No. 3126, § 1(10.04.05), 5-3-1999)

**Sec. 70-88. Regulation of discharges.**

(a) *Prohibited discharge standards.* No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirement. Furthermore, no industrial user may contribute the following substances to the POTW:

(1) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit.

(2) Any wastewater having a pH less than 6.0 SU or more than 11.5 SU, or otherwise causing corrosive structural damage to the POTW or equipment, or endangering the city water and light plant personnel.

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch in any dimension.

(4) Any wastewater containing pollutants, including oxygen demanding pollutants BOD, etc., released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW; or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.

(5) Any wastewater having a temperature greater than 150 degrees Fahrenheit or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit.

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

- (8) Any trucked or hauled pollutants, except at discharge points designated by the manager of the city water and light plant in accordance with section 70-89(e).
- (9) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- (10) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the city water and light plant's NPDES permits.
- (11) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the manager in an industrial waste discharge permit in compliance with applicable state or federal regulations.
- (12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the manager in an industrial waste discharge permit.
- (13) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.
- (14) Any medical wastes, except as specifically authorized by the manager in an industrial waste discharge permit.
- (15) Any wastewater causing the treatment plant's effluent to fail a toxicity test.
- (16) Any wastes containing detergents, surface active agents, surfactants, or other substances which may cause excessive foaming or scum in the POTW.
- (17) Any wastes containing fats, oils, or greases of animal, vegetable or mineral origin exceeding 100 mg/l, except that which may be permitted by the manager of city water and light plant as provided for by section 70-90.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

(b) *National Categorical Pretreatment Standards.* The National Categorical Pretreatment Standards found at 40 CFR chapter I, subchapter N. parts 405—471 are hereby incorporated.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the manager may impose equivalent concentration or mass limits in accord with 40 CFR 403.6(c).

- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard the manager may impose an alternate limit based on the combined wastestream formula in 40 CFR 403.6(e).
- (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(c) *State requirements.* The state department of environmental quality may from time to time promulgate new pretreatment requirements, and in the event that a particular pretreatment requirement may be more stringent than that imposed by federal law or by this Code, such state requirement shall immediately supersede the others and shall then become the applicable pretreatment requirement or pretreatment standard.

(d) *Specific pollutant limitations.* To protect against pass through and interference, no significant industrial user may discharge or cause to be discharged into the POTW wastewater having concentrations of pollutants exceeding technically based local limits developed by the manager of the city water and light plant as required by Part III of the city water and light plant's NPDES permits No. AR0037907 and AR0043401 and adopted by resolution by the board of directors of city water and light plant. Adopted tech-

nically based local limits also are as approved by the state department of environmental quality. Technically based local concentration limits shall apply at the monitoring point described in individual industrial wastewater discharge permits. All concentration limits for metals pollutants shall be for total metals unless otherwise indicated. At his discretion, the manager may impose mass limitations in addition to or in place of the concentration based technically based local limits.

(e) *City water and light plant's right of revision.* The city water and light plant may establish, by resolution by the board of directors of city water and light plant, or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in section 70-83(1) or the general or specific prohibitions in subsection (d) of this section.

(f) *Most stringent requirement or standard to apply.* The most stringent of federal, state, or city municipal code requirements or standards shall supersede the others and shall then become the applicable pretreatment requirement or standard.

(g) *Special agreement.* The board of directors of city water and light plant may enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement.

(h) *Dilution.* No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge,

as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The manager of city water and light plant may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 3126, § 1(10.04.06), 5-3-1999)

**Sec. 70-89. Pretreatment of wastewater.**

(a) *Pretreatment facilities.* Industrial users shall provide necessary wastewater treatment as required to comply with this division and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in section 70-88 within the time limitations specified by the EPA, the state, or the manager, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the city water and light plant shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the manager for review, and shall be acceptable to the manager before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city water and light plant under the provisions of this division.

(b) *Additional pretreatment measures.*

- (1) Whenever deemed reasonably necessary for proper operation of the POTW, the manager of the city water and light plant may require industrial users to restrict their discharge of wastewater during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this division.
- (2) Whenever deemed reasonably necessary for proper operation of the POTW, the manager of the city water and light plant may require industrial users to install and maintain, on his property and at his expense, a suitable storage and flow control facility to ensure equalization of flow over a 24-hour period. The manager may require that such flow equalization control facility be equipped with alarms and a rate of discharge controller, the regulation of which may be directed only by the manager. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil and sand interceptors shall be provided when, in the opinion of the manager of the city water and light plant, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, flamma-

ble wastes, sand, or other objectionable wastes; except that such interceptors shall not be required for private living quarters or dwelling units.

- (4) All interceptors shall be of type approved by the manager, provide a minimum detention time of 12 minutes, have a minimum capacity of 500 gallons and shall be so located to be easily accessible for cleaning and inspection.
- (5) All interceptors shall be continuously maintained in satisfactory and effective operation by the owner at his expense. Storage, handling, transportation, and disposal of all wastes generated from interceptors shall be performed in accordance with all applicable federal, state, and local regulations that pertain to that type and/or class of waste.
- (6) Industrial users with the potential to discharge flammable substances may be required by the manager of the city water and light plant to install and maintain an approved combustible gas detection meter.

(c) *Accidental discharge and slug control plans.* The manager of the city water and light plant may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years the manager shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

- (1) A description of discharge practices, including nonroutine batch discharges;

- (2) A description of stored chemicals;
- (3) The procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in section 70-88; and
- (4) The procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(d) *Tenant responsibility.* Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this division.

(e) *Hauled wastewater.*

- (1) Septic tank waste may be accepted into the POTW at a receiving structure designated by the manager of the city water and light plant, and at such times as are established by the manager, provided such wastes do not violate section 70-88 or any other requirements established or adopted by the board of directors of the city water and light plant. Wastewater discharge permits for

individual vehicles to use such facilities may be issued by the manager.

- (2) The discharge of hauled industrial wastes, as industrial septage, requires prior approval and a wastewater discharge permit from the city water and light plant. The manager shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other applicable sections of this Code.
- (3) Fees for dumping septage will be established by the board of directors of city water and light plant as part of the industrial user fee system as authorized in section 70-99.

(f) *Vandalism.* No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in sections 70-85, 70-86 and 70-96.

(Ord. No. 3126, § 1(10.04.07), 5-3-1999)

### **Sec. 70-90. Wastewater discharge permit eligibility.**

(a) *Wastewater survey.* When requested by the manager of the city water and light plant, all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The manager is authorized to prepare a special

form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be considered a violation of this Code and reasonable grounds for terminating water and wastewater service to the industrial user.

(b) *Wastewater discharge permit requirement.*

- (1) It shall be unlawful for any significant industrial user to discharge wastewater into the city's POTW without first obtaining a wastewater discharge permit from the manager of the city water and light plant. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this and subjects the wastewater discharge permittee to the sanctions set out in sections 70-85, 70-86, 70-95 and 70-96. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

- (2) The manager of the city water and light plant may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this division.

(c) *Wastewater discharge permitting existing connections.* The manager of the city water and light plant may, within 30 days of determining that an existing industrial user is a significant industrial

user as defined by section 70-81, notify the significant industrial user of its status as a significant industrial user and of the requirement to obtain a wastewater discharge permit. The manager will furnish the existing significant industrial user an appropriate permit application package. Any industrial user who, after notification of the requirement to obtain a wastewater discharge permit, wishes to continue such discharges in the future, shall within 90 days after notification, apply to the manager of the city water and light plant for a wastewater discharge permit in accordance with subsection (e) of this section. Existing significant industrial users shall not cause or allow discharges to the POTW to continue after 180 days after notification of the requirement to obtain a wastewater discharge permit except in accordance with a wastewater discharge permit issued by the manager.

(d) *Wastewater discharge permitting new connections.* Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least 90 days prior to the date upon which any discharge will begin.

(e) *Wastewater discharge permit application contents.* In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by section 70-92(a)(2) on an industrial wastewater discharge permit application form provided by the

manager of the city water and light plant. In addition, the following information may be requested by the manager:

- (1) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.
- (2) Number and type of employees, hours of production and operation of pretreatment facilities, and proposed or actual hours of discharge to the POTW.
- (3) Each product produced by type, amount, process or processes, and rate of production.
- (4) Type and amount of raw materials processed (average and maximum per day).
- (5) The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- (6) Time and duration of the discharges.
- (7) Any other information as may be deemed necessary by the manager to evaluate the wastewater discharge permit application.
- (8) Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

(f) *Application signatories and certification.* All wastewater discharge permit applications and industrial user reports must contain the following certification

statement and be signed by an authorized representative of the industrial user.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(g) *Wastewater discharge permit decisions.* The manager of the city water and light plant will evaluate the data furnished by the industrial user and may require additional information. Within 90 days of receipt of a complete wastewater discharge permit application, the manager will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. The manager may deny any application for a wastewater discharge permit where it reasonably appears that the applicant's proposed wastewater, if discharged into the POTW, would interfere with the operation of the POTW, would otherwise be incompatible with the POTW, would interfere with reuse of sludge from the POTW, or would pass through the POTW, inadequately treated, into the receiving waters of the state.  
(Ord. No. 3126, § 1(10.04.08), 5-3-1999)

### **Sec. 70-91. Wastewater discharge permit issuance process.**

(a) *Permit duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the manager of the city water and light plant. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(b) *Permit contents.* Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the manager of the city water and light plant to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

- (1) Wastewater discharge permits shall contain the following conditions:
  - a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;
  - b. A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from the manager of the city water and light plant, and provisions for furnishing the new owner or operator, with a copy of the existing wastewater discharge permit;
  - c. Effluent limits applicable to the user based on applicable standards in federal, state, and local law;

- d. Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
  - e. Statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
- (2) Wastewater discharge permits may contain, but need not be limited to, the following:
- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
  - b. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
  - c. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
  - d. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
  - e. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
  - f. The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the POTW;
  - g. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
  - h. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
  - i. Other conditions as deemed appropriate by the manager of the city water and light plant to ensure compliance with this division, and state and federal laws, rules, and regulations.
- (c) *Permit appeals.* Any person, including the industrial user, may petition the board of directors of city water and light

plant to reconsider the terms of a wastewater discharge permit within 30 days of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (4) If the board of directors of city water and light plant fails to act within 60 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.
- (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decisions must do so by filing a complaint within a court of competent jurisdiction.

(d) *Permit modification.* The manager of the city water and light plant may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

- (2) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- (4) Information indicating that the permitted discharge poses a threat to the POTW, POTW personnel, or the receiving waters.
- (5) Violation of any terms or conditions of the wastewater discharge permit.
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- (7) Revision of categorical pretreatment standards pursuant to 40 CFR 403.13.
- (8) To correct typographical or other errors in the wastewater discharge permit.
- (9) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.
- (10) The filing of a request by the permittee for a wastewater discharge permit modification does not stay any existing wastewater discharge permit condition.

(e) *Permit transfer.* Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 30

days' advance notice to the manager of the city water and light plant and the manager approves the wastewater discharge permit transfer. The notice to the manager must include a written certification by the new owner and/or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur;
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit; and
- (4) Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.

(f) *Permit revocation.* Wastewater discharge permits may be revoked for the following reasons:

- (1) Failure to notify the manager of the city water and light plant of significant changes to the wastewater prior to the changed discharge.
- (2) Failure to provide prior notification to the manager of the city water and light plant of changed condition pursuant to section 70-92(e).
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- (4) Falsifying self-monitoring reports.

- (5) Tampering with monitoring equipment.
- (6) Refusing to allow the manager of the city water and light plant timely access to the facility premises and records.
- (7) Failure to meet effluent limitations.
- (8) Failure to pay fines.
- (9) Failure to pay sewer charges.
- (10) Failure to meet compliance schedules.
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application.
- (12) Failure to provide advance notice of the transfer of a permitted facility.
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All existing wastewater discharge permits issued by city water and light plant are void upon the issuance of a new wastewater discharge permit.

(g) *Wastewater discharge permit reissuance.* A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, acceptable by the manager of the city water and light plant, in accordance with section 70-90(e) a minimum of 60 days

prior to the expiration of the industrial user's existing wastewater discharge permit.

(Ord. No. 3126, § 1(10.04.09), 5-3-1999)

**Sec. 70-92. Reporting requirements.**

(a) *Baseline monitoring reports.*

- (1) *Required time frame.* Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the manager of the city water and light plant a report which contains the information listed in subsection (a)(2) of this section. At least 90 days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the manager of the city water and light plant a report which contains the information listed in subsection (a)(2) of this section. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

- (2) *Required information.* The industrial user shall submit the information required by this section including:

- a. *Identifying information.* The name and address of the facility including the name of the operator and owners.
- b. *Wastewater discharge permits.* A list of any environmental control wastewater discharge permits held by or for the facility.
- c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- e. *Measurement of pollutants.*
  1. Identify the categorical pretreatment standards applicable to each regulated process.
  2. Submit the results of sampling and analysis identifying the nature and con-

centration and/or mass, where required by the standard or by the manager of the city water and light plant of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and longterm average concentrations or mass, where required shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (j) of this section.

- 3. Sampling must be performed in accordance with procedures set out in subsection (k) of this section.
- f. *Certification.* A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreat-

ment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 70-90(e).

- h. *User certification.* All baseline monitoring reports must be signed and certified in accordance with section 70-90(f).
- (b) *Compliance schedule progress report.* The following conditions shall apply to the schedule required by subsection (a)(2)g of this section:
  - (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards, such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation.
  - (2) No increment referred to shall exceed nine months.
  - (3) The industrial user shall submit a progress report to the manager of the city water and light plant no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress,

the reason for any delay, and, the steps being taken by the significant industrial user to return to the established schedule.

- (4) In no event shall more than nine months elapse between such progress reports to the manager of the city water and light plant.

(c) *Report on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to the manager of the city water and light plant a report containing the information described in subsections (a)(2)d through (a)(2)g of this section. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c). This report shall contain a reasonable measure of the industrial user's longterm production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, or other measure of operation, this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 70-90(f).

(d) *Periodic compliance reports.*

- (1) Any significant industrial user subject to a pretreatment standard shall, at a frequency determined

by the manager of the city water and light plant but in no case less than twice per year, in June and December, as required by 40 CFR 403.12(e)(1), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 70-90(f).

- (2) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.
- (3) If an industrial user subject to the reporting requirement in and of this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in subsection (k) of this section, the results of this monitoring shall be included in the report.

(e) *Report of changed conditions.* Each industrial user is required to notify the manager of the city water and light plant of any planned significant changes to the industrial user's operations or system

which might alter the nature, quality or volume of its wastewater at least 60 days before the change.

- (1) The manager of the city water and light plant may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 70-90(e).
  - (2) The manager of city water and light plant may issue a wastewater discharge permit under section 70-90(g), or modify an existing wastewater discharge permit under section 70-91(d).
  - (3) No industrial user shall implement the planned changed conditions until and unless the manager of the city water and light plant has responded to the industrial user's notice.
  - (4) For purposes of this requirement flows in excess of the limitations set forth in the significant user's industrial wastes discharge permit, and/or the discharge of any previously unreported pollutants, shall be deemed significant.
- (f) *Reports of potential problems.*
- (1) In the case of any discharge including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load which may cause potential problems for the POTW, including a violation of the prohibited discharge standards in section 70-88(a) and (d), it is the responsibil-

ity of the industrial user to immediately telephone and notify the manager of the city water and light plant of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

- (2) Within five days following such discharge, the industrial user shall, unless waived by the manager of the city water and light plant, submit a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property, nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this division.
- (3) Failure to notify the manager of the city water and light plant of potential problem discharges shall be deemed a separate violation of this division.
- (4) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (f)(1) of this section. Employers shall ensure that all employees, who may cause or

suffer such a discharge to occur, are advised of the emergency notification procedure.

(g) *Reports from nonsignificant industrial users.* All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the manager of the city water and light plant as the manager may require.

(h) *Notice of violation / repeat sampling and reporting.* If sampling performed by an industrial user indicates a violation, the industrial user must notify the control authority, the manager of the city water and light plant, within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation. The industrial user is not required to re-sample if the POTW performs compliance monitoring of the industrial user's wastewater discharge at least once a month, or if the POTW performs compliance monitoring which indicates compliance, between the industrial user's initial sampling and when the industrial user receives the results of initial sampling indicating a permit violation.

(i) *Notification of the discharge of hazardous waste.*

(1) Any industrial user who commences the discharge of hazardous waste shall notify the manager of the city water and light plant, the EPA Regional Waste Management Division Director, and state hazardous

waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge: continuous, batch, or other. If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user:

- a. An identification of the hazardous constituents contained in the wastes;
- b. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and
- c. An estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under subsection (e) of this section. The notification requirement in this sub-

section does not apply to pollutants already reported under the self-monitoring requirements of subsections (a), (c) and (d) of this section.

- (2) Dischargers are exempt from the requirements of subsection (i)(1) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
- (3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the manager of the city water and light plant, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (4) In the case of any notification made under this division, the industrial user shall certify that it has a

program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(j) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

(k) *Sample collection.*

- (1) Except as indicated in subsection (k)(2) of this section, the industrial user should collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the manager of the city water and light plant may authorize the use of time proportional sampling or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (2) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(l) *Determination of noncompliance.* The manager of the city water and light plant may use a grab sample as a compliance screening tool. Where grab sample suggest noncompliance, the manager and/or the industrial user should resample the user's effluent using composite techniques until consistent compliance is again demonstrated.

(m) *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

(n) *Recordkeeping.* Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this division. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning compliance with this division, or where the industrial user has been specifically notified of a longer retention period by the manager of the city water and light plant.

(Ord. No. 3126, § 1(10.04.10), 5-3-1999)

### **Sec. 70-93. Compliance monitoring.**

(a) *Inspection and sampling.* The manager of the city water and light shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this division, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the manager or his representatives ready access to all

parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

- (1) Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city water and light plant state, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- (2) The manager of the city water and light plant, state, and EPA shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (3) The manager of the city water and light plant may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated, regularly and periodically, to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be in-

spected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the manager of the city water and light plant and shall not be replaced. The costs of clearing such access shall be born by the industrial user.

- (5) Unreasonable delays in allowing authorized city water and light plant personnel access to the industrial user's premises shall be a violation of this Code.

(b) *Search warrants.* If the manager of the city water and light plant has been refused access to a building, structure or property or any part thereof, and if the manager is able to demonstrate probable cause to believe that there may be a violation of this article or that there is a need to inspect as part of a routine inspection program of the city water and light plant designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the manager of the city water and light through the city water and light plant attorney, the municipal court of the city shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the manager in the company of an uniformed police officer of the city. In the event of an emergency effecting public health and safety, inspections may be made without the issuance of a warrant.

(Ord. No. 3126, § 1(10.04.11), 5-3-1999)

**Sec. 70-94. Confidential information.**

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the city water and light plant inspection and sampling activities, shall be available to the public without restriction, unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the manager of the city water and light plant, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. No. 3126, § 1(10.04.12), 5-3-1999)

**Sec. 70-95. Publication of industrial users in significant non-compliance.**

The manager of the city water and light plant shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a

list of the industrial users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" means:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater pollutant measurements taken during a six-month period, as determined by EPA Region 6 criteria, exceed their industrial user permit daily maximum limit or average limit for the same pollutant parameter by any amount;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the industrial user permit daily maximum limit or the average limit multiplied by the applicable criteria, 1.4 for BODs TSS, fats, oils and grease, and 1.2 for all other pollutants except pH;
- (3) Any other discharge violation that the manager believes has caused alone or in combination with other discharges, interference or pass through, including endangering the health of city water and light plant personnel or the general public;
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in city water and light plant (CWL) exercising its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report non-compliance; or
- (8) Any other violation which the manager of the city water and light plant determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 3126, § 1(10.04.13), 5-3-1999)

**Sec. 70-96. Administrative enforcement remedies.**

(a) *Notification of violation.* Whenever the manager of the city water and light plant finds that any user has violated or is violating this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the manager or his agent may serve upon said user a written notice of violation. Within 20 calendar days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the industrial user to the manager of the city water and light plant.

Submission of this plan in no way relieves the industrial user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the manager of the city water and light plant to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) *Consent orders.* The manager of the city water and light plant is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders may include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as the administrative orders issued pursuant to subsections (d) and (e) of this section and shall be judicially enforceable.

(c) *Show cause hearing.* The manager of the city water and light plant may order any user which causes or contributes to violation of this article, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirement, to appear before the board of directors of the city water and light plant, or a hearing panel designated by the board, and show cause why a proposed enforcement action should not be taken. Notice shall be served on the industrial user specifying the time and place for the show cause hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed en-

forcement action should not be taken. The notice of the hearing shall be served at least ten working days prior to the hearing. Such notice may be served in any method or manner permitted under state law, or Arkansas Rules of Civil Procedure. Service of notice shall be sufficient when served by certified mail, return receipt requested, and delivered to the addressee only, at the address of the user shown on any wastewater discharge permit issued to it by the manager of the city water and light plant. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

(d) *Compliance orders.* When the manager of the city water and light plant finds that a user has violated or continues to violate this division, wastewater discharge permits or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance. If the user does not come into compliance within the time specified in the manager's compliance order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the

deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

(e) *Cease and desist orders.* When the manager of the city water and light plant finds that a user is violating this division, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements.
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- (3) Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(f) *Emergency suspensions.* The manager of the city water and light plant may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The manager may also

immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the manager of the city water and light plant shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The manager shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the board of directors of the city water and light plant that the period of endangerment has passed, unless the termination proceedings set forth in subsection (g) of this section, are initiated against the user.
- (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the manager of the city water and light plant, prior to the date of any show cause or termination hearing under subsections (c) and (g) of this section.

- (3) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(g) *Termination of discharge.* In addition to those provisions in section 70-91(f), any user that violates the following conditions of this division, wastewater discharge permits, or orders issued hereunder, is subject to termination of wastewater discharge:

- (1) Violation of wastewater discharge permit conditions.
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- (5) Violation of the prohibited discharge standards in section 70-88(a). Such user will be notified by the manager of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (c) of this section why the proposed action should not be taken.

(Ord. No. 3126, § 1(10.04.14), 5-3-1999)

**Sec. 70-97. Affirmative defenses to discharge violations.**

(a) *Upset.*

- (1) For the purposes of this section, the term "upset" means an exceptional incident in which there is

unintentional and temporary non-compliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (a)(3) of this section are met.
- (3) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and the industrial user can identify the causes of the upset.
  - b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.
  - c. The industrial user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset, if this information

is provided orally, a written submission must be provided within five days:

1. A description of the indirect discharge and cause of noncompliance;
  2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- (4) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
  - (5) Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
  - (6) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of electric power of the treatment facility is reduced, lost or fails.

(b) *General and specific prohibitions.* An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in section 70-88, if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the POTW was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(c) *Bypass.*

- (1) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Bypass* means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

*Severe property damage* means substantial physical damage to

property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. The term "severe property damage" does not mean economic loss caused by delays in production.

- (2) An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance or to ensure efficient operation. These bypasses are not subject to the provision of subsections (c)( 3) and (c)(4) of this section.
- (3) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten days before the date of the bypass if possible. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The

POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

- (4) Bypass is prohibited, and the manager of the city water and light plant may take enforcement action against an industrial user for a bypass, unless:
    - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - c. The industrial user submitted notices as required under subsection (c)(3) of this section.
  - (5) The manager of the city water and light plant may approve an anticipated bypass, after considering its adverse effects, if the manager determines that it will meet the three conditions listed in subsection (c)(4) of this section.
- (Ord. No. 3126, § 1(10.04.17), 5-3-1999)

**Sec. 70-98. Surcharge costs.**

The manager of the city water and light plant may charge nonresidential POTW users who discharge wastewater into the city POTW having BOD<sub>5</sub> in excess of 250 mg/l, total suspended solids in excess of 250 mg/l, or oil and grease in excess of 100 mg/l a surcharge in addition to the normal metered charge for sewer service. The sewer surcharge shall be based on the following formula:

$$S = V_{\text{WW}} \times 8.34 [(C_{\text{BOD}}(\text{BOD}_5 - 250)) + (C_{\text{SS}}(\text{SS} - 250)) + (C_{\text{O\&G}}(\text{O \& G} - 100))]$$

Where:

- S = Surcharge in dollars
- V<sub>WW</sub> = Wastewater in millions of gallons
- 8.3 = Weight of water in pounds per gallon
- C<sub>BOD</sub> = <sup>1</sup>Unit charge for BOD<sub>5</sub> in dollars per pound
- BOD<sub>5</sub> = Monthly average five-day BOD of nonresidential user's wastewater, in mg/l (250 mg/l or more)
- 250 = Concentrations in mg/l above which both BOD<sub>5</sub> and SS are defined as "unusual" and above which a surcharge may be assessed
- C<sub>SS</sub> = <sup>1</sup>Unit charge for SS in dollars per pound

SS = Monthly average suspended solids content of nonresidential user's wastewater, in mg/l (250 mg/l or more)

C<sub>O&G</sub> = <sup>1</sup>Unit charge for oil and grease concentrations in excess of 100 mg/l in dollars per pound

O & G = Oil and grease contained in nonresidential user's wastewater, in mg/l (100 mg/l or more)

100 = Concentration in mg/l above which oil and grease is deemed excessive and above which a surcharge may be assessed

<sup>1</sup>Unit charges for unusual BOD<sub>5</sub>, unusual suspended solids, and for oil and grease in excess of 100 mg/l shall be the then-current surcharges set forth in the city water and light plant sewer service rate schedule (Ord. No. 3126, § 1(10.04.18), 5-3-1999)

**Sec. 70-99. Pretreatment charges and fees.**

The city water and light plant may adopt reasonable administrative charges and fees for reimbursement of costs of setting up and operating the city water and light plant pretreatment program which may include:

- (1) Fees for wastewater discharge permit applications including the cost of evaluating and processing such applications.

- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial users.
  - (3) Fees for reviewing and responding to accidental discharge procedures and construction.
  - (4) Fees for filing appeals.
  - (5) Other fees as the city water and light plant may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this division and are separate from all other fees, fines and penalties chargeable by the city water and light plant.
- (Ord. No. 3126, § 1(10.04.19), 5-3-1999)

Chapters 71—100

**RESERVED**







**PART II**  
**LAND DEVELOPMENT ORDINANCES**

Chapter 101

**GENERAL AND ADMINISTRATIVE PROVISIONS**

**Article I. In General**

- Sec. 101-1. Adoption.
- Sec. 101-2. Floodplain administrator.
- Secs. 101-3—101-18. Reserved.

**Article II. Metropolitan Area Planning  
Commission**

- Sec. 101-19. Established.
- Sec. 101-20. General powers.
- Sec. 101-21. Assuming duties of city planning commission.
- Secs. 101-22—101-45. Reserved.

**Article III. Master Street Plan**

- Sec. 101-46. Adopted.
- Sec. 101-47. Classes of streets.
- Sec. 101-48. Reserving rights-of-way.
- Sec. 101-49. Functional class of streets.
- Sec. 101-50. Future streets.



**ARTICLE I. IN GENERAL****Sec. 101-1. Adoption.**

The city council hereby adopts the Jonesboro Comprehensive Land Use Plan, prepared by the RM Plan Group, and as recommended by the Metropolitan Area Planning Commission on June 26, 1996. No less than three copies of the comprehensive land use plan shall be available for public viewing in the office of the city clerk.

(Code 2006, § 15.24.01; Ord. No. 2713, § 1)

**Sec. 101-2. Floodplain administrator.**

(a) *Designation.* The city engineer is hereby appointed the floodplain administrator.

(b) *Duties and responsibilities.* It is the duty and responsibility of the floodplain administrator or his designee to:

- (1) Obtain accreditation each year as required by A.C.A. § 14-268-106 through the state coordinating agency, which is the state natural resources commission.
- (2) Administer and implement the provisions of chapter 112 and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) as they pertain to floodplain management.
- (3) Review applications for floodplain development permits to:
  - a. Evaluate proposed projects for reasonable safety from flooding;

- b. Evaluate proposed projects for conformance with no adverse impact principles;
  - c. Ensure that all other permits necessary (including section 404 Wetlands Permits as required by the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334) for proposed projects are obtained from the appropriate government agency prior to issuing a floodplain development permit; and
  - d. Ensure that proposed projects conform to the applicable provisions of chapter 112 and the appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) as they pertain to floodplain management.
- (4) Approve or deny applications for floodplain development permits on the basis of:
- a. The proposed development's compliance or noncompliance with the provisions of chapter 112;
  - b. The expected flood elevation, floodwater velocity, flood duration, rate of rise and sediment transport of the floodwaters expected at the proposed development site;
  - c. The proposed development's potential to adversely impact life and property by changing flooding patterns, changing erosion rates, or being swept onto other lands by floodwaters;

- d. The proposed development's susceptibility to flood damage;
  - e. The proposed development's compatibility with existing and planned community development;
  - f. The proposed development's accessibility by ordinary and emergency vehicles during flooding events;
  - g. The anticipated costs of providing governmental services to the proposed development during and after flooding events, including maintenance and repair of streets, bridges, facilities and public utilities such as sewer, gas, electrical and water systems;
  - h. The proposed development's functionally dependent use;
  - i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed development; and
  - j. The relationship of the proposed use to the comprehensive plan for that area.
- (5) Interpret the exact location of the boundaries of special flood hazard areas whenever a mapped boundary appears to be different from actual field conditions. (The sole purpose of this interpretation is to determine the applicability of the provisions of this section to the proposed project.)
  - (6) Notify adjacent communities and the state coordinating agency, which is the state national resources commission, a minimum of 60 days prior to any alteration or relocation of a watercourse, and submit evidence of all such notifications to FEMA.
  - (7) Ensure that the flood carrying capacity within an altered or relocated portion of a watercourse, is not diminished, and that the alteration or relocation does not adversely impact any other lands.
  - (8) Obtain, review and reasonably utilize, whenever the current flood insurance study or current flood insurance rate map does not provide base flood elevation data, any base flood elevation data and floodway data available from any federal, state or other source. The floodplain administrator may obtain such data by requiring the applicant to submit it in conjunction with a floodplain development permit application. (The sole use of this data is the administration of the provisions of this section.)
  - (9) Inspect floodplain development as necessary to ensure construction is in accordance with the application data that formed the basis for the decision to issue the floodplain development permit.
  - (10) Issue compliance letter based upon the review of the stormwater management plan or construction plans as prepared and certified by the engineer of record for a project.
  - (11) Maintain all records and documents pertaining to this section for public inspection.

(c) *Authority.*

- (1) The floodplain administrator is the local authority over the floodplains within the city planning jurisdiction with enforcement authority as prescribed in chapter 112. The floodplain administrator is specifically authorized to request any and all additional information and submittals including CLOMRs from developers as deemed necessary to successfully manage the floodplains with the city planning jurisdiction.
- (2) Appeals of any decisions rendered by the floodplain administrator shall be in accordance with chapter 112. (Ord. No. 09:014, § 1(16.9), 3-17-2009)

**Secs. 101-3—101-18. Reserved.****ARTICLE II. METROPOLITAN  
AREA PLANNING COMMISSION\*****Sec. 101-19. Established.**

In order to cooperate jointly in area planning and zoning under the provisions of A.C.A. title 14, ch. 56, subch. 5 (A.C.A. § 14-56-501 et seq.) with the county and other public bodies in this county, there is hereby established in cooperation with the county the Metropolitan Area Planning Commission.  
(Code 2006, § 13.08.01; Ord. No. 1141, § 1, 11-21-1966; Ord. No. 1212, § 1, 11-4-1968)

\***State law reference**—Metropolitan or regional planning commissions, A.C.A. § 14-56-501 et seq.

**Sec. 101-20. General powers.**

The provisions for organization and the general powers, functions and duties of such commission shall be as set out in an agreement for joint planning cooperation and amendments thereto between the city and the county, copies of which are all filed with the city clerk of the city, which agreement and amendments thereto are hereby approved and the mayor and city clerk are authorized to execute such agreement on behalf of the city.  
(Code 2006, § 13.08.02; Ord. No. 1141, § 2, 11-21-1966; Ord. No. 1212, § 2, 11-4-1968)

**Sec. 101-21. Assuming duties of city  
planning commission.**

(a) Pursuant to A.C.A. title 14, ch. 56, subch. 5 (A.C.A. § 14-56-501 et seq.), the Metropolitan Area Planning Commission has assumed all city planning commission duties and functions, and shall continue to be authorized, and shall continue exercising and performing all planning powers, duties and functions as provided by state law, specifically of A.C.A. title 14, ch. 56, subch. 4 (A.C.A. § 14-56-401 et seq.).

(b) All past action of the Metropolitan Area Planning Commission in the performance of city planning commission duties and functions be, and the same are hereby ratified and confirmed.  
(Code 2006, § 13.08.03; Ord. No. 3169, §§ 1, 2)

**Secs. 101-22—101-45. Reserved.**

**ARTICLE III. MASTER STREET PLAN**

**Sec. 101-46. Adopted.**

The city council hereby adopts a master street plan designating streets by functional class.

(Code 2006, § 8.56.01; Ord. No. 2504, § 1)

**Sec. 101-47. Classes of streets.**

This article establishes six classes of streets. These classes are:

- (1) Collector.
- (2) Minor arterial.
- (3) Principal arterial.
- (4) Expressway.
- (5) Section line.
- (6) Local street.

(Code 2006, § 8.56.02; Ord. No. 2504, § 2)

**Sec. 101-48. Reserving rights-of-way.**

When land is developing or redeveloping, the Metropolitan Area Planning Commission shall have the authority to reserve the following rights-of-way for each class:

<i>Street type</i>	<i>Distance (in feet)</i>
Collector	80
Minor arterial	100
Principal arterial	120
Expressway	200
Section line	120
Local	60

(Code 2006, § 8.56.03; Ord. No. 2504, § 3)

**Sec. 101-49. Functional class of streets.**

This article places all current streets into a functional class. These streets shall be designated as shown on the map, "City of Jonesboro by Functional Class," and by the street inventory, all of which accompany the legislation from which this section is derived.

(Code 2006, § 8.56.04; Ord. No. 2504, § 4)

**Sec. 101-50. Future streets.**

(a) The Metropolitan Area Planning Commission shall have the authority to place future streets into a functional class and reserve the appropriate right-of-way.

(b) The Metropolitan Area Planning Commission may reserve less than the required right-of-way specified for the various classifications set out in section 101-48 if it deems it appropriate. In making said decision, the MAPC may require the proponent of the change or variation to provide engineering designs covering roadway design, drainage design, location of utilities and a topographic survey of the location of the proposed street.

(Code 2006, § 8.56.05; Ord. No. 2764, § 1; Ord. No. 2504, § 5)

Chapters 102—104

**RESERVED**





## Chapter 105

### **BUILDINGS AND BUILDING REGULATIONS\***

#### **Article I. In General**

- Sec. 105-1. Unsafe buildings.
- Secs. 105-2—105-20. Reserved.

#### **Article II. Building Code**

- Sec. 105-21. State fire prevention code adopted by reference.
- Sec. 105-22. House demolition.
- Sec. 105-23. Permit fees.
- Sec. 105-24. Fire limits established.
- Secs. 105-25—105-51. Reserved.

#### **Article III. Electrical Code**

##### Division 1. Generally

- Sec. 105-52. Purpose; minimum standard.
- Sec. 105-53. National Electrical Code adopted.
- Sec. 105-54. Local exceptions to National Electrical Code.
- Sec. 105-55. Appeals board.
- Sec. 105-56. Interior wiring construed; outside wiring regulated.
- Sec. 105-57. Sale of unsafe appliances.
- Sec. 105-58. Penalties.
- Secs. 105-59—105-89. Reserved.

##### Division 2. Permits and Inspections

- Sec. 105-90. Permit.
- Sec. 105-91. Temporary permit requirements.
- Sec. 105-92. New permit required for alterations or additions to original plans.
- Sec. 105-93. Inspections.
- Sec. 105-94. Correction of defects.
- Sec. 105-95. Reinspections; notice to put in safe condition; existing buildings.
- Sec. 105-96. Inspection fees.
- Sec. 105-97. Certificate of inspection; requirements.
- Secs. 105-98—105-122. Reserved.

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\***State law reference**—Authority to enact building regulations, A.C.A. § 14-56-201 et seq.

## JONESBORO CODE

### **Article IV. Gas**

- Sec. 105-123. Fees.
- Sec. 105-124. Inspections.
- Secs. 105-125—105-146. Reserved.

### **Article V. Mechanical Code**

- Sec. 105-147. Adopted.
- Secs. 105-148—105-177. Reserved.

### **Article VI. Plumbing Code**

- Sec. 105-178. State plumbing code adopted by reference; amendments.
- Sec. 105-179. Permits and fees; notice for inspection required.
- Sec. 105-180. Street cuts.
- Secs. 105-181—105-198. Reserved.

### **Article VII. Building Numbering**

- Sec. 105-199. Number requirements.
- Sec. 105-200. Size of numbers.
- Sec. 105-201. Baseline streets.
- Sec. 105-202. False information.
- Sec. 105-203. Fine.
- Sec. 105-204. Restrictions.
- Sec. 105-205. Duplication of names.
- Sec. 105-206. Numbers and characters.
- Sec. 105-207. Street descriptors.
- Sec. 105-208. Characters.
- Sec. 105-209. Other restrictions.
- Sec. 105-210. Restrictions within subdivision.
- Secs. 105-211—105-228. Reserved.

### **Article VIII. Swimming Pools**

- Sec. 105-229. Definitions.
- Sec. 105-230. Enclosure required.
- Secs. 105-231—105-253. Reserved.

### **Article IX. Unsafe Structures**

- Sec. 105-254. Nuisance properties unlawful.
- Sec. 105-255. Condemnation for abatement.
- Sec. 105-256. Pre-condemnation notice.
- Sec. 105-257. Contents of resolution and notice.

## BUILDINGS AND BUILDING REGULATIONS

- Sec. 105-258. Post-condemnation notice.
- Sec. 105-259. Boarding and securing.
- Sec. 105-260. Abatement by owner.
- Sec. 105-261. Abatement by city.
- Sec. 105-262. Sale of materials.
- Sec. 105-263. Disposition of sale proceeds.
- Sec. 105-264. Abatement costs and lien on property.
- Sec. 105-265. Penalty.
- Sec. 105-266. Judicial declaration and fine.
- Sec. 105-267. Emergency action.
- Sec. 105-268. Applicability of technical codes.



**ARTICLE I. IN GENERAL****Sec. 105-1. Unsafe buildings.**

All buildings or structures which are unsafe, unsanitary, do not provide adequate egress, which constitute a fire hazard, are otherwise dangerous to human life or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings. All such unsafe buildings are hereby declared a nuisance and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of article IX of this chapter.

(Code 2006, § 11.04.06; Ord. No. 2265, § 1; Ord. No. 2169, § 2)

**Secs. 105-2—105-20. Reserved.****ARTICLE II. BUILDING CODE****Sec. 105-21. State fire prevention code adopted by reference.**

The state fire prevention code, including appendix chapters "D" (fire districts) and appendix "E" supplementary accessibility requirements, is hereby adopted by reference, and shall become part of the city building code.

(Code 2006, § 11.08.06; Ord. No. 3416, §§ 1—3)

**Sec. 105-22. House demolition.**

Before construction demolition of any house, building or structure in the city limits, the person authorized by license to do so, shall submit a demolition permit application along with a filing fee established by the city for review. All demolition activities shall comply with all local,

state and federal regulations. Contractor must provide proof that all utilities have been disconnected.

(Ord. No. 07:3157, § 1(11.08.08), 11-20-2007)

**Sec. 105-23. Permit fees.**

(a) No permit as required by the building code shall be issued until the fee prescribed by the city council shall have been paid. Nor shall an amendment to a permit be approved until the additional fee, if any, due to the increase in the estimated cost of building or structure shall have been paid.

(b) In case of abandonment or discontinuance, the cost of work performed under a permit may be estimated, an adjustment of the fee made and the portion of the fee for uncompleted work returned to the permit holder; provided that no refund of a prescribed minimum fee shall be made. If such discontinuance is due to the revocation of a permit, a similar adjustment and return may be made; provided that, no refund shall be made until all penalties incurred or imposed by due authority have been collected. After such a refund has been made, no work shall be resumed until a new application has been made and a new permit has been issued.

(c) It shall be unlawful to commence the construction, reconstruction, moving, demolishing or structural alteration of any building until the building inspector has issued a building permit for such work. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this chapter and other applicable building laws, ordinances or regulations.

(d) Every building permit for new construction shall expire by limitation at the end of six months from the date of issue unless substantial work is in progress, as shown to the building inspector and if in progress, shall expire by limitation at the end of 18 months, unless it is a major project valued at more than \$3,000,000.00 which shall expire at the end of 24 months.

(e) A building permit for renovation of rehabilitation of an existing structure shall expire by limitation at the end of six months from the date of issue unless substantial work is in progress as shown to the building inspector, and if in progress, shall expire by limitation at the end of 12 months.

(f) A building permit shall not be issued to the renovation of any structure when condemnation proceedings involving said structure by the city council are considered final.

(g) Before beginning any work, except grading, within the city, the person responsible for building a structure shall make application for a building permit and shall pay all fees for said construction. A double fee shall be assessed to any person, firm or contractor commencing any work prior to issuance of a building permit, and for nonpayment of the fee for said permit.

(Code 1962, § 5-11; Code 2006, § 11.04.08; Ord. No. 1707, § 1; Ord. No. 2159, § 1; Ord. No. 2166, § 1; Ord. No. 2186, § 2)

#### **Sec. 105-24. Fire limits established.**

The fire limits of the city are hereby established as follows:

- (1) Beginning at the intersection of the centerlines of South Main Street

and Warner Avenue, thence west along the centerline of Warner Avenue to the intersection of Warner and Union Street, thence north along the centerline of Union to the intersection of Union and Jefferson Avenue, thence west along the centerline of Jefferson Avenue to a point 400 feet west of centerline of Madison Street, thence north until it intersects with the centerline of Huntington Avenue at a point 400 feet west of the centerline of Madison Street, thence continue north along the centerline of Sharp Street to a point 100 feet north of intersection of centerline of Sharp Street and Krewson Avenue, thence west to the centerline of McClure Street at a point 100 feet north of the intersection of the centerline of McClure Street and Krewson Avenue, thence north along centerline of McClure Street to a point 150 feet north of West Johnson Avenue, thence east parallel with Johnson Avenue until to intersects with Block Street, thence south along the centerline of Block Street to the south rail of the main line of the St. Louis Southwestern Rail Company, thence west along the south rail of the main line of said railway to the intersection of the railway line with East Street, thence south along the centerline of East Street and East Street Extended to a point 300 feet east of the centerline of the intersection of South Church Street and Jackson Avenue, thence east along the centerline of Jackson Avenue to the intersection of Jackson Avenue

and Carson Street, thence south along the centerline of Carson Street to the intersection of Carson Street and Matthews Avenue, thence west along the centerline of East Matthews Avenue to the intersection of Matthews and Cobb Street, thence south along centerline of Cobb to a point 200 feet south of East Matthews Avenue, thence west to the centerline of South Church Street at a point 200 feet south of the intersection of South Church Street and Matthews Avenue, thence south along the centerline of South Church Street to the intersection of South Church Street and Buffalo Avenue, thence west to the point of beginning.

- (2) Beginning at the intersection of the centerlines of South Main Street and Warner Avenue; thence west along the centerline of Warner Avenue to the intersection of Warner Avenue and Union Street; thence north along the centerline of Union Street to the intersection of Union Street and Jefferson Avenue; thence west along the centerline of Jefferson Avenue to a point 400 feet west of the centerline of Madison Street; thence south to the intersection of the centerline of Haven Street and Oak Avenue; thence east along the centerline of Oak Avenue to the intersection of Oak Avenue and South Church Street; thence north along the centerline of South Church Street to the intersection of South Church Street and Buffalo Avenue, thence east along the centerline of Buffalo Avenue and

Buffalo Avenue Extended to the intersection of Buffalo Avenue Extended and Rains Street; thence north along the centerline of Rains Street to the intersection of Rains Street and East Matthews Avenue; thence west along the centerline of East Matthews Avenue to the intersection of East Matthews Avenue and Cobb Street; thence south along the centerline of Cobb Street to a point which is 200 feet south of East Matthews Avenue; thence west to the centerline of South Church Street at a point 200 feet south of the intersection of South Church Street and East Matthews Avenue; thence south along the centerline of South Church Street to the intersection of South Church Street and Buffalo Avenue; thence northwesterly to the point of beginning.

- (3) Beginning at the northwest corner of Section 28, Township 14 North, Range 4 East, thence south along the west line of said Section 28 a distance of 210 feet to the point of beginning proper; thence continue south along the west line of said Section 28 a distance of 410 feet; thence southwesterly 680 feet; thence north 670 feet to a point in the south line of Section 20, Township 14 North, Range 4 East, thence east along the south line of said Section 20 a distance of 70 feet; thence north 660 feet; thence east 200 feet; thence north 1,980 feet to a point in the south rail of the main line of the St. Louis Southwestern Railway Company; thence southeasterly along said south rail

to a point which is 180 feet east of the west line of Section 21, Township 14 North, Range 4 East; thence southwesterly 2,820 feet; thence west 160 feet to appoint in the west line of Section 28, Township 14 North, Range 4 East, the point of beginning proper.

- (4) Beginning at the northwest corner of Section 27, Township 14 North, Range 4 East; thence east along the north line of said Section 27 (centerline of West Lake City Avenue) a distance of 260 feet to the intersection of West Lake City Avenue and National Drive; thence south along the centerline of National Drive Extended 170 feet; thence east 870 feet to a point in the centerline of Thorn Street; thence north along the centerline of Thorn Street to the intersection of Thorn Street, Nettleton Avenue and Lake City Avenue, thence continue north to the south rail of the main Line of the St. Louis San Francisco Railway Company; thence northwesterly along said south rail 540 feet; thence southwesterly 510 feet to a point which is 100 feet north of the south line of Section 22, Township 14 North, Range 4, East, thence west and parallel to said south line of said Section 22 a distance of 390 feet; thence south 100 feet to the point of beginning.
- (5) Beginning at the intersection of the centerlines of School Street and Thorn Street; thence east along the centerline of School Street 220 feet; thence southeasterly along the centerline of School Street 250 feet

to the west rail of the main line of the Missouri Pacific Railway Company; thence northeasterly along the west line of said west rail 240 feet to the south rail of the main line of the St. Louis San Francisco Railway Company; thence northwesterly along said south rail a distance of 610 feet to the intersection of Clark Street Extended; thence south along the centerline of Clark Street Extended and Clark Street 320 feet; thence west 120 feet to a point in the centerline of Thorn Street; thence south along the centerline of Thorn Street 170 feet to the intersection of Thorn Street and School Street, the point of beginning.

(Code 2006, § 11.04.09; Ord. No. 1204, § 9, 6-17-1968)

**Secs. 105-25—105-51. Reserved.**

**ARTICLE III. ELECTRICAL CODE\***

**DIVISION 1. GENERALLY**

**Sec. 105-52. Purpose; minimum standard.**

(a) The purpose of this article is the practical safeguarding of persons and buildings and their contents from electrical dangers and hazards arising from the use of electricity for light, heat, power, radio, signaling and for other purposes. It covers electrical conductors and equipment installed inside and outside of pri-

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\***State law references**—Electricians, A.C.A. § 17-38-101 et seq.; local electrical regulations, A.C.A. § 17-38-305.

vate and public buildings and other premises, including yards, carnivals and parking lots.

(b) The requirements of this article constitute a minimum standard only. Compliance therewith will result in installations reasonably free from dangers and hazards, but not necessarily efficient or convenient. The provisions of this article shall not be regarded as a design specification or as an instructional manual for untrained persons. Good service and satisfactory results will often require larger sizes of wire, more branch circuits and better types of equipment than the minimum herein specified.

(Code 2006, § 11.20.01; Ord. No. 957; Ord. No. 08:093, § 3, 11-6-2008)

**Sec. 105-53. National Electrical Code adopted.**

The National Electrical Code as adopted by the state pursuant to A.C.A. § 20-31-104 is hereby adopted.

(Code 2006, § 11.20.10; Ord. No. 3008, § 1; Ord. No. 08:093, §§ 2, 4, 11-6-2008)

**Sec. 105-54. Local exceptions to National Electrical Code.**

(a) The following rules shall govern local conditions and shall be exceptions to the National Electrical Code:

- (1) All commercial buildings, except those listed in the following subsection, shall be wired in conduit with conduit being defined as:
  - a. A properly certified manufactured home being converted for use as a commercial office shall be exempt from the requirements to be wired in metal

conduit when said structure shall be occupied on a temporary basis, with temporary being defined as a limited time not to exceed 12 months. Under extenuating circumstance, an appeal for extension of time can be made to the city council for approval.

- b. Properly certified pre-built off-site portable office buildings, not exceeding 500 square feet shall be exempt from the requirements to be wired in metal conduit, when said structure shall be occupied on a temporary basis, with temporary being defined as a limited time not to exceed 12 months. Under extenuating circumstances, an appeal for extension of time can be made to the city council for approval.
- c. Any Type 6 wood frame non-commercial accessory buildings to a residential use shall be exempt from the requirements to be wired in metal conduit.
  - (2) Overhead service masts shall not be less than two inch rigid conduit or intermediate metallic conduit.
  - (3) Thin wall conduit shall not be used for service entrances.
  - (4) PVC conduit may be installed outdoors when it meets the rating required for exposure to outside elements.
  - (5) The minimum size of aluminum wire that can be used is No. 2 stranded.

- (6) A master switch or breaker shall be installed on all electric services up to 400 amps. The switch or breaker shall be installed at the entrance of the electric meter and the entrance shall not be concealed. Services over 400 amps shall follow NEC.
- (7) No permit shall be issued for electric service exceeding 200 amps nor for any three phase service until written approval has been issued by the local utility.
- (8) No appliances requiring a separate circuit shall be wired without a permit.
- (9) Wire under manufactured homes shall be encased in protective conduit. Conduit must be on surface under manufactured unit. Conduit must be within 24 inches of drop from unit.

(b) No less than three copies of the National Electrical Code shall be on file in the office of the city clerk.  
(Code 2006, § 11.20.11; Ord. No. 3008, §§ 2, 3; Ord. No. 08:093, § 5, 11-6-2008)

**Sec. 105-55. Appeals board.**

The board of adjustment and appeals as set forth in the Arkansas Fire Prevention Code, Volume II shall serve as the appeals board for decisions regarding interpretations of the National Electrical Code.  
(Code 2006, § 11.20.12; Ord. No. 3008, § 4; Ord. No. 08:093, § 3, 11-6-2008)

**Sec. 105-56. Interior wiring construed; outside wiring regulated.**

Interior wiring and other apparatus, as referred to in this chapter, shall be con-

strued to mean all wiring done within the city except such outside wiring on poles, transmission lines, conduits or in substations, up to the customer's measuring device, done by any public utility supplying the city or the inhabitants thereof with light, power, telephone or telegraph service. Wherever applicable, the rules and regulations herein provided for interior wiring shall apply to outside wiring and the electrical inspector is empowered to control and inspect all wiring outside of buildings for the purpose of enforcing the provisions of this article for the public safety. Permits shall be procured for outside wiring just as in the case of interior wiring and the fees hereinafter provided shall be charged, paid and collected.  
(Code 2006, § 11.20.12; Ord. No. 957; Ord. No. 08:093, § 3, 11-6-2008)

**Sec. 105-57. Sale of unsafe appliances.**

It shall be unlawful and a misdemeanor punishable as provided in this article for any person in the city to sell or offer for sale any electrical appliances, devices or materials, which when used, are dangerous to life, health or property.  
(Code 2006, § 11.20.13; Ord. No. 957; Ord. No. 08:093, § 3, 11-6-2008)

**Sec. 105-58. Penalties.**

(a) Any person who shall do any act or thing in any manner contrary to the requirements of this article or who shall fail to do any act or thing by this article required to be done by such person shall be guilty of a misdemeanor.

(b) Any person who shall conceal from view unsoldered joints or connections or who shall put spliced wire into conduits

or who shall use current contrary to the provisions of this article shall be guilty of a misdemeanor.

(c) The electrical inspector is empowered to direct the electric utility serving the city to disconnect electric current when he finds that it is being used on any work where this article is not being complied with fully and to keep such current cut off until this chapter has been complied with.

(d) The electrical inspector is empowered and directed to notify in writing any person furnishing electric current to any person violating this chapter that the violation therein described exists and that unless the violation ceases within 48 hours from the mailing of such notice, the electric current must be, by the furnisher of such electric current, cut off and denied to such person, so violating this article until such time as the violation shall have ceased.

(Code 2006, § 11.20.15; Ord. No. 957; Ord. No. 08:093, § 3, 11-6-2008)

**Secs. 105-59—105-89. Reserved.**

**DIVISION 2. PERMITS AND INSPECTIONS**

**Sec. 105-90. Permit.**

(a) Each person desiring to install or repair interior wiring or other apparatus for the use of electrical current in the city, shall, before commencing or doing any work, file an application in writing for a permit therefore with the city, which application shall describe, in detail, the materials and apparatus to be used, give the plans and specifications of the proposed work, and the street address and

location on the premises where the work is to be done. Forms for making such applications shall be furnished by the city through the city electrical inspector.

(b) All such applications shall be passed upon by the electrical inspector and if it is to be found by him that they conform to all applicable ordinances of the city, including this article, a permit for the proposed work shall be given by him in triplicate over his signature.

(c) Any person doing or attempting to do any electrical work within the city without having procured and then possessing the required permit shall be guilty of a misdemeanor and shall be punished as hereinafter provided. No permit shall be required or necessary for the making of minor repairs which do not involve the use of new wire, fixtures or equipment.

(d) Permits under this chapter may be issued only to persons duly licensed by the state under the acts pertaining to the licensing of persons qualified thereunder, to engage in the making of electrical installations and repairs within the city. (Code 2006, § 11.20.02; Ord. No. 2206, § 1; Ord. No. 08:093, § 3, 11-6-2008)

**Sec. 105-91. Temporary permit requirements.**

Where a permit for the installation of wiring has been applied for and granted by the city electrical inspector who may grant a temporary permit to connect the electrical current for such period of time as shall be just and reasonable, the facts and circumstances considered, before such temporary permit to connect the electric current shall be granted, however, the licensed electrician and the owner or oc-

cupant of the premises shall enter into an agreement in writing that unless final inspection is applied for and made, and the work approved, the electric current may be automatically cut off without notice. Before work has begun on wiring, a set of building plans and specifications shall be shown to the inspector. Each form to each contractor shall be the same. The service entrance locations shall be approved in writing by the electric utility serving the city.

(Code 2006, § 11.20.03; Ord. No. 2206, § 1; Ord. No. 08:093, § 3, 11-6-2008)

**Sec. 105-92. New permit required for alterations or additions to original plans.**

No alterations or additions shall be made in any electrical installations without first notifying the electrical inspector thereof, procuring a permit for such work, submitting to the electrical inspector for examination the plans and specifications covering the proposed work, and paying the fees provided in this article. If it is desired to increase the number of circuits called for in an original permit, such increase shall be considered as an addition to the original installation and a permit procured therefor, for which a fee shall be paid as for addition. When an addition is made to or an alteration is made in any installation of electric work, the number of circuits or other electrical apparatus previously in service in any such installation, together with the character thereof, shall be fully stated in the permit for additions or alterations.

(Code 2006, § 11.20.04; Ord. No. 957; Ord. No. 08:093, § 3, 11-6-2008)

**Sec. 105-93. Inspections.**

(a) All electrical work for which permits are required by this article shall be inspected by the electrical inspector before it may be accepted by the owner and put into operation or use and the person to which any such permit is issued shall apply to the electrical inspector for an inspection of such work within 30 days from the date of the permit unless such work is completed prior thereto, in which event, application for inspection shall be made as soon as such electrical work is ready for inspection. Before any interior electrical wiring shall be concealed from view, the person installing the same shall give written notice to the electrical inspector or who, as soon as possible after the receipt of said notice, shall inspect such work. No such work shall be concealed from view prior to the expiration of 36 hours from receipt of the aforesaid notice by the electrical inspector unless he shall have made his inspection and approved the work prior to the expiration of said 36 hours.

(b) Before any electrical current shall be used upon any interior electrical wiring of the character mentioned in subsection (a) of this section, written notice shall be served upon the electrical inspector that an inspection thereof is desired, whereupon the electrical inspector shall, as soon as possible, inspect said wiring and issue a certificate of inspection covering the same, which certificate shall contain a general description of the installation and the date of inspection and approval. No current shall be used prior to the issuance of such certificate. The electrical inspector may, however, issue temporary permits for the use of electric

current during the course of construction or alteration of buildings which temporary permits shall expire when the electrical apparatus for said building is fully installed, whereupon the electrical inspector shall have the current cut off until final inspection is made and a certificate of inspection and approval has been issued.

(Code 2006, § 11.20.05; Ord. No. 957; Ord. No. 08:093, § 3, 11-6-2008)

#### **Sec. 105-94. Correction of defects.**

Whenever any person has obtained a permit to install or to do any electrical work and whenever an inspection of such work by the electrical inspector or his assistants discloses that such work is not done in accordance with the National Electrical Code or is not done in conformity with the provisions of this chapter, it shall be the duty of the electrical inspector to serve notice upon such permit holder, pointing out the defects in such work or installation and such permit holder shall proceed immediately to correct such defects and to make the work and materials conform to the provisions of this chapter and the National Electrical Code for electrical wiring and apparatus. In the event such permit holder neglects or refuses to promptly comply with this chapter and the National Electrical Code, the electrical inspector shall forthwith notify the board of electrical examiners and supervisors of the city of such neglect or refusal and said board is empowered and directed, in its discretion, to instruct the city collector not to issue any other permits for the making of electrical installations or repairs to the said offending permit holder until such time as he shall have made the electrical work complained

of conform to this chapter and the National Electrical Code and procured the electrical inspector's approval thereof.

(Code 2006, § 11.20.06; Ord. No. 957; Ord. No. 08:093, § 3, 11-6-2008)

#### **Sec. 105-95. Reinspections; notice to put in safe condition; existing buildings.**

(a) The electrical inspector is hereby empowered to inspect or reinspect or to have inspected or reinspected all interior apparatus and wires conducting electrical current for light or power and when conductors or apparatus are found to be unsafe to life or property, he shall notify the person owning or using the same to place the same in a safe and secure condition within 48 hours. Any person failing to comply with such shall be punished as hereinafter provided.

(b) No system or installation of interior wiring in any commercial or industrial building which has been vacated shall be used again as an electrical conductor without reinspection by the electrical inspector. The electrical inspector, for good cause shown, may issue a temporary permit in such cases until reinspection can be made.

(Code 2006, § 11.20.07; Ord. No. 957; Ord. No. 08:093, § 3, 11-6-2008)

#### **Sec. 105-96. Inspection fees.**

(a) Before beginning any electrical work within the area of jurisdiction of the city electrical inspector, the person installing same shall make application for the required inspections and pay all fees for said inspections. A double inspection fee shall be assessed to any person commencing any electrical work prior to making

application for the required inspections and the payment of all fees for said inspections.

(b) The applications for electrical inspections shall be accompanied by fees as established by the council.

(Code 2006, § 11.20.08; Ord. No. 1708, § 1; Ord. No. 2206, § 1; Ord. No. 08:093, § 3, 11-6-2008)

**Sec. 105-97. Certificate of inspection; requirements.**

No certificate of inspection shall be issued unless the electric light, power and heating installations are in strict conformity with the provisions of this article and unless they are in conformity with the approved methods of construction for safety to life and property. The regulations are laid down in the latest National Electrical Code as approved by the American Standards Association shall be prima facie evidence of such approved methods subject to the limitations and excavations contained in this article.

(Code 1962, § 8-9; Code 2006, § 11.20.09; Ord. No. 08:093, § 3, 11-6-2008)

**Secs. 105-98—105-122. Reserved.**

**ARTICLE IV. GAS\***

**Sec. 105-123. Fees.**

(a) Fees for gas permits and inspections shall be as established by the council.

(b) The permit issuance fee will be assessed only once on each permit issued regardless of whether the permit is is-

\***State law references**—Municipal plumbing regulations, A.C.A. § 11-54-1001 et seq.; local regulation of plumbing and gas standards, A.C.A. § 17-31-204.

sued for all plumbing or all gas or a combination of both. Any and all fees shall be paid by the person to whom the permit is issued.

(Code 2006, § 11.16.01; Ord. No. 2174; Ord. No. 3043, § 5; Ord. No. 08:094, §§ 5, 6, 11-6-2008)

**Sec. 105-124. Inspections.**

There is hereby adopted by reference by the city a certain Gas Code known as the Arkansas State Fuel Gas Code, 2006 Edition, less and except those portions that are deleted, modified or amended as specified in this article.

(Code 2006, § 11.16.02; Ord. No. 3043, § 5; Ord. No. 08:094, §§ 2, 6, 11-6-2008)

**Secs. 105-125—105-146. Reserved.**

**ARTICLE V. MECHANICAL CODE**

**Sec. 105-147. Adopted.**

There is hereby adopted by the city council a certain mechanical code known as the Arkansas State Mechanical Code, as amended. There are not less than three copies of the mechanical code now on file in the office of the city clerk.

(Code 2006, § 11.36.01; Ord. No. 2643, § 1; Ord. No. 09:010, §§ 1, 4, 6, 3-17-2009)

**Secs. 105-148—105-177. Reserved.**

**ARTICLE VI. PLUMBING CODE†**

**Sec. 105-178. State plumbing code adopted by reference; amendments.**

There is hereby adopted by the city a certain plumbing code known as the Ar-

†**State law references**—Municipal plumbing regulations, A.C.A. § 11-54-1001 et seq.; local regulation of plumbing and gas standards, A.C.A. § 17-31-204.

kansas State Plumbing Code, less and except those portions that are deleted, modified or amended as specified in this article.

(Code 2006, § 11.12.01; Ord. No. 2393, § 1; Ord. No. 3043, § 1; Ord. No. 08:094, § 5, 11-6-2008)

**Sec. 105-179. Permits and fees; notice for inspection required.**

The application for plumbing inspections shall be accompanied by fees as established by the council:

- (1) The application issuance fee will be assessed only once on each application issued regardless of whether the application is issued for all plumbing or all gas or a combination of both.
- (2) Any person installing any plumbing work shall be required to notify the plumbing inspector when the work being performed is ready for a required inspection. The plumbing inspector shall perform the requested inspection within 24 hours after receiving the request.
- (3) The person installing plumbing or gas shall be required to notify the plumbing inspector when the job is ready for a rough-in inspection. The plumbing inspector will then perform a visual inspection of all workmanship and materials prior to any workmanship or materials being concealed from view. Any workmanship or materials concealed from view at the time of the rough-in inspection shall be disap-

proved until the workmanship and materials are made easily accessible for a visual inspection.

- (4) The person installing plumbing or gas shall be required to notify the plumbing inspector when the job is ready for final inspection. Upon inspection and approval a plumbing inspection certificate shall be issued. Permanent water service to the premises shall not be authorized until such final inspection certificate is issued.
- (5) The property owner may install plumbing in a single-family dwelling provided the property owner does the work himself and the dwelling is owned and occupied by such owner as his home. Subject owner must make application for the required inspection and pay all fees for said inspection.

(Code 2006, § 11.12.02; Ord. No. 3043, § 3; Ord. No. 08:097, § 4, 11-6-2008)

**Sec. 105-180. Street cuts.**

(a) All street cuts made in the public streets or alleys must be made as carefully as possible and all materials excavated from the trenches shall be removed or placed where the least inconvenience to the public will be caused.

(b) All street cuts are to be repaired. If the plumber fails to repair the street to the satisfaction of the city engineer, then the plumber will not be issued any plumbing permits until such repairs are made.

(c) All street cuts shall be marked with sufficient barriers. Yellow lamps shall be maintained around the opening at night and all other precautions shall be taken

by the plumber or excavator to protect the public from damage to person or property.

(d) All street cuts shall require a permit and inspection. Advance notice, minimum of at least 24 hours, must be given to the 911 Center, the fire and police departments and all other emergency vehicle operators prior to making such cut. (Code 2006, § 11.12.04; Ord. No. 3043, § 4; Ord. No. 08:097, § 4, 11-6-2008)

**Secs. 105-181—105-198. Reserved.**

**ARTICLE VII. BUILDING NUMBERING**

**Sec. 105-199. Number requirements.**

Every person owning or occupying any house or building fronting on any street shall, prior to occupancy, have the proper number attached to, stenciled or painted on the front part of such house or building, over, on, or by each main entrance in such manner that the number shall be plainly visible from the street. Such street numbers shall conform with this section. If, because of the setback of the house or building, or for any other reason the number cannot readily be seen from the street, then the occupant shall, in addition to the provisions of this section, position the numbering so that it is clearly visible from the street.

(Code 2006, § 9.40.01; Ord. No. 2109, § 1)

**Sec. 105-200. Size of numbers.**

The minimum size of the numbers shall be three inches in height and no script is

allowed. Premises on which buildings are being constructed shall post street numbers prior to beginning construction.

(Code 2006, § 9.40.02; Ord. No. 2109, § 2)

**Sec. 105-201. Baseline streets.**

For the purpose of numbering houses, Main Street and Cotton Belt right-of-way shall be considered the base lines, from which base lines the property shall be numbered, beginning with the number 100 for each block, placing the even numbers on the north and east side of the streets.

(Code 2006, § 9.40.03; Ord. No. 2109, § 3)

**Sec. 105-202. False information.**

It shall be unlawful for any person to display any false or incorrect house or lot number knowingly and willfully or with intention to deceive another person.

(Code 2006, § 9.40.04; Ord. No. 2109, § 4)

**Sec. 105-203. Fine.**

Any violation of any provision of this article shall be punishable by a fine of not less than \$25.00 for the first offense and not less than \$50.00 nor more than \$100.00 for each subsequent offense.

(Code 2006, § 9.40.05; Ord. No. 2109, § 5)

**State law reference**—Penalties for ordinance violations, A.C.A. § 14-55-501 et seq.

**Sec. 105-204. Restrictions.**

The restrictions contained in this article shall apply to all applications for street names from the date of the adoption of the ordinance, from which this section is derived, forward.

(Code 2006, § 9.40.06; Ord. No. 2323, § 1)

**Sec. 105-205. Duplication of names.**

There shall be no duplications of street names. Some street names may not be allowed where confusion is evident or is likely to become an element of confusion. (Code 2006, § 9.40.07; Ord. No. 2323, § 2)

**Sec. 105-206. Numbers and characters.**

Street names shall contain no more than a maximum of 15 characters. This does not include the descriptor, such as street, lane, drive, etc. (Code 2006, § 9.40.08; Ord. No. 2323, § 3)

**Sec. 105-207. Street descriptors.**

The street descriptor shall contain no more than a maximum of four characters. Street descriptors shall be one of the following:

- (1) Avenue;
- (2) Boulevard;
- (3) Circle;
- (4) Cove;
- (5) Court;
- (6) Drive;
- (7) Expressway;
- (8) Extended;
- (9) Lane;
- (10) Loop;
- (11) Park;
- (12) Place;
- (13) Parkway;
- (14) Road;
- (15) Spur;
- (16) Street;

(17) Square;

(18) Terrace, or

(19) Trail.

(Code 2006, § 9.40.09; Ord. No. 2323, § 4)

**Sec. 105-208. Characters.**

All characters shall be alphabetic only. No special characters allowed. Examples of special characters are #,\$,%,'&, -, /. (Code 2006, § 9.40.10; Ord. No. 2323, § 5)

**Sec. 105-209. Other restrictions.**

(a) Do not include north, south, east or west in street name. Example; East College Circle and West College Circle.

(b) House numbers shall not exceed a maximum of five digits.

(c) Apartment numbers shall not exceed a maximum of five characters or digits.

(Code 2006, § 9.40.11; Ord. No. 2323, § 6)

**Sec. 105-210. Restrictions within subdivision.**

In new subdivisions, it shall be the responsibility of the developer to propose street names and alternates for review and approved by the planning and inspections department, subject to all requirements contained in chapter 113, pertaining to subdivisions.

(Code 2006, § 9.40.12; Ord. No. 2323, § 7)

**Secs. 105-211—105-228. Reserved.****ARTICLE VIII. SWIMMING POOLS****Sec. 105-229. Definitions.**

The following words, terms and phrases, when used in this article, shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Family pool* means a swimming pool used or intended to be used solely by the owner, operator or lessee thereof and his family, and by his friends invited to use it without payment or any fee.

*Swimming pool* means a body of water, 15 inches or more in depth in an artificial or semi-artificial receptacle or container located indoors or outdoors used or intended to be used for public, semipublic or private swimming by adults or children or both adults and children whether or not any charge or fee is imposed upon such adults and children and shall include all swimming pools operated and maintained in conjunction with or by clubs, motels, hotels and community associations.

(Code 2006, § 5.20.02; Ord. No. 1365, § 3, 6-18-1973)

**Sec. 105-230. Enclosure required.**

(a) Every outdoor pool or family pool shall be completely surrounded by a fence or wall of a nonclimbable type of construction not less than four feet in height, which shall be so constructed as not to have openings, holes or gaps larger than two inches in any horizontal dimension nor four inches in any vertical dimension, except for doors and gates; and, if a picket fence is erected or maintained, the horizontal dimensions shall not exceed two inches. A dwelling house or accessory building may be used as part of such enclosure.

(b) All gates or door openings through such enclosures shall be equipped with a self-closing and self-latching device for

keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.

(c) This requirement shall be applicable to all new swimming pools or family pools hereafter constructed, other than indoor pools, and shall apply to all existing pools.

(d) The code enforcement officer may make modifications in individual cases of existing pools, upon a showing of good cause with respect to the nature or location of the fence, wall, gates or latches, provided the protection as sought hereunder is not reduced thereby.

(e) The code enforcement officer may permit, in cases of existing pools, other protective devices or structures used so long as the degree of protection afforded by the substitute device or structure is not less than the protection afforded by the wall, fence, gate and latch described herein.

(Code 1962, § 12-3; Code 2006, § 5.20.03)

**Secs. 105-231—105-253. Reserved.**

**ARTICLE IX. UNSAFE STRUCTURES\***

**Sec. 105-254. Nuisance properties unlawful.**

It shall be and it is hereby declared to be unlawful for any person, partnership, corporation or association, to own, keep or maintain any house, building and/or

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\***State law reference**—Removal of buildings, A.C.A. § 14-56-203.

structure within the corporate limits of the city which constitutes a nuisance and which is found and declared to be a nuisance by resolution of the city council.

(Code 2006, § 11.32.01; Ord. No. 3115, § 1)

**Sec. 105-255. Condemnation for abatement.**

Any such house, building and/or structure which is found and declared to be a nuisance by resolution of the city council will be condemned to ensure the repair rehabilitation, securing, and/or razing and removal thereof as specified in the notice to repair or remove.

(Code 2006, § 11.32.02; Ord. No. 3115, § 2)

**Sec. 105-256. Pre-condemnation notice.**

Prior to the consideration of a resolution by the city council declaring any house, building and/or structure as a nuisance, the owner of such house, building and/or structure together with any mortgage or lienholder shall be notified in writing of the date, time and place that the city council will consider said resolution. Said notice shall be sent 20 days prior to the date of the hearing and shall include a copy of the inspection report, by registered letter or personal service, the receipt of which shall be duly acknowledged. Should the owner of any such house, building and/or structure not be known or the owner whereabouts not be known or such owner is a nonresident of the state, then a copy of the written notice shall be posted upon the premises and the mayor or his designee shall make an affidavit setting out the facts to un-

known address or whereabouts of nonresidents, and thereupon service by publication once a week for two consecutive weeks as now provided for by law against nonresident defendant may be had and an attorney ad litem shall be appointed to notify the defendant by registered letter addressed to his last known place of residence of same can be found.

(Code 2006, § 11.32.03; Ord. No. 3115, § 3)

**Sec. 105-257. Contents of resolution and notice.**

The resolution of the city council condemning any house, building and/or structure which constitutes a nuisance will include in said resolution and attachments thereto, an adequate description of the house, building and/or structure; the name or names, if known, of the owner thereof; notification of the requirements and penalties imposed by this article, and shall set forth the reason or reasons said house, building and/or structure has been condemned as a nuisance.

(Code 2006, § 11.32.04; Ord. No. 3115, § 4)

**Sec. 105-258. Post-condemnation notice.**

After a house, building and/or structure has been found and declared to be a nuisance and condemned by resolution as herein provided a true or certified copy of said resolution together with a notice to repair or remove will be mailed to the owner thereof if the whereabouts of said owner thereof is known or their last-known address is known; and a copy thereof shall be posted at a conspicuous place on said house, building and/or struc-

ture. Provided that if the owner of said house, building and/or structure is unknown, or if his or their whereabouts or last-known address is unknown, the posting of the copy of said resolution as herein above provided will suffice as notice.

(Code 2006, § 11.32.05; Ord. No. 3115, § 5)

**Sec. 105-259. Boarding and securing.**

When necessary for the public health and safety, the owner of all property declared a nuisance by the city council shall board and secure the structure or condition within the time set forth in the notice. The owner shall maintain such boarding or securing at all times until the structure is brought into full compliance with the applicable building or abatement codes or until such time as the structure is razed and removed. Boarding and securing of the structure or condition does not relieve the owner of the requirement to diligently repair, rehabilitate or demolish and remove the structure or condition. All materials used to board and secure shall be weatherproofed or treated and shall be painted and maintained with a color of paint that blends with the overall structure.

(Code 2006, § 11.32.06; Ord. No. 3115, § 6)

**Sec. 105-260. Abatement by owner.**

The owner of any property declared a nuisance by the city council shall obtain necessary permits and commence to repair, rehabilitate, secure, raze and remove, or otherwise abate the nuisance within 30 days and shall continue such work to satisfactory completion within such time as the mayor or his designee

determines. A renovation permit shall be required for the correction or elimination of nuisances on property or structures that have been approved for condemnation by the city council. The conditions of the granting of a renovation permit are:

- (1) A renovation permit must be obtained within 30 days from the date of condemnation by the city council.
- (2) A renovation permit shall expire 45 days from date of issue.
- (3) The city council may grant upon written recommendation from code enforcement officer with cause shown grant one extension not to exceed six months. Said extension shall be conditioned upon posting a bond, cash or cash equivalent, in the amount of 25 percent of value of original building permit. Said sum shall be placed in an interest bearing account. Further said bond shall be posted prior to the request for the extension being placed on the city council agenda.
- (4) A structure of property shall be removed from condemnation procedures provided the provisions of this article have been complied with and the structure or property satisfactorily passes an inspection by the city inspector or code enforcement officer. At such time the money deposited per subsection (3) of this section shall be refunded. If the property does not pass inspection at the expiration of the permit said bond shall be used to cover the net costs of razing said structure. Any surplus money shall be refunded to

the individual posting said bond together with any accrued interest. Any sum exceeding the amount of the bond shall be pursued pursuant to the collection provisions set forth herein.

- (5) Fees for renovation permit issued involving building, electrical or plumbing repair or modification shall be the same as currently charged by the city for building, electrical and plumbing permits. A flat fee of \$25.00 will be assessed for all renovation permits issued which does not involve building, electrical or plumbing repair or modification.

(Code 2006, § 11.32.07; Ord. No. 3115, § 7)

**Sec. 105-261. Abatement by city.**

If the owner of the house, building and/or structure constituting a nuisance have not obtained the required permits and commenced work to rehabilitate, secure, raze and remove, or otherwise abate said nuisance within 30 days after the posting of the true copy of the resolution at a conspicuous place on said house, building and/or structure, said house, building and/or structure constituting the nuisance will be repaired, boarded and secured, or razed and removed as may be necessary to abate the nuisance by the mayor or his designated representative.

(Code 2006, § 11.32.08; Ord. No. 3115, § 8)

**Sec. 105-262. Sale of materials.**

The mayor or any other person designated by him to raze and remove any house, building and/or structure consti-

tuting a nuisance shall ensure the removal thereof and dispose of the same in such a manner as deemed appropriate in the circumstances and to that end may, if the same has a substantial value, sell said house, building and/or structure, or any saleable material thereof, by public sale to the highest bidder for cash ten days' notice thereof being first given by one publication in some newspaper having a general circulation in the city, to ensure its removal and the abatement of the nuisance.

(Code 2006, § 11.32.09; Ord. No. 3115, § 9)

**Sec. 105-263. Disposition of sale proceeds.**

All the proceeds of the sale of any such house, building and/or structure, or the proceeds of the sale of saleable materials therefrom, and all fines collected from the provisions of this article shall be paid by the person collecting the same to the city collector. If any such house, building and/or structure or the saleable materials thereof are sold for an amount which exceeds all costs incidental to the abatement of the nuisance, including the cleaning up of the premises by the city and pays any fine or fines imposed, the balance thereof will be returned by the city collector to the former owner of such house, buildings and/or structure constituting the nuisance.

(Code 2006, § 11.32.10; Ord. No. 3115, § 10)

**Sec. 105-264. Abatement costs and lien on property.**

(a) If the city has any net costs in the securing, repair or razing and removal of any house, building and/or structure, such

costs shall be charged to the owner. Should the owner fail to pay said charges within 60 days from the date of the first billing, the city shall have a lien on the property as provided by A.C.A. §§ 14-54-903 and 14-54-904.

(b) The lien may be enforced in either one of the following manners:

- (1) The lien may be enforced at any time within 18 months after work has been done by an action in the Chancery Court. The amount of the lien herein provided may be determined at a hearing before the city council held after 30 days written notice by certified mail to the owner of the property if the name and whereabouts of the owners are known;
- (3) If the name of the owner cannot be determined then only after the publication of notice of such hearing in a newspaper having a bona fide circulation in the county for one insertion per week for four consecutive weeks. The determination of the city council being subject to appeal by the property owner in the circuit court and the amount so determined at said hearing, plus a ten percent penalty for collection, shall be by the city council certified to the tax collector of the county and by him placed on the tax books as delinquent taxes are collected accordingly; and the amount, less three percent thereof, when so collected shall be paid to the city by the county tax collector.

(c) It is expressly stated that the tax lien method is the preferred method of collection unless the code enforcement

officer in consultation with the city attorney makes a determination to proceed with one of the other specified collection methods.

(Code 2006, § 11.32.11; Ord. No. 3115, § 11)

**Sec. 105-265. Penalty.**

It is unlawful for any person to maintain any house, building and/or structure found and declared to be a nuisance by resolution of the city council 30 days after the same has been so found and declared to be a nuisance; provided that the notice as provided in section 105-258 hereof has been given within ten days after said house, building and/or structure has been by resolution found and declared to be a nuisance.

(Code 2006, § 11.32.12; Ord. No. 3115, § 12)

**Sec. 105-266. Judicial declaration and fine.**

In the event that it is deemed advisable by the city council that a particular house, building and/or structure be judicially declared to be a nuisance by a court having jurisdiction of such matters, the city council is hereby authorized to employ an attorney to bring such an action for said purpose in the name of the city; and the only notice to be given to the owner or co-owners of any such house, buildings and/or structure sought to be judicially declared to be a nuisance will be that as now provided for by law in such cases in a court of equity or circuit court. It is unlawful for any person to maintain such a nuisance. In the event that the owner of any such house, building and/or structure judicially found to be a nuisance

sance fails or refuses to abide by the orders of the court, the mayor or his designee shall take such action as provided in section 105-261; and sections 105-262 through 105-264 will be applicable to such owner. The provisions contained in the immediately preceding sentence apply independently of any action as may be taken by the court judicially declaring the nuisance.

(Code 2006, § 11.32.13; Ord. No. 3115, § 13)

**Sec. 105-267. Emergency action.**

Notwithstanding any provision herein to the contrary, in cases of extreme emergency where notice is not practical, the city and its authorized agents may enter upon any real property, houses, buildings or other structures and take such action or actions as may be immediately necessary for the preservation of the public health, safety and welfare prior to the issuance of notice as provided for herein. Provided further, that the procedural requirements of this article shall be adhered to following any such emergency action.

(Code 2006, § 11.32.14; Ord. No. 3115, § 14)

**Sec. 105-268. Applicability of technical codes.**

The provisions of this article shall not be construed to limit the authority of the city, its agents, officers and enforcement of the various technical codes which have been adopted by ordinance and which shall remain in full force and effect, specifically, the housing code, building code, fire prevention code, electrical code and plumbing code.

(Code 2006, § 11.32.15; Ord. No. 3115, § 15)



Chapters 106—108

**RESERVED**





Chapter 109

**FLOODS**

Sec. 109-1. Special flood hazard areas.



**Sec. 109-1. Special flood hazard areas.**

The areas of special flood hazard identified by the flood insurance study dated January 18, 1991, and the flood insurance rate map and the flood boundary floodway map effective September 27, 1991, including any revisions thereto are hereby adopted by reference.



Chapters 110, 111

**RESERVED**





## Chapter 112

### **STORMWATER MANAGEMENT**

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## ARTICLE I. IN GENERAL

### Sec. 112-1. Definitions.

For the purpose of these regulations, certain terms and words shall be used, interpreted, and defined as set forth in this section.

*Base flood* means the flood that has a one percent chance of being equaled or exceeded in any given year, i.e., the 100-year flood.

*Bond* means the form of security for the completion or maintenance of drainage improvements.

*Building* means any structure built for the support, shelter, or enclosures of persons, animals, chattels, or movable property of any kind.

*Channel* means course of perceptible extent which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water, and which has a definite bed and banks.

*Compliance letter* means an acceptance letter issued by the city engineer based upon the review of the stormwater management plan or construction plans as prepared and certified by the engineer of record for a project.

*Conduit* means any open or closed device for conveying flowing water.

*Critical facilities* includes governmental facilities that are considered essential for the delivery of critical services and crisis management (such as data and communication centers and key governmental complexes); facilities that are essential for the health and welfare of the whole population (such as hospitals, pris-

ons, police and fire stations, emergency operations centers, evacuation shelters and schools); mass transportation facilities (such as airports, bus terminals, train terminals); lifeline utility systems (including potable water, wastewater, oil, natural gas, electric power and communications systems); high potential loss facilities (such as nuclear power plants or military installations); hazardous material facilities (such as industrial facilities housing or manufacturing or disposing or corrosives, explosives, flammable materials, radioactive materials and toxins).

*Detention* means the temporary detaining or storage of floodwater in reservoirs, on parking lots, on rooftops, and other areas under predetermined and controlled conditions accompanied by controlled release of the stored water.

*Detention basins* means any man-made area which serves as a means of controlling and temporarily storing stormwater runoff. The facility normally drains completely between spaced runoff events, e.g., parking lots, rooftops, athletic fields, dry wells, oversized storm drain pipes.

*Developer* means a person, legal entity, or its representative that improves unimproved land or rehabilitates or adds improvements to an existing improvement on previously improved land.

*Development* means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

*Differential runoff* means the volume and rate of flow of stormwater runoff

discharged from a parcel of land or drainage area which is or will be greater than the volume and rate which existed prior to the development.

*Drainage easement* means authorization by a property owner for use by another party or parties for all or any portion of his or its land for drainage purposes.

*Engineer of record* means a professional engineer registered in the State of Arkansas who is responsible for the design and construction administration, observation, and inspection of the stormwater facilities proposed for specific development or redevelopment projects of all facilities to be dedicated to the City of Jonesboro.

*Flooding* means an overflowing of water resulting in the inundation or submergence of normally dry land.

*Floodplain* means a land area adjoining a watercourse which is likely to be flooded.

*Floodway* means the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without a cumulative increase of the water surface elevation more than a designated height.

*Freeboard* means a factor of safety expressed as the difference in elevation between the top of the detention basin dam, levees, culvert entrances and other hydraulic structures, and the design flow elevation.

*Grading permit* means a permit issued by the city engineer which allows land disturbance activities (e.g., clearing, grading, excavation, etc.) on a specific development.

*Lowest floor* refers to the lowest floor of the lowest enclosed area (including basement). For a typical slab-on-grade construction, the elevation of the lowest floor is the top of the first floor of the house. For a typical basement foundation construction, the elevation of the lowest floor is the top of the basement floor. For a typical crawlspace foundation construction, the elevation of the lowest floor is the top of the first floor of the house. For typical split-level constructions, the elevation of the lowest floor is the top of the first living floor; the garage floor is not the lowest floor as long as there are no living areas in the garage and it is used solely for storage, parking vehicles and entry to the house. The elevation of the lowest floor of a manufactured home, however, is the bottom surface of the lowest floor joist.

*Maintenance.*

*Short-term maintenance* means general upkeep of the site and facilities, specifically the mowing or trimming of grasses or other vegetative cover and the removal of litter and other minor debris that could impact the functionality of the facilities or that would otherwise be considered unsightly or a nuisance.

*Long-term maintenance* means removal of sediment deposits, re-grading or shaping of embankments, drainage channels, and detention areas, and repair or replacement of piping networks, and other drainage structures.

*NRCS (SCS) method* means a methodology developed by the Natural Resources Conservation Service (formerly the Soil Conservation Service) for obtaining a de-

sign hydrograph to simulate the discharge from a watercourse over a specific time period.

*On-site detention* means temporary storage of runoff on the same land or development site where the runoff is generated.

*Peak flow* means the peak rate of flow of water at a given point in a watercourse or conduit.

*Plat* means a legally recorded plat of a parcel of land subdivided into lots with streets, alleys, easements, and other land lines drawn to scale.

*Project* means any development involving the construction, reconstruction, or improvement of structures or grounds, or both.

*Retention basin* means a stormwater detention facility which maintains a fixed minimum water elevation between runoff events except for the lowering resulting from losses of water to infiltration or evaporation.

*Special flood hazard area (SFHA)* means the land area covered by the floodwaters of the base flood.

*Stormwater drainage design manual* means the set of drainage policies, analysis methods, design charts, stormwater runoff methods, and design standards used by the city as the official design guidelines for drainage improvements consistent with the regulations.

*Stormwater management system* means the collection of open channels, drainage swales, detention facilities, retention fa-

ilities, and enclosed conduits that comprise the overall drainage system for an area or region.

*Stormwater runoff* means water that results from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, which flows over the ground surface.

*Stormwater runoff management facility* means any facility constructed to manage or otherwise control the flow of stormwater runoff from a site including but not limited to open channels, drainage swales, detention facilities, retention facilities, or enclosed stormwater conveyance systems.

*Structure* means any object constructed above or below ground. Pipes, manholes, and certain other utility structures which exist underground may be excluded from the definition.

*Sub-basin* means the area that contributes stormwater runoff to a given point in the overall stormwater management system.

*Substantial damage* means damage of any origin where the cost to restore a structure to its original undamaged state would equal or exceed 50 percent of the market value of the structure before any damage occurred. In determining whether substantial damage has occurred, estimators must use standard contractor and materials costs. There are no exceptions for homeowners who make their own repairs or for discounted or free raw materials.

*Substantial improvement* means any reconstruction, remodeling, addition or

improvement to a structure with a cost equaling or exceeding 50 percent of the market value of the structure before any improvement. Improvements to correct identified violations of local health, sanitary or safety codes are not substantial improvements, regardless of the cost, as long as they are the minimum improvement necessary to bring the structure up to code. Alterations to historical structures are also exempted, as long as the improvement does not affect the structure's official status of historical structure.

*Swale* means a ditch or depression that is cut into the soil that allows the flow of water to pass.

*Watercourse* means any surface stream, creek, brook, branch, depression, reservoir, lake, pond, river, ditch, wetland, swamp area, or drainage way in or into which stormwater runoff flows.  
(Ord. No. 08:099, § 2(1.5), 12-18-2008)

**Sec. 112-2. Violations and penalties.**

Any person, firm, corporation, or other legal entity who fails to comply with or violates these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100.00 per day and not more than \$500.00 per day for so long as the violation exists. Each day shall constitute a separate offense.  
(Ord. No. 08:099, § 2(6.2), 12-18-2008)

**Sec. 112-3. Purpose.**

In order to promote the public health, safety, and general welfare of the citizens of Jonesboro, the provisions of these regulations are intended to:

- (1) Reduce property damage and human suffering;

- (2) Minimize the hazards of personal injury and loss of life due to flooding; and
  - (3) Protect water quality and the environment.
- (Ord. No. 08:099, § 2(1.4), 12-18-2008)

**Sec. 112-4. Applicability.**

The provisions of this regulation are applicable to all persons, firms, corporations, business, or other legal entity proposing to develop land in the city planning jurisdiction.  
(Ord. No. 08:099, § 2(1.3), 12-18-2008)

**Sec. 112-5. Interpretation, conflict and severability interpretations.**

(a) *Interpretation.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

(b) *Conflict with public and private provisions.* These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of any other ordinance, rule or regulation, or other provision or law, whichever provisions are more restrictive or impose higher standards, shall control.

(c) *Private provisions.* These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provision of these regulations

are more restrictive or impose highest standards or regulations that such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of easement, covenant or private agreement or restriction imposed duties and obligations more restrictive, or higher standards than the requirements of these regulations, and regulations or determinations there under, then such private provisions shall be operative and supplemental to these regulations and determinations made hereunder. (Ord. No. 08:099, § 2(7.1), 12-18-2008)

**Sec. 112-6. Disclaimer of liability.**

The performance standards and design criteria set forth herein and in the drainage manual establish minimum requirements which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee, or warranty of any kind by the city, or its officers and employees of the adequacy or safety of any stormwater management plan imply that the land uses permitted will be free from damages caused by stormwater runoff. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by manmade or natural causes. These regulations, therefore, shall not create liability on the part of the city or any officer or employee with respect to any legislative or administrative decision lawfully made hereunder. (Ord. No. 08:099, § 2(8.1), 12-18-2008)

**Sec. 112-7. Stormwater management plan (SWMP) required.**

Any person, firm, corporation, business, or legal entity proposing to develop land within the city planning jurisdiction shall prepare and submit a SWMP to the city engineer for review and be issued a compliance letter prior to commencement of construction of the improvements, except for the following:

- (1) One new or existing single-family structure;
- (2) One new or existing duplex family structure;
- (3) One existing commercial or industrial structure where additional structural and site improvements are less than 2000 square feet.

(Ord. No. 08:099, § 2(2.2), 12-18-2008)

**Sec. 112-8. Stormwater pollution prevention plan (SWPPP) required.**

Any person, firm, corporation, business, or legal entity proposing to disturb for construction purposes (e.g., clear, grade, excavate, etc.) one acre or more of total land area, or less than one acre of total land area that is part of a larger common development or sale if the larger common plan will ultimately disturb one acre or more, shall prepare and submit a SWPPP to the city engineer for review and be issued a grading permit prior to commencement of the proposed land disturbance activities.

(Ord. No. 08:099, § 2(2.3), 12-18-2008)

**Sec. 112-9. Drainage alterations or modifications permit required.**

No person, firm, corporation or business shall alter or modify any open chan-

nel, drainage swale, detention facility, enclosed stormwater conveyance system, or other watercourse either natural or artificial where any of said facility is part of the city stormwater management system, without first submitting construction plans and supporting documentation to the city engineer for review and being issued a compliance letter.

(Ord. No. 08:099, § 2(2.4), 12-18-2008)

**Sec. 112-10. Floodplain development permit required.**

A permit is required for all structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installation or any other development in a special flood hazard area.

(Ord. No. 08:099, § 2(2.5), 12-18-2008)

**Sec. 112-11. Public and private responsibilities.**

(a) *Public responsibilities.*

(1) *Administration.* Administration of these regulations shall be the responsibility of the city engineer.

(2) *Operation and maintenance of publicly owned facilities.* The city public works department shall be responsible, after construction, for the operation and long-term maintenance of all drainage structures and improved watercourses which are part of the city stormwater management system and which are not constructed and maintained by or under the jurisdiction of any state or federal agency.

(b) *Private responsibilities.*

(1) Each developer of land has responsibility to provide on the developer's property stormwater runoff management facilities to ensure proper drainage and control of stormwater on and from the developer's property;

(2) Each developer of land has a responsibility to properly maintain any on-site stormwater runoff management facility. Such responsibility is to be transmitted to subsequent owners through appropriate covenants to be recorded with or in the deed; and

(3) Each developer of land has a responsibility both during and after construction to provide, install, and maintain appropriate erosion control measures and other stormwater best management practices (BMPs) as needed to minimize any adverse impact to water quality or the local environment.

(Ord. No. 08:099, § 2(2.6), 12-18-2008)

**Secs. 112-12—112-40. Reserved.**

**ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

**DIVISION 1. GENERALLY**

**Sec. 112-41. Amendments.**

For the purpose of providing for the public health, safety and general welfare, the governing body may, from time to time, amend the provisions of these regulations. The public works department

has the responsibility for updating, on a continuing basis, the stormwater drainage manual.

(Ord. No. 08:099, § 2(7.3), 12-18-2008)

**Sec. 112-42. Duty of city engineer.**

It shall be the duty of the city engineer to bring to the attention of the city attorney any violation or lack of compliance of these regulations.

(Ord. No. 08:099, § 2(6.1), 12-18-2008)

**Sec. 112-43. Inspection.**

(a) The city engineer may make or cause to be made the inspection of any tract of land for each of the following:

- (1) *Permit.* Before a compliance letter or grading permit is issued, the city engineer may examine or cause to examine any tract of land for which an application has been received.
- (2) *Construction.* The city engineer may inspect or cause to be inspected at various intervals during the course of construction including but not limited to:
  - a. Prior to the initiation of the project after temporary or permanent erosion prevention and sediment control practices have been installed;
  - b. After the completion of rough grading and installation of stormwater management structures; and
  - c. Upon completion of the project.

(b) The city engineer shall issue or cause to be issued a notice of violation (NOV) to the developer of the project

where the violations are observed. The NOV shall identify the violation or violations found and request that a corrective action plan (CAP) with timeline be developed, submitted to the city engineer for approval, and implemented to ensure future compliance with these regulations. Failure to respond to the NOV within 30 calendar days from the date shown shall result in the NOV and all supporting documents being forwarded to the city attorney for appropriate enforcement action and may result in the issuance of a stop work order.

(Ord. No. 08:099, § 2(6.3), 12-18-2008)

**Sec. 112-44. Revocation; stop work orders.**

(a) The city engineer may revoke any permit issued under the provisions of these regulations when informed of any false statement misrepresentation of facts in the application or plans. Any non-permitted stormwater management system, or construction, or fill located within a floodplain shall, upon written notice, be removed at the expense of the developer.

(b) When it is found that any provisions of these regulations are being violated, the city engineer may issue a stop work order. The stop work order shall be served upon the developer and the engineer of record for the project, and by posting of the stop work order at the site of the violation.

(c) A hearing to appeal the stop work order may be requested by the developer upon whom an order has been served. An appeal must be requested in writing to the secretary of the stormwater management board or his designee within 30 days after service of the stop work order.

The stormwater management board shall hold an appeal hearing within 31 days after receipt of appeal. If no appeal is requested within 30 days after service of the stop work order, the stop work order shall remain in effect until compliance with the appropriate regulations can be demonstrated to the reasonable satisfaction of the city engineer.

(Ord. No. 08:099, § 2(6.4), 12-18-2008)

**Secs. 112-45—112-61. Reserved.**

DIVISION 2. APPEALS AND VARIANCES

**Sec. 112-62. Generally.**

(a) Only the developer may appeal an adverse decision of the city regarding stormwater development issues, including, but not limited to, stormwater runoff quantity and quality, floodplain impact, stop work orders, and impact to neighboring properties, to the stormwater management board.

(b) All appeals and variance requests must be complete and filed on the form provided by the secretary of the board and shall include:

- (1) The name of the developer;
- (2) The name of the developer's representative, if any;
- (3) The case number, map number, and parcel number, if any;
- (4) The interpretation that is claimed;
- (5) The decision of the city engineer or his agent;
- (6) The location of the property;

- (7) The stormwater drainage plans which were accepted, and the deviation from the stormwater drainage plan that is being requested;
- (8) The specific action requested of the board, and;
- (9) The reasons justifying such action.

(c) All appeals and variance requests must be filed within 30 days after an adverse decision of the office of the city engineer regarding stormwater development issues, including, but not limited to, stormwater runoff quantity or quality, or both, floodplain impact, stop work orders and impact to neighboring properties. The required items must be submitted ten business days prior to the regular monthly stormwater management board meeting for the appeal or variance to be heard at that meeting. A filing fee as established by the city council shall be charged to each appellant and shall be payable to the city. Appellant shall also be responsible for any and all publication fees.

(d) All appeals and variance requests will be filed with the secretary of the board. The secretary of the board shall:

- (1) Accept all appeals and variance requests on behalf of the board;
- (2) Assign each appeal or variance request a number;
- (3) Number each appeal or variance request consecutively in order of receipt (beginning on January 1 of each year), preceded by a hyphen and the year of filing;
- (4) Ensure that appeals or variance requests are heard in the order that they appear on the calendar;

- (5) Prepare an agenda and distribute it to each board member at least five business days before each meeting;
  - (6) Send a copy of the agenda to the city public works committee, the metropolitan area planning commission, the mayor, the city clerk, the city attorney, the public works director, the city engineer, and the city floodplain administrator; and
  - (7) Include on the agenda each appeal or variance request to be heard.
- (Ord. No. 08:099, § 2(7.4), 12-18-2008)

**Sec. 112-63. Variance considerations.**

(a) In passing variances for applications, the stormwater management board shall consider all technical evaluations, all relevant factors, all applicable local ordinances and regulations, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity of the ancillary facility;
- (6) The availability of alternative locations that is for the proposed facility, not subject to flooding or erosion damage;

- (7) The relationship of the proposed development or improvement plan to the master drainage plans for that area;
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site;
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges; and
- (11) Any other relevant facts that pertain to compliance with city ordinances and regulations or are mandated by federal or state laws, rules, or regulations.

(b) Upon consideration of the factors listed in subsection (a) of this section, and the objectives of these regulations, the stormwater management board may attach such conditions to the granting of variances as it deems necessary to further the objectives of these regulations.

(c) Conditions for variances.

- (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the mini-

mum necessary so as not to destroy the historic character and design of the building;

- (2) Variances shall only be issued upon:
- a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship; and
  - c. A determination that the granting of a variance will not result in any of the following:
    1. Increased flood heights;
    2. Additional threats to public safety or extraordinary public expense;
    3. Create a public or private nuisance;
    4. Cause fraud on or victimization of the public; or
    5. Conflict with existing federal or state laws, rules, regulations.
- (3) The secretary of the stormwater management board shall maintain the records of all appeal actions, and;
- (4) The city floodplain administrator shall report any variances to the Federal Emergency Management Agency upon request.

(d) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places without regard to the procedures set forth in this section, except for subsections (c)(1), (3)

and (4) of this section, and provided the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical designation. (Ord. No. 08:099, § 2(7.4), 12-18-2008)

#### **Sec. 112-64. Open meetings.**

(a) All meetings of the board shall be open to the public. The board shall meet at regular monthly intervals with the day and time to be determined by the chairperson.

(b) Notice of such regular or special meetings shall be provided to the media as required by the Arkansas Freedom of Information Act by the secretary of the board who shall notify the city clerk and all notices of meetings shall be posted on the city web site.

(c) The board shall provide 15 minutes at the conclusion of each regular board meeting for public comment on non-agenda items. Each individual is required to limit his comments to five minutes. The board reserves the right to suspend the rules and allow additional time if necessary.

(Ord. No. 08:099, § 2(7.4), 12-18-2008)

#### **Sec. 112-65. Hearing procedures.**

(a) Members and alternates of the board shall receive applicant's documents from the secretary no less than five business days before the appeal hearing date.

(b) Following the introduction of the case, the board will be given two minutes to review documents pertinent to the appeal hearing.

(c) The developer or developer's agent will be allowed ten minutes to present the case to the board.

(d) City technical staff shall be given ten minutes for questions and comments. Technical staff shall include, but not be limited to, the city engineer, the assistant city engineer, the city floodplain administrator, the city public works director, or any designated city staff with pertinent technical information related to the appeal.

(e) The mayor or city councilmembers, or both, shall be given two minutes to speak if he requests time to comment.

(f) A public representative, for or against the requested variance, may have two minutes to comment, with a maximum of three persons representing each side. Persons wishing to address the board shall register with the secretary of the board or his designee, including their name, address and a brief description of their concern, prior to the beginning of the appeal hearing.

(g) Rebuttal will be limited to five minutes per each public representative.

(h) The developer, city technical staff, or others present will then respond to questions from the board.

(i) Upon a motion by any board member specifically stating the amount of additional time requested and approval by five members of the board, additional time may be granted to a speaker.

(j) Once a motion and a second to the motion are made, further discussion is limited to members of the board unless they have additional questions for the applicant or others. In the absence of procedures included in the board's en-

abling legislation or this document, the most recent edition of the Robert's Rules of Order shall apply.

(Ord. No. 08:099, § 2(7.4), 12-18-2008)

### **Sec. 112-66. Conduct during appeal hearing.**

Any person other than a board member shall only address their comments to the board, shall respond to the questions asked, and shall accord the utmost courtesy to the board and the other participants. The chairperson reserves the right to remove any participant from the hearing upon repeated rude or derogatory remarks, abusive comments and unsubstantiated statements as to motives or personalities, or both.

(Ord. No. 08:099, § 2(7.4), 12-18-2008)

### **Sec. 112-67. Decision of the board.**

(a) At the conclusion of all of the evidence in all cases heard at that hearing session, the board shall discuss the cases and render decisions on that date or defer decisions for no longer than 31 days thereafter. The board shall have the authority to table, approve or deny a variance or appeal.

(b) The developer may withdraw his appeal one time. The appeal shall be heard at the next regularly scheduled board meeting. If applicant withdraws an appeal a second time, the developer must wait 180 days before requesting that the appeal be heard by the board.

(c) Any action taken by the board shall be by motion which shall state the reason or reasons for the action taken with par-

ticularity. All the decisions of the board shall be in writing and must indicate the vote of the board upon the decision.

(d) A quorum of the board must be present to render any decisions. Five board members are considered a quorum and there must be five votes to take any affirmative action.

(e) The vote of an alternate member of the board shall be counted in the tabulation of the result only if he is substituting for a regular member. If the alternate member is not substituting for a regular member, the vote shall be recorded but not counted in the decision of the board.

(f) The decision of the board on each appeal shall be promptly entered on the minutes of the meeting of the board by the secretary and filed in the city clerk's office.  
(Ord. No. 08:099, § 2(7.4), 12-18-2008)

#### **Sec. 112-68. Re-hearings.**

(a) No re-hearing of a decision by the board shall be held except on motion to reconsider that vote by a member of the majority of the board on the preceding vote, or on a motion or written request to reconsider a prior decision receiving five votes of a quorum of the board.

(b) If the request for a re-hearing is granted, the case shall be put on the calendar for a re-hearing. In all cases, the request for a re-hearing shall be by the developer in writing, reciting the reasons for the request, and shall be duly verified and accompanied by the necessary data and diagrams. The developer requesting the re-hearing shall be notified to appear

before the board on a date to be set by the board. The notification shall be by the secretary.

(Ord. No. 08:099, § 2(7.4), 12-18-2008)

#### **Sec. 112-69. Conflict of interest.**

(a) No member of the board shall act on any case in which he has a personal interest, whether it is a direct or indirect financial interest in the property itself, or by virtue of family relationship with the developer pursuant to the city's Code of Ethics (see section 2-125).

(b) Any person who has a conflict shall notify the chairperson or secretary immediately upon realizing a conflict may exist. A board member who has a conflict may not participate as a board member on the item in which he has a conflict of interest.

(c) An alternate member shall replace any member who has a conflict of interest or who is unable to attend due to an illness or an extended absence from the metropolitan area. The secretary of the board shall be responsible for contacting the board members prior to the meeting to determine the need for alternate members. If an alternate member is needed, the secretary shall be responsible for contacting the alternate member.  
(Ord. No. 08:099, § 2(7.5), 12-18-2008)

#### **Sec. 112-70. Special meetings.**

The chairperson or vice-chairperson may call special meetings at a time and place of their choosing. Whenever such a special meeting is called, the public shall be notified by appropriate means in accordance with the Arkansas Freedom of Information Act.

(Ord. No. 08:099, § 2(7.6), 12-18-2008)

**Sec. 112-71. Board announcements.**

Public announcements including, but not limited to, board decisions, board recommendations or other board actions shall be released to the public upon approval by the board or in the interim upon approval by the chairperson, or in his absence, the vice-chairperson.

(Ord. No. 08:099, § 2(7.7), 12-18-2008)

**Sec. 112-72. Appeals from decisions of the board.**

Any aggrieved party may appeal any decision of the board to the Craighead County Circuit Court as provided in A.C.A. § 14-56-425.

(Ord. No. 08:099, § 2(7.8), 12-18-2008)

**Secs. 112-73—112-102. Reserved.****ARTICLE III. PERMIT APPLICATIONS AND CONDITIONS****Sec. 112-103. General.**

This article establishes plan preparation and submittal requirements for development projects within the city planning jurisdiction.

(Ord. No. 08:099, § 2(3.1), 12-18-2008)

**Sec. 112-104. Stormwater management plans (SWMP).**

(a) *Preparation.* The SWMP shall be prepared in accordance with the provisions set forth in these regulations and shall be sealed by the engineer of record for the project.

(b) *Submission.* The developer shall submit two copies of the SWMP and all supporting documentation to the city planning office along with the review fee as

established by the city council. Upon receipt, the planning office will forward the submittals to the city engineer for review.

(c) *Plan review.*

(1) The city engineer or his designated representative shall review the submittals for conformance to the city minimum design standards as established in these regulations and in the stormwater drainage design manual.

(2) The city engineer will review and comment or approve the project submittals within 15 business days upon receipt. Failure of the city engineer to meet this timeline shall not be considered approval of the proposed work.

(d) *Rejection.*

(1) If it is determined that the proposed development will not control stormwater runoff in accordance with these regulations, a comment letter listing the deficiencies shall be issued to the developer for response. Re-submittals shall be made to the city planning office.

(2) If needed, an informal meeting between the developer and the city engineer or his designee may be scheduled by either party to review the overall concepts included in the plan. The purpose of this meeting may vary, but generally shall be to jointly agree upon an overall stormwater management concept for the proposed development and to review criteria and design parameters which shall apply to the project.

(e) *Acceptance.*

- (1) If it is determined that the proposed development will control stormwater runoff in accordance with these regulations, a compliance letter shall be issued to the developer stipulating the conditions of approval which are:
  - a. The engineering department relied upon statements and representations made in the engineer's report, plans, and specification. In case any statement or representation in the aforementioned documents is found to be incorrect, then the approval may be revoked;
  - b. There shall be no deviations from the approved plans and specifications unless revised plans and specifications have been first submitted for review and written consent given amending the compliance letter;
  - c. The review of the plans and specifications are for conformance to city minimum design standards and in no way constitute an analysis of the hydraulic or structural design;
  - d. If construction of this project is not started within one-year from the date of approval, then the approval is terminated; and
  - e. Construction inspection for the work related to the stormwater management plan shall be the responsibility of the engineer of record.

- (2) Other conditions of approval may be added by the city engineer as needed, as long as the added conditions are consistent with these regulations.
- (3) Should the original engineer of record be prevented from completing the project, the developer shall employ another qualified engineer and immediately notify the city engineer. The developer shall also provide the name, address and telephone number of the new engineer of record.

(Ord. No. 08:099, § 2(3.2), 12-18-2008)

**Sec. 112-105. Stormwater pollution prevention plan (SWPPP).**

(a) *Preparation.*

- (1) The SWPPP shall be prepared in accordance with the provisions set forth in these regulations. All SWPPPs shall be prepared and sealed by the engineer of record for the project except those for:
  - a. One new or existing single-family structure that is part of a larger common development;
  - b. One new or existing duplex family structure that is part of a larger common development;
  - or
  - c. One existing commercial or industrial structure where additional structural or site improvements are less than 2000 square feet and that is part of a larger common development.
- (2) SWPPPs for the exempt sites in subsections (a)(1)a through c in

this section can be prepared by the developer, provided that the developer is knowledgeable with the applicable local, state, and federal requirements for SWPPP preparation.

(b) *Submission.* The developer shall submit two signed copies of the SWPPP to the city planning office along with the review fee as established by the city council. Upon receipt, the planning office will forward the submittals to the city engineer for review.

(c) *Plan review.*

- (1) The city engineer or his designated representative shall review the submittals for conformance to the city minimum design standards as established herein.
- (2) The city engineer will review and comment or approve the project submittals within 15 business days upon receipt. Failure of the city engineer to meet this timeline shall not be considered approval of the proposed work.

(d) *Rejection.*

- (1) If it is determined that the proposed development will not control stormwater runoff in accordance with these regulations, a comment letter listing the deficiencies shall be issued to the developer for response. Re-submittals shall be made to the city planning office.
- (2) If needed, an informal meeting between the developer and the city engineer or his designee may be scheduled by either party to review the overall concepts included

in the plan. The purpose of this meeting may vary, but generally shall be to jointly agree upon an overall stormwater management concept for the proposed development and to review criteria and design parameters which shall apply to the project.

(e) *Acceptance.* If it is determined that the proposed development will control stormwater runoff in accordance with these regulations, a grading permit shall be issued to the developer.

(Ord. No. 08:099, § 2(3.3), 12-18-2008)

### **Sec. 112-106. Drainage alterations/modifications.**

(a) *Preparation.* Construction plans for alterations or modifications to the city stormwater management system shall be prepared in accordance with the provisions set forth in these regulations and shall be sealed by the engineer of record for the project.

(b) *Submission.* The developer shall submit two copies of the construction plans and all supporting documentation to the city planning office along with the review fee as established by city council. Upon receipt, the planning office will forward the submittals to the city engineer for review.

(c) *Plan review.*

- (1) The city engineer or his designated representative shall review the submittals for conformance to the city minimum design standards as established in these regulations and in the stormwater drainage design manual.

(2) The city engineer will review and comment or approve the project submittals within 15 business days upon receipt. Failure of the city engineer to meet this timeline shall not be considered approval of the proposed work.

(d) *Rejection.*

(1) If it is determined that the construction plans do not comply with these regulations, a comment letter listing the deficiencies shall be issued to the developer for response. Re-submittals shall be made to the city planning office.

(2) If needed, an informal meeting between the developer and the city engineer or his designee may be scheduled by either party to review the overall concepts included in the plan. The purpose of this meeting may vary, but generally shall be to jointly agree upon an overall stormwater management concept for the proposed development and to review criteria and design parameters which shall apply to the project.

(e) *Acceptance.*

(1) If it is determined that the proposed complies with these regulations, a compliance letter shall be issued to the engineer of record stipulating the conditions of approval which are:

a. The engineering department relied upon statements and representations made in the engineer's report, plans, and specification. In case any statement or representation in the

aforementioned documents is found to be incorrect, then the approval may be revoked;

b. There shall be no deviations from the approved plans and specifications unless revised plans and specifications have been first submitted for review and written consent given amending the compliance letter;

c. The review of the plans and specifications are for conformance to city minimum design standards and in no way constitute an analysis of the hydraulic or structural design;

d. If construction of this project is not started within one-year from the date of approval, then the approval is terminated; and

e. Construction inspection for the work related to the alterations or modifications to the city stormwater management system is the responsibility of the engineer of record.

(2) Other conditions of approval may be added by the city engineer as needed, as long as the added conditions are consistent with these regulations.

(3) Should the original engineer of record be prevented from completing the project, the developer shall employ another qualified engineer and immediately notify the city engineer. The developer shall also provide the name, address and telephone number of the new engineer of record.

(Ord. No. 08:099, § 2(3.4), 12-18-2008)

**Sec. 112-107. Floodplain development permit.**

(a) *Preparation.* Application for a floodplain development permit shall be made by the developer on forms prescribed by the city engineer and made available through the city planning office.

(b) *Submission.* The developer shall submit two copies of the application and all supporting documentation to the city planning office along with the review fee as established by the city council. Upon receipt, the planning office will forward the submittals to the city engineer for review.

(c) *Plan review.*

- (1) The city engineer or his designated representative shall review the submittals for conformance to the city minimum design standards as established in these regulations and in the Stormwater Drainage Design Manual.
- (2) The city engineer will review and comment or approve the project submittals within 15 business days upon receipt. Failure of the city engineer to meet this timeline shall not be considered approval of the proposed work.

(d) *Rejection.*

- (1) If it is determined that the proposed development is not in accordance with these regulations, a comment letter listing the deficiencies shall be issued to the developer for response. Re-submittals shall be made to the city planning office.
- (2) If needed, an informal meeting between the developer and the city

engineer or his designee may be scheduled by either party to review the overall concepts included in the plan. The purpose of this meeting may vary, but generally shall be to jointly agree upon an overall stormwater management concept for the proposed development and to review criteria and design parameters which shall apply to the project.

(e) *Acceptance.*

- (1) If it is determined that the proposed development is in accordance with these regulations, a compliance letter shall be issued to the developer stipulating the conditions of approval which are:
  - a. The engineering department relied upon statements and representations made in the floodplain development application. In case any statement or representation in the aforementioned documents is found to be incorrect, then the approval may be revoked;
  - b. There shall be no deviations from the approved plans and specifications unless revised plans and specifications have been first submitted for review and written consent given amending the compliance letter;
  - c. The review of the plans and specifications are for conformance to city minimum design standards and in no way con-

stitute an analysis of the hydraulic or structural design; and

- d. If construction of this project is not started within one year from the date of approval, then the approval is terminated.

- (2) Other conditions of approval may be added by the city engineer as needed, as long as the added conditions are consistent with these regulations.

(Ord. No. 08:099, § 2(3.5), 12-18-2008)

**Secs. 112-108—112-127. Reserved.**

**ARTICLE IV. DESIGN CRITERIA AND PERFORMANCE STANDARDS**

**Sec. 112-128. Design criteria.**

The city's stormwater drainage design manual (drainage manual) latest version shall be the accepted design document. It is the responsibility of the developer and the engineer of record to verify that they are using the latest version of the drainage manual in the design of their proposed development. Unless otherwise provided, the following rules shall govern the design and improvements with respect to managing stormwater runoff:

- (1) *Method of determining stormwater runoff.* Developments where the upstream drainage area contributing runoff is less than 100 acres should be designed using the SCS, Type II 24-hour distribution, TR-55 Hydrograph Method for calculating runoff. Developments where the area contributing runoff is greater than 100 acres shall use the city

basin analysis for calculating runoff. If not available, the FEMA Data shall be used for calculating runoff. If neither the basin analysis nor the FEMA Data is available, the SCS TR-55 Hydrograph Method for calculating runoff shall be used.

- (2) *Differential runoff.* The total volume, peak flow rate, and velocity of stormwater runoff from a site, post-development, should to the extent practicable approximate that of the site prior to the development.

- (3) *Development design.*

- a. Developments shall be located and laid out in such a manner as to minimize the velocity of overland flow, allow maximum opportunity for infiltration of stormwater into the ground, preserve and utilize existing and planned streams, channels, detention basins, retention basins, and include wherever possible, streams and floodplains within parks and other public grounds.
- b. Streets, curbs and gutters, parking areas, enclosed conveyance systems, detention basins, retention basins, and other generally accepted practices and methods for stormwater control may be a part of the overall stormwater runoff management systems for a particular site. To the maximum extent possible, these facilities shall be concurrently

designed to effectively manage stormwater runoff in accordance with these regulations.

(4) *Enclosed systems and open channels.* Enclosed systems and open channels shall be designed in accordance with the drainage manual.

(5) *Evaluation of downstream flooding.*

- a. The engineer of record shall evaluate whether the proposed plan will cause or increase downstream flooding conditions within the drainage sub-basin in which the project is located or if it will otherwise increase peak flows from the drainage sub-basin. This evaluation shall be made on the basis of existing downstream development and an analysis of stormwater runoff with and without the proposed development. When it is determined that the proposed development will cause or increase downstream flooding conditions, provisions to correct such cause or increase shall be included in the overall design of the stormwater management system improvements. Such provisions may include downstream improvements or detention of stormwater runoff and its regulated discharge to the downstream storm drainage system, or both.
- b. When it is determined that a localized flooding condition exist downstream of a proposed

development, the engineer of record for the project shall notify the city engineer of this discovery and include sufficient documentation in the project submittals to assist in the delineation of the identified special flood hazard area (SFHA).

(6) *Detention.* The following design criteria shall govern the design of detention facilities:

- a. *Release rate.* The release rate from any detention facility shall be equal to or less than that of the site prior to the proposed development.
- b. *Freeboard.* Detention storage areas shall have adequate capacity to contain the storage volume of tributary stormwater runoff with freeboard in accordance with the drainage manual.
- c. *Outlet control works.*
  1. Outlet works shall not include any mechanical components or devices and shall function without requiring attendance or control during operation.
  2. Size and hydraulic characteristics shall be such that all water and detention storage is released to the downstream stormwater conveyance systems within 24 hours after the end of the design rainfall. Nor-

mal time for discharge ranges from three to 24 hours.

- d. *Spillway.* Emergency spillways shall be provided in accordance with the drainage manual.
- e. *Design data submittal.* In addition to complete plans, all design data shall be submitted as required in the detention design data submittal section of the drainage manual.
- f. *Detention methods.* Depending upon the detention alternative or alternatives selected by the engineer of record, the design criteria for detention shall follow those given in the drainage manual.

(7) *Alternatives to on-site detention.*

- a. *Alternative methods.*
  - 1. Where on-site detention is deemed inappropriate, alternatives to on-site detention shall be permitted. The methods may include off-site detention or improvements.
  - 2. Determinations regarding the appropriateness of on-site detention shall be made by the city engineer based upon the impact of the proposed development on existing drainage networks and the location of the project in relation to existing floodplains, regional detention facilities, and other planned drain-

age or channel improvements. Disputes, if any, shall be resolved by the stormwater management board.

- 3. Determinations regarding the appropriateness of off-site detention or comparable improvements shall be made by the city engineer based upon the impact of the proposed development on existing drainage networks and the location of the project in relation to existing floodplains, regional detention facilities, and other planned drainage or channel improvements. Disputes, if any, shall be resolved by the stormwater management board.

- b. *Excess stormwater storage credit.* A developer may receive credit for excess stormwater storage (in acre-feet) created on one site that may be applied to another site within the same watershed. The transfer of storage volume credit (in acre-feet) shall not be allowed when the site where credited storage is proposed to be transferred has an existing flooding condition downstream or the proposed development will cause downstream flooding.

(Ord. No. 08:099, § 2(4.1), 12-18-2008)

**Sec. 112-129. Performance standards.**

(a) *Stormwater channel location.* Generally acceptable locations of stormwater runoff channels may include but not be limited to the following:

- (1) In a depressed median of a double roadway, street or parkway provided the median is wide enough to permit maximum 3:1 side slopes;
- (2) Along the roadway, street, or parking; or
- (3) Located along lot lines within the rear yards of lots or parcels. Stormwater runoff channels located along front and side lot lines shall be enclosed with conduits sized in accordance with the drainage manual. Channels along rear lot lines can be open ditch. In all cases, provisions (site grading, berms, dikes, swales, etc.) shall be provided for the safe containment or conveyance of the base flood along these routes.

(b) *Easements.* Drainage easements for access, maintenance, detention or retention, and conveyance of stormwater shall be provided and shown on the final plat. Easements shall be required for all drainage ways serving two or more lots or parcels and shall be designated for drainage only. Minimum required dimensions for drainage easements are included in the Drainage Manual (Figures 1 and 2; Appendix 2) , but in no case shall the prescribed easements be less than that required to convey or detain the 100-year runoff. All drainage easements shall have

a maintenance agreement approved before final acceptance of the improvements.

(c) *Storm sewer outfall.* The storm sewer outfall shall be designed in accordance with the drainage manual so as to provide adequate protection against downstream erosion and scouring.

(d) *Lot lines.* Whenever the plans call for the passage or storage of floodwater, surface runoff, or stormwater along lot lines, grading of all such lots shall be prescribed and established for the safe passage or storage of the waters, and no structures including fences may be erected, shrubbery or trees planted, or changes made to the prescribed grades and contours of the specified floodways which will obstruct the flow of stormwater.

(e) *Manholes.* All sanitary sewer manholes constructed in a floodplain or in an area designed for the storage or passage of flood or stormwater, shall be provided with either a watertight manhole cover or be constructed with a rim elevation of a minimum one foot above the high water elevation of the base flood, whichever is applicable to the specific area. The engineer of record shall identify which sanitary sewer manholes within the project limits are subject to this requirement, and coordinate with city water and light regarding the appropriate remedy.

(f) *Floor elevation.* The lowest floor of any occupied residence or commercial building in a local or FEMA designated special flood hazard area (SFHA) shall be established by a licensed professional engineer registered in the state, using good engineering practices. Any proposed lot or lots located in a local or FEMA special

flood hazard area (SFHA) shall be identified and the finished floor elevation (FFE) shown on the record plat. Finished floor elevations shall be referenced to the applicable engineering study. (Ord. No. 08:099, § 2(4.2), 12-18-2008; Ord. No. 09:008, 2-17-2009 )

**Secs. 112-130—112-156. Reserved.**

**ARTICLE V. BONDS,  
MAINTENANCE ASSURANCE,  
CERTIFICATIONS,  
NOTIFICATIONS AND FINAL  
ACCEPTANCE**

**Sec. 112-157. Maintenance agreement.**

A maintenance agreement assuring perpetual maintenance of stormwater management improvements and drainage easements to be dedicated to the city shall be agreed upon by the city and the developer prior to final acceptance of the improvements. The maintenance agreement shall be the responsibility of the developer and shall be in a form acceptable to the city engineer and the city attorney. (Ord. No. 08:099, § 2(5.0), 12-18-2008)

**Sec. 112-158. Performance bond.**

(a) The developer shall, before the sale of any lot or lots, either complete the improvements or provide a performance bond to guarantee the completion of the improvements in a timely manner. The bond shall be in a form and in an amount acceptable to the city engineer and the city attorney, and shall assure that the prescribed work will be well and truly performed and complete in good, sufficient, and workmanlike manner within

an agreed time period, not to exceed six months, and shall indemnify and hold harmless the city from and against all claims, loss, damages, injury or death, court costs, litigation expense, reasonable attorneys' fees, and expenses whatsoever which may arise because of or resulting from the developer's operation.

(b) All companies furnishing bonds shall be on the U.S. Treasury Department's most current list of approved surety companies (Circular 570, as amended) and be authorized to transact business in the state. (Ord. No. 08:099, § 2(5.1), 12-18-2008)

**Sec. 112-159. Maintenance bond.**

(a) A one-year maintenance bond against defects in workmanship shall be required for any portions of the stormwater management improvements proposed to be dedicated to the city. The maintenance bond shall be in a form acceptable to the city engineer and the city attorney, and shall indemnify and hold harmless the city from and against all claims, loss, costs, damages, injury or death, court costs, litigation expense, reasonable attorneys' fees, and expenses whatsoever which it may suffer or be compelled to suffer to pay by reason of failure of the developer to keep said work in repair or against any and all defects of workmanship or materials. No maintenance bond shall be required for improvements located on private property which is not to be dedicated to the city.

(b) All companies furnishing bonds shall be on the U.S. Treasury Department's most current list of approved surety com-

panies (Circular 570, as amended) and be authorized to transact business in the state.

(Ord. No. 08:099, § 2(5.2), 12-18-2008)

### **Sec. 112-160. Certifications.**

(a) Prior to issuance of any occupancy permit or entrance into the one-year probationary period for subdivision acceptance, the engineer of record shall submit to the city engineer certification that the stormwater management system is complete and functional in accordance with the plans approved by the city engineer. Any deviations from the approved plans shall be noted. To ensure the adequacy of stormwater quantity detention facilities and stormwater management practices, this certification shall, at a minimum include "record drawings" showing final topographic features of all facilities and updated hydrologic and hydraulic computations for the as-built conditions.

(b) Prior to the issuance of any occupancy permit subject to minimum floor elevation requirements, a registered engineer or registered land surveyor, shall submit to the city engineer certification of the elevation of the lowest floor (including basement); or if the structure has been flood proofed, the elevation to which the structure is floodproofed. This information must be provided on a FEMA elevation certificate.

(Ord. No. 08:099, § 2(5.3), 12-18-2008; Ord. No. 09:008, 2-17-2009)

### **Sec. 112-161. Notifications.**

Developers having been issued a grading permit shall notify the city engineer

upon final stabilization of the disturbed lands and request that the grading permit be terminated.

(Ord. No. 08:099, § 2(5.4), 12-18-2008)

### **Sec. 112-162. Final acceptance.**

(a) Upon expiration of the approved one-year maintenance bond and correction of all deficiencies noted in the eleventh month anniversary inspection report prepared by the city engineer or his designated representative and presented to the developer, the city engineer shall issue or cause to be issued a letter to the engineer of record for the project accepting the improvements into the city's long-term maintenance program.

(b) As-builts of the project shall be provided to the city in ESRI shapefile and PDF formats in conformance with provisions of this manual.

(c) For all shapefiles, a separate spatial data file should be used for each structure and specific attributes should be recorded on site at the time of collection. The fields that should be used for recording these attributes along with all feature attribute input criteria are located in Appendix 6-"GIS Database Submittals" of the Stormwater Drainage Design Manual.

(d) Final acceptance by the city will not be given until as-builts are provided to the city.

(Ord. No. 08:099, § 2(5.5), 12-18-2008)





## Chapter 113

### **SUBDIVISIONS\***

#### **Article I. In General**

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- Sec. 113-2. Adoption of rules, regulations and standards.
- Sec. 113-3. Approval required.
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#### **Article II. Plats and Platting**

- Sec. 113-48. Preapplication.
- Sec. 113-49. Preliminary plat.
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- Sec. 113-78. Streets.
- Sec. 113-79. Blocks.
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#### **Article IV. Required Improvements**

- Sec. 113-112. Required improvements.
- Sec. 113-113. Compliance or evidence of intended compliance required.
- Sec. 113-114. Funded escrow agreement defined.
- Sec. 113-115. Street markers.

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\***State law references**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.; subdivision regulations, A.C.A. § 14-56-417.



## ARTICLE I. IN GENERAL

### Sec. 113-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alley* means a minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

*Collector street* means a street which carries traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

*Dead-end street* means a street having no outlet at one end.

*Internal major street* means a street which is used primarily for fast or heavy traffic.

*Lot* means the parcel of land intended for transfer or ownership or for building development.

*Major highway* means a road or street that forms a part of the existing state or federal highway system.

*Marginal access street* means a street parallel to and adjacent to a major highway or an internal major street which provides access to abutting properties.

*Planning commission* means the City Planning Commission of Jonesboro, Arkansas.

*Residential street* means a street which is used primarily for access to the abutting residential property.

*Street* means a dedicated and accepted public way for vehicular traffic, whether designated as a street, highway, thoroughfare parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

*Street surface or paving width* means the portion of the street available for vehicular traffic (i.e., curb to curb).

*Street width or right-of-way width* means the shortest distance between two property lines of a street.

*Subdivision* means a division of land into two or more lots or parcels, including the combination or recombination of two or more previously plotted lots. The term "subdivision" shall apply also to any division of land involving the dedication of a street to the public, provided, however, that any division of land for agricultural purposes into lots or parcels of five acres or more shall not be deemed a subdivision unless street dedication or the installation of utilities are involved. (Code 2006, § 15.04.02; Ord. No. 909, § 11, 9-19-1955)

### Sec. 113-2. Adoption of rules, regulations and standards.

The following rules, regulations and standards which shall govern subdivisions of land within the jurisdiction of the city planning commission and the city are hereby adopted.

(Code 1962, § 21-1; Code 2006, § 15.04.01)

**Sec. 113-3. Approval required.**

No plat or subdivision of land within the city nor within the territorial jurisdiction of the city planning commission as same hereafter be established shall be recorded until it shall have been approved as herein provided.

(Code 1962, 21-55; Code 2006, § 15.20.01)

**Sec. 113-4. Building permits.**

(a) No building permit shall be issued nor shall any utility line or service be extended to nor serve any structure and no person shall sell or offer any lot or part of any subdivision for sale nor construct any building unless:

- (1) The lot, building or structure was established before September 19, 1955.
- (2) All requirements of this chapter and regulations hereunder have been done.

(b) Notice is hereby given to all current and future developers in the city that failure to provide an appropriate funded escrow agreement or any default on that agreement shall result in the withholding of any new residential building permits within the specific development. Written notification of such failure or default shall be given by the city attorney to the developer and a copy of that notification filed at the county courthouse as public notice. (Code 2006, § 15.20.02; Ord. No. 909, § VI, 9-19-1955; Ord. No. 09:007, § 1, 2-17-2009)

**Secs. 113-5—113-47. Reserved.**

**ARTICLE II. PLATS AND PLATTING**

**Sec. 113-48. Preapplication.**

The subdivider should consult with the planning commission for advice and assistance before the preparation of the preliminary plat and formal application for preliminary approval. This will familiarize the subdivider with these regulations, the master street plan and other official plans, policies and public improvements, which might affect the area.

(Code 2006, § 15.08.01; Ord. No. 909, 9-19-1955)

**Sec. 113-49. Preliminary plat.**

(a) At least ten working days prior to the meeting at which it is to be considered, the subdivider or his representative shall submit to the Metropolitan Area Planning Commission, during normal working hours, four copies of the preliminary plat of the proposed subdivision, at a scale of 100 feet to the inch. An electronic file should be transmitted to the planning office prior to deadline of submission including the engineer's plats, vicinity map and overall subdivision plan.

(b) The preliminary plat shall give the following information when possible:

- (1) A key map showing the tract and its relation to the subdivision area. Submission shall include overall vicinity map of nearest adjacent platted subdivisions at scale.
- (2) The proposed subdivision name and location, the bearings and distances of its boundaries, the name and address of the owner and the name of the designer.

- (3) The date, north arrow and the graphic scale.
  - (4) The location of existing and platted property lines, streets, railroads, buildings, bridges, culverts, drain pipes, water mains, sewers, public utility easements, wooded areas, marshes and the zoning classification, of the proposed subdivision and of the adjacent area.
  - (5) The proposed utility layouts, sewers, water, electricity, gas, etc., showing feasible connections to the existing or proposed utility systems. When such connections are not feasible, any individual water supply or sewage disposal system must meet the requirements of the state board of health.
  - (6) Contour intervals of two feet or as required by the city planning commission and the city engineer.
  - (7) The names, rights-of-way and surface widths, approximate grades and locations of all proposed streets and alleys. The location and dimensions and use of proposed easements, lots, parks, reservations and other open spaces.
  - (8) The acreage of the land to be divided.
  - (9) A draft or form of any protective covenants proposed by the subdivider.
  - (10) Proposed profile of street grades.
  - (11) Acreage of each lot in the subdivision.
- (c) Within 30 days after submission of the preliminary plat, the city planning commission shall indicate its approval, disapproval or approval with conditions. If disapproved, the reasons for disapproved shall be stated in writing. If approved with conditions, these conditions shall be stated in writing. In its review, the city planning commission shall submit the proposed plat to the city water and light plat for consideration and report and may further submit copies of the plat to the state health department or any other interested city, county, state or federal independent agency for consultation and advice.
- (d) Approval, conditional approval or disapproval of the preliminary plat by the planning commission shall be so noted, both on the preliminary plat and planning commission records.
- (e) Failure of the planning commission to act on the preliminary plat within thirty 30 days will be deemed approval of the preliminary plat.
- (f) The approval of the preliminary plat shall lapse unless a final plat based thereon is submitted within one year of such approval, unless an extension of time is applied for and granted by the planning commission.
- (g) A receipt from the city acknowledging payment of a filing fee. The city shall collect a fee per lot in the amount established by the city. The plat will not be reviewed until the fee has been collected. (Code 1962, § 21-14; Code 2006, § 15.08.02; Ord. No. 1963, § 1; Ord. No. 2168, § 1; Ord. No. 08-2007, 2-6-2007)

### **Sec. 113-50. Final plat.**

- (a) The final plat shall conform substantially to the preliminary plat as approved.

(b) At least ten working days prior to the meeting at which it is to be considered, the subdivider or his representative shall submit to the Metropolitan Area Planning Commission, during normal working hours, four reproductions of the original drawings at a scale of one inch equals 100 feet or larger one reproduction of the final plat at a scale of one inch equals 200 feet. An electronic file should be transmitted to the planning office prior to deadline of submission including the engineer's plats, vicinity map and overall subdivision plan.

(c) When the plat has been approved by the city planning commission, one copy shall be returned to the subdivider with the approval of the commission certified thereon for filing with the county recorder as the official plat of record. The second copy, containing the certification of the commission, shall be returned to the subdivider for his records. The other copies, containing certification of the commission, shall be returned for the use of the commission.

(d) The planning commission shall approve or disapprove this final plat within 30 days. Failure of the planning commission to act on the final plat within 30 days shall be deemed approval. If the plat is disapproved, the grounds for disapproval shall be stated upon the records of the planning commission.

(e) Approval of the final plat by the planning commission shall not constitute the acceptance by the public of the dedication of any streets or other public way or ground. A certificate of acceptance of dedication may be adopted by the city council and attached to copies of the

approved plat before filing and recording with the circuit court clerk of the western district of the county.

(f) Time limit on approval of final subdivision plan; effect of approval. Approval of the final subdivision plan shall be good for one year from the date of approval or, in the case of a final subdivision plan approved by the planning commission to be completed in two or more phases, such approvals shall be good for one year from the date of approval of the improvement construction plans of the last preceding phase of the development. Final subdivision plan approval shall confer upon applicant the following rights for the one-year period from the date of approval:

- (1) The general terms and conditions upon which the approval was granted shall not be changed.
- (2) The applicant may apply for and the planning commission may grant extension on such final subdivision plan approval for additional periods of at least one year but not to exceed a total extension of one year.
- (3) In the case of a subdivision of more than ten acres, the planning commission may grant the rights referred to in subsections (a), (b) and (c) of this section for such period of time longer than two years as shall be determined by the planning commission to be reasonable.

(g) The final plat and plans shall show when applicable the following:

- (1) The names and lines of all streets and roads, alleys lines, lot lines, building setback lines, block and lot numbers, reservations, easements and any areas to be dedi-

- cated to public use or sites for other than residential use with notes stating their purpose and any limitations. Location and names of the nearest streets and/or alignments should be altered to match existing streets. Submission shall include overall vicinity map of nearest adjacent platted subdivisions at scale.
- (2) Sufficient data to determine readily and reproduce on the ground, the location, bearing and length of every street line, lot line, boundary line, block line and building line whether curved or straight and including true north point. This shall include the radius, central angle and tangent distance for the centerline of curved streets and curved property lines that are not the boundary of curved streets and curved property lines that are not the boundary of curved streets.
  - (3) Profiles of all streets with natural and finished grades drawn to a scale of one inch equals 50 feet horizontal and one inch equals ten feet vertical or larger when required by the planning commission.
  - (4) All dimensions to the nearest one-tenth of a foot and angles to the nearest minute.
  - (5) Location and description of monuments.
  - (6) The names and locations of adjoining subdivisions and streets and the location and ownership of adjoining unsubdivided property.
  - (7) Date, title, name and location of subdivision, graphic scale and true north point.
  - (8) Certificate of dedication by landowner.
  - (9) The names and seal of the registered land surveyor, in the state, responsible for the survey and contour formation on the plat.
  - (10) The plan shall provide for all proposed utility lines in accord with existing policies, rules or regulations of the utilities, the city or other applicable regulations, and approval of the city water and light plant as to proposed sanitary sewer, water and electric lines, shall accompany the final plan.
  - (11) Adequate provisions for drainage of surface water shall be made by the subdivider and shown on the plan and he shall file with the city planning commission a description, specifications and drawings prepared by a registered civil engineer in the state, which shall be adequate to provide drainage for area subdivided and/or adjacent areas attached by drainage across or from such tract. The minimum size pipe used in the subdivision shall not be less than 18 inches inside diameter. If proposed subdivision is a portion of a tract which is later to be subdivided in its entirety, then a tentative master plan of the entire subdivision should be submitted with the plat of the portion first to be subdivided.
  - (12) A development permit where required in accordance with section 113-49 as amended, before final approval of final plat.

(h) A registered engineer, in the state will check the final plat for correctness, and placing his seal on drawings, charging the cost to the subdivider.

(Code 2006, § 15.08.03; Ord. No. 909, 9-19-1955; Ord. No. 1290; Ord. No. 1630; Ord. No. 1963, § 2; Ord. No. 1872, 5-21-1984; Ord. No. 1963, § 2; Ord. No. 1986, § 3; Ord. No. 07-45, 2-6-2007)

**Sec. 113-51. Rapid approval of plats.**

(a) *Purpose.* The purpose of this article is to allow, in certain instances and when specific criteria have been met, the administrative approval of minor subdivision plats.

(b) *Applicability.* The following criteria must be met in order for a subdivision plat to qualify as a minor plat and be eligible for administrative approval.

- (1) The plat must be for a lot which was previously subdivided by a dead or must be for a boundary line adjustment. The plat shall not create more lots than were previously existing.
- (2) All lots front on an existing public road which meets minimum standards, is included in a street improvements district, or for which a street improvement agreement has been signed. If adequate right-of-way does not exist, it shall be provided on the plat as required by the master street plan or at the discretion of the city engineer.
- (3) The plat must be for property located in a residential zoning district.

(c) *Submittal requirements.* Twelve blue line or black line prints shall be submitted along with a filing fee in the amount established by the city. The following information shall be provided on all minor plats:

- (1) A key map showing the tract and the nearest street intersections, a north arrow, and a graphic scale.
- (2) The proposed subdivision name and location, the name and address of the owner, and the stamp of the surveyor who prepared the plat.
- (3) The bearings and distances of all lots boundaries.
- (4) The locations and dimensions of existing property lines, street right-of-way, railroads, buildings, culverts, drain pipes, public utility lines, easements, and floodway and floodplain boundaries.
- (5) The proposed utility layouts showing the location of connections to existing systems and the location of new utility easements. When connection to a public water and/or public sewer system is not feasible, the location of the individual water and/or sewer supply shall be shown on the plat.
- (6) The total square footage or acreage of the tract to be divided and the square footage or acreage of each lot.
- (7) If the minor plat is for consolidation purposes or for the change of a lot boundary, the existing boundary shall be shown as a dashed line and shall be designated to be extinguished.

(d) *Approval process.* Applications for minor plat approval shall be submitted to the designated agent of the Metropolitan Area Planning Commission for review. Minor plats may be approved administratively at the discretion of the designated agent and the chairperson of the MAPC. A series of minor plats may not be submitted over a period of time for administrative approval in order to avoid formal review by the MAPC. If the plat meets the above criteria and all other ordinance requirements the plat shall be forwarded to the MAPC chairperson for approval. If special circumstances exist, the agent or the chairperson may require review by the entire commission. In the event of the chairperson's absence, action on the plat may be taken by the vice-chairperson. In the vice-chairperson's absence, action on the plat may be taken by the secretary. The plat shall be reviewed within 15 working days of submittal of a complete application. If no action is taken within 15 days, the plat shall be automatically placed on the next MAPC agenda for which filing requirements can be met.

(e) *Denial of application.* If administrative approval of a minor plat is denied, the applicant may request consideration by the MAPC. The applicant's request must be submitted no less than ten days prior to the next MAPC meeting date. (Code 2006, § 15.08.04; Ord. No. 2427, §§ 1—5)

**Sec. 113-52. Submission of plats.**

It shall be required that all preliminary and final plats of subdivisions of five acres or more shall be submitted with the horizontal datum for said plat in the Arkansas State Plane Coordinate System

North Zone NAD83 (1997) adjustment. All horizontal control work shall be tied to at least two of the city's GPS monuments. In addition, construction drawings, plats and as-builts must be submitted on electronic data in DXF format. (Code 2006, § 15.28.01; Ord. No. 3441, § 1)

**Secs. 113-53—113-77. Reserved.**

**ARTICLE III. DESIGN STANDARDS**

**Sec. 113-78. Streets.**

(a) The location and width of all streets and roads shall conform to the official master plan, which includes the master street plan.

(b) The proposed street system shall extend existing streets or projections at the same or greater width, but in no case less than the required minimum width. Half streets will be permitted. The planning commission shall designate each street as one of the following types:

<i>Street type</i>	<i>Width (in feet)</i>
Major highways	120 (unplatted areas, outside corporate limits) 100 (platted area, inside corporate limits)
Internal major streets	80
Collector streets	70

<i>Street type</i>	<i>Width (in feet)</i>
Residential streets	60
Dead-end streets	50
Alleys	20

(c) Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the minimum street width requirements in subsection (b) of this section. When the subdivision is located on only one side of an existing street, one-half of the required right-of-way, measured from the centerline of the existing roadway, shall be provided. In no case shall the resulting right-of-way width be less than 50 feet.

(d) When a tract fronts on a major highway, the planning commission may require such lots to be provided with frontage on a marginal access street.

(e) Grades on major highways and internal major streets shall not exceed seven percent. Grades on other streets may exceed seven percent but not ten percent. Street grades along the gutter shall not be less than one-half of one percent.

(f) Where a deflection angle of more than ten degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced. On streets 70 feet or more in width, the centerline radius of curvature shall be not less than 300 feet; on other streets not less than 100 feet.

(g) Street intersections shall be as nearly at right angles as possible and when the angle is less than 75 degrees,

the property line at such an intersection shall be made on a radius of not less than 20 feet. If a curb is required at such intersection, it also shall be construed on a radius concentric with the property line radius. A detailed design of the intersection may be required by the planning commission.

(h) A tangent of at least 100 feet long shall be introduced between reverse curves on internal major and collector streets.

(i) Street jogs with centerline offsets of less than 125 feet shall not be permitted.

(j) Residential streets or courts designed to have one end permanently closed shall be no more than 400 feet long unless approved by the planning commission. There shall be provided, at the closed end, a turnaround having an outside roadway diameter of at least 80 feet and a street right-of-way diameter of at least 100 feet.

(k) There shall be no private streets platted in any subdivision. Every subdivided property shall be served from a publicly dedicated accepted street.

(l) Proposed streets which are obviously in alignment with others already existing and named shall bear the names of existing streets names of proposed streets shall not duplicate existing names.

(m) Alleys may be provided to the rear of all lots to be used for business purposes and shall not be provided in residential blocks, except where the subdivider produces evidence satisfactory to the planning commission of the need for alleys.

(n) Street improvements and surfacing requirements shall be those specified in article IV of this chapter.

(Code 2006, § 15.12.01; Ord. No. 909, § III, 9-19-1955; Ord. No. 2177, § 1)

**Sec. 113-79. Blocks.**

The planning commission may require blocks to be limited or extended in length or in depth and may require public crosswalks through any part of the block.

(Code 2006, § 15.12.02; Ord. No. 909, 9-19-1955)

**Sec. 113-80. Lots.**

(a) Insofar as practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Each lot must front upon a public street or road which has a right-of-way not less than 50 feet in width.

(b) The size, shape and orientation of lots shall be such as the planning commission deems appropriate for the type of development and use contemplated. Where a public sanitary sewer is reasonably accessible, the subdivider may be required to connect with such sewer and provide a connection to each lot. Nothing herein shall repeal any other ordinances or regulations regarding sewer connections. Where a public sanitary sewer is not accessible, an alternate method of sewage disposal may be used, when meeting all applicable public health regulations, laws or ordinances. Residential lots served by a public sewerage system shall not be less than 50 feet wide at the building setback lines. Lots on a cul-de-sac may be allowed with less than 50 feet if approved by the city planning commission.

(c) Setback lines and minimum square footage for residential buildings shall meet the requirements as set forth for R-1, R-2 and R-3 zonings for residential buildings shall be at least 20 feet from the front lot lines. Corner lots shall have a setback from side street lot lines of at least 20 feet.

(Code 1962, § 21-28; Code 2006, § 15.12.03; Ord. No. 2698, § 1)

**Sec. 113-81. Large tracts or parcels.**

When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further resubdivision.

(Code 2006, § 15.12.04; Ord. No. 909, § IV, 9-19-1955)

**Sec. 113-82. Large scale developments.**

A large scale development, including the construction of two or more buildings, together with the necessary drives and ways of access and which is not subdivided into the customary lots, blocks and streets, may be approved by the city planning commission, if, in the opinion of the commission, any departure from the regulations of this article can be made without destroying the intent of the regulations. Plans for all such developments shall be submitted to, and approved by the city planning commission. Plats are not to be recorded and no building permits shall be issued until such approval has been given.

(Code 2006, § 15.12.05; Ord. No. 909, 9-19-1955)

**Sec. 113-83. Public use areas.**

(a) Due consideration shall be given to the allocation of areas suitably located and of adequate size for the playgrounds and parks.

(b) The city planning commission may require the dedication or the reservation of such open space within the subdivision up to a total of ten percent of the gross area of the entire subdivided tract. (Code 1962, § 21-31; Code 2006, § 15.12.06)

**Sec. 113-84. Variances.**

No deviation from these general requirements shall be permitted or approved by the planning commission, except when a strict application of the requirements would cause undue hardship or injustice to the subdivider. The planning commission and member of the city council, at the same time, serving on the street committee of the council, are designated as a board of adjustment with powers to waive or modify these requirements in keeping with the provisions law. Any variance authorized must be in keeping with the spirit and intent of the general requirements and must be entered in writing in the minutes of the planning commission and the reason on which the departure was justified set forth.

(Code 2006, § 15.12.07; Ord. No. 909, 9-19-1955)

**Secs. 113-85—113-111. Reserved.**

**ARTICLE IV. REQUIRED IMPROVEMENTS**

**Sec. 113-112. Required improvements.**

The subdivider shall complete the following improvements to the entire block

in which said lot is located and to adjacent areas sufficient to accomplish the planned drainage and access:

- (1) Concrete monuments, at least four inches in diameter or square, three feet long, with a flat top, shall be set at the nearest property line to all corners of the subdivision. Metal pipe or rods, at least two inches in diameter, three feet long, shall be set at all block corners; angle points of a subdivision boundary lines. The top of the concrete monuments and pipes shall be set flush with grade. Metal pipe or rods, three-fourths of an inch in diameter and three feet long, shall be set at all lot corners.
- (2) All streets shall be cleared and graded by the subdivider to the full width of the right-of-way with the exception of streets where a right-of-way greater than 80 feet is required. Finished grades shall be at levels as approved by the city planning commission and/or the state highway department.
- (3) The subdivider shall provide permanent six inch concrete curbs with integral concrete gutters or standard rolled curbs and gutters on all streets to the following specifications except as noted in subsection (7) of this section.

<i>Street Type</i>	<i>Specification</i>
Major highways	As determined by the planning commission in consultation with the highway department and city council.
Internal major streets	As determined by the planning commission but not less than 44 feet including curbs.
Collector streets	44 feet including curbs.
Residential streets	30 feet including curbs.
Dead-end streets	28 feet including curbs.
Curbs	Shall be rounded at intersection on a radius of 20 feet or more as the planning commission requires.

- (4) Street improvements and surfacing requirements shall be those specified by ordinance.
- (5) Surface water inlets and drains according to plan.
- (6) Make provisions for all available utilities and in connection with sanitary sewers, where available, cause installation of collector lines before surfacing streets.
- (7) The subdivider or developer of a subdivision must, before the sale of

any lot or application for any building permit, either complete all the site improvements defined in this section and as specifically identified on a record plat of subdivision and supporting plans and documentation; or furnish the Metropolitan Area Planning Commission evidence that an appropriately funded escrow account has been established in an amount necessary to cover the cost of completing all remaining site improvements. The amount to be escrowed shall be verified by the office of the city engineer.

- (8) The chairperson and the secretary of the Metropolitan Area Planning Commission shall not sign and the circuit clerk shall not record a record plat of subdivision until all conditions imposed by the commission have been satisfied and all required site improvements have been completed or their completion guaranteed and secured by an appropriate escrow of funds.
- (9) Upon completion of required site improvements, the civil engineer sealing the record plat of subdivision shall provide to the office of the city engineer a signed and sealed statement verifying that all site improvements have been installed and completed in accordance with the design drawings, specifications, and other documents that comprise and support the record plat of subdivision. The city's process of accepting the dedication of site improvements shall not be-

gin until this statement of verification is received and accepted by the city.

(Code 2006, § 15.16.01; Ord. No. 909, § V, 9-19-1955; Ord. No. 1145, § 1, 12-5-1966; Ord. No. 2177; Ord. No. 3084; Ord. No. 3043; Ord. No. 04:438, 1-20-2004)

**Sec. 113-113. Compliance or evidence of intended compliance required.**

The subdivider or developer must, before the sale of any lot or lots, either complete the improvements shown in section 113-112 or furnish the city planning commission evidence that an appropriate funded escrow agreement in the amount of the contract cost of street improvements required by section 113-112 that are not completed at the date of sale of the lot from the closest improved street to and including all front feet of said lot. (Code 2006, § 15.16.02; Ord. No. 1145, § 2, 12-5-1966)

**Sec. 113-114. Funded escrow agreement defined.**

For the purpose of section 113-113, the term "funded escrow agreement" means evidence satisfactory to the city planner or staff person designated by said planner that a cash sum or corporate surety bond has been posted in an amount sufficient to guarantee completion of all required improvements. In the event the developer and city planner, or designated staff person, cannot agree as to the amount and/or sufficiency of said bond, the developer may appeal to the full planning

commission, who shall have the authority to approve said required amount and sufficiency.

(Code 2006, § 15.16.03; No. 909, § VI, 9-19-1955; Ord. No. 1145, § 3, 12-5-1966; Ord. No. 3592, Ord. No. 05:177, 11-15-2005)

**Sec. 113-115. Street markers.**

(a) It shall be the duty of any property owners and/or subdivider of lands wishing to be annexed to the city to provide for all street markers and traffic signs on all streets and at each corner of said streets before any land shall be annexed to the city.

(b) It shall be the duty of all property owners and/or subdividers of lands within the city from the date of passage of this Code to provide for street markers and traffic signs on all streets and on each corner of said streets.

(c) All street markers and traffic signs which are required, as set out above, shall be constructed according to city specifications shall be constructed according to city specifications and to the Manual on Uniform Traffic Control Devices, latest edition, with no exceptions. Fees for making and installing the street markers for property owners and/or subdividers shall be established by the city council's street committee.

(d) The property owners and/or subdividers can provide street markers on an individual basis or the city can provide street markers by agreement to the individual property owner and/or subdividers who shall then reimburse the city for all labor and materials expended in the construction of required street markers.

(e) All street names must be approved by the city planning commission and the city planning and engineering departments. Block numbers shall be assigned by the city planning department.

(Code 2006, § 15.16.04; Ord. No. 1493, §§ 2, 3)



Chapters 114—116

**RESERVED**





## Chapter 117

### ZONING\*

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\***State law references**—Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.; municipal zoning, A.C.A. § 14-56-416.

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## ARTICLE I. IN GENERAL

### Sec. 117-1. Definitions and rules of construction.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) The words building and structure are synonymous and include any part thereof.
- (2) The words lot, parcel, site, tract, or other unit of ownership are synonymous and may be used interchangeably.
- (3) The word used shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used.

(Zoning Ord., § 14.08.01)

### Sec. 117-2. Definitions of terms and uses.

(a) The use definitions are intended to be mutually exclusive, which means that uses that are specifically defined shall not also be considered a part of a more general definition of that use. The use retail/service, for example, does not include the more specific use convenience store.

(b) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Access easement* means a right-of-way or parcel of land specified or set aside as

the way or means by which a piece of property is approached or entered, given by the owner of land to another party.

*Accessory dwelling unit* means a separate living quarters within or adjacent to a single-family residence for the exclusive independent occupancy of no more than two persons who are related by blood, marriage, adoption or other legal relationship to the owner of the residence. The dwelling unit space shall contain no more than three habitable rooms such as living, sleeping or sitting activities in addition to bath and kitchen spaces. The dwelling unit space shall be accessible only from within the main quarters and not have a separate exterior entrance.

*Accessory structure or use.*

- (1) The term "accessory structure or use" means a building or use that:
  - a. Is incidental to and customarily found in connection with a principal building or use; is subordinate to and serves a principal building or use;
  - b. Is subordinate in area, extent or purpose to the principal building or use served; and
  - c. Is located on the same lot as the principal building or use served.
- (2) The term "accessory structure or use" includes the following:
  - a. Garages;
  - b. Barns;
  - c. Carports and off-street parking and loading areas;
  - d. Guard houses;

- e. Pool houses;
- f. Accessory dwellings;
- g. Playhouses;
- h. Separate decks;
- i. Gazebos;
- j. Household storage buildings;
- k. Radio and television receiving antennas;
- l. Swimming pools;
- m. Recreational and play courts or facilities for residents;
- n. Storm and fallout shelters; and
- o. Other necessary and customary uses determined to be appropriate, incidental and subordinate to the principal use on the lot.

*Adult entertainment* means any adult cabaret, adult theater, adult bookstore, adult massage establishment, model studio, or sexual encounter or meditation center which depicts or describes matters or activities relating to specified sexual activities or specified anatomical areas.

*Agriculture, animal* means the use of any land for the purpose of raising livestock.

*Agriculture, crop* means the use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products.

*Agriculture, product sales* means the retail sale of agricultural products produced on the same site.

*Airport or airstrip* means any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person for the landing and

taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

*Airport elevation* means 258 feet above mean sea level (258' MSL).

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

*Animal care, general*, means a use providing animal care, veterinary services or boarding.

*Animal care, limited*, means a use providing small animal, household pets, boarding or veterinary services with no outside animal runs.

*Apartment* means a room or suite of rooms within a building with separate cooking, bathing, and sleeping facilities and intended as a single dwelling unit. Structures containing three or more dwelling units are considered apartments.

*Area* means the amount of land surface in a lot or parcel of land.

*As-built drawing* means a document showing how a particular building and/or site has been constructed.

*Asphalt or concrete plant* means an establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphaltic cement, cement or concrete products.

*Auditorium or stadium* means an open, partially enclosed or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings.

*Auto wrecking or salvage yard* means a lot, land or structure, or part thereof, used primarily for the collecting, dismantling, storage and salvaging of machinery or vehicles that are not in operating condition, or for the sale of parts therefrom; or for the collecting, storage, and salvage of waste paper, scrap metal, or other discard material.

*Bank or financial institution* means establishments engaged in deposit banking; typically, commercial banks, savings and loans, and credit unions.

*Basic industry* means the first operation or operations which transform a material from its raw state to a form suitable for fabrication.

*Bed and breakfast* means the use of an owner-occupied or manager-occupied residential structure to provide temporary lodging, or lodging and meals, with no more than 12 guestrooms.

*Building* means any structure including a roof supported by walls, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property and forming a construction that is safe and stable.

*Building coverage* means the land area covered by all buildings on a lot, excluding eaves.

*Building height* means the vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the structure, exclusive of chimneys, ventilators, or other extension above the roofline.

*Building lines* means the lines that are parallel to the front, side, or rear lot lines of a lot at a distance equal to the mini-

mum setback requirements and beyond which the vertical wall of a building or structure shall not be located closer to said lot lines.

*Building, principal*, means a building in which is conducted the principal use of the plot on which it is situated. In any residential district, any structure containing a dwelling unit shall be deemed to be the principal building on the plot on which the same is situated.

*Carport* means space for the housing or storage of motor vehicles and enclosed on not more than two sides by walls.

*Cemetery* means land used or intended to be used for burial of the dead, whether human or animal, including a mausoleum, columbarium or cinerarium.

*Certificate of occupancy* means permission to occupy a building and/or property.

*Church* means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, including day cares, is maintained and controlled by a religious body organized to sustain public worship.

*Club or lodge* means an association of persons for the promotion of some non-profit common purpose, such as charity, literature, science, politics, fellowship, etc., meeting periodically, and limited to members.

*College or university* means an institution of higher education offering undergraduate or graduate degrees.

*Comprehensive plan* means the Jonesboro, Arkansas, comprehensive plan.

*Conical surface* means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance for 4,000 feet.

*Construction sales and service* means an establishment engaged in the retail or wholesale sale of materials used in the construction of buildings or other structures, as well as the outdoor storage of construction equipment or materials on lots other than construction sites. Typical uses include lumberyards, home improvement centers, lawn and garden supply stores, electrical, plumbing, air conditioning and heating supply stores, swimming pool sales, and construction and trade contractor storage yards.

*Convenience store* means an establishment, not exceeding 3,500 square feet of gross floor area, serving a limited market area, and engaged in the retail sale of food, beverages, gasoline and other frequently or recurrently needed merchandise for household or automotive use, and which may specifically include a car wash as an accessory use.

*Country club* means a chartered, non-profit membership club catering primarily to its membership, providing one or more of the following social and recreational activities: golf, tennis, swimming, riding, or outdoor recreation. Such clubs typically include dining facilities, clubhouses, locker rooms and pro shops.

*Day care, general (day care center)* means a commercial establishment where adult day care services are provided, or where child day care services are provided for more than eight children; with both such services to be provided pursuant to state

laws and fire codes, and in accordance with and licensed by appropriate state agencies.

*Day care, limited (day care family home)* means a home where day care services are provided to a maximum of eight children, with a maximum of two adults in attendance. The operator shall reside in the structure, and the facility must conform to all codes and regulations, both state and local, applicable thereto, with the most restrictive regulations prevailing. The babysitting of not more than four children shall not be subject to provisions of this chapter.

*Density* means the quotient of the total number of dwelling units as divided by total area of the site. Gross density shall be the total number of dwelling units as divided by the gross area of a site, including public right-of way, easements, etc. Net density shall be the total number of dwelling units divided by the gross area of the site minus any land used for easements and/or rights-of-way. Eighteen percent shall be the reduction.

*Detached structure* means a structure having no party or common wall with another structure except an accessory structure.

*Development* means the act of changing the state of a tract of land after its function has been purposefully changed by man, including, but not limited to, structures on the land and alterations to the land.

*Development or site plan* means a dimensioned presentation of the proposed development of a specified parcel of land which reflects thereon the location of build-

ings, easements, parking arrangements, public access, and other similar and pertinent features.

*District, zoning*, means any portion or section of the city within which uniform zoning regulations apply.

*Drive-in establishments* means a facility where services or products are delivered to persons in vehicles by means of a drive-up window or carhop.

*Dwelling* means a building or portion thereof which is designed or used as living quarters for one or more families; but not including motels, boardinghouses, tourist homes, convalescent homes, travel trailers, mobile homes, or manufactured housing.

*Dwelling, attached*, means a dwelling which is joined to another dwelling at one or more sides by walls.

*Dwelling, detached*, means a dwelling which is entirely surrounded by open space on the same lot.

*Dwelling, multifamily*, means a dwelling designed for or occupied by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or motels.

*Dwelling, single-family*, means a dwelling designed for or occupied by one family only, and being on a permanent foundation.

*Dwelling, two-family (duplex)*, means a dwelling designed for or occupied by not more than two families living independently of each other.

*Dwelling, townhouse or row house*, means two or more dwelling units attached at the side or sides, each unit of

which has a separate outdoor entrance and is designed to be occupied and owned by one family.

*Dwelling, zero lot line*, means a single detached dwelling unit that is constructed on a side property line of said lot; such that the wall located on the side property line should be blank with no openings of any type allowed.

*Dwelling unit* means a room or group of rooms located within a dwelling and forming a single habitable unit with facilities for living, sanitation, sleeping and cooking.

*Efficiency unit* means a dwelling unit that contains living, sanitation, sleeping and cooking facilities, but not a separate bedroom for sleeping, for not more than two adults.

*Emergency housing unit* means a manufactured housing unit or residential-design manufactured housing unit that is located on the same lot as a principal single-family dwelling to be used solely for the purpose of providing temporary accommodations for a family member in need of daily assistance due to health reasons. Such reasons shall be certified by a licensed physician.

*Family* means one or more persons related by blood, marriage or adoption, or a group of not more than five unrelated persons living together and subsisting in common as a single, nonprofit housekeeping unit utilizing only one kitchen. A family may include domestic servants employed by said family.

*Farm* means a parcel of land used for growing or raising of agricultural products including related structures thereon.

*Fence* means a barrier constructed to provide privacy or visual separation between one ownership and another.

*Floodplain regulations* means the provisions of article II chapter 109, flood damage prevention.

*Floor area* means the sum of the gross horizontal areas of all of the floors of the principal buildings, excluding garages and covered parking areas, measured from the exterior faces of exterior walls, or from the centerline of walls separating two buildings.

*Freight terminal* means a building or area in which freight brought by motor trucks or rail is assembled and/or stored for routing in intrastate or interstate shipment by motor truck or rail.

*Frontage* means that edge of a lot bordering a street.

*Garage, private*, means an accessory building or a part of a main building used for storage purposes only for automobiles, vans, pickup trucks and the like, used solely by the occupants and their guests of the building to which it is accessory.

*Golf course* means a facility providing private or public golf recreation services and support facilities, excluding miniature golf facilities.

*Government services* means buildings or facilities owned or operated by government entities and providing services for the public, excluding utilities and recreational services. Typical uses include administrative offices of government agencies and utility billing offices.

*Greenhouse or nursery* means an establishment primarily engaged in the raising and retail sale of horticultural specialties such as flowers, shrubs, and trees, intended for ornamental or landscaping purposes.

*Group residential* means the use of a site for occupancy by groups of more than five persons, not defined as a family. Typical uses include fraternity or sorority houses, dormitories, residence halls, and boardinghouses or lodginghouses.

*Hazard to air navigation* means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

*Hazardous waste* means any solid, liquid, semisolid, or gaseous waste, whether alone or in combination, whether used, reused or reclaimed, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality, or an increase in serious irreversible, or incapacitating reversible, illness, or which may pose a substantial present or potential hazard to human health or the environment.

*Home occupation* means any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, which is conducted entirely within the main building, and which meets all other applicable standards and use limitations as described herein.

*Horizontal surface* means a horizontal plane 150 feet above the established air-

port elevation, the perimeter of which in-plane coincides with the perimeter of the horizontal zone.

*Hospital* means an institution providing health services primarily for human inpatient or medical or surgical care for the sick or injured, and including related facilities such as laboratories, outpatient departments, training and research facilities, central service facilities, pharmacies, and staff offices which are an integral part of the facilities.

*Hotel or motel* means an establishment where overnight accommodations are supplied for transient guests. Typical accessory uses include dining, swimming and meeting facilities.

*Kennel* means the use of land or buildings for the purpose of selling, breeding, boarding, or training dogs or cats or both or the keeping of more than five dogs and cats. The word selling as herein used shall not be construed to include the sale of animals three months of age or younger which are the natural increase of animals kept by persons not operating a kennel as herein defined; nor shall selling be determined to include isolated sales of animals over three months old by persons not operating a kennel as herein described.

*Larger than utility runway* means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

*Library* means a publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for borrowing and use by the general public.

*Loft apartment* means one or more dwelling units located on the upper floor of a building utilized principally for commercial or office purposes.

*Lot* means land occupied or intended for occupancy by a use permitted in this chapter including one main building together with its accessory building, and the open spaces and parking spaces required herein, and having its principal frontage upon a street.

*Lot area* means the total horizontal area of a lot lying within the lot lines.

*Lot, corner*, means a lot abutting two or more streets at their intersection.

*Lot, double frontage*, means a lot which is an interior lot extending from one street to another and abutting a street on two ends.

*Lot, interior*, means any lot which is not a corner lot.

*Lot line* means the boundary lines of a lot.

*Lot line, front*, means in the case of an interior lot, the line separating said lot from that street which is designed as the front street in the request for a building permit.

*Lot line, rear*, means the lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line.

*Lot line, side*, means any lot line other than a front or rear lot line as defined herein.

*Lot of record* means a lot which is a part of a subdivision, the map of which has been recorded in the office of the county circuit court clerk.

*Lot width* means the width of a lot measured at the front building setback line.

*Manufactured housing unit* means a detached single-family housing unit fabricated in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. For purposes of these regulations, the term "manufactured housing unit," when used by itself, shall not mean the same as a residential-design manufactured housing unit.

*Manufactured housing unit, residential-design*, means a manufactured housing unit which has a minimum width of 22 feet, with width measured perpendicular to the longest axis at the narrowest part, a pitched roof, and siding and roofing materials which are customarily used on site-built homes, and which complies with all of the standards specified herein.

*Manufactured housing park* means a tract of land in one ownership that is used or intended to be used by two or more manufactured housing units and which has public sanitary sewer facilities, public water, electricity and other utilities available to permit residential occupancy of the units.

*Manufacturing, general*, means an establishment engaged in the manufacture, predominantly from previously prepared

materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industry.

*Manufacturing, limited*, means an establishment primarily engaged in the on-site production of goods by hand manufacturing which generally involves only the use of hand tools or other equipment not exceeding two horsepower or a kiln not exceeding eight kilowatts, which may include assembly and packaging, as well as incidental, direct sales to consumers of those goods produced onsite.

*Medical service* means an establishment providing therapeutic, preventative, or corrective personal treatment services on an outpatient basis by physicians, dentists, and other licensed practitioners, as well as the provision of medical testing and analysis services.

*Mining or quarrying* means the extraction of metallic and nonmetallic minerals, including sand and gravel operations.

*Mobile home* means a transportable, factory-built housing unit, fabricated prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974.

*Nonconforming structure* means a structure, or portion thereof, lawfully existing at the time the regulations from which this article is derived, became effective, or as amended, which does not comply with the setback, height, or other development standards applicable in the district in which the structure is located.

*Nonconforming use* means any structure or land lawfully occupied by a use at the time the regulations from which this article is derived, or any amendment thereto, became effective, which does not conform with the use or area regulations of the district within which it is located.

*Non-precision instrument runway* means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

*Nursing home* means any premises where more than three persons are housed and furnished with meals and continuing nursing services.

*Office, general*, means an establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and similar offices.

*Open space, common*, means the area of land that is designed to be accessible for the use and enjoyment of all owner and/or tenants. This space may contain complementary structures, recreational areas and other such improvements, but shall not include parking lots or streets.

*Open space, private*, means an area of land owned or occupied by a property owner or tenant and available for their private use and enjoyment.

*Owner* means the property owner of record, according to the office of the county circuit court clerk.

*Parking, commercial*, means a paved area for off-street parking of operable motor vehicles on a temporary basis, other than as accessory parking to a principal use.

*Parks and recreation* means a park, playground, open space, or facility, open to the general public and reserved for active or passive recreational activities.

*Pedestrian way* means a separate right-of-way dedicated to or reserved for public use by pedestrians, which crosses blocks or other tracts of land to facilitate pedestrian access to adjacent streets and properties.

*Precision instrument runway* means a runway having an existing instrument approach utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

*Primary surface* means a surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

*Principal building* means the building on a lot in which the principal use of the lot is conducted.

*Principal use* means the chief or main recognized use of a structure or of land.

*Recreation and entertainment, indoor*, means an establishment offering recreation, entertainment or games of skill to the general public for a fee or charge that is wholly enclosed in a building. Typical uses include bowling alleys, indoor theaters, pool halls and video game arcades.

*Recreation and entertainment, outdoor*, means an establishment offering recreation, entertainment or games of skill to the general public for a fee or charge, wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, and miniature golf courses.

*Recreational vehicle park* means the use of a site providing individual spaces for trailered or self-propelled camping vehicles on a daily fee or shortterm rental basis.

*Research service* means an establishment engaged in conducting basic and applied research, including production of prototype products when limited to the minimum scale necessary for full investigation of the merits of a product, excluding production of products used primarily or customarily for sale or for use in nonprototype production operations.

*Restaurant, fast-food*, means an establishment where the principal business is the sale of food and nonalcoholic beverages in a ready-to-consume state and where the design or principal method of operation is that of a fast-food or drive-in-style restaurant offering quick food service, where orders are generally not taken at the customers table, where food is generally served in disposable wrap-

ping or containers and where food and beverages may be served directly to the customer in an automobile.

*Restaurant, general*, means an establishment, other than fast-food restaurant, where the principal business is the sale of food and beverages in a ready-to-consume state, where there is no service to a customer in an automobile, and where the design or principal method of operation consists of one or more of the following:

- (1) A sitdown restaurant where customers, normally provided with an individual menu, are generally served food and beverages in nondisposable containers by a restaurant employee at the same table or counter at which the food and beverage items are consumed; or
- (2) A cafeteria or cafeteria-type operation where food and beverages generally are served in nondisposable containers and consumed within the restaurant.

*Retail / service* means the sale or rental of commonly used goods and merchandise for personal or household use or the provision of services to consumers, excluding those retail and service uses classified more specifically herein. Typical uses include grocery stores, department stores, furniture stores, clothing stores and establishments providing the following products or services: household electronic equipment, sporting goods, bicycles, office supplies, home furnishings, electronics repair, shoe repair, household appliances, wallpaper, carpeting and floor covering, art supplies, kitchen utensils,

jewelry, drugs, laundromat, dry cleaners, cosmetics, books, antiques, or automotive parts and accessories.

*Runway* means a defined area on an airport prepared for landing and take-off of aircraft along its length.

*Safety services* means a facility for conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

*School, elementary, middle, or high*, means the use of a site for instructional purposes on a primary or secondary level.

*Service station* means an establishment primarily engaged in the retail sale of gasoline or other motor fuels that may include accessory activities, such as the sale of lubricants, automotive accessories, or supplies, the lubrication or washing of motor vehicles, or the minor adjustment or repair of motor vehicles.

*Solid waste incinerator* means a permanent facility operated alone or in conjunction with a resource recovery facility or landfill for the purpose of burning solid waste or trash.

*Story* means the horizontal segment of a building between the floor surface and the ceiling next above it, and wholly above grade.

*Transitional surfaces* means surfaces extending outward at 90 degree angles to the runway centerline and the runway centerline extended, at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the

precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

*Use* means any functional, social, or technological activity, which is imposed or applied to land or to structures on the land.

*Utility, major*, means generating plants, electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, communication, rail transportation, water, sewage collection or other similar service. The term "utility" shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities; or other uses defined herein.

*Utility, minor*, means services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor structures, such as poles and lines.

*Vehicle and equipment sales* means an establishment engaged in the retail sale or rental, from the premises, of motorized vehicles, along with incidental service or maintenance. Typical uses include automobile and truck sales, automobile rental, boat sales, and motorcycle sales.

*Vehicle repair, general*, means an establishment primarily engaged in painting

of or body work to motor vehicles or heavy equipment. Typical uses include paint and body shops.

*Vehicle repair, limited*, means an establishment primarily engaged in automotive repair other than paint and body shops.

*Visual runway* means a runway intended solely for the operation of aircraft using visual approach procedures.

*Vocational school* means a use providing education or training in business, commercial trades, language, arts, or other similar activity or occupational pursuit, and not otherwise defined as a college or university or primary or secondary school.

*Warehouse, residential storage (miniwarehouse)* means an enclosed storage facility containing independent, separate units or cubicles that are intended to be leased to persons exclusively for dead storage of their household goods or personal property. The active utilization of any storage space or cubicle within such a storage area for a retail or wholesale business operation is expressly prohibited.

*Warehousing* means the storage of materials, equipment, or products within a building for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving significant movement and storage of products or equipment. Typical uses include truck terminals, major mail distribution centers, frozen food lockers, motor freight terminals, and moving and storage firms, but excluding residential storage warehouses.

*Welding or machine shop* means a workshop where machines, machine parts, or other metal products are fabricated. Typical uses include machine shops, welding shops, and sheet metal shops.

*Yard* means an open space on the same lot with a building, unobstructed from the ground upward, and measured as the minimum horizontal distance between the lot line and the main building.

*Yard, front*, means a yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street right-of-way line and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies, terraces, or uncovered porches. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

*Yard, rear*, means a yard extending across the rear of the lot between the side lot lines, and measured between the rear lot line in the rear of the main building or any projection other than steps, unenclosed porches, or entranceways.

*Yard, side*, means a yard between the main building and the side line of the lot, and extending from the front lot line to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof.

(Zoning Ord., §§ 14.08.01, 14.08.02; Ord. No. 08-2007, 2-6-2007)

### **Sec. 117-3. Penalty for violation.**

Any person who shall violate any of the provisions of this zoning chapter or fail to comply thereafter with any of the require-

ments thereof, or who shall build or alter any building in violation of any detailed statement or plans submitted and approved hereunder, shall be guilty of a class C misdemeanor and shall be liable to a fine of not more than \$500.00, nor less than \$100.00. Each day such violation is permitted to exist shall constitute a separate offense. The owner of any building or premises or part thereof where anything in violation of this chapter shall be placed, or shall exist, and any architect, builder, contractor, agent, engineer, person, firm or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be fined as in this section.

(Zoning Ord., § 14.44.04)

**Sec. 117-4. Purpose.**

The zoning regulations set forth in this chapter are enacted to aid in the implementation of the land use portion of the comprehensive plan for the city and to promote, in accordance with present and future needs, the safety, order, convenience, prosperity, and general welfare of the citizens of the city. The regulations are intended to provide for orderly growth and development; for protection of the character and stability of residential, commercial, industrial, recreational, and environmentally sensitive areas of the city; for protection of property from blight and undue depreciation; for efficiency and economy in the process of development for the appropriate and best use of land; for the use and occupancy of buildings; for healthful and convenient distribution of popu-

lation; for good civic design and arrangement; and for adequate public utilities and facilities.

(Zoning Ord., § 14.04.03)

**Sec. 117-5. Jurisdiction.**

The provisions of the chapter shall apply to all land, buildings and structures within the corporate limits of the city as they now, or may hereafter exist.

(Zoning Ord., § 14.04.04)

**Sec. 117-6. Nature and application.**

(a) For the purposes stated in section 117-4, the city has been divided into zoning districts in which the regulations contained herein will govern:

- (1) Lot coverage;
- (2) The height, area, bulk, location, and size of buildings;
- (3) Open space; and
- (4) The uses of land, buildings, and structures.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, order, convenience, prosperity, and general welfare. Whenever these requirements are at variance with the requirements of any other lawfully adopted rules or regulations, the most restrictive, or that imposing the higher standards, shall govern; provided however, that the city shall not be responsible for enforcing deed restrictions or covenants.

(b) No land shall be used or occupied, no structure shall be erected, moved, converted, altered, enlarged, used or occupied, and no use shall be operated, unless

it is in conformity with the regulations herein prescribed for the district in which such structure or land is located. This provision shall not be construed to affect any lawful uses of land or structures that exist, or for which a lawfully issued permit has been issued, at the effective date of the ordinance from which this chapter is derived.

(c) No proposed plat of any new subdivision of land shall hereafter be considered for approval unless the lots within such plat equal or exceed the minimum size and area requirements specified in the applicable zoning district in which the land is located.

(d) No open space required by these regulations for a particular structure or use shall be claimed at the same time as open space for another structure or use.

(e) Dedication to public use of land shall not be a condition for any zoning or conditional use approval.

(f) All structures constructed or occupied in conformance with this chapter shall also conform to all other codes and regulations of the city.  
(Zoning Ord., § 14.04.05)

**Secs. 117-7—117-30. Reserved.**

**ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

**DIVISION 1. GENERALLY**

**Sec. 117-31. Administrative officer.**

The provisions of this zoning chapter shall be administered by the department of planning, inspection, and code enforce-

ment under the direction of the city planner, who shall act as an administrative official. They may be provided with the assistance of such other persons as the mayor may direct. It shall be the duty of the administrative official to see that this chapter is enforced through the proper legal channels. Appeal from the decision of the administrative official may be made to the board of zoning adjustment. The administrative official, and his designees, are generally empowered to carry out or conduct any activities essential to the proper administration and enforcement of this chapter; said activities to include, but not be limited to, the following:

- (1) *Permits.* To issue a zoning permit, building permit, and certificate of occupancy when compliance is made with these regulations, to refuse to issue the same in the event of noncompliance, and to give written notice of such refusal and reason thereof to the applicant.
- (2) *Collections.* To cause the collection of the designated fees as set forth in these regulations.
- (3) *Records.* To make and to keep all records necessary and appropriate to the office, including record of the issuance and denial of all zoning and building permits, and certificates of occupancy, and the receipt of complaints of violation of these regulations and action taken on the same, and to file such for record.
- (4) *Inspections.* To inspect any building or land to determine whether any violations of these regulations have been committed or exist.

(5) *Enforcements.* To enforce these regulations and take all necessary steps to remedy any condition found in violation. The city may enjoin any individual or property owner who is in violation of this chapter to prevent or correct such violation. Any individual aggrieved by a violation of this chapter may request an injunction against any individual or property owner in violation of this chapter, or may mandamus any official to enforce the provisions of this chapter.

(6) *Advisements.* To keep the mayor, city council, planning commission and board of zoning adjustment advised of all matters other than routine which relate to the administration and enforcement of this chapter.

(Zoning Ord., § 14.44.01)

**Sec. 117-32. Zoning and building permits.**

(a) It shall be unlawful to commence the construction, reconstruction, moving, demolition or structural alteration of any building until a zoning permit and a building permit has been issued. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of these regulations and other applicable building laws, ordinances, or regulations. A zoning permit shall also be required for the use or reuse of property, buildings, or structures where building permits are not required. Compliance with paved parking and other site standards shall be achieved as a condition a change of use for commercial, industrial and multifamily pur-

poses. In addition, a zoning permit evidencing compliance with the provisions of this chapter shall be a prerequisite to the issuance of a city privilege or occupation license.

(b) All applications for building permits shall be accompanied by a plan in duplicate drawn to scale, showing the size of the building to be erected and its location on the zoning lot, the location of any existing buildings or structures, location and dimensions of all driveways and parking or loading areas, drainage and such other information as may be necessary to provide for the administration of this chapter.

(c) Site plans, sealed by a professional engineer licensed in the state shall be required in accordance with the city stormwater management/drainage ordinance for all development or redevelopment proposals. Multifamily development plans of five or more units and all commercial developments shall be sealed by an architect licensed in the state.

(d) Site plans shall be required for all multifamily development proposals of five units or more, as well as for all new commercial and industrial development and substantial redevelopment. Such plans shall be reviewed and approved at the staff level, subject to appeal by the applicant to the Metropolitan Area Planning Commission; provided that, large-scale commercial development of over 75,000 square feet of gross floor area, and multifamily developments of more than 48 units shall be approved by the Metropolitan Area Planning Commission. Site plan decisions by the MAPC shall be subject to

appeal to the city council. Complete requirements for site plans are included in the appendices hereto.

(e) The design professional, engineer, architect, or landscape architect, preparing and sealing site plans as prescribed under this section shall periodically inspect the construction of all site improvements shown on and required by the site plan approved by the city planner and/or the Metropolitan Area Planning Commission and shall verify that, to the best of the design professional's knowledge, all improvements have been constructed and completed in accordance with said plan. A letter verifying this fact shall be submitted to the city planner prior to issuance of a certificate of occupancy.

(Zoning Ord., § 14.44.02; Ord. No. 3429; Ord. No. 07-3165, 12-18-2007)

**Sec. 117-33. Certificate of occupancy.**

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

(b) The building inspector shall have the authority and responsibility to issue and keep records of certificates of occupancy in accordance with the requirements set forth in this chapter, and the building code.

(c) A certificate of occupancy must be applied for and issued by the building inspector prior to occupancy and use of a structure or premises for any of the following:

(1) Any new structure.

(2) Any addition to an existing nonresidential structure.

(3) Any change in occupancy or use of a building or premises that involves nonresidential occupancy.

(4) Placement or change in occupancy of any mobile home on any lot or parcel, regardless of use.

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

(e) The building official or his designated agent shall inspect the property which is the subject of an application within a reasonable time, after a completed application has been filed, and shall issue a certificate of occupancy if the premises of the property comply in all respects with the applicable development regulations in effect for the city. If the premises do not so comply, the building official shall deny the application in a written notice mailed to the applicant with five days, excluding weekends and holidays, after the inspection of the property, specifying the provisions of which ordinance or code the structure or development does not comply.

(f) A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion of the building. A temporary certificate of occupancy shall be valid for a period not exceeding six months. Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owner or of

the city relating to the use or occupancy or any other matter required by this chapter.

(g) A temporary certificate of occupancy shall not be issued until the owner of the property and/or the general contractor have posted a surety bond, irrevocable letter of credit with automatic renewal, or other instrument approved by the city attorney to ensure that incomplete building improvements and/or site improvements are completed as required by the city zoning permit and/or the city building permit issued for the property. The amount of the bond shall be equal to the cost of the remaining work to be completed as determined by an architect or engineer registered in the state or by a licensed general contractor and verified by the city engineer or the chief building official.

(h) Information required for submission to obtain a certificate of occupancy shall include:

- (1) The name of applicant.
- (2) The nature and extent of the applicant's ownership interest in the subject property.
- (3) The address of the property for which a certificate is requested.
- (4) A legal description of the property, the zoning classification for the property, and a statement that the use of the property is allowed or permitted in the zoning classification for the property.
- (5) Four copies of a site plan for any new construction, same as required for a building permit, for the struc-

ture or the development of which such structure is a part, is required.

- (6) Four copies of architectural plans for the proposed structure or the development of which such structure is a part is required. When no new work is required with a change in use of a commercial space, such request for certificate of occupancy shall accompany a letter of code analysis by a registered architect within the state certifying compliance with all applicable building, zoning and fire codes.
- (7) Such other information as requested by the building official to ensure conformance with applicable development regulations.

(Zoning Ord., § 14.44.03; Ord. No. 3430; Ord. No. 07:3165, § 2, 12-18-2007)

### **Sec. 117-34. Amendments.**

Two types of amendments to this zoning chapter are recognized; one being a revision in the textual provisions of the chapter, and the other being a change of boundary in a zoning district.

- (1) *Amendment to text.* Amendments to the text may be initiated by the planning commission, the city council, or by the mayor. Proposed amendments shall be processed in accordance with the procedures set forth in this section.
  - a. *Notice.* The city planner shall be responsible for scheduling a public hearing before the planning commission. He shall prepare the content of a public notice, and ensure that the

notice is published in a newspaper of general circulation with the city at least 15 days before the public hearing.

- b. *Hearing and recommendation by the planning commission.* The planning commission shall conduct a public hearing on the proposed amendment, hearing both the proponents and opponents, if any. Following the public hearing, the commission shall determine its recommendation regarding the proposed amendment and make such known to the city council.
- c. *Action by the city council.* After receiving the recommendation of the planning commission, the city council:
  1. May approve the amendment as submitted;
  2. May approve a revised version they deem appropriate;
  3. Refer it back to the planning commission for further study and consideration;
  4. Table it; or
  5. Deny it.

If the city council action does not take place within six months after the planning commission's public hearing, the amendment process must begin anew.

- (2) *Change in district boundary.* A change in a district boundary, also referred to as a map amendment or a rezoning, may be proposed by the

city council, the planning commission, or by a property owner or his legal agent. Such amendments shall be considered in accordance with the procedures set forth in this section.

- a. *Application submittal.* A complete application for change in district boundary or map amendment, hereafter referred to as a rezoning, shall be submitted to the city planner in a form established by him, along with a nonrefundable processing fee established in section 117-35. Applications shall be filed by the 17th of the month in order to be placed on the planning commission agenda for the subsequent months meeting, which is held on the second Tuesday thereof. No application shall be processed until the city planner determines that the application is complete and the required fee has been paid.

- b. *Notice.*
  1. Promptly upon determining that the application is complete, the city planner shall schedule a public hearing date before the planning commission, notify the applicant of the hearing date, and provide at least 15 days notice of the hearing in a newspaper of general circulation in the city. The notice shall indicate the time and place of the public hearing; give

the general location and description of the property, such as the street address and acreage involved; describe the nature, scope and purpose of the application; and indicate where additional information about the application can be obtained.

2. The applicant shall:
  - (i) Post notice on weatherproof signs provided by the city;
  - (ii) Place the signs on the property that is the subject of the application at least ten days before the public hearing; and
  - (iii) Ensure that the signs remain continuously posted until a final decision is made by the city council. At least one sign shall be posted by the applicant for each 150 feet of street frontage, up to a maximum of five signs. Signs shall be placed along each abutting street in a manner that makes them clearly visible to neighboring residents, and passersby. There shall be a minimum of one sign along each abutting street.

c. *Hearing and recommendation by the planning commission.*

The planning commission shall hold a public hearing on the proposed rezoning. At the conclusion of the hearing, and after deliberation, the commission shall recommend approval as submitted; may recommend approval of less area and/or of a lesser intense, but like classification than what was applied for; table with cause, not to exceed one time for consideration at the next meeting; or deny the application, and submit an accurate written summary of the proceedings to the city council.

d. *Hearing and action by the city council.* After the planning commission recommends approval of an application, the applicant shall be responsible for preparing the appropriate ordinance and requesting that the city clerk place it on the city councils agenda. Agenda item requests and all documentation shall be submitted in a form established by the city clerk, and be accompanied by a publication fee prescribed by law.

1. If the planning commission does not recommend approval of an application, the city council may consider the matter after an appeal is filed by the property owner with the city clerk, and a special public hearing is set and subsequently held. Appli-

- cant responsibility with regard filing documents with the city clerk and paying said fee as is also applicable.
2. In considering an application for approval, whether on appeal or not, the city council may reduce the amount of land area included in the application, but not increase it and may change the requested classification in whole or in part, to a less intense zoning district classification than was indicated in the planning commissions required public notice.
- e. *Approval criteria.* The criteria for approval of a rezoning are set out in this subsection. Not all of the criteria must be given equal consideration by the planning commission or city council in reaching a decision. The criteria to be considered shall include, but not be limited to, the following:
1. Consistency of the proposal with the comprehensive plan;
  2. Consistency of the proposal with the purpose of this chapter;
  3. Compatibility of the proposal with the zoning, uses and character of the surrounding area;
  4. Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment;
5. Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual, odor, noise, light, vibration, hours of use/operation and any restriction to the normal and customary use of the affected property;
  6. Length of time the subject property has remained vacant as zone, as well as its zoning at the time of purchase by the applicant; and
  7. Impact of the proposed development on community facilities and services, including those related to utilities, streets drainage, parks, open space, fire, police and emergency medical services.
- f. *Successive applications.* In the event that the city council denies an application for a rezoning, a similar application shall not be considered by the planning commission for six months from the date of the denial by the city council, unless the planning commission, upon recommendation by the city planner, determines that there is a significant change in the size

or scope of the project, or that conditions have changed in the area affected by the proposed rezoning.

g. *Withdrawal of application.*

1. Only one withdrawal shall be allowed as of right after the 24th day of the month following the application filing for a rezoning, annexation or conditional use;
2. On or after the second time withdrawal granted, the applicant must wait 90 days before resubmitting the same or similar petition involving the same land use, and, under extenuating (emergency) circumstances, the planning commission or city council may consider and grant a request to waive the 90-day restriction on the second time request for withdrawals;
3. Third-time withdrawal requests will default to the most current ordinance requirement for denied rezoning petitions.

(Zoning Ord., § 14.44.05; Res. No. 08:126, 8-19-2008)

**Sec. 117-35. Fees.**

Before any action shall be taken as provided in this article, the applicant shall submit a fee with the application in accordance with the latest fee schedule as adopted by the city council. Under no

condition shall said sum or any part thereof be refunded for failure of said action to be approved by the city.

(Zoning Ord., § 14.44.06)

**Secs. 117-36—117-58. Reserved.**

DIVISION 2. BOARD OF ZONING  
ADJUSTMENT; APPEALS AND  
VARIANCES\*

**Sec. 117-59. Creation and appointment.**

There is hereby created a board of zoning adjustment consisting of five members to be appointed for three-year terms, with at least one member being a planning commissioner. All members shall be qualified electors and residents of the city. The members of the board of zoning adjustment that was legally in existence immediately prior to the effective date of the ordinance from which this chapter is derived shall be constituted as members and continue serving their present term as member of the board of zoning adjustment hereby created; provided, the member with the least time remaining on his term shall be replaced by a member of the planning commission.

(Zoning Ord., § 14.40.01)

**Sec. 117-60. Organization.**

The board of zoning adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held on a regular schedule and at such other times as the board may determine. All meetings shall be open to the public. The

\***State law reference**—Board of adjustment required, A.C.A. § 14-56-416(b)(1).

board of zoning adjustment shall keep minutes of its vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the city planner. A quorum of the board shall consist of three members. The concurring vote of a majority of the total board members shall be necessary to revise any order or decision of the enforcement officer or to decide on any matter upon which it is required to pass under this chapter. The city planner or his representative shall attend each meeting of the board and shall bring with him all plans, specifications, plats and papers relating to any case before the board for determination. (Zoning Ord., § 14.40.02)

**Sec. 117-61. Powers and duties.**

The board of zoning adjustment shall have all the powers and duties prescribed by law and by this chapter, which are more particularly described as follows:

- (1) *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of this chapter. The board may affirm or reverse, in whole or in part, said decision of the administrative official.
- (2) *Variances.* To authorize upon appeal in specific cases such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary

hardship that would deprive the owner of any reasonable use of the land or building involved. A variance from the terms of this zoning chapter shall not be granted by the board of zoning adjustment unless and until:

- a. The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter that special conditions and circumstances do not result from the actions of the applicant and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning chapter to other lands, structures or buildings in the same district.
- b. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- c. The board of adjustment shall further make a finding that

the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

- d. The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this zoning chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
  - e. In granting any variance, the board of zoning adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
  - f. Under no circumstances shall the board of zoning adjustment grant a variance to allow a use not permissible under the terms of this zoning chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.
- (3) *Special exceptions.* In addition to the powers and duties specified in subsections (1) and (2) of this section, the board shall also have the

following powers and duties to hold public hearings and decide the following special exceptions:

- a. Interpret zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground are at variance with those shown on the zoning district map.
- b. Determine the amount of parking required for a use not listed herein.
- c. Vary the parking regulations by not more than 25 percent where it is conclusively shown that the specific use of a building would make unnecessary the parking spaces otherwise required by this chapter.
- d. Permit an addition to a non-conforming structure provided that said addition conforms to all building code requirements, and further provided that the current use of the structure conforms to the zoning district in which it is located.

(Zoning Ord., § 14.40.03)

**Sec. 117-62. Procedure for applications and appeals.**

(a) *Application.* Appeals to the board may be taken by any person aggrieved or by any officer, department or board of the city affected by any decision of the administrative official. All appeals and applications made to the board shall be made in writing on forms prescribed by the board within 15 days after the decision has

been rendered by the administrative official. Every appeal or application shall refer to the specific provision of the code involved and shall exactly set forth:

- (1) The interpretation that is claimed;
- (2) The use for which the permit is sought; or
- (3) The details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

(b) *Filing.* The appeal or application shall be filed with the officer from whom appeal is taken and with the board. The officer from whom appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

(c) *Public hearing and notice.* The board shall fix a reasonable time for the public hearing of an application or appeal, give public notice of the time and place thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Said public notice shall be published at least once not less than seven days preceding the date of such hearing in a newspaper of general circulation in the city. The public notice shall give the particular location of the property on which the application or appeal is requested, as well as a brief statement of what the application or appeal consists. Evidence of notification of all adjoining property owners shall accompany all applications for variances. Such notification shall include the described public notice information, as well as the time and place where the public hearing will be conducted. Public hearings may be adjourned

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

(d) *Effect of appeal.* An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certifies to the board, that, by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record on application, and notice to the person from whom the appeal was taken.

(e) *Time limit on permits.* No order permitting the use of a building or premises, or the alteration or erection of a building shall be valid for a period longer than 60 days unless such use is established or the erection or alteration is started within such period and proceeds to completion in accordance with the terms of a building permit.

(f) *Appeals from board of zoning adjustment.* Any person, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision of the board of zoning adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the state. (Zoning Ord., § 14.40.04)

**Secs. 117-63—117-82. Reserved.**

DIVISION 3. NONCONFORMING  
STRUCTURES AND USES

**Sec. 117-83. Continuance of use.**

(a) Any lawfully established use of a structure or land, on the effective date of these regulations, or of amendments hereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.

(b) Any legal nonconforming structure may be continued in use provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein.

(c) Any structure for which a building permit has been lawfully granted prior to the effective date of these regulations, or of amendments hereto, may be completed in accordance with the approved plans. Such building shall thereafter be deemed a lawfully established building.  
(Zoning Ord., § 14.12.01)

**Sec. 117-84. Discontinuance of use.**

(a) Whenever any part of a structure or land occupied by a nonconforming use is changed to, or replaced by, a use conforming to the provisions of these regulations, such premises shall not thereafter be used or occupied by a nonconforming use, even though the structure may have been originally designed and constructed for the prior nonconforming use.

(b) Whenever a nonconforming use of a structure or part thereof, has been discontinued or abandoned for a period of one year or more, such use shall not be

reestablished, and the use of the premises thereafter shall be in conformity with the regulations of the district.

(c) Where no enclosed structure is involved, discontinuance of a nonconforming use for a period of six months shall constitute abandonment, and shall not thereafter be used in a nonconforming manner.  
(Zoning Ord., § 14.12.02)

**Sec. 117-85. Change of use.**

(a) The nonconforming use of any structure or portion thereof, may be occupied by another similar or less intense nonconforming use as may be determined by the zoning official, subject to appeal to the board of zoning adjustment. No building in which a nonconforming use has been changed to a more restricted use shall again be devoted to a less restricted use.

(b) A nonconforming use of land without substantial buildings or structures may not be extended or expanded, nor shall it occupy more area than was in use on the effective date of these regulations. If such nonconforming use or portion thereof is discontinued for a period of three months, or changed, any future use of such land or change of use shall be in conformity with the provisions of the district in which such land is located.  
(Zoning Ord., § 14.12.03)

**Sec. 117-86. Repairs and alterations.**

(a) Normal maintenance of a nonconforming structure or of a conforming structure containing a nonconforming use is permitted. Such structures may be expanded once, a maximum of 25 percent in gross floor area.

(b) Alterations may be made when required by law, or when such alterations will actually result in eliminating the nonconformity.

(c) No structure partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use.

(d) A structure which is nonconforming with respect to yards, height or any other element of bulk regulated by these regulations, shall not be altered or expanded in any manner which would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located. (Zoning Ord., § 14.12.04)

**Sec. 117-87. Accessories to primary nonconforming uses.**

(a) The addition of, enlargement, alteration or relocation of accessories which are incidental to and accommodate the primary nonconforming use may be permitted if, after notices and public hearing, the board of zoning adjustments finds that the accessory promotes the public health, safety and welfare and does not expand or enlarge the primary nonconforming use.

(b) The procedures for application and review shall be the same as those for a conditional use, with the exception that all notifications must make reference to a request for alteration, enlargement or relocation of use instead of a request for a conditional use. (Zoning Ord., § 14.12.05)

**Sec. 117-88. Damage and destruction.**

(a) If a nonconforming structure or a structure containing a nonconforming use is damaged or destroyed by natural disaster, fire, or other casualty, the structure may be repaired or reconstructed and used for the same purpose as it was before the occurrence; provided such repair or reconstruction is commenced and completed within one year of the date of such damage or destruction.

(b) Failure to exercise this option within the time specified, shall be considered a voluntary abandonment and the structure may be rebuilt and used thereafter only for a conforming use, and in compliance with provisions of the district in which it is located. (Zoning Ord., § 14.12.06)

**Sec. 117-89. District changes.**

Whenever the boundaries of a zoning district are changed, so as to transfer an area from one district to another, the foregoing provisions shall also apply to any newly created nonconforming uses therein. (Zoning Ord., § 14.12.07)

**Secs. 117-90—117-106. Reserved.**

**ARTICLE III. ESTABLISHMENT OF ZONING DISTRICTS AND BOUNDARIES**

**Sec. 117-107. Established.**

The following zoning districts, which may be referred to by their abbreviations, are hereby established:

- (1) *Base zoning districts.*
  - a. AG—Agricultural district.

- b. RR—Rural residential district.
  - c. RS-1—Single-family residential district.
  - d. RS-2—Single-family residential district.
  - e. RS-3—Single-family residential district.
  - f. RS-4—Single-family residential district.
  - g. RS-5—Single-family residential district.
  - h. RS-6—Single-family residential district.
  - i. RS-7—Single-family residential district.
  - j. RS-8—Single-family residential district.
- (2) *Multifamily districts.*
- a. RM-4—Residential multifamily classification; four units per net acre, includes all forms of units, duplexes, triplexes, quads, and higher.
  - b. RM-6—Residential multifamily classification; six units per net acre, includes all forms of units, duplexes, triplexes, quads, and higher.
  - c. RM-8—Residential multifamily classification; eight units per net acre, includes all forms of units, duplexes, triplexes, quads, and higher.
  - d. RM-12—Residential multifamily classification; 12 units per net acre, includes all forms of units, duplexes, triplexes, quads, and higher.
  - e. RM-16—Residential multifamily classification; 16 units per net acre, includes all forms of units, duplexes, triplexes, quads, and higher.
  - f. RMH—Residential manufactured housing district. Establishing a district with use restricted to manufactured housing unit placement. Said units no older than eight years old as measured from date the letter of approval is sought will be allowed. Manufactured housing residential style will not be affected.
  - g. CR-1—Neighborhood office district.
  - h. C-4—Neighborhood commercial district.
  - i. C-3—General commercial district.
  - j. C-2—Downtown fringe commercial district.
  - k. C-1—Downtown core commercial district.
  - l. I-1—Limited industrial district.
  - m. I-2—General industrial district.
- (3) *Overlay and special purpose zoning districts.*
- a. LU-O—Limited use overlay district.
  - b. VR-O—Village residential overlay district.
  - c. JMA-O—Jonesboro municipal airport overlay district.

- d. PD—Planned development district.

(Zoning Ord., § 14.16.01; Ord. No. 08-2007, 2-6-2007)

**Sec. 117-108. District hierarchy.**

References to less restrictive, more restrictive, less intensive and more intensive zoning districts refer to the base zoning districts established in section 117-107; and represent a progression from the AG district as the most restrictive, or least intensive, base district to the I-2 district as the least restrictive, or most intensive, base district. Overlay and special purpose districts are not included in the zoning district hierarchy.

(Zoning Ord., § 14.16.02)

**Sec. 117-109. District boundary map.**

(a) The location and boundaries of the zoning districts established herein are bounded and defined as shown on a series of half-section maps entitled Official Zoning Map of the City of Jonesboro, Arkansas, which is on file in the office of the city clerk. The map, together with all explanatory data thereon, is hereby adopted by reference, and declared to be a part of this chapter. The official zoning map shall be certified as such by signature of the mayor, attested by the city clerk.

(b) If, in accordance with the provisions of this chapter, changes are made in district boundaries or other data portrayed on the official zoning map, such changes shall be made on said map within 30 days after the amendment has been approved by the city council.

(c) No changes of any nature shall be made on the official zoning map or information shown thereon, except in confor-

mity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter, and punishable pursuant to provisions contained herein.

(d) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map located in the office of the city clerk shall be the final authority as to the current zoning status of property in the city.

(Zoning Ord., § 14.16.03)

**Sec. 117-110. Interpretation of district boundaries.**

Where uncertainty exists as to the boundaries of districts shown on the official zoning map, the zoning official shall employ the following rules in interpretations thereof. Decisions of the zoning official are subject to appeal to the board of zoning adjustment.

- (1) Boundaries indicated as approximately following the centerlines of streets or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following city limits shall be construed as following city limits.
- (3) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (4) Boundaries indicated as following waterways shall be construed to be following the thread of the stream.

- (5) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
  - (6) Boundaries indicated as parallel to or extensions of features mentioned in the preceding rules shall be so construed.
  - (7) Where distance is not specifically indicated on the official zoning map, as is typically the case with unsubdivided property, distance shall be determined by the scale of the map.
- (Zoning Ord., § 14.16.04)

**Sec. 117-111. Classification of annexed lands.**

All lands proposed for annexation shall be assigned zoning district classification that will become effective at the same time the annexation becomes final. The map amendment procedures contained herein shall be followed in assigning said classification.

(Zoning Ord., § 14.16.05)

**Sec. 117-112. Vacation of public rights-of-way.**

Whenever any street, alley or other public way is vacated or abandoned by action of the city council pursuant to law, the zoning district classification of the property to which the vacated portions of land accrue, shall become the classification of the vacated land.

(Zoning Ord., § 14.16.06)

**Secs. 117-113—117-137. Reserved.**

**ARTICLE IV. DISTRICT REGULATIONS**

**DIVISION 1. GENERALLY**

**Sec. 117-138. Residential districts.**

(a) *General description.* There are 14 residential districts designed to meet present and future housing needs, to protect the character of, and property values in, residential areas, to encourage a suitable environment for family life and to provide choice in density, as well as in type of housing. More specific descriptions of these districts are as follows:

- (1) AG—Agricultural district. The purpose of this district is to help preserve existing agricultural resources, and to guide the conversion of rural lands to suburban use when appropriate. Development standards are designed to implement long range development goals by preserving areas that have prime soils for agricultural use, and by protecting appropriate areas for development until they are well served by public facilities and services.
- (2) RS-1—Single-family residential district; minimum 43,560 sq. ft. lot required.
- (3) RS-2—Single-family residential district; minimum 21,780 sq. ft. lot required.
- (4) RS-3—Single-family residential district; minimum 14,520 sq. ft. lot required.
- (5) RS-4—Single-family residential district; minimum 10,890 sq. ft. lot required.

- (6) RS-5—Single-family residential district; minimum 8,712 sq. ft. lot required.
- (7) RS-6—Single-family residential district; minimum 7,260 sq. ft. lot required.
- (8) RS-7—Single-family residential district; minimum 6,222 sq. ft. lot required.
- (9) RS-8—Single-family residential district; minimum 5,445 sq. ft. lot required.
- (10) RM-6—Residential multifamily classification; six units per net acre, includes all forms of units, duplexes, triplexes, quads, and higher.
- (11) RM-8—Residential multifamily classification; eight units per net acre, includes all forms of units, duplexes, triplexes, quads, and higher.
- (12) RM-12—Residential multifamily classification; 12 units per net acre, includes all forms of units, duplexes, triplexes, quads, and higher.
- (13) RM-16—Residential multifamily classification; 16 units per net acre, includes all forms of units, duplexes, triplexes, quads, and higher.
- (14) RMH—Residential manufactured housing district. Establishing a district with use restricted to manufactured housing unit placement. Said units no older than eight years old as measured from date the letter of approval is sought will be allowed. Manufactured housing residential style will not be affected.

(b) *Uses permitted.* Uses permitted in the residential districts are set forth in the table in subsection (c) of this section. Where the letter "P" appears opposite a listed use and underneath a residential district, the use is permitted in that district by right subject to:

- (1) Providing off-street parking and loading facilities as required by section 117-324;
- (2) Providing landscaping and screening as provided by section 117-326; and
- (3) Conformance with special conditions applying to certain uses as set forth in article VII of this chapter. Only one principal structure per lot shall be permitted in the RS districts.

(c) *Explanation of symbols.* Where the letter "C" appears instead of "P", the use is permitted subject to acquiring a conditional use permit as set forth in article V of this chapter. Where neither "P" nor "C" appears similarly within the table, the use is not permitted.

Permitted Use Table For Residential Districts

Uses	AG	RS-1	RS-2	RS-3	RS-4	RS-5	RS-6	RS-7	RS-8	RM-H	RM-4	RM-6	RM-8	RM-12	RM-16
<i>Residential uses</i>															
Single-family, detached	P	P	P	P	P	P	P	P	P						
Single-family, attached											P	P	P	P	P
Duplex, triplex, fourplex											P	P	P	P	P
Emergency housing unit	C	C	C	C	C	C	C	C	C	P	C				
Multifamily										P	P	P	P	P	P
Manufactured housing unit	P									P			C	P	P
Manuf. housing, residential design	P	P	C	C	C	C	C	C	C	P			C	P	P
Manufactured housing park	P									P					
Group residential			C	C	C	C					P	P	P	P	P
Accessory dwelling unit		P	P	C	C	C									
<i>Civic / commercial uses</i>															
Airport or airstrip	C														
Animal care, general	C														
Animal care, limited	C														
Automated teller machine														C	C
Bed and breakfast		C	C	C	C						C	C	C	C	C
Cemetery	C	C	C	C	C	C	C	C	C		C	C	C	C	C
Church	P	P	P	C	C	C	C				C	C	C	C	C
College or university			P	P	P	P	P				P	P	P	P	P
Communication tower	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Convenience store														C	C
Day care, limited (family home)	P	P	P	C	C	C	C	C			P	P	P	P	P
Day care, general													C	C	C

Uses	AG	RS-1	RS-2	RS-3	RS-4	RS-5	RS-6	RS-7	RS-8	RM-H	RM-4	RM-6	RM-8	RM-12	RM-16
Golf course	C	C	C	C	C	C	C			P	P	P	P	P	P
Government service**	P	P	P	P	C	C	C	C	C		P	P	P	P	P
Hospital														P	P
Library	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Medical services														C	C
Museum														C	C
Nursing home														C	C
Parks and recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Post office															
Recreation/entertainment, indoor	C	C	C	C											
Recreation/entertainment., outdoor	C	C	C												
Safety services	C	C	C	C	C	C	C	C	C	C	C	C	P	P	P
School, elementary, middle and high	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Utility, major**	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Utility, minor**	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
<i>Agricultural uses</i>															
Agriculture, animal	P	P	C	C	C	C									
Agriculture, crop	P	P	P	C	C	C									
Agriculture, product sales	P	P	P	C	C	C									

(d) *Lot, yard, and height regulations.* Except as otherwise provided herein, no lot or yard shall be established or reduced in dimension or area in any residential district that does not meet the minimum requirements in the following table, nor shall any building or structure be erected

or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded for such district as set forth in said table. A listing of supplements and exceptions to these regulations follows the table.

Minimum Dimension Requirements for Residential Districts  
Bulk Dimensional Requirements

<i>Zoning Classification</i>	<i>Minimum Lot Width (in feet)</i>	<i>Minimum Lot Area</i>	<i>Front Setback (in feet)</i>	<i>Rear Setback (in feet)</i>	<i>Side Setback (in feet)</i>
AG	240	5 acre	30	30	10 each
RS-1	120	43,560 s.f.	40	30	25 each
RS-2	100	21,780 s.f.	35	25	15 each
RS-3	80	14,520 s.f.	30	25	10 each
RS-4	80	10,890 s.f.	25	25	7.5 each
RS-5	70	8,712 s.f.	25	20	7.5 each
RS-6	65	7,260 s.f.	20	20	15 combined (min. 10 on one side)
RS-7	50	6,222 s.f.	20	20	7.5 each
RS-8	50	5,445 s.f.	15	15	7.5 each
R-MH	NS	NS	NS	NS	NS
RM-4	50	10,890 s.f. per dwelling unit	20	15	7.5 each
RM-6	60	7,260 s.f. per dwelling unit	20	15	10.0 each
RM-8	70	5,445 s.f. per dwelling unit	25	20	10.0
RM-12	80	3,630 s.f. per dwelling unit	25	20	15.0

<i>Zoning Classification</i>	<i>Minimum Lot Width (in feet)</i>	<i>Minimum Lot Area</i>	<i>Front Setback (in feet)</i>	<i>Rear Setback (in feet)</i>	<i>Side Setback (in feet)</i>
RM-16	80	2,722 s.f. per dwelling unit	25	20	15.0

- (1) Maximum lot coverage all buildings shall not exceed 35 percent in RS-1 thru RS-5 districts and 40 percent in all other residential districts.
- (2) When an existing lot is reduced because of conveyance to a federal, state or local government for a public purpose and the remaining area is at least 75 percent of the required minimum lot size for the district in which it is located, then that remaining lot shall be deemed to comply with minimum lot size requirements.
- (3) Utility facilities, using land or an unoccupied building requiring less than 1,000 square feet of site area, are exempt from minimum lot size requirements of all districts.
- (4) Minimum lot size requirements shall not be interpreted as prohibiting the construction of a single-family residential dwelling unit on a lot that was legally platted or recorded before the adoption of the ordinance from which this chapter is derived. For lots that are rendered nonconforming, the necessity of obtaining a variance from such created nonconformity shall not be required as a condition of issuance of a building permit.
- (5) Certain architectural features may project into required yards as follows:
  - a. Cornices, canopies, eaves or other architectural features, may project a distance not exceeding 30 inches.
  - b. Fire escapes may project a distance not exceeding 4½ feet from the exterior wall of the building.
  - c. An uncovered stair and necessary landings may project a distance not to exceed three feet, provided such stair and landing shall not extend above the entrance floor of the building except for a railing not exceeding three feet in height.
  - d. Bay windows, balconies and chimneys may project a distance not exceeding 30 inches, provided that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located.
- (6) When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining setback is at least 75 percent of the required minimum set-

- back for the district in which it is located, then that remaining setback shall be deemed to satisfy minimum setback requirements.
- (7) When a majority of the lots have existing principal structures on them and the street setbacks of said principal structures are on lots within the same block, with the same zoning classification and fronting on the same side of the street and are less than the required street setback, applicants shall be allowed to use the average street setback on that block. In such cases, the average setback shall be the mean or average setback of all developed lots on the same side of the street within the same block as the subject property and with the same zoning classifications, and in no case shall more than six lots on either side of the subject property be included in the calculation.
  - (8) When adjacent to RS single-family districts or more restrictive districts, multifamily residential and nonresidential structures over one story or 15 feet in height shall have an additional eight foot side and rear setback for every additional story or 15 feet in building height.
  - (9) Single-family attached townhouse uses shall be exempt from interior side setback requirements, provided that end units within a single-family attached development shall comply with applicable side setback requirements. Such uses shall also be exempt from lot width requirements.
  - (10) In existing and more intensive zoning districts, dwelling units within a zero lot line development may be placed on or near one interior side lot line, and therefore be exempt from that interior side setback requirement. Zero lot line setbacks may not be used on street side lot lines or on interior side lot lines adjacent to lots that are not part of the zero lot line development. Zero lot line houses shall be subject to applicable fire codes and the following additional standards:
    - a. The minimum distance between all buildings in the development must be equal to twice the required side setback required by the underlying zoning district. A deed restriction must be recorded on the deed of each applicable lot to ensure continued compliance with this setback.
    - b. An easement to allow for maintenance or repair is required when the eaves or side wall of a house are within four feet of the adjacent property line. The easement on the adjacent property must provide at least five feet of unobstructed space between the furthestmost projection of the structure, and be wide enough to allow five feet between the eaves or side wall and the edge of the easement.
    - c. If the side wall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side

yard of the adjacent lot are not allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, are allowed.

- (11) Maximum height limitation is 35 feet in all residential zones with the exceptions of the AG and RM districts, where the limitation is 45 feet. Chimneys, smokestacks, ventilators, cooling and water towers, bulkheads, grain elevators and silos, utility and flagpoles, belfries, spires and steeples, and monuments and ornamental towers, may be erected to any height not in conflict with the airport overlay district or other city ordinances. Communication towers are exempt only to the extent authorized through conditional use approval.
- (12) For multi-family, the side setback shall be increased by five feet for each additional story in excess of one story, for buildings to be placed along the property line.

*Minimum On-Site  
Structure Separation*

Single story:	15
Two story:	20
More than two stories:	30

The greater restriction applies for the tallest buildings being considered, e.g. if a one story building is proposed adjacent to a three story building, then the minimum separation between those two buildings shall be 30 feet.

(Zoning Ord., § 14.20.01; Ord. No. 07:45, 2-6-2007)

**Sec. 117-139. Commercial and industrial districts.**

(a) *General description, commercial districts.* Commercial districts are principally intended for the provision of services and the conduct of business essential to support residents within the city and the surrounding area. Five different commercial districts exist to provide for the diversity of uses and appropriate locations required for the range of goods and services needed in the city. More specific descriptions of these districts follows:

- (1) *CR-1, commercial residence mixed use district.* The CR-1, commercial residence mixed use district shall be classified as a transitional zoning classification for mixed-use type developments. It allows commercial development, with a residential appearance, and professional uses to be completed in areas between existing commercial more of a retail nature, and single-family residential. By definition it represents transition. Therefore, the logical conclusion would be that a transitional use, such as quadraplexes shall be permitted in this district with commercial below or coordinated to blend or relate. Site plan review shall be subject to planning commission review and administrative approval upon commission recommendation.
- (2) *C-4, neighborhood commercial district.* This district provides for limited retail trade and services designed to serve adjacent residential neighborhoods, usually of a high or medium density character. Such districts should generally be lim-

ited to collector or arterial street locations or other carefully selected areas. Buildings are to be of residential character regarding outward appearance.

- (3) *C-3, general commercial district.* The purpose of this district is to provide appropriate locations for commercial and retail uses which are convenient and serve the needs of the traveling public. The district also provides locations for limited amounts of merchandise, equipment and material being offered for retail sale that are more suitable for storage and display outside the confines of an enclosed structure. Appropriate locations for this district are along heavily traveled arterial street. Development of groupings of facilities shall be encouraged, as opposed to less desirable strip commercial.
- (4) *C-2, downtown fringe commercial district.* This district provides for a transitional area between the downtown core commercial district (C-1) and the surrounding older residential areas which have yet to experience intrusions of other type uses. The fringe area is characterized by mixed uses, including offices, services, government facilities and housing. This district is generally considered an inappropriate location for large retail uses greater than 3,000 square foot.
- (5) *C-1, downtown core commercial district.* This district is characterized by concentrated development of permitted uses, including office and institutional, service, convenience

and specialty retail, entertainment and housing. Redevelopment of the area is contemplated, with emphasis on an art and entertainment cluster. Accordingly, it is anticipated that one or more overlay or other special districts will be established to help foster transformation of the area.

(b) *General description, industrial districts.* The industrial zoning districts are intended to provide for the development of light to heavy industrial uses and their related facilities. Certain commercial and other complementary uses are also permitted. Appropriate standards for the districts are designed to ensure compatibility with other similar uses and to minimize any conflicts with nonindustrial uses located in close proximity to industrial uses. More specific descriptions of these districts follows:

- (1) *I-1, limited industrial district.* This district is to accommodate freight terminals, warehousing, wholesaling, packaging, storage, fabrication, display and such limited manufacturing as does not create a nuisance for residential and commercial neighbors. Certain commercial uses are also permitted. Suitable transportation facilities are a necessity to this district.
- (2) *I-2, general industrial district.* This district is intended for the more intensive industries and those manufacturing facilities making products from raw materials. Regulations are the minimum for mutual protection between industries. Rail service is typically necessary, as is adequate highway access.

(c) *Uses permitted.* Uses permitted in the commercial and industrial districts are set forth in the table in subsection (d) of this section. Where the letter "P" appears opposite a listed use and underneath a district, the use is permitted in that district by right subject to:

- (1) Providing off-street parking and loading facilities as required by section 117-324;
- (2) Providing landscaping and screening as required by section 117-326; and
- (3) Conformance with special conditions applying to certain uses as set forth in article VII of this chapter.

(d) *Explanation of symbols.* Where the letter "C" appears instead of "P", the use is permitted subject to acquiring a conditional use permit as set forth in article V of this chapter. Where neither "P" nor "C" appears similarly within the table, the use is not permitted.

USE TABLE  
COMMERCIAL AND INDUSTRIAL DISTRICTS

Uses	CR-1	C-4	C-3	C-2	C-1	I-1	I-2
<i>Residential uses</i>							
Single-family, detached							
Single-family, attached							
Duplex, triplex, fourplex	P						
Loft apartment	P				P		
Multifamily	P						
Manufactured housing unit						C	
<i>Civic and commercial uses</i>							
Airport or airstrip						C	
Animal care, general	C	C	P			C	
Animal care, limited	C	P	P				
Auditorium or stadium			C		C		
Automated teller machine	C	P	P	C	P	P	P
Bank or financial institution		P	P	C	P	P	P
Bed and breakfast	C	P	P	P	P		
Carwash		C	P	C	C	P	C
Cemetery	P	P	P	P	P	P	P
Church	P	P	P	P	C	P	P
College or university	P	P	P	P	P	P	P
Communication tower	C	C	C	C	C	P	P
Construction sales and service						P	
Convenience store	C	P	P	C	C	C	
Day care, limited (family home)	P	P	P	P	P	C	C
Day care, general	P	P	P	C	C	C	C
Entertainment, adult			C			C	P
Funeral home	C	C	P	C	C		
Golf course		P	P	P	P		
Government service	P	P	P	P	P	P	P
Hospital	P	P	P	P	P		
Hotel or motel			P	P	P		



ZONING

§ 117-139

Uses	CR-1	C-4	C-3	C-2	C-1	I-1	I-2
Indoor firing range						C	C
Library	P	P	P	P	P	P	P
Medical service/office	P	P	P	P	P	P	P
Museum	P	P	P	P	P	C	
Nursing home	C	P	P	P	C		
Office, general	P	P	P	P	P	C	
Parking lot, commercial			P		P	C	
Parks and recreation	P	P	P	P	P	C	C
Pawn shops			P			C	
Post office	C	P	P	P	P	C	
Recreation/entertainment, indoor		C	P	C	P	C	
Recreation/entertainment, outdoor		C	P			C	
Recreational vehicle park			P			P	
Restaurant, fast-food		C	P	C	C	P	
Restaurant, general		P	P	P	P	P	
Retail/service		C	P	C	P	C	
Safety services	P	P	P	P	P	P	P
School, elementary, middle and high	P	P	P	P	P	P	P
Service station		C	P	C	C	P	
Sign, off-premises*	C	C	P	C	C	P	
Utility, major	C	C	C	C	C	C	C
Utility, minor	P	P	P	P	P	P	P
Vehicle and equipment sales			P			P	
Vehicle repair, general			P			P	C
Vehicle repair, limited		C	P	C	C	P	C
Vocational school		C	P	C	P	P	C
Warehouse, residential (mini) storage			C			P	C
Vehicular and equipment storage yard						P	P
<i>Industrial, manufacturing and extractive uses</i>							
Asphalt or concrete plant						C	P

Uses	CR-1	C-4	C-3	C-2	C-1	I-1	I-2
Auto wrecking or salvage yard						C	P
Basic industry						C	P
Freight terminal			C			P	P
Landfill (private)							C
Manufacturing, general						P	P
Manufacturing, limited						P	P
Mining or quarrying						C	P
Oil and gas drilling							P
Research services			C			P	P
Solid waste incinerator						C	C
Warehousing						P	P
Welding or machine shop						P	P
<i>Agricultural uses</i>							
Agriculture, animal			C			C	P
Agriculture, crop						C	P
Agriculture, farmers market			P		P	P	
Agriculture, product sales						C	P

Note.

Accessory uses permitted subject to provisions of article V of this chapter.

\*Not permitted along the route generally known as Crowley's Ridge Parkway National Scenic Byway (see Section 14.32.11 for description).

\*\*Permitted locations—off-premises sign permitted by right in C-3, I-1, & I-2 except where the property on which the sign is to be located adjoins a residentially zoned property then it shall become a conditional use. See section 117-259, pertaining to off-premises outdoor advertising sign.

(e) *Lot, yard, and height regulations.* No lot or yard shall be established or reduced in dimension or area in any commercial or industrial district that does not meet the minimum requirements, nor shall any building or structure be erected or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded for such district as set forth in said table. A listing of supplements and exceptions to these regulations follows the table.

- (1) *Size reduced for public purpose.* When an existing lot is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining area is at least 75 percent of the required minimum lot size for the district in which it is located, then that remaining lot shall be deemed to comply with minimum lot size requirements.
- (2) *Utility exemption.* Utility facilities, using land or an unoccupied building requiring less than 1,000 square feet of site area, are exempt from minimum lot size requirements.
- (3) *Setback reduced for public purpose.* When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining setback is at least 75 percent of the required minimum setback for the district in which it is located, then that remaining setback shall be deemed to satisfy minimum setback requirements.
- (4) *Setback averaging.* When a majority of the lots have existing principal structures on them and the street setbacks of said principal structures are on lots within the same block, with the same zoning classification and fronting on the same side of the street and are less than the required street setback, applicants shall be allowed to use the average street setback on that block. In such cases, the average setback shall be the mean or average setback of all developed lots on the same side of the street within the same block as the subject property and with the same zoning classifications, and in no case shall more than six lots on either side of the subject property be included in the calculation.
- (5) *Setbacks increased by height.* When adjacent to R-1A or more restrictive districts, multifamily residential and nonresidential structures over one story or 15 feet in height shall have an additional eight foot side and rear setback for every additional story or 15 feet in building height.
- (6) *Maximum height.* Maximum height limitation is 35 feet in CR-1, C-4, and C-2 districts; 45 feet in C-3 and I-1 districts; 75 feet in I-2 districts; and there shall be no limitation in the C-1 district. Chimneys, smokestacks, ventilators, cooling and water towers, bulkheads, grain elevators and silos, utility and flagpoles, belfries, spires and steeples, and monuments and ornamental towers, may be erected to any height not in conflict with the airport overlay district or other

city ordinances. Communication towers are exempt only to the extent authorized through conditional use approval, if such use is not a use permitted by right.

(7) When a nonresidential zone abuts a residential zone, setbacks for both shall be same as that setback for the abutting residential zone.

Dimension Requirements Commercial and Industrial Districts

<i>Dimension</i>	<i>CR-1</i>	<i>C-4</i>	<i>C-3</i>	<i>C-2</i>	<i>C-1</i>	<i>I-1</i>	<i>I-1</i>
<i>Minimum lot size</i>							
Single-family (sq. ft.)	6,500	NP	NP	6,000	NS	NP	NP
Duplex (sq. ft.)	7,200	NP	NP	7,200	NS	NP	NP
Multifamily (area/family)	NP	NP	NP	3,600	NS	NP	NP
Nonresidential uses (sq. ft.)	6,500	6,500	6,500	6,500	NS	6,500	10,000
Minimum lot width (all uses)	50'	50'	50'	50'	25'	50'	100'
Minimum lot depth (all uses)	100'	100'	100'	100'	NS	100'	100'
<i>Street setback</i>							
Residential uses	25'	NP	NP	25'	NS	25'	NP
Nonresidential uses	25'	25'	25'	25'	NS	25'	100'
<i>Interior side setback</i>							
Residential uses	7.5'	10'	NP	10'	NS	10'	NP
Nonresidential uses	10'	10'	10'	10'	NS	10'	25'
<i>Rear setback</i>							
Residential uses	20'	20'	NP	20'	NS	20'	NP
Nonresidential uses	20'	20'	20'	20'	NS	20'	25'
Maximum lot coverage (all uses)	50%	50%	60%	50%	100%	60%	60%
Percent of total lot area (building floor area)	20	20	NS	20	NS	NS	NS

Note.

NP = Not permitted.

NS = No standard.

(Zoning Ord., § 14.20.02; Ord. No. 3434; Ord. No. 08-2007, 2-6-2007)

**Sec. 117-140. Overlay and special purpose districts.**

(a) *Purpose.* The purpose of overlay and special purpose districts is to provide for enhanced standards to protect and enhance the unique characteristics of specific areas and/or corridors, such as natural scenic beauty or manmade features, while providing for development opportunities. Examples of such purposes include:

- (1) Promoting the safe and efficient use of specific roadways by controlling access and other traffic measures;
- (2) Encouraging the redevelopment of an area consistent with a particular design theme;
- (3) Giving special attention to landscaping, buffering, signage, lighting and building setbacks in those districts identified as needing special attention;
- (4) Giving special attention to the existing architectural style or to the style which is planned, so as to create an easily identifiable area in those areas identified as architecturally or historically significant.

(b) *Adoption.* The city council, upon recommendation from the planning commission, may adopt overlay and special purpose districts as the needs are identified in order to implement specific purposes, intents, and design standards generally consistent with comprehensive plan provisions for the area being regulated, which shall be applied as additional standards to other city regulations. The development criteria for each district shall

be those standards as set out in each respective district that is adopted. Such districts shall be made a part of the zoning ordinance through the standard amendment procedures; and upon adoption, the boundaries of such districts shall be delineated on the official zoning map.

(c) *LU-O—limited use overlay district.*

(1) *Purpose.* By providing for flexible use of property development standards tailored to individual projects or specific properties, the LU-O district is intended to:

- a. Ensure compatibility among incompatible or potentially incompatible land uses;
- b. Ease the transition from one zoning district to another;
- c. Address sites or land uses with special requirements; and
- d. Guide development in unusual situations or unique circumstances.

(2) *Application.* The LU-O district may be applied in combination with any base zoning district. The designation may be requested by an applicant or proposed by the planning commission or city council during their consideration of a rezoning request.

(3) *Use and property development standards.* When accompanied by a rezoning request from the property owner, the LU-O district can be used to restrict the use and property development standards of an underlying base zoning district, as applied to specific parcels of land. All LU-O requirements are in ad-

dition to, and supplement all other applicable standards and requirements of the underlying zoning district. Restrictions and conditions imposed by an LU-O district are limited to the following:

- a. Prohibiting otherwise permitted or conditional uses and accessory uses or making a permitted use a conditional use;
  - b. Decreasing the number or density of dwelling units that may be constructed on the site;
  - c. Limiting the size of nonresidential buildings that may be placed on a site;
  - d. Increasing minimum lot size or lot width;
  - e. Increasing minimum yard and setback requirements; and
  - f. Restricting access to abutting properties and nearby roads.
- (4) *Method of adoption / amendment.* As an overlay district, the LU-O designation shall be applied for in accordance with standard rezoning procedures. Once LU-O zoning is established, any amendments shall also require review and approval in accordance with rezoning procedures.
- (5) *Effect of LU-O designation.* Restrictions imposed through an LU-O district are considered part of this chapter. All property included in an LU-O district shall be delineated on the official zoning map by adding the letters LU to the abbreviation for the base zoning district. The rezoning ordinance and record

plat for the property must list all of the modifications and restrictions imposed pursuant to the LU-O designation. The restrictions imposed will be considered part of the text of this chapter, and a violation of the restrictions shall be considered a violation of the zoning chapter.

(d) *VR-O—village residential overlay district.*

- (1) *General purpose.* The purpose of the VR-O, village residential overlay district, is to promote greater integration of use and design and more potential for physical and social interaction within the city's newly developing neighborhoods. The VR-O regulations are intended to carry out the village residential policies of the comprehensive plan, and to encourage the creation of neighborhoods with the following characteristics:
- a. Pedestrian scale;
  - b. A mix of uses, i.e., all types of housing and supporting retail and service uses;
  - c. Unified planning, design and appearance; and
  - d. Inclusion of amenities and pedestrian connections to such amenities (e.g., parks, open space, schools, cultural facilities, etc.).
- (2) *Applicability.* The VR-O is an overlay district applied in combination with an underlying base zoning district. The VR-O district may be applied in combination with the AG, RR, and RS zoning districts. If the regulations of the VR-O con-

- flict with the underlying base zoning district, the regulations of the VR-O shall control. If no special VR-O standards are specified, the regulations of the underlying base zoning district shall control.
- (3) *Method of adoption.* The VR-O district shall be established according to the standard procedures for rezoning.
  - (4) *Effect of VR-O classification.* Land classified in the VR-O district may be developed according to the underlying base district classification or according to the village residential development standards of this section.
  - (5) *Village residential approval procedure.* A proposed village residential development shall require review and approval according to the planned unit development review procedures.
  - (6) *Phasing of development.* At the time of preliminary plan approval, the developer may request approval of, and the planning commission may approve, a phasing plan for the development, in which case the following standards shall apply. Each phase shall be related to surrounding areas and available public facilities in such a manner that failure to proceed to subsequent phases will not adversely affect those areas or facilities. Each completed phase shall comply with all applicable standards. The infrastructure as installed shall be sufficient to accommodate each phase of the development.
  - (7) *Village residential development standards.*
    - a. *Minimum site area.* The minimum contiguous land area included in a single village residential development shall be 75 acres. For the purpose of this provision, land shall be deemed to be contiguous if all parts are under unified control of the applicant and all parts abut or are separated by only a road, easement or right-of-way.
    - b. *Uses.*
      1. *Residential.* Any type of residential use may be allowed in the VR-O district, subject to required approval procedures, and the following limitations:
        - (i) *Single-family.* A minimum of 51 percent of the total number of dwelling units within a village residential development shall be single-family.
        - (ii) *Other residential.* No more than 49 percent of the total number of dwelling units within a village residential development may be other than single-family, e.g., duplex, multifamily, manufactured housing.
      2. *Nonresidential.* The following nonresidential uses shall be allowed within the

VR-O district, if approved according to the PD approval procedures:

- (i) *Uses allowed in RS.* Any nonresidential use permitted in the RS district shall also be a permitted use in the VR-O district.
- (ii) *Bank or financial institution.* Banks and financial institutions are permitted uses in the VR-O district.
- (iii) *Convenience store.* Convenience stores, including those that sell gasoline, are permitted uses in the VR-O district.
- (iv) *Day care, limited.* Day care family homes are permitted in this district.
- (v) *Medical service.* Medical services are permitted in the VR-O district.
- (vi) *Restaurants.* Restaurants are permitted uses in the VR-O district, provided they do not exceed a 100 person seating capacity.
- (vii) *Retail sales/service.* Retail sales and service uses are permitted in the VR-O district, provided that no individual retail sales

or service use may exceed 4,000 square feet of gross floor area.

- (8) *Residential property development standards.*
  - a. *Maximum density.* The maximum single-family residential density within a village residential development shall not exceed 5.5 units per acre.
  - b. *Minimum lot size.* The minimum lot size for single-family residential uses shall be 6,000 square feet.
  - c. *Setbacks.* The setback standards of the underlying base zoning district shall apply unless the planning commission approves an alternative setback plan for the village residential development. In general, reduced building setbacks from streets are appropriate in a village residential development.
  - d. *Maximum height.* Residential uses shall not exceed 35 feet in height, measured from the highest land elevation to the eaves.
  - e. *Maximum building coverage.* Residential uses shall not exceed 50 percent lot coverage.
  - f. *Commercial floor area limit.* No more than 10,000 square feet gross floor area of commercial floor space shall be allowed per 100 dwelling units within a village residential development.

- g. *Setbacks.* The setback standards of the underlying base zoning district shall apply unless the planning commission approves an alternative setback plan for the village residential development.
  - h. *Lot coverage.* The maximum ground coverage of any nonresidential use within a village residential development, which includes building and other site improvements, shall not exceed 70 percent of the lot.
  - i. *Maximum height.* The maximum height of any nonresidential use in the VR-O district shall be 30 feet, measured from the highest land elevation to the eaves.
- (9) *Design guidelines and standards.* In reviewing plans for a village residential development, and, as a condition of any density bonus and any permitting of commercial uses, the planning commission shall evaluate the proposal in light of the policies and guidelines in the comprehensive plan, and in light of the following standards and guidelines:
- a. *Sidewalks.* Sidewalks shall be provided on both sides of all local and collector streets within a village residential development.
  - b. *Streets.* The planning commission may allow reduced street right-of-way and pavement widths within village residential developments if the planning commission determines that pedestrian amenities or transit improvements will be made to reduce dependency on the automobile.
  - c. *Open space.* A minimum of 20 percent of the gross area of a village residential development shall be designated and preserved as common open space or private open space. Recreation facilities or structures and accessory uses in common areas shall be considered as open space if the total impervious surfaces such as paving and roofs constitute no more than ten percent of the total open space area. A property owners association shall be responsible for continued maintenance of common open space areas.
  - d. *Landscaping and buffering.* Trees, shrubs and other plant materials should be installed within open space areas of a village residential development. Shade trees shall be installed to shade sidewalks and parking lots. Landscape buffers consisting of trees, shrubs, earth berms and other landscape features shall be provided to screen incompatible uses from one another. Low density residential areas should, for example, be screened from high density residential uses and from nonresidential uses.
  - e. *Outdoor lighting.* A uniform lighting plan should be estab-

- lished for the village residential development. Lighting should be provided along streets and sidewalks, and in off-street parking areas. Outdoor lighting shall be located and shielded to prevent spillover lighting in residential areas.
- f. *Underground utilities.* All service facilities must be placed underground except those that by their nature must be on or above ground, such as streets, fire hydrants and open watercourses. The developer is responsible for making the necessary arrangements with utility companies and other appropriate entities when installing utilities and service facilities.
- g. *Housing design.* Pedestrian-oriented design features are strongly encouraged within the VR-O district. To that end, front porches, reduced street setbacks, rear alleys, garage placement to the side or rear of houses, and other design features that emphasize the pedestrian over the automobile are encouraged within village residential developments.
- h. *Architectural compatibility.* At the time of plan review, the developer of a village residential development shall be required to present plans for insuring architectural compatibility within the development. In addition to the general design of buildings, such plans shall address uniform signage and landscaping.
- i. *Paths and trails.* Bicycle paths and pedestrian trails are strongly encouraged to link residential areas with commercial nodes, schools and other activity areas inside and outside the development. The requirement for sidewalks may be waived by the planning commission if paths or trails are provided.
- j. *Parks and recreation areas.* A village residential development should include recreation facilities and amenities, such as swimming pools, playfields and other areas. The planning commission may require the provision of private recreational amenities within a village residential development if the planning commission determines that adequate park and recreation facilities do not exist within a one-mile radius of the village residential development.
- (e) *JMA-O—Jonesboro municipal airport overlay district.*
- (1) *Establishment of airport overlay district.* The following airport overlay zones are established within the JMA-O district. These zones include all land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the city municipal airport.

- (2) *Utility runway visual approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (3) *Runway larger than utility with a visibility minimum as low as three-quarter-mile nonprecision instrument approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,00 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (4) *Precision instrument runway approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (5) *Transitional zones.* The transitional zones are the areas beneath the transitional surfaces.
- (6) *Horizontal zone.* The horizontal zone is established by swing-arcs of 5,000 feet radii for all runways designated utility or visual, and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (7) *Conical zone.* The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.
- (8) *Airport zoning map.* The airport overlay zones established by this section are shown on the city municipal airport zoning map which, together with all notations, references and other information shown thereon, shall be as much a part of this chapter as if specifically set forth herein. Any area shown as located in more than one of the following zones shall be considered to be located only in the zone with the more restrictive height limitation.
- (9) *Height limitations.* Unless otherwise specifically provided in these regulations, no structure shall be erected, altered, or maintained, and no tree shall be allowed to exceed the maximum permitted height of the airport overlay zone in which it is located. The following maximum height limits shall not be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land:
- a. *Utility runway visual approach zone.* Slopes 20 feet outward

for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 along the extended runway centerline.

- b. *Runway larger than utility with a visibility minimum as low as three-quarter-mile nonprecision instrument approach zone.* Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- c. *Precision instrument runway approach zone.* Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
- d. *Transitional zones.* Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 258 feet above

mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

- e. *Horizontal zone.* Established at 150 feet above the airport elevation or at a height of 408 feet above mean sea level.
  - f. *Conical zone.* Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- (10) *Use limitations.* Notwithstanding any other provisions of this chapter, no use may be made of land or water within any airport overlay zone in such a manner so as to create electrical interference with navigational signals or radio communication between the city mu-

municipal airport and aircraft; make it difficult for pilots to distinguish between city municipal airport, and other facilities; impair visibility in the vicinity of the airport; create bird strike hazards; or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the city municipal airport.

(11) *Nonconforming uses.*

- a. *Regulations not retroactive.* The airport overlay district regulations prescribed in this section shall not require the removal, lowering, or other change or alteration of any structure or tree that does not comply with the airport overlay district regulations, nor shall the airport overlay district regulations otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to October 20, 1969, the date of Ordinance No. 1242, which is superseded by the airport overlay regulations of this chapter, and is diligently pursued.
- b. *Marking and lighting.* Notwithstanding the provision in subsection (e)(11)a of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such

markers and lights as shall be deemed necessary by the city municipal airport commission, to indicate to the operators of aircraft in the vicinity of the city municipal airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the city.

(12) *Permits.*

- a. *Future uses.* Except as specifically exempted by the subsection (e)(13) of this section, no material change shall be made in the use of the land, no structure shall be erected or otherwise established, and no tree shall be planted in any airport overlay zone unless a permit has been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient detail to allow a determination of whether the resulting use, structure, or tree would comply with the regulations of this section. If the use, structure, or tree complies with the regulations of this section, the permit shall be granted. No permit for a use inconsistent with the provisions of this airport overlay district shall be granted unless a variance has been approved by the board of zoning adjustment.

(13) *Exceptions.* No permits shall be required for the following:

- a. In the area lying within the limits of the horizontal zone

and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

- b. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
- c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

(14) *Existing uses.* No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on June 1, 1987 or than

it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(15) *Nonconforming uses abandoned or destroyed.* Whenever the city municipal airport commission determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable airport overlay zone height limit or otherwise deviate from the zoning regulations of this chapter.

(16) *Permits for change and repair of nonconforming uses.* Before any existing nonconforming structure or object of natural growth may be altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the city municipal airport commission authorizing such change or repair. No such permit shall be granted that would allow the structure or object of natural growth in question to be made higher or become a greater hazard to air navigation than it was on June 1, 1987. If the structure or object of natural growth has been more than 50 percent torn down or destroyed, whether voluntarily, by act of nature, or otherwise, or has become more than 50 percent deteriorated or decayed, no permit shall be granted that would permit said structure or object of natural growth to exceed the applicable height limit prescribed

by the zoning regulations of this chapter. In all cases of more than 50 percent destruction, deterioration or decay, whether application is made for a permit for repair or not, the city municipal airport commission shall by appropriate action compel the owner of the non-conforming structure or object of natural growth, at the owner's expense, to lower or remove such object to the extent necessary to conform to the height limitations contained in the airport overlay district. Except as indicated, all applications for permits for change or repair of nonconforming uses shall be granted.

- (17) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in the airport overlay district, may apply to the board of zoning adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. No application for a variance may be considered by the board of zoning adjustment unless a copy of the application has been furnished to the airport manager for advice as to the aeronautical effects of the variance. If the airport manager does not respond to the application

with 15 days of its delivery, the board of zoning adjustment may act on its own to grant or deny said application.

- (18) *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this airport overlay district, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the board of zoning adjustment, this condition may be modified to require the owner to permit the city, at its own expense, to install, operate and maintain the necessary markings and lights.
- (19) *Administration.*
- a. *Permits.* All applications for airport overlay district permits shall be made to the city municipal airport commission upon a form published for that purpose. The city municipal airport commission shall approve or deny the requested permit within 45 days after receipt. Building permits are required by the inspection department.
  - b. *Variances.* All applications for variances shall be made to the board of zoning adjustment. All such applications shall immediately be submitted by the board of zoning adjustment to the city municipal airport commission for its recommenda-

tion. The city municipal airport commission shall recommend approval or denial of the requested variance within 45 days after receipt, and shall forward its recommendation to the board of zoning adjustment for appropriate action.

(20) *Appeals.*

- a. *Appeals to board of zoning adjustment.* Any person aggrieved by any decision of the city municipal airport commission made in the administration of the airport overlay district may appeal to board of zoning adjustment.
- b. *Effect of appeal.* An appeal shall stay all proceedings in furtherance of the action appealed unless the city municipal airport commission certifies to the city council that, by reason of the facts stated in the certificate, a stay would, in the opinion of the commission, cause an eminent peril to life or property. In such case, proceedings should not be stayed except by order of the city council, or order of the county circuit court, after appropriate notice to all parties and a show cause hearing is held.
- c. *Judicial review.* Any person aggrieved by any decision of the board of zoning adjustment, may appeal to the county circuit court as provided by A.C.A. § 14-363-208.

(Zoning Ord., § 14.20.03)

**Secs. 117-141—117-163. Reserved.**

DIVISION 2. PLANNED DEVELOPMENT DISTRICT (PD)

**Sec. 117-164. Generally.**

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

- (1) A maximum choice in the type of environment and living units available to the public;
- (2) Open space and recreation areas, active and passive;
- (3) A pattern of development which preserves natural features, prevents soil erosion, and protects water quality;
- (4) A creative approach to the use of land and related physical development;
- (5) An efficient use of land resulting in smaller networks of utilities and streets, and thereby lowering costs; and
- (6) An environment of stable character. The PD regulations are de-

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

(b) *Standards of development.*

- (1) *Ownership control.* The land in a planned unit development district shall be owned, leased, or otherwise controlled by a person, firm, group of individuals, partnership, corporation, or trust, provided assurances are given through the procedures contained herein that the project can be successfully completed.
- (2) *Minimum district area.* The minimum area for a PD district shall be three acres. In calculating the minimum area for a PD district, the measurements shall include the area of all dedicated streets entirely within the boundary of the proposed PD, and one-half of the area of all boundary or perimeter streets.
- (3) *Uses permitted.*
  - a. In order to increase creativity and flexibility in the development of areas suitable for a

planned unit development, there are no specifically prescribed uses which are permitted within the boundaries of a planned development. The developer shall be responsible for preparation of a list of permitted uses within the specific planned development requested. The development list shall take into account the nature and purpose of the PD area, and such uses and locations shall be appropriate with the surrounding development.

- b. At the time of the preapplication plan and conference, the applicant shall generally describe the nature and types of land uses to be located within the boundaries of the PD district. At the time of zoning application and consideration of the preliminary plat, a specific written list of uses to be permitted by right shall be submitted for review by the planning commission. Following approval by the planning commission and city council, the list of specific uses permitted by right shall serve as the control list in issuance of building permits and certificates of occupancy.
- c. In addition to the permitted uses in subsections (b)(3)a and (b)(3)b of this section that are established by right, certain other uses may be prescribed by the developer in accordance with the restrictions included

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

- (4) *Parking and off-street loading.* All uses established with a planned development district shall comply with the off-street parking and loading requirements as established in this chapter. However, the requirements for individual structures or lots may be met through either provision of adequate parking on

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

- (5) *Perimeter requirements.* In order to assure compatibility with surrounding development, the developer shall submit specific information as to the setbacks, building height, coverage factors and other elements necessary for all perimeter lots that are adjacent to the boundary of the PD district or adjacent to any boundary or perimeter street right-of-way. While no specific setback requirements are herein established, the planning commission shall consider the nature, extent and character of the adjacent development and shall take into consideration the types of area regulations applicable to adjacent properties.
- (6) *Residential density standards.* The maximum number of dwelling units permitted within a PD district is dependent upon both the type and number of each type of residential units intended to be included in the PD district. Densities within certain areas of the PD may be beyond the overall limits through a transfer of density. However, over-

all project densities shall not be exceeded in accordance with the following schedule:

- a. Eight dwelling units per net residential acre for single-family attached and detached houses and duplexes.
  - b. Fifteen dwelling units per net residential acre for triplexes, fourplexes, and row or terrace housing.
  - c. Eighteen dwelling units per net residential acre for two story, and 27 units per net residential acre for three-story apartments.
  - d. Forty dwelling units per net residential acre for high-rise, four stories or more, apartments.
- (7) *Common open space.* For purposes of calculating densities, net residential acres are defined as gross acres of the PD site minus all public rights-of-way, and less the area of all parcels or lots devoted to commercial, industrial, or institutional uses not of a residential nature. Common open space that is owned and maintained by a property owners' association shall be included in calculating the net residential acres available for all dwelling units that automatically belong to such an association. Where more than one property owners' association is to be created, then each common open space can only be attributed to the lot or dwell-

ings which have automatic membership for that specific common open area.

(Zoning Ord., § 14.20.04; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-165. Purpose.**

The purpose of the PD planned development district is to:

- (1) Allow for flexibility in the zoning requirements where the result will be a higher quality development;
- (2) Provide for and locate suitable recreational facilities, open space, and other common facilities, while preserving the existing landscape to the greatest extent possible;
- (3) Encourage sound planning principles in the arrangement of buildings, the preservation of open space, the utilization of topography and other site features;
- (4) Obtain creative and coordinated designs and allow procedures supplemental to those applicable in other use districts to establish under which development plans particularly designed to meet the objectives of this section; and
- (5) Allow for creative development that conforms to the goals and objectives set for in the city comprehensive plan.

(Zoning Ord., § 14.20.04.1; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-166. PDs and planned districts approved.**

Any plan unit developments (PUDs) or limited use overlay districts (LUP) ap-

proved prior to the effective date of the resolution from which this section is derived shall continue in accordance with the approved preliminary development plan and final development plans. Modifications, amendments, and expansion of existing planned developments shall be in accordance with section 117-174 planned development district review.

(Zoning Ord., § 14.20.04.2; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-167. Types of planned developments.**

The following are the five types of planned developments permitted within city, pending approval by the Metropolitan Area Planning Commission and the city council:

- (1) PD-RS—Residential planned development.
- (2) PD-RM—Multifamily residential planned development.
- (3) PD-C—Commercial business planned development.

(4) PD-I—Industrial planned development.

(5) PD-M—Mixed use planned development.

(Zoning Ord., § 14.20.04.3; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-168. Compliance with plans.**

All planned developments approved after the effective date of the resolution from which this section is derived shall comply with the city comprehensive plan and city land use plan including compliance with the permitted uses, densities, intensities and other recommendations of the plans.

(Zoning Ord., § 14.20.04.4)

**Sec. 117-169. Permitted uses.**

(a) All uses in a PD district are subject to approval during the review of the preliminary development plan by the Metropolitan Area Planning Commission and the city council pursuant to section 117-174.

(b) The following table illustrates the permitted uses within each PD district:

Planned Development Use Table

Use	Planned Development Districts				
	PD-R	PD-RM	PD-C	PD-I	PD-M
Uses permitted in the RS-1, RS-2, RS-3, RS-4, RS-5, RS-6, RS-7, RS-8,	P				P
RM-4, RM-6, RM-12, RM-16 districts	P	P			P
Uses permitted in the C-1, C-2, C-3 or C-4 districts			P		P

Uses permitted in the I-1 or I-2 district				P	P
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(c) Uses not specifically listed as permitted by these districts may be permitted if the Metropolitan Area Planning Commission and/or city council determine the uses to be of the same general character as the permitted uses set forth in subsection (b) of this section.

(Zoning Ord., § 14.20.04.5; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-170. Design standards.**

(a) Design standards for area, lot coverage, density, yard requirements, parking, landscaping and screening for a proposed PD district shall be established in the PD preliminary development plan by the Metropolitan Area Planning Commission and city council.

(b) Exceptions and variations from the standards provided by the base zoning districts of this section (e.g., RS-1, RS-2, C-1, etc.) may, and should be granted by the Metropolitan Area Planning Commission and the city council when it is determined that due to certain design elements, natural features and public amenities, the exceptions are warranted.

(c) Standards for public infrastructure improvements shall be governed by the applicable regulations of the agency with jurisdiction that is charged with the responsibility for review and approval.

(Zoning Ord., § 14.20.04.6; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-171. Common open space.**

There shall be reserved, within the tract to be developed, a minimum percent-

age of land area of the entire tract for use as common open space. The Metropolitan Area Planning Commission and city council may require additional common open space as warranted by the individual development plan. This minimum percentage of land shall be as follows:

**Planned Development Common Open Space Requirements**

<i>PD district</i>	<i>Common open space requirement</i>
PD-R/RM	20% common open space for planned developments with all residential dwelling units.
PD-C	15% common open space for all planned developments
PD-I	15% common open space for all planned developments
PD-M	20% common open space for all planned developments

(1) Required common open space shall not consist of isolated or fragmented pieces of land that will serve no useful purpose or which will present maintenance difficulties if maintenance is required.

(2) Required common open space may include pedestrian walkways, parkland, open areas, bridle paths, drainageways and detention basins, swimming pools, clubhouses, tennis courts, golf courses, parking areas for any of these, and other lands of essentially open or undisturbed or improved character, exclusive of off-street parking areas and street rights-of-way.

(3) Ownership of common open space.

- a. Ownership of common open space in a PD-R and PD-RM shall be transferred by the developer to a legally established homeowner's association, or if accepted, to the city council, or other public or quasi-public agency.
- b. Common open space that includes a clubhouse, golf course or other recreational facilities may remain in private ownership, subject to size and special conditions applied by the Metropolitan Area Planning Commission and city council.
- c. Common open space in a PD-C, PD-I, or PD-M may also be dedicated to the city or other public or quasi-public agency pursuant to the requirements of this section or remain in private ownership, provided that a public easement, as determined necessary by the Metropolitan Area Planning Commission and city council, is granted and officially recorded on the plat.

(Zoning Ord., § 14.20.04.7; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-172. Planned developments require a district change.**

(a) Planned development district review establishes the development review procedure for a planned development district which will result in a zoning map amendment. Therefore, in addition to all of the specific review procedures and pro-

visions of section 117-34, all proposed PD districts are also subject to the approval criteria set forth in section 117-34(2)e.

(b) The preliminary development plan shall be submitted at the time a zoning map amendment is requested from the original zoning district to the new planned development district.

(Zoning Ord., § 14.20.04.8; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-173. Planned development (PD) initiation.**

(a) Planned developments may be initiated by the property owner or an agent of the property owner.

(b) In cases where there are multiple property owners involved in the planned development, the application shall include a consent to rezone letter from all property owners. Additionally, there shall be a single contact or agent for the property owners who will be responsible for contact with the city.

(Zoning Ord., § 14.20.04.9; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-174. Review procedure.**

(a) *Preapplication conference.*

(1) The applicant shall meet with the city planning department to discuss the initial concepts of the planned development and general compliance with applicable provisions of this division prior to the submission of the application.

(2) During this time, an applicant may also request a preliminary, informal meeting with the Metropolitan Area Planning Commission to discuss the initial concepts.

- (3) Discussions that occur during a preapplication conference or a preliminary meeting with staff or the Metropolitan Area Planning Commission are not binding on the city and do not constitute official assurances or representations by the city its officials regarding any aspects of the plan or application discussed.
- (b) *Application.*
- (1) After the preapplication conference with the city planning department, the applicant may submit an application for a zoning map amendment to the city zoning office.
- (2) The application shall include all such forms, maps, and information, as may be prescribed for that purpose by the Metropolitan Area Planning Commission to assure the fullest practicable presentation of the facts for the permanent record. A list of minimum requirements may be adopted by the city council.
- (3) Each such application shall be signed by at least one of the owners or the owner's authorized agent, of the property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications.
- (4) Any person desiring a change in the zoning classification of property shall file with the application for such change a statement giving the names and addresses of the owners of all properties lying within 200 feet of any part of the property the zoning classification of which is proposed to be changed.
- (5) All applications shall be submitted with the required fees as established in the city fee schedule.
- (6) The applicant shall submit the preliminary development plan simultaneously with the application for a zoning map amendment.
- (c) *Submission of the preliminary development plan.*
- (1) The preliminary development plan submission shall be in a form and in quantities as prescribed by the Metropolitan Area Planning Commission. A list of minimum submittal requirements may be adopted by the city council.
- (2) Preliminary development plans should generally include the following:
- a. Approximate areas and arrangement of the proposed uses and the relationship of abutting land uses and zone districts;
  - b. The proposed general location of vehicular circulation;
  - c. The proposed treatment of existing topography, drainageways and tree cover;
  - d. The location of schools, parks, community amenities or facilities, if any;
  - e. Anticipated time schedule of projected development, if the total landholding is to be de-

veloped in stages, or if construction is to extend beyond a two-year timeperiod;

- f. In the case of a PD-R, PD-RM district, the preliminary development plan shall also include the proposed type of unit, density level, and proposed area setbacks of each residential area, and the type, general location and approximate acreage of the common open space. All other miscellaneous and accessory uses shall also be included;
  - g. In the case of a PD-C, PD-I, or PD-M, the preliminary development plan shall identify the principal and accessory types of uses that are to be included in the proposed development, including their approximate location, size, and intensity. The proposed type, general location and approximate acreage of common open space shall also be included; and
  - h. Any other information required by the Metropolitan Area Planning Commission.
- (3) Within 25 days after the application and submission of the preliminary development plan, the planning administrator shall transmit a copy thereto to the Metropolitan Area Planning Commission.
  - (4) The Metropolitan Area Planning Commission shall recommend the approval, approval with modifications, or denial of the proposed map amendment and preliminary

development plan, and shall submit such recommendation to the city council.

- (5) Such recommendation shall be considered at the public hearing held by the city council on such proposed amendment and preliminary development plan.
  - (d) *Public hearing with the Metropolitan Area Planning Commission.*
    - (1) Upon the filing of an application and preliminary development plan for an PD district amendment, the Metropolitan Area Planning Commission shall set a date for a public hearing regarding the proposed amendment and preliminary development plan.
    - (2) The public hearing shall not be less than 20 or more than 40 days after the date the application was submitted.
    - (3) Notification shall be given in accordance with Arkansas State Code requirements for advertisement.
  - (e) *Recommendation by the Metropolitan Area Planning Commission.* Within 30 days after the Metropolitan Area Planning Commission's public hearing, the Metropolitan Area Planning Commission shall recommend the approval, approval with modifications, or denial of the proposed amendment and preliminary development plan, and submit such recommendation together with such application, preliminary development plan, to the city council.
  - (f) *Public hearing with the city council.*
    - (1) Upon receipt of the recommendation from the Metropolitan Area

Planning Commission, the city council shall set a time for a public hearing on such proposed amendment and preliminary development plan.

- (2) The date of the public hearing shall not be more than 30 days after the date of the receipt of such recommendation from the Metropolitan Area Planning Commission.
- (3) Notification shall be given in accordance with Arkansas State Code.

(g) *Decision on map amendment and preliminary development plan.*

- (1) Within 20 days after its public hearing, the city council shall either adopt or deny the recommendations of the Metropolitan Area Planning Commission, or adopt some modification thereof. In the event the city council denies or modifies the recommendation of the Metropolitan Area Planning Commission, the simple majority of the members present vote of the city council shall be required.
- (2) If the amendment is denied, the applicant may appeal the decision to the circuit court system.
- (3) Approval of the preliminary development plan shall include density, intensities, land uses and their interrelationship, design standards, and building location. Location of buildings, if applicable, and uses may be altered slightly due to engineering feasibility which is to be determined in the subsequent preparation of the detailed final development plans.

- (4) The decision by the city council is subject to appeal by means of the court system. After approval of the PD district map amendment and preliminary development plan, the official zoning map shall be changed to reflect this amendment.

(h) *Submission of a final development plan.*

- (1) Once the PD district and preliminary development plan has been approved by the city council, the applicant shall proceed with the preparation of the detailed final development plan in whole or in phases.
- (2) The final development plan submission shall be in a form and in quantities as prescribed by the Metropolitan Area Planning Commission. A list of minimum submittal requirements may be adopted by the city council.
- (3) The detailed final development plan shall be consistent with the contents of the approved preliminary development plan, and be prepared by a professional urban planner, engineer, architect or landscape architect.
- (4) A final development plan shall include all necessary legal documentation relating to the incorporation of a homeowner's association for the purpose of maintaining the specified common open space within all residential planned developments.

(i) *Public meeting with the Metropolitan Area Planning Commission.*

- (1) The city planning department shall study the final development plan

and confer with other agencies having jurisdiction as appropriate in the case, to determine general acceptability of the proposal submitted. Staff shall submit written recommendations to the Metropolitan Area Planning Commission and the applicant prior to the public meeting held by the Metropolitan Area Planning Commission.

- (2) Upon receipt of the detailed final development plan and recommendations of staff, the Metropolitan Area Planning Commission shall, at a public meeting of the Metropolitan Area Planning Commission, study and review the detailed final development plan on the basis that all requirements have been satisfied, and the conditions specified in section 117-34 have been met.

(j) *Decision by the Metropolitan Area Planning Commission.*

- (1) Within 30 days of the Metropolitan Area Planning Commission's public meeting, the Metropolitan Area Planning Commission shall decide to approve, approve with modifications or deny the final development plan.
- (2) If the final development plan is denied, the applicant may appeal the decision to the city council.  
(Zoning Ord., § 14.20.04.10; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-175. Approval criteria.**

(a) *Preliminary development plan.* The following criteria shall serve as conditions that should generally be satisfied before the approval of the preliminary development plan:

- (1) The PD district and preliminary development plan is consistent with the adopted city land use plan and comprehensive plan;
- (2) The proposed uses will have a beneficial effect on the community;
- (3) The internal streets and primary and secondary roads that are proposed properly interconnect with the surrounding existing road network;
- (4) The site will be accessible from public roads that are generally adequate to carry the traffic that will be imposed upon them by the proposed development and the streets and driveways on the site will be adequate to serve the residents or occupants of the proposed development;
- (5) The minimum common open space areas have been designated and shall be duly transferred to a legally established homeowners association, where applicable, or have been dedicated to city or another public or quasi-public agency as provided in section 117-171.
- (6) The preliminary development plan is consistent with the intent and purpose of this division.
- (7) The preliminary development plan has been transmitted to all other agencies and departments charged with responsibility of review.

(b) *Final development plan.* The following criteria shall serve as conditions that should generally be satisfied before the approval of the final development plan:

- (1) Appropriate arrangements with the applicant have been made to ensure the accomplishment of the public improvements and reservation of common open space as indicated on the preliminary development plan and final development plan. If deemed necessary by the MAPC or city council during the preliminary development plan process, this assurance may require that the MAPC or city council hold a performance bond to ensure the successful and proper completion of all public improvements.
- (2) The proposed detailed final development plan for the individual sections of the overall PD district is consistent in contents, building location, as applicable, land uses, densities and intensities, yard requirements, and area and frontage requirements, with the approved preliminary development plan, the city land use plan, and the comprehensive plan.
- (3) Each individual phase of the development can exist as an independent unit that is capable of creating an environment of sustained desirability and stability, or that adequate assurance will be provided that such objective can be obtained.
- (4) That any part of the planned development not used for structures, parking and loading areas, or

streets, shall be landscaped or otherwise improved; or if approved by the planning commission, left in its natural state.

- (5) That any exception from the design standards provided in the PD district is warranted by the design and amenities incorporated in the detailed final development plan.
- (6) That the internal streets and thoroughfares proposed are suitable and adequate to accommodate the anticipated traffic within and through the development.
- (7) That the detailed final development plan is consistent with the intent and purpose of this chapter.
- (8) The final development plan has been transmitted to all other agencies and departments charged with responsibility of review.

(Zoning Ord., § 14.20.04.11; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-176. Time limits.**

(a) The final development plan shall be submitted within two years after approval of the preliminary development plan, or the approval of the preliminary development plan will expire and the plan will be deemed null and void.

(b) Upon expiration of the preliminary development plan, the property shall still be zoned as a planned development with a voided preliminary development plan. The property owner or authorized agent may submit an application and new preliminary development plan for consideration pursuant to section 117-174 or an application for a zoning map amendment.

(c) Upon the expiration of the preliminary development plan, the city council or the Metropolitan Area Planning Commission may initiate a zoning map amendment.

(d) If the applicant has not received building permits within two-year of the approval of the final development plan, the final development plan shall be deemed null and void. Upon expiration of the final development plan, the applicant shall have one-year to reapply for a final development plan in accordance with the section or the preliminary development plan will be deemed null and void in accordance with subsection (a) of this section.

(e) The Metropolitan Area Planning Commission may authorize an extension of these time limits if good cause is shown for the delay of the final development plan submission.

(f) For phased developments, the Metropolitan Area Planning Commission and city council may approve a phased final development plan schedule as part of the preliminary development plan approval. In such case, the approved time frames shall establish when the approved preliminary plan shall expire.  
(Zoning Ord., § 14.20.04.12; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-177. Effect of a final development plan.**

(a) The approved final development plan shall be kept on record in the city planning department together with all resolutions, applications, plats, plans, and other information regarding the development.

(b) The resolutions prepared by the Metropolitan Area Planning Commission and city council serve as the official record for the permitted uses and activities which are approved for the planned development landholding.

(c) The use of the planned development landholding or the location, erection, construction, reconstruction, enlargement, or change of any building or structure in a manner which is not consistent with the final development plan shall be considered a violation of this division and subject to the procedures and penalties specified in section 117-3.  
(Zoning Ord., § 14.20.04.1; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-178. Required conditions for the issuance of a zoning certificate.**

No zoning certificate shall be issued for any property in a PD district and no construction, except preliminary excavation, shall begin until a valid final development plan is in effect for that phase or property. The final development plan becomes valid upon approval by the Metropolitan Area Planning Commission.  
(Zoning Ord., § 14.20.04.14; Ord. No. 07-13, § 1, 5-1-2007)

**Sec. 117-179. Modifications to approved preliminary or final development plans.**

(a) If an applicant proposes to modify an approved preliminary development plan or final development plan, the applicant shall submit the proposed modifications

to the planning and zoning administrator for transmittal to the appropriate authority.

(b) The proposed modifications shall be classified as a minor or major modification based on the following:

- (1) *Minor modifications.* Minor modifications shall include changes that do not involve:
  - a. Major changes to the approved plan including, but not limited to, a change of use or density to a more intense use or density than permitted by the district or changes to the location or amount of land designated for a specific land use or open space;
  - b. A change of the permitted uses to a use not otherwise permitted in the proposed planned development district;
  - c. Any change that will impact on-site or off-site infrastructure; or
  - d. An expansion of a building footprint that affects the specified setbacks of the approved plan.
- (2) *Major modifications.* Major modifications shall include:
  - a. An increase in density or intensity;
  - b. Changes to the property or project boundaries of the entire PD district;
  - c. Modifications in the internal street and thoroughfare locations or alignments which sig-

nificantly impact traffic patterns or safety considerations; or

d. Anything not classified as a minor modification by subsection (b)(1) of this section.

(c) *Review of minor modifications.*

- (1) The Metropolitan Area Planning Commission shall be responsible for reviewing and making a decision on minor modifications to an approved preliminary development plan or final development plan.
- (2) Such review and decision shall take place at a public meeting of the Metropolitan Area Planning Commission and shall not require any additional notice beyond what is required by the Arkansas State Code for public meetings.
- (3) The decision of the Metropolitan Area Planning Commission on minor modifications shall be deemed administrative and may be appealed to the city council.

(d) *Review of major modifications.* Major modifications to an approved preliminary development plan or final development plans shall require a public hearing with the Metropolitan Area Planning Commission and city council pursuant to the review procedure of this section. (Zoning Ord., § 14.20.04.15; Ord. No. 07-13, § 1, 5-1-2007)

**Secs. 117-180—117-196. Reserved.**

## ARTICLE V. CONDITIONAL USES

### Sec. 117-197. Approval criteria.

Certain uses may or may not be appropriately located within various districts

due to their unusual or unique characteristics of operation and external effects. Given their unusual character, analysis and judgment of the consequences of each development and use must be given so as to provide for such reasonable conditions and protective restrictions as are deemed necessary to protect the character and integrity of the area in which uses are proposed to be located. Such uses are listed under the various districts herein as conditional uses, and may be located in the districts so designated only in accordance with the procedure described herein. (Zoning Ord., § 14.24.01)

**Sec. 117-198. Development standards and review guidelines.**

(a) All development shall be designed in such a way as to minimize any potential negative impact on the surrounding area. Special attention shall be given to buffering commercial developments from adjacent single-family areas. Design of the internal traffic circulation system, ingress and egress, off-street parking, loading and pedestrianways shall be sensitive to such conditions as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, and the proper relationship of different land uses. Landscaped areas shall be provided to protect water quality, and reduce erosion, heat and glare. Such areas shall be maintained in an attractive condition. Existing trees on a development site shall be retained where possible. Screening, open space, or other buffer may be required to give adequate separation between uses which are not compatible and shall also be provided for the beautification and enhancement of the property.

(b) In carrying out the purpose of this section, the following development standards and design specifics shall be subject to review and approval. The appropriateness of these standards shall be determined for each specific conditional use location.

- (1) The proposed use is within the provision of conditional uses as set out in this chapter.
- (2) The proposed use conforms to all applicable provisions herein set out for the district in which it is to be located.
- (3) The proposed use is so designated, located and proposed to be operated that the public health, safety and welfare will be protected.
- (4) The proposed land use is compatible with and will not adversely affect other property in the area where it is proposed to be located.
- (5) The size and shape of the site, including the size, shape and arrangement of proposed structures, as well as signage related thereto, is in keeping with the intent of this chapter.
- (6) The proposed ingress and egress, internal circulation system, location and amount of off-street parking, loading and pedestrianways are sufficiently adequate, and not inconsistent with requirements of this chapter.
- (7) The proposed landscaping and screening of the proposed use are in accordance with provisions of this chapter.

- (8) Safeguards proposed to limit noxious or offensive emissions, including lighting, noise, glare, dust and odor are addressed.

(Zoning Ord., § 14.24.02)

**Sec. 117-199. Procedure for authorizing.**

The following procedure is established to integrate properly the conditional use with other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedure:

- (1) *Application.* An application shall be made by the property owner and filed with the city planner, upon forms prescribed for that purpose, accompanied with the appropriate fee established by the city council to defray processing costs. The application shall be accompanied by graphic representation showing the location and proposed use of the site, along with such other descriptive material necessary for decision making. Such may include, but is not limited to, preliminary site plans showing proposed uses and structures, proposed ingress and egress to the site, including adjacent streets, proposed off-street parking and landscaping; lighting and signage, a preliminary plan for provision of sanitation and drainage facilities and proximity of adjacent uses and buildings.
- a. Each application shall be verified by at least one of the owners of the property proposed to be changed, attesting

to the truth and correctness of all facts and information presented with the application.

- b. The filing deadline for inclusion on the planning commission agenda shall be the 17th day of the month preceding the planning commission meeting. Should the 17th day fall on a weekend or holiday, the next following workday shall be the filing deadline.

- (2) *Notice.* Upon determining that an application is proper and complete, the city planner shall ensure that the matter is set for public hearing before the planning commission. The city planner shall be responsible for ensuring that, pursuant to law, at least 15 days' notice of the time, place, and subject of such hearing is published in a newspaper of general circulation in the city.

- a. The applicant shall present evidence to the city planner, at least ten days prior to the required public hearing, that all property owners within 200 feet of the boundaries of the subject property have been notified of the proposed use, and of the time, date, and place of the hearing.

- b. Such evidence shall consist of postmarked, certified receipts and/or return receipts and/or dated, signed acknowledgments of receipt of notification; and shall be accompanied by a plat map showing the location of

those properties, the owners of which the applicant certifies have been so notified.

- (3) *Planning commission review and action.* The planning commission shall review conditional use permit applications at its regularly scheduled monthly meeting, at which time interested persons may appear at the required public hearing and offer information in support of or against the proposed conditional use. Following the public hearing, the commission may approve the application as presented, approve it with conditions, table it with cause for not to exceed one month, deny the application, or refer it to the city council for final disposition. Approval shall require an affirmative vote of a majority of the authorized membership of the commission.
- a. In approving such conditional uses, the planning commission shall impose such conditions and restrictions upon the premises as it deems necessary to reduce or minimize the adverse effects of the use. Compatibility with surrounding property shall be ensured to the maximum extent practicable.
  - b. In no case shall the planning commission or city council authorize reduction from minimum requirements of this article relating to height, area, setbacks, parking, or landscaping. In addition, no conditional use authorized by the plan-

ning commission or city council shall be subsequently considered in connection with a variance request to the board of zoning adjustment.

- c. If the planning commission disapproves or denies a conditional use application, the reasons for such action shall be given to the applicant with 15 days from the date of the decision. The applicant may appeal such commission action, or any condition placed upon application approval, to the city council within 30 days of the commission's action. The appeal shall be in writing to the city clerk, and shall specifically state why the planning commission's findings and decision was arbitrary, capricious, and inappropriate. If denied, no application for such use or similar use shall be permitted involving any part of the same property for a period of six months.

(Zoning Ord., § 14.24.04)

**Sec. 117-200. Effect of approval.**

(a) No building permit shall be issued for any building or structure not in conformance with the site plan and all other conditions imposed in granting a conditional use permit. The construction, location, use or operation of all land and structures with the site shall be in accordance with all conditions and limitations set forth in the approval. No structure, use or other element of any approved site plan shall be eliminated, significantly

altered, or provided in another manner unless an amendment to the conditional use is approved. The procedure for amending a conditional use permit shall be the same as required for the original approval.

(b) Substantial work or construction under a conditional use permit must be commenced within one year, or the permit shall terminate. Conditional use permits shall be valid for an unlimited period unless a lesser period shall be provided in a particular permit. Upon the expiration of the time limit specified in the particular permit, the property owner may request that the permit be reviewed by the planning commission, which may extend it for an unlimited period or for an additional period of years.

(c) Once any portion of the conditional use permit authorization is utilized, all such conditions pertaining to such authorization shall become immediately operative. All conditions relating to or limiting the use, status, or operation of the development, after issuance of an occupancy permit, shall be complied with by the applicant or his successors or assigns. Failure to do so shall constitute a violation of this article, and cause for revocation of the conditional use authorization.

(d) Provided sufficient site information is submitted with the approved development plan, the planning commission may waive otherwise mandated site plan review requirements.  
(Zoning Ord., § 14.24.04)

**Secs. 117-201—117-223. Reserved.**

## **ARTICLE VI. ACCESSORY USES**

### **Sec. 117-224. General description.**

An accessory building is a subordinate building or a portion of the principal building, the use of which is customarily incidental to that of the dominant use of the principal building or land. An accessory use is one which is customarily incidental, appropriate and subordinate to the principal use of land and buildings, and located upon the same lot therewith. Subject to limitations herein, accessory buildings and uses are permitted in all zones.

(Zoning Ord., § 14.28.01)

### **Sec. 117-225. Location requirements and standards.**

(a) *Accessory building.* An accessory building shall:

- (1) Not be located within a required street, front or street side setback;
- (2) Be subject to the side setback standards of the underlying zoning district; shall be set back at least seven and one-half feet from a rear lot line;
- (3) Not be located within any public easement or over any known utilities or septic system lines;
- (4) Not occupy more than ten percent of the lot area or more of the lot than is covered by the principal use, whichever results in less lot coverage; and
- (5) Not exceed the floor area of the principal use.

Unless otherwise provided herein, and provided site visibility is not obstructed, signs, fences and walls shall be allowed within setbacks.

(b) *Attached accessory buildings.* An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building, and shall comply in all respects with the requirements applicable to the principal building. Provided detached, opensided carports may be located in the side yard, no closer to the front lot line than the front building line of the principal building, and provided required side setbacks are met. Unless attached to the principal structure, accessory buildings shall be located at least ten feet from any other structure.

(c) *Height limitations.* With regard to height limitations, accessory structures in residential districts shall not exceed 12 feet in height, measured from the eave; and in commercial and industrial districts, such structures shall not exceed 25 feet in height or the height of the principal structure on the lot.

(d) *Accessory uses.* Accessory uses permitted subject to the provisions of this chapter and as follows:

(1) *RS-1 through RS-2 single-family dwellings only.* Accessory dwelling structures are permitted, but may not exceed 25 percent of the heated square footage of the primary residence, maximum 1500 square feet. Accessory buildings, storage, and miscellaneous buildings, are permitted, but shall not exceed 50 percent of the total area of the principle structure. Any accessory

buildings shall be similar in architectural style and appearance to the primary dwelling and must be placed in the rear yard only. Any structure exceeding 1,500 square feet must be reviewed by MAPC as a conditional use application.

(2) *RS-3 through RS-5 single-family dwellings only.* Accessory dwelling structures are permitted only as a conditional use. Accessory buildings are permitted in the rear yard only, storage and miscellaneous buildings, but shall not exceed 600 square feet. Any accessory buildings shall be similar in architectural style and appearance to the primary dwelling and must be placed in the rear yard only.

(3) *RS-6 through RS-8 single-family dwellings only.* Accessory dwelling structures are permitted only by conditional application to the MAPC. Accessory buildings, storage and miscellaneous buildings, are permitted, but shall not exceed 50 percent of the total area of the principal structure. Any accessory building shall be similar in architectural style and appearance to the primary dwelling and must be placed in the rear yard only.

(4) *RS-1 through RS-8 occupants.* In-home occupations are permitted in compliance with section 117-226(2). The approval shall only be granted to the occupant at the permission of the owner of the property. Applications shall include a description of the proposed in-home occupation including considerations of noise, traffic, odor, drainage, vi-

sual appearance, light, vibration, and the proposed hours of use or operation. A site development plan shall only be required if there is not ample space in the existing driveway and/or parking area to provide a minimum of four off-street parking spaces.

(Zoning Ord., § 14.28.02; Ord. No. 07:45, 2-6-2007)

**Sec. 117-226. Residential uses.**

Residential accessory uses shall include, the following accessory uses, activities, facilities and structures: accessory dwelling units subject to limitations outlined in subsection (1) of this section; fences and walls, garages, carports and off-street parking and loading areas, gardens, gates and guard houses, home occupations subject to limitations and requirements of subsection (2) of this section, playhouses, patios, cabanas, porches, gazebos and household storage buildings; radio and television receiving antennas, recreational and play facilities for residents, storm and fallout shelters and other necessary and customary uses determined to be appropriate, incidental and subordinate to the principal use on the lot.

(1) *Accessory dwelling unit.* Accessory dwelling units shall be allowed by right in AG, RR, and R-O districts provided that the dwelling unit is used to house immediate family members or employees who work onsite. Such units may also be allowed, subject to conditional use approval, in other residential districts. Accessory dwelling units shall not be used for general rental purposes.

(2) *Home occupation—Permitted.* A home occupation shall be allowed as an accessory use in residential districts subject to compliance with the following requirements, which are intended to balance protection of residential character with enabling residents to work from home:

- a. The home office or business is clearly secondary to the use of the dwelling as a residence and does not change the residential character or appearance of the dwelling or lot in any visible manner; provided, a nameplate sign, as described above shall be permitted.
- b. The work done in the home office or business creates no objectionable odor, noticeable vibration, or offensive noise that increases a level of ambient sound at the property lines.
- c. The home office or business does not involve the external display of goods or services, and does not cause unsightly conditions or waste visible from off the property.
- d. The home office or business does not cause interference with radio or television reception in the vicinity.
- e. Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation.
- f. The home office or business sells no articles on the premises which are not produced on the premises.

- g. A home occupation shall be carried on wholly within the principal residential structure. No home occupations shall be allowed in accessory buildings or garages.
  - h. The home office or business occupies no more than 25 percent of the total floor area of the residence.
  - i. There shall be no external alteration of the dwelling, nor storage of supplies or equipment outside.
  - j. Not more than one truck of not more three-fourths-ton capacity, and no semi-trailers, incidental to the home occupation, shall be kept on the premises.
  - k. Customers may visit the site only during the hours of 8:00 a.m. to 8:00 p.m., and no more than six customers or clients may visit the site in any single day.
  - l. Parking to serve a home occupation shall be provided off-street, and no such parking shall be permitted in a required setback, other than in a driveway. In no event shall yard areas be converted to off-street parking to serve a home occupation.
- (3) *Same—Prohibited.* Prohibited home occupations include, but as not limited to the following:
- a. Barbershops and beauty shops.
  - b. Dispatch centers, where employees come to the site to be dispatched to other locations.
  - c. Commercial stables, kennels and animal boarding and care facilities.
  - d. Assembly or repair of large appliances.
  - e. Repair or assembly of vehicles or equipment with internal combustion engines, or any other work related to motor vehicles and their parts.
- (4) *Garage sales.* Garage sales, also commonly called rummage or yard sales, are permitted as accessory uses provided they meet the following requirements:
- a. Each such sale shall be registered in writing or by telephone with the planning and inspection department.
  - b. Each property address and/or person shall be limited to no more than four such sales per year.
  - c. Sales shall not last longer than two consecutive days.
  - d. Sales are conducted on the owner's property. Multiple-family sales are permitted if they are held on the property of one of the participants.
  - e. No goods purchased for resale may be offered for sale.
  - f. No consignment goods may be offered for sale.
  - g. Directional and advertising signs, not larger than four square feet, shall be freestanding; that is, they shall not be placed on traffic or official signs,

utility poles or trees and shall be removed promptly after completion of the sale.

(Zoning Ord., § 14.28.03)

**Sec. 117-227. Nonresidential uses.**

Nonresidential accessory uses are allowed only in association with allowed, nonresidential principal uses and shall include, but not be limited to the accessory uses, activities, facilities and structures enumerated in this section. Such uses shall not be permitted if such would cause or increase parking nonconformity for the principal use. Such use may also necessitate additional required parking because of its own nature or character. Accessory uses shall not occupy required parking areas, or off-street parking areas, spaces or isles, approved as part of a site plan.

- (1) Cafeterias, dining halls and similar food services when operated primarily for the convenience of employees, residents, clients or visitors to the principal use;
- (2) Dwelling units, other than mobile homes, when used or intended to be used for security or maintenance personnel;
- (3) Guard houses, gates, fences and walls;
- (4) Offices for allowed business and industrial uses when the office is located on the same site as the principal use;
- (5) Parking garages, and off-street parking and loading facilities;
- (6) Radio and television receiving antennas;

- (7) Restaurants, newsstands, gift shops, swimming pools, tennis courts, club and lounges when in a permitted hotel, motel or office building;
- (8) Sale of goods produced as a part of allowed industrial activities when on the same site as the principal industrial use;
- (9) The storage of merchandise when located within the same building as the principal business;
- (10) On-premises commercial, bulletin, nameplate, and real estate signs, provided such are nonflashing;
- (11) Other necessary and customary uses determined to be appropriate, incidental and subordinate to the principal use on the lot.

(Zoning Ord., § 14.28.04)

**Secs. 117-228—117-247. Reserved.**

**ARTICLE VII. REQUIREMENTS FOR SPECIFIC USES**

**DIVISION 1. GENERALLY**

**Sec. 117-248. General.**

Uses permitted, or those permitted subject to conditional use approval, shall be subject to the requirements of the district provisions as supplemented or modified by this article.

(Zoning Ord., § 14.32.01)

**Sec. 117-249. Adult entertainment.**

All adult entertainment uses shall be subject to the following standards:

- (1) *Separation from other adult entertainment uses.* The building hous-

ing an adult entertainment use shall not be located within 3,000 feet of any other adult entertainment use. This 3,000 foot area shall be defined by a radius of 3,000 feet measured from the exterior wall of the subject building.

(2) *Separation from other uses.* The building housing an adult entertainment use shall be located at least 2,000 feet from the following uses:

- a. Church;
- b. Library;
- c. Day care center;
- d. Elementary,
- e. Middle or high school; and
- f. Single-family, duplex or multi-family residential uses.

This distance shall be defined by a radius of 2,000 feet measured from the exterior wall of the subject building.

(3) *Prohibited activities.* An adult entertainment use shall not be conducted in any manner that provides the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas, from any public right-of-way. This provision shall apply to any and all displays, decorations or show windows.

(Zoning Ord., § 14.32.02)

**Sec. 117-250. Auto wrecker service.**

A wrecker service is a business enterprise from which wrecker vehicles are dispatched to tow or haul inoperable or

wrecked motor vehicles, and may or may not include the temporary storage, for a period not to exceed 30 days, of such vehicles. All temporary storage of said wrecked or inoperable motor vehicles shall be screened entirely within an enclosed opaque fence or wall, except driveway areas, from six to eight feet in height, and containing no advertising thereon. Any temporary storage between the street and such fence, or on street right-of-way, is expressly prohibited.

(Zoning Ord., § 14.32.03)

**Sec. 117-251. Auto wrecking yards, salvage yards, and junkyards.**

Because of the nature and character of their operations, motor vehicle wrecking and salvage yards, junkyards, and similar uses of land can have a serious detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic, and health hazards, and may adversely affect property values by their general appearance. For the purpose of evaluating whether the proposed utilization of land for a vehicular wrecking yard or junkyard properly minimizes its objectionable characteristics, the standards established below shall be used.

- (1) *Location.* Because of the tendency of salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than 300 feet to any residential district.
- (2) *Screening.* The interior area of any existing salvage or wrecking operation shall be screened from view by fencing. New salvage and wrecking yards shall be so screened as a

condition of approval. Such screening shall be uniform, consistent, and neat in appearance, and shall be properly maintained during the life of the use. Storage between the street and such screening is expressly prohibited, as is the stacking of such vehicles above or beyond such screening.

(Zoning Ord., § 14.32.04)

**Sec. 117-252. Carwashes.**

Carwashes and similar such establishments shall provide paved parking for at least five vehicles, plus stacking space for a like number of vehicles. Where any such use is located on a lot abutting a residential district, and where any part shall be built along such line, any entrance or exit therefrom shall be by way of a major street. Wastewater from such establishments shall not be allowed to run into the street or storm sewer; rather, such discharge of wastewater shall be into a sanitary sewer.

(Zoning Ord., § 14.32.05)

**Sec. 117-253. Emergency housing units.**

Emergency housing units may be approved as conditional uses in R-2, and less intensive districts for the purpose of providing temporary accommodations for persons in need of daily assistance due to health reasons. The following regulations shall apply to emergency housing units:

- (1) *Hardship*. Before approving a conditional use for an emergency housing unit, the planning commission shall determine that the applicant has a special need to provide temporary, nearby living quarters for a

relative who needs daily assistance due to health reasons. The applicant shall provide proof of such hardship, evidenced by a letter from a physician or other appropriate professional. The commission shall also determine that allowing an emergency housing unit would alleviate a social, economic or physical hardship for the resident of the principal dwelling or the resident of the emergency unit. Consideration of the effect on adjoining property shall also be factored into the commission's decision. A permit granted for such purposes shall expire no later than one year from the date of approval. The commission may approve a one time extension of up to one year of this period if the applicant applies for such extension within the original one year time period.

- (2) *Unit type*. Only manufactured housing units or residential-design manufactured housing units may be approved for emergency placement.
- (3) *Removal*. Upon expiration of a conditional use permit for an emergency housing unit, the unit shall be promptly vacated, and within 90 days of permit expiration, be removed from the premises.

(Zoning Ord., § 14.32.06)

**Sec. 117-254. Floodplain development.**

- (a) The designated floodplain area is inclusive of all land within the city subject to inundation by floodwater. The source

of this delineation shall be the flood insurance study, including the flood insurance rate maps, for the city.

(b) The uses of and/or development of land within the designated floodplain area shall be only those uses and structures permitted in the specific district regulations for the zone in which the proposed use and/or development is to be located. For the purposes of administration and review of applications for the use and/or development of land within designated floodplain areas, and article II of chapter 109, flood damage prevention are deemed the governing regulations. (Zoning Ord., § 14.32.07)

**Sec. 117-255. Manufactured housing parks.**

Manufactured housing parks are permitted uses in AG and RR districts, and may be allowed in R-3 zones subject to approval of a conditional use permit. The following minimum standards apply to new parks, and expansions of existing parks:

- (1) *Setbacks.* Each manufactured housing unit space shall be set back at least 30 feet from all street rights-of-way, and at least 20 feet from all other lot lines.
- (2) *Minimum lot size and space size.* Manufactured housing parks shall contain at least 4,350 square feet of gross site area for each manufactured housing unit space within the park. Each individual manufactured housing unit space shall be at least 3,000 square feet in area, but shall not occupy more than 50 percent of the lot area.

- (3) *Separation of units.* Each manufactured housing unit and accessory structure shall be separated by at least 20 feet of horizontal distance from all other manufactured housing units and accessory structures.
- (4) *Parking.* At least two paved parking spaces, 180 square feet in area in each space shall be provided as a part of each manufactured housing unit space. To provide for guests, one additional paved parking space, at least 180 square feet in area, shall be provided for each ten manufactured housing unit spaces. These guest parking spaces shall be centrally located within the park.
- (5) *Driveways.*
  - a. *Length and design.* Internal driveways or courts designed to have one end permanently closed, shall be no more than 400 feet long unless approved by the planning commission. A turnaround having an outside roadway diameter of at least 80 feet shall be provided at the closed end of any driveway.
  - b. *Paving.* All internal driveways shall be paved with asphalt. The minimum requirements are six inches of compacted SB2 gravel with three inches of asphalt surface on firm subgrade. Property owners shall be responsible for maintaining paving on all internal driveways.
  - c. *Width.* Drive shall have a minimum paved width of 26 feet. One-way drives are specifically prohibited.

- (6) *Signs.* One detached, indirectly illuminated sign, not exceeding 20 square feet in area, may be erected at the main entrance to the manufactured housing park.
- (7) *Refuse collection facilities.* Refuse collection facilities and/or provisions shall be indicated on the site plan, and shall be provided in accordance with city sanitation department standards. There shall be opaque screening on three sides of dumpsters.
- (8) *Fire protection.* Fire lines and fire hydrants shall be shown on the site plan, and shall be in accordance with recommendations of the director of public safety. No mobile home or manufactured housing unit space shall be more than 250 feet from a fire hydrant.
- (9) *Water and wastewater service.* Each mobile home/manufactured housing unit shall be connected to the public sanitary sewer and a public water supply system.
- (10) *Underground utilities.* All light, gas, water, telephone and cable television distribution and service lines to each individual mobile home/manufactured housing unit shall be placed underground and conform to all state and local codes, ordinances and laws.
- (11) *Inspections.* It shall be the duty of the building inspector to make an annual inspection of each approved manufactured housing park and present to the park owner and unit owner a written list of existing violations, should there be any.

- (12) *Resident managers.* In manufactured housing parks containing 30 or more units, a manager must reside with the park area.  
(Zoning Ord., § 14.32.08)

**Sec. 117-256. Manufactured housing units.**

Manufactured housing units, those that do not meet the definition of residential design, manufactured housing units, shall be located only in approved locations. No permit or other approval shall be granted for the placement of a manufactured housing unit that is more than eight years old, as measured from the date that the permit or approval is sought, or be reconditioned to meet code requirements.  
(Zoning Ord., § 14.32.09)

**Sec. 117-257. Manufactured housing units, residential design.**

Compliance with all of the standards of this section is required in order for a manufactured housing unit to be classified as a residential design, manufactured housing unit.

- (1) *Size.*
  - a. The minimum width of a residential design, manufactured housing unit shall be 22 feet, with width measured perpendicular to the longest axis at the narrowest part.
  - b. The length of a residential design, manufactured housing unit shall not exceed four times its width, with length measured along the longest axis.

- c. A residential design, manufactured housing unit shall have a minimum area of 1,150 square feet enclosed and heated living area.

(2) *Roof.*

- a. *Pitch.* The roof must be predominantly double-pitched and have a minimum vertical rise of two inches for every 12 inches of horizontal run.
- b. *Materials.* The roof must be covered with material that is customarily used on site-built housing units. Customary materials include wood, asphalt composition shingles, or fiberglass shingles, but not aluminum, corrugated fiberglass, or metal.
- c. *Eaves.* The roof shall have a minimum eave projection and roof overhang of ten inches, which may include a gutter.

(3) *Siding.*

- a. *Materials.* Exterior siding must be of a material customarily used on site-built housing units. Customary materials include wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials. Customary materials do not include smooth, ribbed or corrugated metal or plastic panels or material that has a high gloss finish.
- b. *Design and placement.* Siding material shall extend below the top of the foundation or cur-

tain wall, or the joint between the siding and enclosure wall shall be flashed in accordance with the city's adopted building code.

(4) *Installation of unit.*

- a. *Guidelines.* The unit shall be installed in accordance with the recommended installation procedures of the manufacturer, and the standards established by the International Conference of Building Officials and published in the most recent edition of Guidelines for Manufactured Housing Installations.
- b. *Foundation.* A continuous, permanent concrete or masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, shall be installed under the perimeter of the unit, also in accordance with International Conference of Building Officials guidelines.

(5) *Entrance landing area.* At the main entrance door to the unit there shall be a landing that is a minimum of five feet which is constructed in accordance with building code requirements.

(6) *Transport equipment.* All running gear, tongues, axles, and wheels must be removed at the time of installation of the unit on the lot.

(7) *Finished floor elevation.* The finished floor of the unit shall meet

the manufacturer's specifications unless the unit is located in a floodplain, in which case floodplain regulations shall rule.

- (8) *Additions.* Attached additions and detached garages shall comply with the building code, and floodplain regulations, if applicable. All standards of this section shall apply to such additions and garages.

(Zoning Ord., § 14.32.10)

**Sec. 117-258. Mobile vending trailers.**

(a) *Purpose.* The purpose of this section is to establish standards to regulate the use and location of commercial trailers in the city. These standards are necessary to promote public safety and preserve property values.

(b) *Applicability.* This section shall apply to any commercial trailer or vending stand that is transported to property within the city. A commercial trailer or vending stand is defined as a transportable structure not permanently attached to the ground which is used on a short-term basis to conduct a commercial activity such as, but not limited to, the sale of merchandise or food. Vending carts and tables shall be included in this definition.

(c) *General provisions.* The following provisions shall apply to commercial trailers.

- (1) Commercial trailers and vending stands shall be permitted only in zoning districts which permit the specific use for which the trailer is intended as permanent sited location, unless otherwise allowed by this section.

- (2) Prior to locating a commercial trailer or vending stand on any parcel, a building permit must be obtained. The trailer or stand must be permanently attached to a foundation with an approved permit issued. Only one commercial trailer is permitted on each parcel, unless provided for otherwise within this section.
- (3) At the time a building permit is requested, a site plan shall be provided of the parcel on which the trailer is to be located. The site plan shall show the boundaries of the parcel, all existing buildings and their dimensions, parking areas and the number of spaces, and the proposed location of the trailer.
- (4) When applicable, a state health district approval letter shall accompany the permit application for products under the jurisdiction of the state health district. Use of the commercial trailer or vending unit shall not commence until a final occupancy certificate is issued by the building department.
- (5) A minimum of three parking spaces shall be provided for the use of employees and customers. This requirement is in addition to the number of parking spaces required for the existing buildings on the parcel. The trailer or stand may not be placed on the parcel if its placement would cause the parcel to no longer meet this zoning chapter requirements for minimum number of parking spaces.
- (6) The trailer must meet the minimum setback requirements for the

zoning district in which it is located. In no instance may a commercial trailer or vending stand be located within a public right-of-way, unless otherwise permitted by this section.

- (7) The trailer unit must be inspected by the city electrical inspector to ensure the safety of the outside electrical connections.
- (8) The trailer must not be placed in a location which may be unsafe for its occupants, customers and the vehicles which must pass by.
- (9) Special exceptions and exempted activity.
  - 1. Seasonal inventory trailers shall be permitted by permit for a period not to exceed three months, and must be placed in the rear yard of the subject property or docking area.
  - 2. Vending units shall be permitted in the industrial park area at manufacturing plants zoned I-2 industrial, for a time duration not to exceed two hours, with a permit application including an approval letter from the ownership provided to the planning department.
  - 3. Vending units shall be permitted at citywide amusement fairs, festivals, parades, athletic events and games, if and only if, the business representative secures a valid business license after giving proof of owner's consent.
  - 4. Sidewalk sales that are located at the front entrance to

the building structure, and not in parking areas nor along public rights-of-way shall be exempt from this section if the products sold are part of the principal use of the commercial property. Inventory sales shall satisfy all applicable building setbacks for the associated zoning district.

- 5. Ice cream trucks shall be exempted from this section, but must not be in business at an extended and stationary location.
- 6. Temporary tent sales shall be permitted in areas zoned for C-3 commercial for a maximum of 30 days; the structure must be placed no closer than 35 feet to any right-of-way line, and required parking for the principal use must not be utilized by the tent location. The business representative must secure site plan review and a valid business license after giving proof of owner's consent.

(Zoning Ord., §§ 14.25.01—14.25.04; Ord. No. 08:005, 2-20-2008)

**Sec. 117-259. Off-premises outdoor advertising sign standards.**

(a) *Purpose.* This section establishes the regulations for the continuing use of off-premises outdoor advertising signs or billboards, herein after referred to by the term off-premises sign in order to encourage an attractive environment, to promote the development of businesses and organizations, to inform and direct the

general public, to protect and enhance the physical appearance of the community, to ensure public safety along streets and highways. The purpose of regulating off-premises signs is to:

- (1) Ensure compatibility of billboards with surrounding land use;
- (2) Enhance the economy of the city;
- (3) Protect the public interest in streets and highways;
- (4) Promote and maintain the safety and general welfare of citizens and their property in the vicinity of outdoor advertising structures;
- (5) Allow property owners the opportunity to sell or lease their properties for outdoor advertising uses and maximize the value of their property; and
- (6) Provide and protect tax revenues by promoting the reasonable, orderly and effective display of outdoor advertising.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Back-to-back sign* means an off-premises sign consisting of two sign facings oriented in opposite directions with not more than two faces per sign facing.

*Directional sign* means a sign erected for the convenience of the public, such as for directing traffic movement, parking, or identifying restrooms, public tele-

phones, walkways and other similar features or facilities, and bearing no advertising message.

*Double-faced sign* means an off-premise sign with two adjacent faces oriented in the same direction and not more than ten feet apart at the nearest point between the two faces.

*Facing* means that portion of an off-premise sign upon which advertising is affixed or painted and visible in one direction at one time.

*Freestanding sign* means an off-premises sign erected on a freestanding framework supported and affixed by one or more uprights or braces in or upon the ground.

*Multiple-faced sign* means an off-premises sign comprised of sections which rotate to display a series of advertisements, each advertisement being displayed continuously for a short period of time without movement.

*Off-premises outdoor advertising sign* means a sign, including the supporting sign structure, which is visible from a street or highway and advertises goods or services not usually located on the premises and/or property upon which the sign is located; also called a billboard. This definition includes a junior outdoor advertising sign, which is differentiated by its six-foot by 12-foot sign faces. The following shall not be considered an off-premises sign for the purposes of this section:

- (1) Directional or official signs authorized by law;
- (2) Real estate signs; and
- (3) On-premises signs.

*Official sign* means a sign erected by a governmental agency or its designee, setting forth information pursuant to law.

*On-premises sign* means a sign which advertises the primary goods or services sold or taking place upon the premises or parcel of land on which the sign is located.

*Real estate sign* means a sign, which advertises the sale or lease of the property upon which, the sign is located.

*Roof-mounted sign* means an off-premises sign attached to the roof of a building.

*V-type sign* means an off-premises sign structure which consists of multiple sign facings placed at angles to each other, oriented in different directions and not exceeding ten feet apart at the nearest point to each other.

*Wall sign* means an off-premises outdoor sign attached to or painted on the wall of a building or structure.

(c) *Permitted locations.* Off-premises outdoor advertising signs shall be permitted by right in the following zone districts except where the property on which the sign is to be located adjoins a residentially zoned property then it shall become a conditional use:

- (1) C-3-general commercial district;
- (2) I-1-limited industrial district; and
- (3) I-2-general industrial district.

(d) *Conditional use.* Off-premises outdoor advertising signs shall be permitted as a conditional use in the following zone districts:

- (1) C-1-downtown core commercial district;

- (2) C-2-downtown fringe commercial district;
- (3) C-4-neighborhood commercial district; and
- (4) C-5-(CR-1) neighborhood office district.

(e) *Scenic restrictions.* Off-premises signs shall not be located in the residential portion of any area designated as a "scenic roadside" or "scenic byway."

(f) *Nonconforming signs.* Any off-premises sign in existence on the effective date of the ordinance from which this section is derived, which does not meet the requirements of this section may be maintained as a matter of right as legal nonconforming signs, provided that:

- (1) Such signs are properly maintained and do not endanger the public;
- (2) The signs were installed in conformance with a valid permit or complied with all applicable laws on the effective date of the ordinance from which this section is derived; and
- (3) Legal nonconforming signs:
  - a. May be replaced by a new sign provided it does not exceed the size of the sign it is replacing and meets all structural standards of this section;
  - b. The sign facing may be structurally altered in order to maintain the appearance of a sign, prolong its life, or to change advertising content; and
  - c. Sign structures affixed to the ground may be reestablished after damage or destruction

provided the replacement sign does not exceed the size of the sign it is replacing and meets all structural standards of this section.

(g) *General provisions.*

- (1) No off-premises sign shall be constructed which resembles any official marker erected by a governmental entity, or which by reason of position, shape, or color would conflict with the proper functioning of any official traffic control device.
- (2) Off-premises signs shall be constructed in accordance with local and state building and electrical codes. Structural engineering plans, sealed by a structural engineer licensed in the state, shall accompany applications for a sign permit and shall be subject to wind load requirements set forth in the International Building Code.
- (3) Off-premises signs shall be regularly maintained in good appearance and safe structural condition.
- (4) No off-premises sign shall be constructed on a property without the written consent of the property owner of record at the time of the sign's placement.
- (5) The general area in the vicinity of any freestanding sign on developed or undeveloped property shall be kept free and clear of sign materials, debris, trash and refuse.

(h) *Size of signs.*

- (1) Signs may be back-to-back, double-faced, V-type, and multiple-faced

with not more than two faces to each facing side. Such a structure shall be considered as one off-premises sign.

- (2) The maximum sign area for each facing side shall not exceed 1,200 square feet, with any one sign face not exceeding 672 square feet. These maximum areas exclude the base or apron, trim supports, other structural elements of the sign, and temporary embellishments. Temporary embellishments shall not exceed 20 percent of the maximum sign area allowed.
  - (3) Rotating sign faces with variable messages will be measured while in a stationary position with one message visible.
- (i) *Height of an off-premises sign.*
- (1) A full-size off-premises sign shall maintain a minimum clearance of ten feet measured from the natural ground level at the base of the sign to the bottom of the framing around the sign face.
  - (2) The base of a junior off-premises sign may be placed at natural ground level or may be elevated to a maximum of eight feet measured from ground level to the bottom of the framing around the sign face.
  - (3) An off-premises sign shall have a maximum height not to exceed 50 feet measured from the grade level of the roadway to which the sign is oriented to the top of the framing along the sign face.

(4) The natural ground level at the base of the sign shall not be altered so as to increase the height of the sign.

(j) *Spacing for off-premises signs.*

(1) No off-premises sign shall be established within 1,000 feet of any other off-premises sign, measured along the same side of Interstate 63 to which the sign is oriented. This regulation includes commercial lots fronting the access roads.

(2) No off-premises sign shall be established within 1,500 feet of any other off-premises sign, measured from any angle or direction to which the sign is oriented in all other commercial areas of the city.

(3) The spacing between signs does not apply to sign structures separated by buildings or other obstructions in such a manner that only one sign located within the spacing distances is visible from the street at any one time.

(4) Spacing from directional and official signs, on-premises signs, or any other sign which does not constitute an off-premises sign shall not be counted nor shall measurements be made from such signs for the purpose of determining compliance with these spacing requirements.

(5) The minimum distance between off-premises signs shall be measured along the nearest edge of the pavement between points directly opposite the center of the signs along each side of the street or highway

and shall apply to sign structures located on the same side of the same street or highway.

(k) *Setback requirements.* Required setbacks shall be measured from the applicable line of the property on which it is located to the signpost that is closest to said property line.

(1) Street setback: five feet from the street right-of-way line.

(2) Side setback: five feet from the side property line

(3) Rear setback: an off-premises sign shall be set back a minimum of 25 feet from the rear line of the property on which it is located.

(4) In no case shall any portion of an off-premises sign overhang or be placed in the public right-of-way.

(5) In no case shall any portion of an off-premises sign overhang an adjoining private property.

(l) *Lighting.*

(1) Off-premises signs that contain, include, or are illuminated by flashing, intermittent or moving lights are prohibited.

(2) Reflective surfaces or devices on sign faces are permitted provided such signs do not interfere with traffic safety.

(3) Illuminated electronic variable message signs giving public information such as, but not limited to, time, date, temperature, weather or other similar information are permitted.

(4) Illuminated electronic variable message signs giving commercial infor-

mation are permitted, provided such signs do not interfere with traffic safety and do not resemble or simulate traffic control or safety devices or signs.

- (5) All off-premises signs including legal nonconforming signs shall be effectively shielded to prevent beams or rays from being directed toward any portion of street travelways and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle.
- (6) All off-premises signs including legal nonconforming signs shall be effectively shielded to prevent light beams or rays from being directed toward any residential properties.
- (7) No off-premises sign including legal nonconforming signs shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

(m) *Sign permit.* No off-premises outdoor advertising sign shall be erected without securing a permit from the city and payment of a one-time permit fee of \$250.00. An application for an off-premises sign shall be accompanied by a site survey and plan at a minimum scale of one inch equals 50 feet, prepared by a registered surveyor or engineer licensed in the state, showing the following information:

- (1) Name, address and telephone number of the property owner of record;
- (2) Ownership certificate signed by the property owner of record;

- (3) Name, address, and telephone of the owner of the proposed sign;
- (4) Name, address, and telephone number of the contractor proposed to install the proposed sign;
- (5) Existing property boundaries and any structures and other physical features of the site;
- (6) Location of existing streets and depicting the full right-of-way of said streets;
- (7) Location of structures and physical features on properties abutting the site of the proposed sign;
- (8) Location of any nearby off-premises outdoor advertising signs;
- (9) Zone district designation in which the proposed site is located;
- (10) Setback lines;
- (11) Elevation views of the proposed sign showing all faces, height and width dimensions, and dimension from ground level to the bottom of the sign faces;
- (12) Construction details of the proposed sign showing all structural components, electrical facilities, and lighting; and
- (13) Certified statement from a professional structural engineer licensed in the state that the sign meets all requirements of the International Building Code including wind load provisions.

Following issuance of a sign permit and completion of installation, the structural engineer shall verify, in writing, to the

city planner that the sign has been installed in accordance with the approved plan and permit.

(n) *Correction of deficiencies or removal of off-premises signs.*

- (1) Any off-premises sign that has been abandoned or that has been inspected and determined to be structurally unsafe and therefore a danger to public safety shall be renovated or removed by the owner of the sign within 60 days from receipt of a notice to correct or remove issued by the department of planning, inspection and code enforcement. If the deficiencies in the sign or the sign are not removed within this 60-day period, the city may have the sign removed and charge the sign owner with the cost of removal plus a \$100.00 administrative service fee.
- (2) An off-premises sign installed after the effective date of this section of the zoning chapter without a sign permit and/or not conforming to this section, shall be removed by the owner. The sign owner shall not be entitled to compensation for the sign removal and shall reimburse the city for any cost incurred in connection with the removal.

(o) *Protection of first amendment rights.* Any off-premises sign may contain any otherwise lawful, noncommercial message, including any political message, as well as advertising copy that directs attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this chapter.

(Zoning Ord. § 43.32.11; Ord. No. 3447, 12-1-2005; Ord. No. 07.81, § 1, 7-3-2007)

### **Sec. 117-260. Wireless communication facility standards.**

(a) *Purposes.* The wireless communication facility development standards are designed to achieve the following purposes:

- (1) Provide a range of locations for wireless communication facilities, hereinafter referred to as throughout the city;
- (2) Encourage the location of wireless communication facilities onto existing structures to reduce the number of new communication towers needed to serve the city;
- (3) Encourage collocation and site sharing of new and existing wireless communication facilities;
- (4) Control the type of wireless communication support structures, including towers, that are constructed;
- (5) Protect residential areas and scenic corridors from uncontrolled development of wireless communication facilities by requiring reasonable location or siting conditions;
- (6) Ensure the harmonious, orderly and efficient growth and development of wireless communication facilities within the city;
- (7) Provide development standards for wireless communication facilities, that are consistent with the requirements of the Federal Telecommunications Act of 1996;
- (8) Provide clear performance standards for locating wireless communication facilities; and

- (9) Streamline and expedite the permitting procedures for wireless communication facilities to effect compliance with the Federal Telecommunications Act of 1996.

(b) *Interpretation and definitions.*

- (1) *Construction of other ordinances.* To the extent the development standards of this section conflict with other ordinances of the city, these development standards shall control.

- (2) *Rules for words and phrases.* For the purposes of this section, words used in the present tense include the future tense; words in the singular number include the plural number; and words in the plural number include the singular number. The term "shall" is mandatory; the term "may" is permissive; the term "used" includes "designed" and "intended" or arranged to be used or occupied. The term "person" includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual.

- (3) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*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, but not be limited to, omnidirectional an-

tenna (rod), directional antenna (panel) and parabolic antenna (disc). An antenna array, hereinafter referred to as an antenna, does not include the support structure.

*Attached wireless communication wireless facility* means an antenna that is attached to an existing building or structure such as utility poles, signs, water towers, rooftops, towers with any accompanying pole or device which anchor the antenna to the existing building or structure attachment structure along with associated connection cables and an equipment facility which may be located either inside or outside the existing building or structure.

*Collocation/site sharing* means use of a common wireless communication facility or common site by more than one wireless communication license holder, often referred to as the carrier, or by one wireless license holder for more than one type of communications technology and/or placement of an antenna on a structure owned or operated by a utility or other public entity.

*Equipment compound* means that portion of a wireless communication facility or an attached wireless communication facility that may contain a support structure and/or equipment facilities and is completely enclosed by security fencing.

*Equipment facility* means any structure used to contain ancillary equipment for a wireless commu-

nication facility and may include cabinets, shelter, and a build-out of an existing structure, pedestals, and other similar structures.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*FTA* means the Federal Telecommunications Act of 1996.

*Height* means the vertical distance measured from the base of a tower or other support structure to the highest point on the wireless communication facility, including the antenna array and other attachments.

*Metropolitan Area Planning Commission (MAPC)* means the officially designated planning and zoning authority for the city.

*Setback* means the required distance from the property line of the parcel of land, on which the wireless communication facility is located to the base of the support structure and equipment shelter or cabinet; or, in the case of guy-wire supports, the guy anchors.

*Stealth technology* means the technique or process of disguising wireless communication facilities to fit into the natural or urban landscape.

*Support structure* means a structure designed and constructed specifically to support an antenna support structure and shall include a monopole, lattice tower, guy-wire support tower and other similar

structures. Any attachment device used to anchor an attached structure shall be excluded from the definition and regulations applicable to support structures.

*Temporary wireless communication facility* means a wireless communication facility to be placed in use for 90 days or less.

*Wireless communication facility*, hereinafter referred to as a wireless facility, means any un-staffed wireless facility used for the transmission and/or reception of wireless telecommunication services, usually consisting of an antenna, connection cables, an equipment facility, and, if appropriate, a support structure to achieve the necessary elevation.

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

(c) *Preferred locations for wireless facilities.*

- (1) Attached wireless facilities are allowed as a permitted use, a use by right, in all zone districts. Support structures shall be allowed in the various zone districts as shown in the following table:

Wireless Communication Facility Support Structures  
By Type And Permitted Zone District

<i>Zone district</i>		<i>Type of permitted support structure</i>			
<i>Support structures permitted as conditional uses in the following zone districts:</i>		<i>Stealth</i>	<i>Mono-pole</i>	<i>Lattice</i>	<i>Lattice with Guy</i>
AG	Agricultural district	X	X	X	X
RR	Rural residential	X	X	X	X
R-O	Single-family low density residential	X	—	—	—
R-1	Single-family medium density residential	X	—	—	—
RS-1— RS-8	Single-family residential	X	—	—	—
R-1A	Single-family high density residential	X	—	—	—
R-2	Multifamily low density residential	X	—	—	—
R-2A	Multifamily medium density residential	X	—	—	—
R-3	Multifamily high density residential	X	—	—	—
RM-4— RM-16	Multifamily districts	X	—	—	—
CR-1	Neighborhood office district	X	X	—	—
C-4	Neighborhood commercial district	X	X	—	—
C-3	General commercial district	X	X	X	X
C-2	Downtown fringe commercial district	X	X	X	X
C-1	Downtown core commercial district	X	X	—	—
<i>Support structures permitted "by right" in the following zone districts:</i>					
I-1	Limited industrial district	X	X	X	—
I-2	General industrial district	X	X	X	—

(2) Locations for wireless facilities are listed below in order of preference:

- a. Antenna attachments onto an existing support structure including collocation with other wireless facilities.
- b. Attached wireless facilities.
- c. Location within an industrial zone district (I-1 or I-2).
- d. Location within a C-3, general commercial district.
- e. Location within a C-1, C-2, C-4 or CR-1 commercial district.
- f. Location within a AG or RR district.
- g. Location within a residential district.
- h. Prior to applying to the Metropolitan Area Planning Commission for a conditional use to permit a new location for a wireless facility, the applicant shall provide the city planner with adequate information to establish that equipment planned for the proposed wireless facility cannot be accommodated on existing or approved towers, buildings or alternative structures within the applicants search radius, or search ring, or within a less restrictive zone district due to one or more of the following reasons:
  - 1. The planned equipment would exceed the structural capacity of the existing or approved tower, building or structures, as

- documented by a qualified and licensed state professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- 2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower, building or other structure as documented by a qualified and licensed state engineer and the interference cannot be prevented at a reasonable cost.
- 3. Existing or approved towers, buildings or other structures within the search radius or ring, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by an qualified radio frequency (RF) engineer.
- 4. Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon an existing or approved tower, building or other structure, or within a less restrictive zone district.

(d) *Zoning permit and building permit required.* No person shall install or construct any wireless facility unless and until a zoning permit, if applicable, and a building permit have been issued pursuant to the requirements of this zoning chapter.

(e) *Preexisting wireless communication facilities.* Any wireless facility installed prior to the effective date of the zoning ordinance amendment from which this section is derived shall be considered as nonconforming.

(f) *Nonconforming facilities.* Wireless communication facilities in existence on the date of the adoption of the amendment to the zoning ordinance from which this section is derived, which do not comply with the requirements of this section are considered to be nonconforming and are subject to the following provisions:

- (1) *Expansion.* Nonconforming wireless facilities may continue in use for their existing purpose, but may not be expanded without complying with this article except as further provided in this section.
- (2) *Additions.* Nonconforming wireless facilities may add additional antennas and ground equipment and may expand the footprint of the then-existing equipment compound belonging to the same service provider (carrier) or other providers subject to administrative review under this section.
- (3) *Repairs or reconstruction.* Nonconforming wireless facilities that become damaged due to any reason or cause may be repaired and re-

stored to their former use, location, and physical dimensions subject to the provisions of this section.

- (4) *Abandonment.* Any nonconforming wireless facility not in use for six months shall be deemed abandoned and all rights as a nonconforming use shall cease.

(g) *Amateur radio exclusion.* This section shall not govern the installation of any amateur radio wireless facility that is owned and operated by a FCC licensed amateur radio station operator.

(h) *Airport proximity.* Any wireless facility located or proposed to be located in airport areas including approach zones governed by the FAA shall comply with the provisions of all applicable local, state and Federal Airport Regulations.

(i) *Development standards.* The following development standards shall apply to all wireless facility installations constructed after the effective date of the amendment to the zoning ordinance from which this section is derived.

- (1) *Height standards.*
  - a. *Wireless facilities on attachment structures and existing support structures.* Antennas mounted on an existing building, water tank or other attachment structure other than a freestanding support structure just not extend more than 30 feet above the highest part of the structure.
  - b. *Wireless facilities on new support structures.*

<i>Location</i>	<i>Maximum Height</i>
Residential zone district	100 feet
Commercial zone district	199 feet
Industrial zone district	199 feet
Agricultural zone district	199 feet

In the event an applicant has a compelling reason to exceed these height standards, the matter may be referred to the board of zoning adjustment for review, consideration, and decision.

(2) *Setback standards.*

- a. Wireless facilities on existing support structures shall conform to existing setbacks.
- b. Wireless communication facilities on new support structures shall be set back a minimum of 50 feet from all property lines including street right-of-way lines.

(3) *Landscaping.*

- a. *New construction.* New wireless facilities on new support structures shall have a landscaped area a minimum of ten feet in width around the outside perimeter of the security fence and shall be planted with the following materials:
  - 1. One row of evergreen trees with a minimum caliper

of 1.75 inches installed with maximum spacing of 25 feet.

- 2. Evergreen shrubs capable of creating a continuous hedge and obtaining a height of eight feet shall be planted with a maximum spacing of five feet. Plants shall be at least three-gallon container plants and be 36 inches tall at the time of planting.
- 3. All plants and trees shall be indigenous to this part of the state and shall be drought resistant.

b. *Land form preservation.* Existing mature tree growth and natural landform of the wireless facility site shall be preserved to the extent feasible. However, this vegetation may be trimmed or removed if it causes interference with the support structure or antenna or inhibits access to the equipment compound.

c. *Vegetation.* Existing vegetation on a wireless facility site may be used in lieu of required landscaping where approved by the city planner.

d. *Minimum site disturbance.*

- 1. Grading for a new wireless facility shall be minimized and limited only to the area necessary for the new structures and equip-

- ment, and for access and utility service to the wireless facility.
2. Erosion control facilities, approved by the city engineering department, shall be correctly installed prior to any land disturbance or land alteration activities. These facilities shall be maintained in good, serviceable condition throughout the construction process.
- (4) *Aesthetics, placement, materials and colors.*
    - a. Antenna attachments shall be designed to be compatible with the wireless facility to which it is to be affixed, including matching the proposed array with the support structure's design, facade colors, and camouflage or stealth technology.
    - b. New wireless facilities shall be designed to be compatible with existing structures in the surrounding area to the extent feasible. The proposed wireless facility must be consistent with the tower type and height standards indicated in this section for similar properties in similar locations, including considerations of scale and space of the immediate vicinity of the new wireless facility, placement in a location that is consistent with proper functioning of the wireless facility, the use of compatible or neutral colors, and camouflage or stealth technology.
  - (5) *Lighting.* Wireless facilities shall not be artificially illuminated, directly or indirectly, except for:
    - a. Security and safety lighting of equipment buildings if such lighting is shielded to keep light within the boundaries of the site; and
    - b. Illumination required by the FAA or other applicable authority provided all lighting fixtures are installed in a manner to minimize impacts on adjacent properties. Unless otherwise required, such lighting shall be red and a type of lens used to reduce ground lighting when the site is within 100 feet of a residential structure.
  - (6) *Fencing.* An opaque fence, including slatted chainlink, not less than eight feet in height, shall enclose all wireless facilities. Security features may be incorporated into the buffer and landscaping areas around the outside perimeter of the equipment compound.
  - (7) *Signage.* Wireless facilities shall not display any signage, logos, decals, symbols or any message of a commercial or noncommercial nature. Small message signs containing identification and contact information and emergency telephone numbers as required by local, state, and federal regulations and small no trespassing and other warning signs may be posted on the fence.

(8) *Radio frequency emissions and sound.*

- a. *Radio frequency impact.* The FTA gives the FCC jurisdiction for regulating radio frequency (RF) emissions. The approval of wireless facilities shall not be conditioned or denied on the basis of RF impact.
- b. *FCC compliance.* Applicants for wireless facilities shall be required to provide information with the application on the periodic measurement of the effective radiated power of the wireless facility and how this meets FCC standards. A procedure or protocol shall be established for furnishing this information to the city so RF emission levels may be monitored.
- c. *Sound prohibited.* No unusual sound emissions such as alarms, bells, buzzers or the like are permitted.

(9) *Structural integrity.*

- a. Wireless facilities with support structures shall be constructed to the Electronics Industries Association and Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled Structural Standards for Steel Antennas Towers and Antenna Support Structures, as it may be updated and amended. Each support structure shall be capable of supporting multiple antennas.

- b. All support structures shall be designed and constructed to collapse within the industry-approved radius of the centerpoint of the structure. However, in no case shall the collapse radius go beyond a property line.
- c. All support structures shall be designed and constructed to meet seismic requirements of all applicable codes.
- d. All support structures shall be designed and constructed to meet wind-load requirements of all applicable codes.

Compliance with these structural requirements shall be certified by an independent structural engineer registered in the state and also by the manufacturer of the structure. These certifications must be submitted to the city before a building permit can be issued for the structure.

(10) *Design and collocation support structure.* All wireless facilities with a support structure up to a height of 150 feet shall be engineered and constructed to accommodate at least three antenna. All wireless communication facilities with a support structure 150 feet or greater shall be engineered and constructed to accommodate at least four antenna.

(11) *Collocation statement.* All applicants for a wireless facility shall submit a statement with the application agreeing to allow and actively market collocation opportunities to other wireless

communication providers or carriers. 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 rental rates for other providers. The collocation statement shall be conditioned on the issuance of a zoning permit and a building permit for the proposed wireless facility. These permits may not be issued unless the applicant complies with the collocation policy outlined in this section.

- (12) Compliance with building codes. In addition to the requirements of this section, construction of all wireless facilities shall comply with all local and state construction codes.
- (j) *Review process.*
- (1) All proposed wireless facilities that include support structures shall be subject to the conditional use procedure, standards, and guidelines set out in article V of this chapter. Provided, however, that all proposed attached wireless communication facilities as well as support structures in the I-1 and I-2 zone districts are allowed as permitted uses subject to the standards and guidelines as set out in article VIII of this zoning chapter.
- (2) Temporary wireless facilities may be permitted by administrative approval for a term not to exceed 90 days. Once granted, a temporary wireless facility permit may be extended for an additional 90 days upon evidence of need presented

by the applicant. In cases of emergency, e.g., storm damage to an existing tower or other circumstances resulting in interruption of existing service, the administrative review shall be expedited to the extent feasible.

(k) *Approval process.*

(1) *Application submission.*

a. *Submission requirements.* Each applicant requesting a conditional use permit, zoning permit, and building permit for a facility must be signed by the landowner of record, the developer of the support structure, and the initial communication provider or carrier. An application without all signatories shall be considered incomplete and will not be reviewed.

1. Certificate of ownership giving the names, titles, relationships, and addresses of all landowners of record. Each owner of record must sign the certificate. A copy of the deed for the land proposed as the site for a wireless facility must accompany the certificate.
2. Site survey prepared by a surveyor licensed in the state showing property boundaries, topography, major vegetation, existing structures, and other features. This survey should also illustrate, but not with survey accuracy, the loca-

- tion of structures on abutting land including land on the opposite side of an adjoining public street.
3. Site plan showing the location of all proposed facilities including the support structure, equipment buildings or shelters, setback lines, access driveways, parking spaces, fencing, landscaping, and any other features deemed important in explaining the proposal. A site plan is not required if the wireless facility is proposed to be located on an existing structure.
  4. Elevation of the support structure showing dimensions of the base of the structure, height of the structure, location of antenna array, and other information necessary to adequately depict the structure.
  5. Specifications for the support structure and antenna including a description of design characteristics and materials.
  6. Photographic simulations of the site from four directions with the support structure in place. The purpose of these simulated photographs is to help evaluate the potential visual and aesthetic impacts the proposed structure will have on the surrounding area. In unusual situations, the city planner may require a balloon test to help evaluate the potential impact a support structure might have on the surrounding neighborhood.
  7. Evidence that a valid FCC license has been issued for the proposed wireless facility.
  8. Acknowledgment of the structural certification requirements and a statement affirming the intention to provide these certifications to the city prior to a request for a building permit.
  9. An agreement to remove the support structure within 90 days after cessation of use.
  10. Evidence that the applicant has made a reasonable good faith attempt to locate its wireless facility onto an existing structure. Competitive conflict and financial burden alone are not deemed to be adequate reasons against collocation.
  11. Evidence that an applicant proposing to place a wireless facility in a residential district cannot achieve the desired service coverage and capac-

- ity by placing the wireless facility in a nonresidential district.
12. Evidence that the proposed wireless facility is to be designed, engineered and constructed with the capability of sharing the wireless facility with other service providers.
  13. A collocation statement that allows and ensures active marketing of collocation opportunities to other wireless facility providers or carriers. This agreement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rental rates for other service providers.
  14. A statement describing the applicant's proposed protocol for periodically monitoring radio frequency (RF) emissions and reporting the findings to the city.
- b. *Application fee.* A plan review fee in the amount established by the city shall accompany each application for a support structure or an antenna array.
  - c. *Additional technical assistance.* In the course of its consideration of an application for a wireless facility, the city may deem it necessary, in complex situations, to employ an engineer or other consultant qualified in the design and installation of wireless facilities to assist the city in reviewing technical aspects of the application. In such cases, the actual cost incurred by the city in obtaining the technical review and recommendation shall be reimbursed by the applicant prior to the conditional use hearing before the Metropolitan Area Planning Commission. The proposal for technical review services, including a "not to exceed" cost estimate, shall be presented to the applicant for approval prior to employing an engineer or other consultant.
- (2) *Administrative review.*
    - a. *Review authority.* An application for collocation of an antenna on an existing support structure already approved as a conditional use may be reviewed and approved by the city planner.
    - b. *Review criteria.* Each application shall be reviewed for compliance with the development criteria specified in this section.
  - (3) *MAPC approval.*
    - a. *Review authority.* The Metropolitan Area Planning Commission shall be the review authority for all wireless facility applications not eligible for administrative review.
    - b. *Notice of public hearing.* All notice of public hearing proce-

dures prescribed for consideration of a conditional use shall be followed.

- c. *Public hearing.* MAPC shall review and consider a conditional use application at a public hearing. Interested persons may appear and offer information in support or opposition to the proposed wireless facility application. MAPC shall consider the following factors in reaching a decision:
1. The complete conditional use application for a wireless facility shall be reviewed for compliance with the development criteria set forth in this section.
  2. MAPC may recommend alternative development criteria, impose stipulations, or add restrictions on the wireless facility proposal as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the wireless facility with the surrounding property, in accordance with the purposes and intent of this section of the zoning chapter. Provided, however, the alternative development criteria, conditions or restrictions are reasonable and capable of being accomplished. The inclusion of additional conditions, development criteria or re-
- strictions shall be by specific inclusion in a motion for approval.
- d. *Approval criteria.* A conditional use permit for a wireless facility may be granted when each of the following finding of fact have been made by the MAPC:
1. The wireless facility will not materially endanger the public health or safety if located where proposed by the application and developed according to the submitted plan;
  2. The wireless facility meets all required conditions, specifications and development standards of this chapter;
  3. The wireless facility will not substantially injure the value of adjoining or abutting property;
  4. The location and character of the wireless facility, if developed according to the submitted plan, will be in harmony with the area in which it is to be located and in general conformity with the city comprehensive plan;
  5. Any additional development conditions recommended by MAPC are based upon the purpose and goals of this section which is to promote, preserve, and protect the public interest;

6. Any additional development conditions recommended by MAPC are reasonable and capable of being accomplished.
- e. *Action.* Following the public hearing and presentation of evidence the MAPC shall take one of the following actions:
1. Approve the application as submitted;
  2. Approve the application with conditions or modifications;
  3. Deny the application in writing; or
  4. Refer the application to the city council for final disposition.
- f. *Findings.* All decisions rendered by the MAPC concerning a wireless facility application shall be supported by written findings of fact and conclusions of law based upon substantial evidence of record. All findings of fact and the reasoning behind a decision shall be provided to the applicant within 15 days following the decision.
- g. *Appeals.* A decision of the MAPC to deny the application may be appealed to the city council.

(l) *Removal of abandoned support structures.* Any support structure that is not operated for a continuous period of 12 months shall be considered abandoned, and the city, at its election, may require the support structure owner to remove

the support structure within 90 days after notice from the city. If there are two or more users of a single support structure, this provision shall not become effective until all service providers or carriers cease to use the support structure. If the owner of an abandoned support structure cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the support structure is located.

(m) *Revocation zoning permit and building permit.* A zoning permit and/or a building permit for development of a wireless facility may be revoked at any time during the construction process for any violation of the zoning chapter including this section. Permits may be reinstated once the violation is corrected.

(Ord. No. 3448, § 14.32.12)

### **Secs. 117-261—117-283. Reserved.**

#### DIVISION 2. ON-PREMISES SIGNS

### **Sec. 117-284. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned sign* means a sign that no longer identifies or advertises a location, product, or activity conducted on the premises on which the sign is located.

*Animated sign* means a sign employing actual motion or the illusion of motion. Animated signs, which are differentiated

from changeable signs as defined and regulated by this Code, include the following types:

- (1) *Environmentally activated.* Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.
- (2) *Mechanically activated.* Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.
- (3) *Electrically activated.* Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:
  - a. *Flashing.* Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of nonillumination. For the purposes of this division, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds four seconds.

- b. *Patterned illusionary movement.* Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

*Architectural projection* means any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building but that does not include signs as defined herein. See also: *Awning, backlit awning, and canopy, attached and freestanding.*

*Area of sign* means the total area within the extreme perimeter of the attraction area intended to draw attention to the sign, including all open spaces. See also: *Copy area of sign.*

*Awning* means an architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may be either permanent or retractable. The term "awning" means any structure, such as canvas, projecting from the wall of a building over a window or entrance.

*Awning sign* means a sign displayed on or attached flat against the surface or surfaces of an awning. See also *Wall or fascia sign.*

*Backlit awning* means an awning having covering material exhibiting the char-

acteristic of luminosity obtained by means of a source of illumination contained within its framework.

*Banner* means a flexible substrate on which copy or graphics may be displayed.

*Banner sign* means a sign utilizing a banner as its display surface.

*Billboard*. See *Off-premises sign and commercial outdoor advertising sign*.

*Building facade* means that portion of any exterior elevation of a building extending vertically from grade to the top of the parapet wall or eaves and horizontally across the entire width of the width of the building elevation.

*Canopy, attached*, means a multisided overhead structure or architectural projection supported by attachment to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light, similar to a marquee.

*Canopy, freestanding*, means a multisided overhead structure supported by columns, but not enclosed by walls. The surface and or soffit of a freestanding canopy may be illuminated by means of internal or external sources of light.

*Canopy sign* means a sign affixed to the visible surface of an attached or freestanding canopy. May be internally or externally illuminated. Similar to a marquee sign.

*Changeable sign* means a sign with the capability of content change by means of manual or remote input, includes the following types:

- (1) *Manually activated*. Changeable sign whose message copy or content can be changed manually on a display surface.
- (2) *Electrically activated*. Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also *Electronic message sign or center*.

*Commercial outdoor advertising sign* means a permanent off-premises sign erected, maintained or used in the outdoor environment for the purpose of providing copy area for commercial or non-commercial messages.

*Copy* means the graphic content or message of a sign.

*Copy area of sign* means the actual area of the sign copy as applied to any background. Copy area on any individual background may be expressed as the sum of the geometrically computed area encompassing separate individual letters, words, or graphic elements on the background.

*Directional sign* means any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

*Double-faced sign* means a sign with two faces, back to back.

*Electric sign* means any sign activated or illuminated by means of electrical energy.

*Electronic message sign or center* means an electrically activated changeable sign whose variable message capability can be electronically programmed.

*Exterior sign* means any sign placed outside a building.

*Facade.* See *Building facade.*

*Fascia sign.* See *Wall sign.*

*Flashing sign.* See *Animated sign, electrically activated.*

*Freestanding sign* means a sign principally supported by one or more columns, poles, or braces placed in or upon the ground.

*Frontage, building,* means the length of an exterior building wall or structure of a single premises along either a public way or other properties that it faces.

*Frontage, property,* means the length of the property line of any single premises along either a public way or other properties on which it borders. Same as lot frontage. See also *Qualified street frontage.*

*Ground sign* means a sign not wholly supported on a building or on a structure other than a sign structure. See *Freestanding sign.*

*Hanging sign* means a sign suspended from a building or structure which is perpendicular or parallel to the facade of the building.

*Illuminated sign* means a sign characterized by the use of artificial light, either projecting through its surface, internally illuminated or reflecting off its surface, externally illuminated.

*Interior sign* means any sign placed within a building, but not including window signs as defined by this section. Interior signs, with the exception of window signs as defined, are not regulated by this division.

*Mansard* means a rooflike facade comparable to an exterior building wall.

*Marquee.* See *Canopy, attached.*

*Marquee sign.* See *Canopy sign.*

*Median monument sign* means signs erected within the median of a street intersection leg within the public right-of-way but separating the ingress and egress of a subdivision or development.

*Mobile sign* means a sign mounted on trailer or frame, lighted or unlighted, which is not permanently attached to a structure or the ground.

*Monument sign* means an independent structure supported from grade to the bottom of the sign with the appearance of having a solid base. See also *Ground sign.*

*Multiple-faced sign* means a sign containing three or more faces.

*Off-premises sign* means a sign whose erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold off the subject pre-

mises on which it is displayed. See *Outdoor advertising signs* and *commercial outdoor advertising sign*.

*On-premises sign* means a sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

*Outdoor advertising signs* means a permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or non-commercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

*Parapet* means the extension of a building facade above the line of the structural roof.

*Pole sign*. See *Freestanding sign*.

*Political sign* means a temporary sign intended to advance a political statement, cause, or candidate for office.

*Portable sign* means any changeable-copy sign not permanently attached to the ground or to a building or building surface, or having wheels attached, on trailer meant to be moved.

*Projecting sign* means a sign other than a wall sign that is attached to or projects more than 18 inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign.

*Qualified street frontage* means the width of storefront of a commercial in the case of downtown or for general commercial/industrial it shall mean development

fronting on a major or secondary thoroughfare. In cases of corner or through lots, only one street frontage may be used as qualified street frontage for purposes of calculating permitted sign area. See also *Frontage*.

*Real estate sign* means a temporary sign advertising the sale, lease, or rental of the property or premises upon which it is located.

*Revolving sign* means a sign that revolves 360 degrees about an axis. See also *Animated sign, mechanically activated*.

*Roof sign* means a sign mounted on the main roof portion of a building or on the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs.

*Roofline* means the uppermost line of the roof of a building or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

*Sign* means any device visible from a public place whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Non-commercial flags or any other flags displayed from flagpoles or staffs will not be considered to be signs.

*Sign structure* means any structure designed for the support of a sign.

*Temporary sign* means a sign intended to display either commercial or noncommercial messages of a transitory or tem-

porary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs. The term "temporary sign" means a banner type sign constructed of a sturdy material, such as canvas, so as to prevent rapid deterioration. Such sign is intended to be displayed for a short period of time only.

*Total wall surface area* means the sum of the area calculation for a wall surface on a building frontage in a single plane.

*Under canopy sign* or *under marquee sign* means a sign attached to the underside of a canopy or marquee.

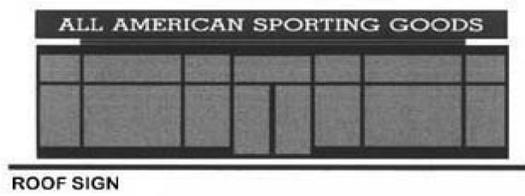
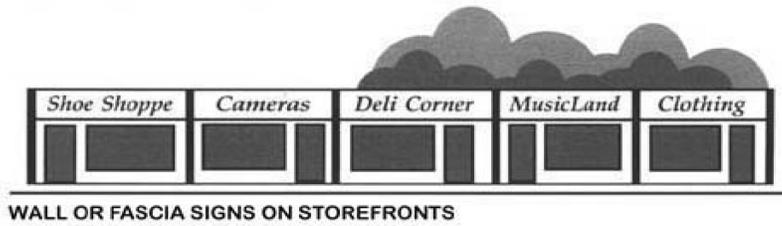
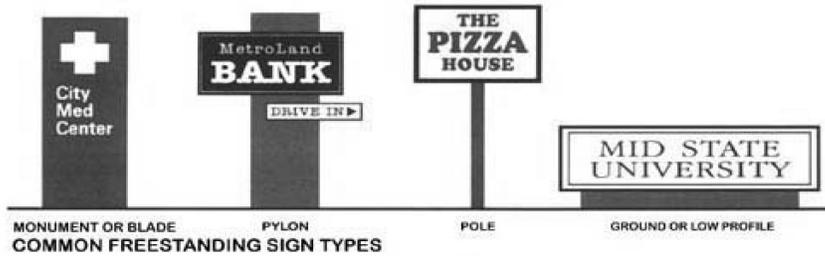
*V-type sign* means a sign containing two faces of equal size, positioned at an interior angle subtending less than 179 degrees at the point of juncture of the individual faces.

*Wall* or *fascia sign* mean a sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the building or structure wall. Also includes signs affixed to architectural projections that project from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face of the architectural projection to which it is affixed.

*Window sign* means a sign affixed to the surface of a window with its message intended to be visible to exterior environment.

(Zoning Ord., § 14.32.11.13; Ord. No. 07.81, § 1, 7-3-2007)

Sign Figure 14.32.11a - GENERAL SIGN TYPES



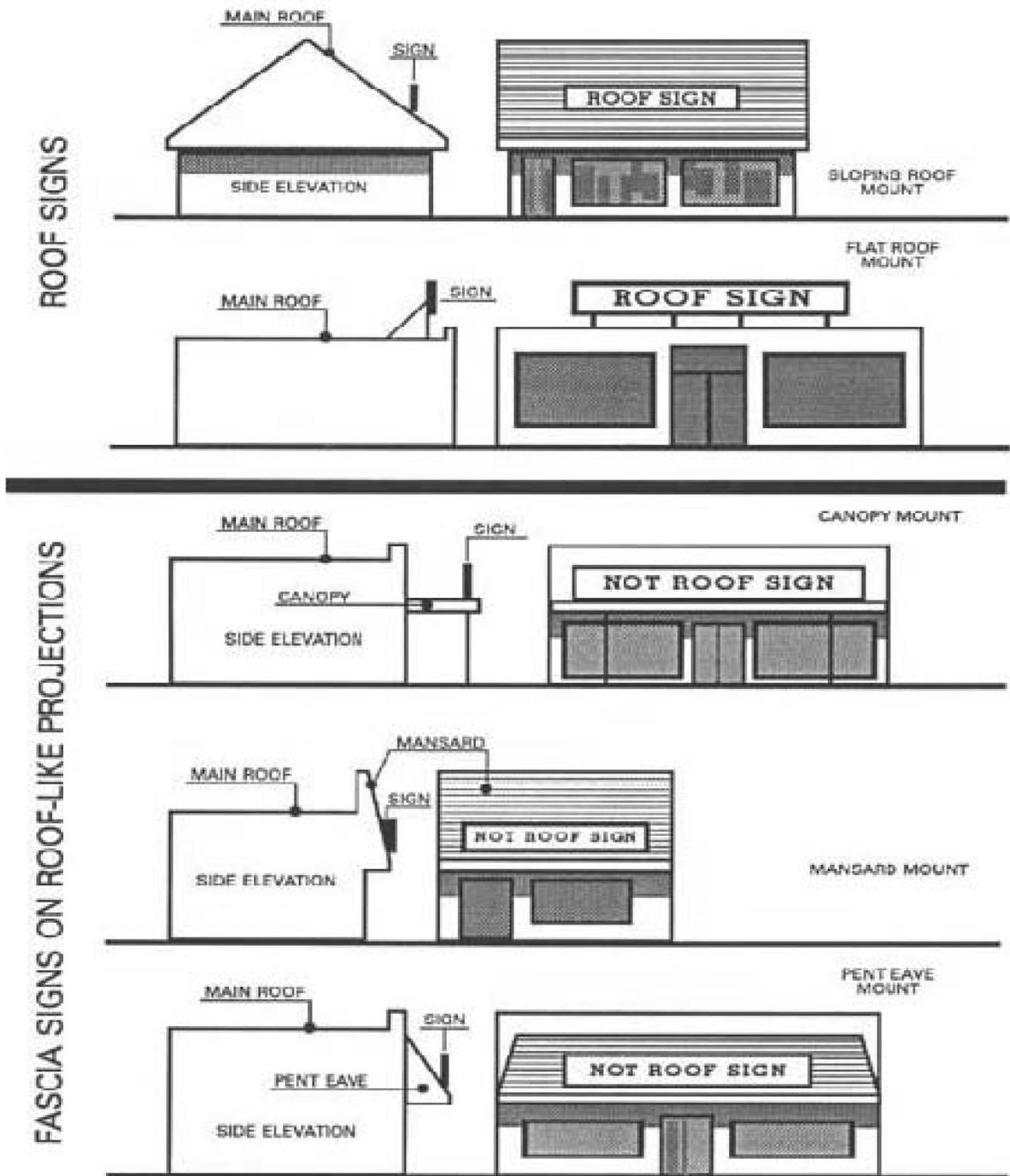
Sign Figure 14.32.11b - Computations



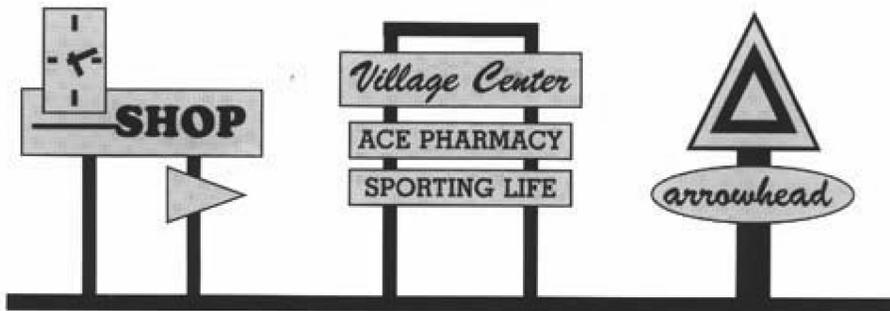
**SIGN AREA -COMPUTATION METHODOLOGY**

Sum Of Shaded Areas Only Represent Sign Area For Code Compliance Purposes Signs consisting of individual letters, elements, or logos placed on building walls or structures.

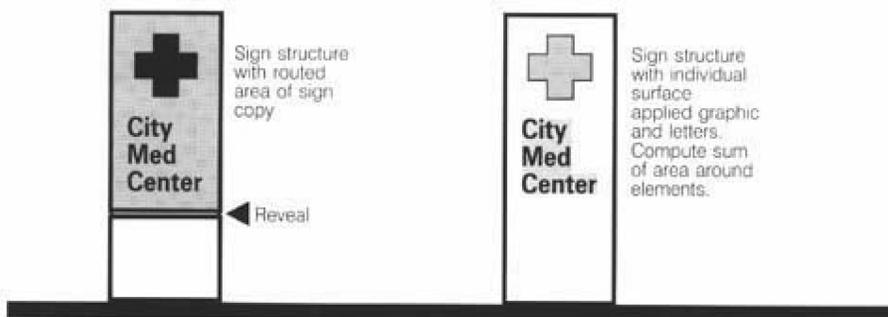
Sign Figure 14.32.11c COMPARISON - ROOF & WALL OR FASCIA SIGNS



Sign Figure 14.32.11d: SIGN AREA - COMPUTATION METHODOLOGY  
Sum of Shaded Areas Only Represent Sign Area  
Signs constructed with panels or cabinets



Sign structures



**Sec. 117-285. Purpose.**

The purposes of the on-premises sign regulations are:

- (1) To encourage the effective use of signs as a means of communication in the city;
  - (2) To maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth;
  - (3) To eliminate, to the maximum extent feasible, clutter and to improve corridor visibility;
  - (4) To improve pedestrian and traffic safety;
  - (5) To minimize the possible adverse effect of signs on nearby public and private property; and
  - (6) To ensure the protection of the public's first amendment rights.
- (Zoning Ord., § 14.32.11.1)

**Sec. 117-286. Applicability.**

(a) The regulations contained within this division shall apply to all signs and to all zoning districts.

(b) Unless otherwise provided by this division, all signs shall require a zoning certificate and a payment of fees. No zoning certificate is required for the maintenance of a sign.

(c) Governmental/public/utilities and traffic signs are excluded from the scope of these regulations.  
(Zoning Ord., § 14.32.11.2)

**Sec. 117-287. Compliance required.**

(a) It shall hereafter be unlawful for any person to erect, place, or maintain a sign in the city except in accordance with the provisions of these regulations.

(b) All wiring, fittings, and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the local electrical code in effect. Building permits may be required, verify permitting with the local building inspections department.

(c) No sign of any classification shall be installed, erected, or attached to a structure in any form, shape, or manner that is in violation of the city's or state's building or fire codes.  
(Zoning Ord., § 14.32.11.3)

**Sec. 117-288. Computations.**

(a) *Principles.* The following principles shall control the computation of sign area and sign height.

- (1) *The area of individual signs.* The area of a sign face, which is also the sign area of a wall sign or other sign with only one face, shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that shall encompass the extreme limits of the writing, representation, emblem, or other display. This measurement does not include any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning resolution regulations and is clearly incidental to the display itself. See the following figure.

Figure 11.4.1: Examples of Measuring Sign Area



(2) *The area of multifaced signs.*

- a. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. This methodology shall be utilized for banner signage face calculations also.
- b. When two identical sign faces are placed back to back, or in a V formation where the spread is not greater than the width of the face, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than 48 inches apart, the sign area shall be computed by the measurement of one of the faces.
- c. For cube signs or V-type signs with a spread greater than the

width of the sign face where two faces may be viewed at the same point, the sign area shall be computed by the total measurement of both faces. (See sign figures in section 117-284)

- (3) *Height.* The height of a sign shall be computed as the distance from the crown of the fronting adjacent roadway to the top of the highest attached component of the sign. (See sign figures in section 117-284.)

- (4) *Street / lot frontage.* When a computation is based on the street or lot frontage, the longest street or lot frontage, and not the total street frontage, shall be used.

(Zoning Ord., § 14.32.11.4; Ord. No. 07.81, § 1, 7-3-2007)

**Sec. 117-289. Nonconforming signs.**

(a) *Determination of legal nonconformity.*

- (1) Existing signs that do not conform to the specific provisions of this division may be eligible for the designation of a legal nonconforming sign provided that they are not in violation of either of the following:
  - a. The zoning administrator determines that such signs are properly maintained and do not in any way endanger the public or constitute a nuisance.
  - b. The sign was covered by a valid permit or variance, or complies with all applicable laws on the effective date of the resolution from which this section is derived.
- (2) The owner may continue the use of a legal nonconforming sign provided the owner obtains a certificate of noncompliance from the city planning department within 90 days of the effective date of the resolution from which this division is derived.
- (3) Portable signs shall not be designated a legal nonconforming sign and shall be removed within 120 days of the effective date of the resolution from which this article is derived. Portable signs altered to be made nonportable shall still be considered to be portable.

(b) *Loss of legal nonconforming status.* A legal nonconforming sign loses the legal nonconforming designation if:

- (1) The sign is relocated;

- (2) The sign is replaced for reasons other than vandalism or an act of God or other causes outside the influence of the owner or user.
- (3) The structure or size of the sign is altered in any way except towards compliance with this division. This provision does not refer to general maintenance, changeable marquees, or face and copy changes.
- (4) The sign is part of an establishment that discontinues its operation for a period of two years.

(c) *Maintenance and repair.* The legal nonconforming sign is subject to all requirements of this division regarding safety, maintenance, and repair. However, if the sign suffers damage to an extent greater than 60 percent of the estimated replacement value, unless such damage was caused by vandalism or an act of God or other causes outside the influence of the owner or user. (Zoning Ord., § 14.32.11.12; Ord. No. 07.81, § 1, 7-3-2007)

**Sec. 117-290. General sign standards.**

(a) *Located in the right-of-way; obstructing vision or traffic.*

- (1) No signs shall be placed in any public right-of-way except:
  - a. Publicly owned signs, such as traffic control signs, city identification signs, and freestanding signs as permitted in section 117-292(a);
  - b. Projecting, canopy, and awning signs may project over a public right-of-way if they are

in conformity with all other applicable standards of this division.

- (2) No sign or other advertising structure as regulated by this division shall be erected:
    - a. At the intersection of streets in such a manner as to obstruct free and clear vision; or
    - b. At any location where, by reason of the position, shape or color, it may interfere with traffic, obstruct the view of traffic, or be confused with the use of words such as "stop," "danger," or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic.
- (b) *Illumination.*
- (1) The light from any illuminated sign or from any light source shall be so shaded, shielded, or directed that the light intensity or brightness shall not adversely affect surrounding or facing residential districts, or adversely affect the safe vision and operation of vehicles moving on public or private roads, highways, or parking areas. Light shall not directly shine or reflect on or into residential structures.
  - (2) Signs shall be subject to the outdoor lighting provisions of subsection (f) of this section (signs on awnings, canopies, fascia, or marquees) and other applicable regulations in this article.
    - (c) *Message changes.*
      - (1) Message changes are permitted and do not require a permit on any permitted or legal nonconforming sign with changeable copy. However, signs that flash intermittently are prohibited.
      - (2) Signs having video capability shall be permitted, provided they changes at rate of 20 frames per second or less. This type of sign must be equipped with an auto dimmer that dims the brightness between dusk and dawn. These signs will be allowed in any zoning; however, they may not be located with 250 feet of a residential structure.
      - (3) Signs shall not have moving or rotating mechanical parts that change position more often than every seven seconds. Signs that rotate continuously, 360 degrees, will be allowed provided they do not rotate at a rate of more than six rotations per minute.
      - (4) Electronic information signs.
        - a. Lighted electronic information signs whose only movement is the periodic changing of information against a solid background, shall be considered a changeable copy sign for the purpose of this division.
        - b. Must be equipped with dimmers that will dim light intensity from dusk to dawn.
        - c. Any sign under this section shall meet all other zoning requirements.

d. Electronic marquee signs shall be permitted but shall meet all zoning requirements regarding flashing and transitioning.

(d) *Address signs.* All development shall have a sign providing the numeric address of the identification purposes to assist in fire and safety protection.

(e) *Required landscape area for signs.*

(1) Unless otherwise provided in this division, all monument type signs

shall be located in a landscaped area with a minimum area equal to the total sign area. See figure in this subsection.

(2) The landscape area for permanent freestanding signs shall consist of shrubs, flowers, sod and/or ground cover.

Figure 11.5.5: Landscaping for Monument Signs



(f) *Signs on awnings, canopies, fascia, or marquees.*

(1) Awnings, canopies, fascia, or marquees shall be designated as permanent parts of the building and

shall meet all of the requirements of all applicable building and electrical codes.

(2) Unless otherwise provided in this division, the sign area of the aw-

ning, canopies, fascia, or marquee shall be included as part of the wall sign area calculation.

- (3) In cases where the awning, canopy, fascia, or marquee is constructed of translucent material, is illuminated from within or behind the structure, and contains sign copy, the area of the sign copy shall be calculated in determining the sign area.

(g) *Wall signs.* Wall signs excluding awnings shall not extend more than 12 inches as measured from the face of the building/parapet wall or extend above the roof of the structure, unless otherwise allowed within this division.

(Zoning Ord., § 14.32.11.5; Ord. No. 07.81, § 1, 7-3-2007)

**Sec. 117-291. Prohibited signs.**

The following types of signs are prohibited in all districts:

(1) *Abandoned signs.*

- a. Any sign now or hereafter existing that no longer advertises a commercial message for a bona fide business conducted on the premises or a product sold on the premises for a period of one year shall be deemed abandoned.
- b. Such a sign shall be taken down and removed or the face shall be changed as provided in subsection (1)c of this section by the owner, agent, or person having the beneficial use of the building or structure upon which the sign may

be found within 30 days after notification to the owner from the zoning administrator.

- c. The face of the abandoned sign shall be replaced with a blank face so as to cover all internal light or structural systems or the existing face must be blanked out so that in no way may the previous message be read; otherwise, entire sign/structure must be removed.
- d. All signs shall be in conformance with section 117-295 regarding the maintenance of all signs.

- (2) No permanent sign shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving devices for the purpose of advertising or attracting attention for commercial or advertising purposes except to cover existing signs when faces must be changed immediately to allow time to produce and install the permanent faces or where otherwise permitted in this division;

- (3) Air activated graphics or balloons used for commercial or advertising reasons shall not be permitted except where otherwise permitted in this division;

- (4) Signs placed on vehicles or trailers that are parked or located for the primary purpose of displaying such signs. This provision does not apply to portable signs or lettering on buses, taxis, or vehicles operating during the normal course of business;

- (5) Signs imitating or resembling official traffic or governmental signs or signals;
- (6) No person shall display upon any sign or other advertising structure any obscene, indecent, or immoral matter;
- (7) Signs that consist of lights that revolve or flash are prohibited in all districts with the exception of electronic information signs. The following sign types shall also be prohibited unless otherwise permitted in this article:
  - a. Bench signs, excluding publicly owned bus shelters.
  - b. Portable signs\* or portable black signs;
  - c. Snipe signs;
  - d. Graffiti; or
  - e. Roof signs.

\*Freestanding real estate, election signs shall be excluded from this provision.

(Zoning Ord., § 14.32.11.6; Ord. No. 07.81, § 1, 7-3-2007)

**Sec. 117-292. Signs not requiring a zoning certificate.**

The following sign types shall be exempted from permit requirements but shall be in conformance with all other requirements of this division:

- (1) Signs conforming with the Manual of Uniform Traffic Control Devices and bearing no commercial message. Beautification award signs shall be exempt from zoning certifi-

cate permit requirements, however permission must be granted by the city;

- (2) Signs bearing no commercial message and installed by employees or officials of a city department, state or federal agency in the course of their governmental duties for identification, safety and traffic control purposes;
- (3) Signs required by a city, state or federal statute;
- (4) Signs required by an order of a court of competent jurisdiction;
- (5) Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message is necessary to identify the use;
- (6) Signs installed by a transit company with a franchise or other right to operate in the city, where such signs are installed along its routes and relate to schedules or other information about the transit route;
- (7) Certain temporary signs as regulated by section 117-294;
- (8) Permanent freestanding sign on a lot that is considered agricultural land based on the definitions in section 117-2 and provided the sign meets the following requirements:
  - a. Such sign shall be located a minimum of 15 feet from a right-of-way.
  - b. The maximum sign area shall be 32 square feet.

- c. The maximum sign height shall be six feet.
- (9) One nonilluminated wall sign of two square feet or less in a residential zoning district as part of a home occupation permitted pursuant to section 117-226(2);
- (10) Commemorative plaques placed by recognized historical agencies;
- (11) Mailbox identification when such is an integral part of such mailbox;
- (12) Warning signs including no hunting, no trespassing, keep off grass, no dumping, or signs of a similar nature provided that they do not exceed two square feet in area;
- (13) Window signs. The window signs shall be so located as to allow clear visibility into the building for the purposes of fire and police protection;
- (14) Beautification award signage bearing the name/logo of the award recipient and/ or sponsor without further advertisement of the commercial business.

(Zoning Ord., § 14.32.11.7; Ord. No. 07.81, § 1, 7-3-2007)

**Sec. 117-293. Permanent on-premises signs.**

(a) *Signs permitted in any residential zoning district.* The following on-premises signs may be permitted in an RS-1, RS-2, RS-3, RS-4, RS-5, RS-6, RS-7, RS-8, or PD-R districts:

- (1) All signs not requiring a zoning certificate pursuant to section 117-292;

- (2) Permanent freestanding signs for a subdivision, open space residential development, multifamily dwelling, public/institutional use, or commercial enterprise permitted in a residential zoning district, kennel, riding stable, etc., provided that the signs meet the following requirements (See figure in this section):
  - a. Two permanent freestanding signs may be permitted, by zoning certificate, at each development entrance along a city or state road;
  - b. The signs shall be ground monument mounted signs;

Figure 11.8.1: Development Sign



- c. The signs shall be set back 15 feet from the public right-of-way;
- d. Subdivision median monument signage may be reviewed and approved by the city street superintendent as a revocable permit which may be subject to removal and relocation at the owner's expense if future city right-of-way projects cause such action;

- e. The maximum sign area for each sign shall be 150 square feet in area;
  - f. No such sign or any portion of the structure shall exceed ten feet in height; and
  - g. The sign may only be illuminated through external lighting.
- (3) Permitted public and institutional uses may be permitted to have one permanent freestanding sign per street frontage in a residentially zoned area provide the sign meets the following requirements:
- a. The sign shall be a ground mounted sign;
  - b. The signs shall be set back a minimum of ten feet from the edge of street pavement/back of curb or off the street right-of-way, whichever is the greater setback;
  - c. The sign shall have a maximum sign area of 75 square feet in area;
  - d. No such sign or any portion of the structure shall exceed 15 feet in height; and
  - e. The sign may only be illuminated through external lighting unless the applicant demonstrates that an internal illuminated sign will not spill lighting on residential abutting properties, satisfying section 117-290(b).
- (b) *Signs permitted in any C-4 or CR-1 district.* The following on-premises signs may be permitted in a C-4 or CR-1 district:
- (1) All signs not requiring a zoning certificate pursuant to section 117-292;
  - (2) All signs shall be set back a minimum of ten feet from the edge of street pavement/back of curb or off the street right-of-way, whichever is the greater setback. In no location shall signage or sign structural parts be placed within the public right-of-way, unless otherwise authorized by this chapter;
  - (3) Temporary signs pursuant to section 117-294;
  - (4) Ground-mounted signs. One permanent ground mounted sign per parcel, lot, or site per street frontage, if on street corner totals may be combined with maximum height and size restrictions below satisfied, subject to the following requirements:
    - a. The height of the sign shall not exceed ten feet.
    - b. The maximum sign area for a single occupant building shall be equivalent to one square foot for each lineal foot of frontage, but shall not exceed 100 square feet. For each additional business or occupant, an additional 20 square feet will be allowed with area not to exceed 300 square feet.

- (5) Wall signs.
  - a. Wall signs may be permitted up to a total square footage equal to 12 percent of the building facade area which the tenant occupies. These signs may be placed on any walls desired by the tenant.
  - b. Buildings located on a corner lot may be permitted to add the total of all frontages to come up with the maximum size for all signs.
  - c. Incidental awnings bearing supplemental direction/identification shall be permitted for automatic teller machines, drive through and other protected entrances.
  - c. Drive-thru signage that is not meant to be read from the main road access shall be exempt from this requirement.
  - d. Sign frame must be made from a rigid material and installed by means of direct embedded poles. The sign face shall be a rigid material or a banner material as per section 117-294(c)(5).
  - e. Signs may only be single-sided or back to back. No V-type sign or other formation.
  
- (6) Secondary advertising display signs. Permanent freestanding signs in a C-4, C-5, CR-1 district under the following provision:
  - a. The maximum height shall be six feet unless they are attached to a building as a wall sign in which case they shall not be attached in a manner as to exceed the height of the structure or unless otherwise allowed in this division.
  - b. A maximum of two secondary advertising display signs are permitted on each property per street frontage provided they are 24 square feet or smaller in sign area and they are spaced no closer than 150 feet from another secondary advertising display sign.
  - (c) *Signs permitted in any C-1, C-2, C-3, I-1, I-2, PD-B, PD-I, or PD-M district.* The following signs may be permitted in a C-1, C-2, C-3, I-1, I-2, PD-B, PD-I, or PD-M district:
    - (1) *Not requiring zoning certificate.* All signs not requiring a zoning certificate pursuant to section 117-292;
    - (2) *Temporary signs.* Temporary signs pursuant to section 117-294;
    - (3) *Setback requirements.* The signs shall be set back a minimum of ten feet from the edge of street pavement/back of curb or off the street right-of-way, whichever is the greater setback;
    - (4) *Freestanding signs.* One freestanding pole or ground-mounted sign shall be permitted per parcel, lot, or site; or one per frontage on corner lots subject to the following requirements:
      - a. The height of the sign shall be determined by the width of the street frontage as shown in the following chart:

<i>Linear Feet of Lot Frontage (in feet)</i>	<i>Allowed Height of Sign for Single Occupant Buildings</i>	<i>Additional Allowed Height of Sign for Each Additional Occupant</i>	<i>Maximum Height Allowed</i>
Up to 100	15	2	45
Over 100 and up to 150	25	2	45
Over 150	30	2	45

- b. The maximum sign area for a single occupant building shall be equivalent to one square foot for each lineal foot of frontage, but shall not exceed 150 square feet. For each additional occupant, an additional 20 square feet will be allowed, but not to exceed 400 square feet.
- (5) *Freestanding driveway directional signs.* Permanent freestanding signs in a C-1, C-2, C-3, C-4, CR-1, I-1, I-2 or a PD-R or PD-C district under the following provisions:
- a. The sign shall be located within ten feet of the intersection of a public street and a private driveway;
  - b. The sign may contain company logo/identifiers but must have the overall intent/content of direction;
  - c. The maximum sign area shall be eight square feet in area;
  - d. The maximum sign height shall be four feet;
  - e. Vehicular vision obstruction cases may be waived to achieve maximum eight feet in height, located ten feet outside of public right-of-way; and
- f. Downtown district (C-1) freestanding shall be exempt from right-of-way setback requirements; however an encroachment permit shall be required. The administrator or superintendent of streets may require that sign be placed at or outside of right-of-way.
- (6) *Secondary directional driveway signs.* Permanent freestanding signs in a C-1, C-2, C-3, I-1, I-2 or a PD-C district under the following provisions:
- a. The sign shall be located within ten feet of the intersection of a public street and a private driveway and shall be located one foot outside of the public right-of-way;
  - b. One sign may be permitted per individual driveway;
  - c. The maximum sign height and sign area will be determined by its distance from the main identification sign as follows:
    - 1. If the secondary identification sign is 400 feet or

more in distance from main identification sign, the maximum height shall be eight feet and the maximum sign area shall be 100 square feet.

2. If the secondary identification sign is less than 400 feet in distance from the main identification sign, the maximum height shall be five feet and the maximum sign area shall be 50 feet square feet.
3. Downtown district (C-1) freestanding shall be exempt from right-of-way setback requirements; however an encroachment permit shall be required. The administrator or superintendent of streets may require that the sign be placed at or outside of right-of-way.

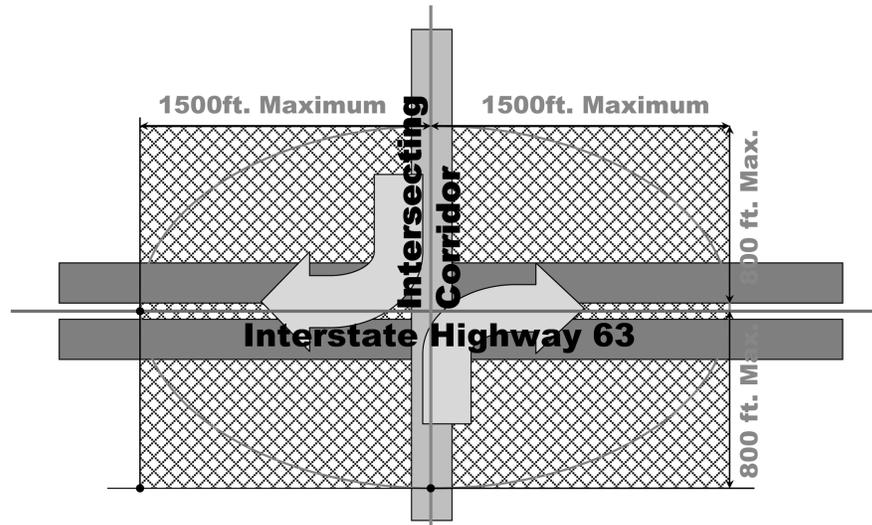
street frontage provided they are 24 square feet or smaller in sign area and they are spaced no closer than 150 feet from another secondary advertising display sign.

- c. Drive-thru signage that is not meant to be read from main road access shall be exempt from this requirement.
- d. Sign frame must be made from a rigid material and installed by means of direct embedded poles. The sign face shall be a rigid material or a banner material as per section 117-294(c)(5).
- e. Signs may only be single-sided or back to back. No V-type sign or other formation.

(7) *Secondary advertising display signs.* Permanent freestanding signs in a C-1, C-2, C-3, I-1, I-2 or a PD-C district under the following provision:

- a. The maximum height shall be six feet unless they are attached to a building as a wall sign in which case they shall not be attached in a manner as to exceed the height of the structure or unless otherwise allowed in the division.
- b. A maximum of two secondary advertising display signs are permitted on each property per

Figure 11.8.3: High-Rise Sign Location Limit  
(Allowed within shaded area only)



- (8) *High rise signs.* One high-rise pole sign is permitted on each lot located in the C-3 commercial district within a radius of 1,500 feet parallel to the intersecting corridor and Interstate 63 and within a radius point of 800 feet running parallel to Interstate 63 (See the figure in this section). All such signs shall be subject to the following, unless sign size and height fits the requirements for freestanding signs in subsection (c)(4) of this section.
- a. A zoning and building permit shall be required.
  - b. All high-rise pole signs shall have a maximum height of 75 feet.
  - c. The maximum sign area shall be 300 square feet.
  - d. Setback shall be the same as for ground and pole signs.
- (9) *Wall signs.*
- a. Wall signs may be permitted up to a total square footage equal to 12 percent of each building wall face area which the tenant occupies for business/commercial with a maximum 350 square feet in area/size. Industrial zoning maximum sign area shall be 15 percent of the building wall face area with a maximum 1,000 square feet area/size.
  - b. Incidental awnings bearing supplemental direction/identification shall be permitted for automatic teller machines, drive through and other protected entrances.
- (Zoning Ord., § 14.32.11.8; Ord. No. 07.81, § 1, 7-3-2007)

**Sec. 117-294. Temporary signs.**

(a) *General standards for all temporary signs.*

- (1) No temporary sign shall be mounted, attached, affixed, installed or otherwise secured so as to protrude above the roof or extend above a parapet wall.
- (2) No temporary sign that is eight square feet or less in size shall be illuminated by anything other than nonreflected daylight, except by variance issued by the board of zoning adjustment.
- (3) Temporary signs shall be set back as follows:
  - a. A minimum of ten feet from the edge of street pavement/back of curb or off the street right-of-way, whichever is the greater setback;
  - b. A minimum of 20 feet from all lot lines adjacent to a residential use or residential zoning district;
  - c. A minimum of five feet from all other property lines; and
  - d. A minimum of five feet from any other temporary sign.
- (4) Use of temporary displays on days without approval by zoning certificate, when required, or beyond the stated date of approval, when applicable, shall be deducted from the allotted number of days.
- (5) Violations of zoning regulations applying to temporary signs shall be corrected within 24 hours of written notification of the violation.

(b) *Temporary signs permitted in a residential zoning district.* This subsection addresses permitted temporary signs in a RS-1, RS-2, RS-3, RS-4, RS-5, RS-6, RS-7, RS-8, RM-4, RM-6, RM-8, RM-12, RM-16, or PD-R district.

- (1) The maximum height of all temporary signs in a residential district shall be seven feet. Exception; See subsection (b)(4) of this section for signage attributed to construction signage.
- (2) A maximum of five temporary signs are permitted on each property, during construction or remodeling, provided they are six square feet or smaller in sign area. After construction or remodeling is complete all such signs shall be removed within 14 days, except for sale, lease or rent sign per street frontage. These signs may remain for a period not to exceed 90 days after the property has sold or has been leased or rented. Such signs shall not require a zoning certificate or payment of a fee. The maximum height of all temporary signs in a residential district shall be seven feet.
- (3) A maximum of two temporary signs are permitted on each street frontage for a period up to 60 days; provided the signs are less than six square feet and they do not contain a commercial message. Such signs shall not require a zoning certificate or payment of a fee. The maximum height shall be seven feet.

- (4) Temporary signs greater than six square feet in size may be permitted under the following provisions:
- a. The owner of the property where the sign will be located applies for, and receives a zoning certificate for the sign;
  - b. There shall be a limit of one sign with a maximum of two sides per single lot per street frontage and such signs shall not exceed the following maximum square footage:
    1. Lots one acre or less, 16 square feet.
    2. Lots larger than one acre, 32 square feet.
    3. The maximum height shall be seven feet.
  - c. Signs larger than 32 square feet shall be allowed to announce the development and the sale of lots within a subdivision. There may be one sign per entrance and these signs shall not exceed the following maximum square footage:
    1. Developments less than five acres permitted, 32 square feet;
    2. Developments five acres or more, but less than ten acres permitted, 64 square feet;
    3. Developments ten acres or more permitted, 96 square feet; or
    4. The maximum height of 12 feet.
  - d. The sign shall not be illuminated unless authorized by the board of zoning adjustment through the variance process;
  - e. The time limit for the zoning certificate shall comply with the following:
    1. A temporary sign under this section may be posted during construction and/or development of the subject property without a specific time limit. The sign shall be removed within 14 days of completion of construction or development.
    2. A temporary sign for the purpose of selling, renting or leasing the site may remain for a period up to 30 days after the property has been sold, leased or rented.
    3. All other temporary signs under this section shall be displayed for not more than 30 days per zoning certificate, and not to exceed 90 days per year.
- (5) Public and institutional uses in a residential district may be permitted to have one additional temporary sign with a commercial message, without apply for a zoning certificate or paying a fee, under the following provisions:
- a. Such sign shall not exceed 32 square feet per side with a maximum of two sides;

- b. The sign shall not be illuminated unless authorized by the board of zoning adjustment through the variance process;
- c. The sign may be permitted for a maximum of two periods in a calendar year not to exceed 45 days each period;
- d. A minimum of 30 days between each 45-day period is required;
- e. Golf tournament signs are permitted without regulations on size or quantity, but only for a period not to exceed seven days and notification must be given to the planning office before installation.

(c) Temporary signs permitted in a mixed use or nonresidential zoning district. This subsection addresses permitted temporary signs in a C-1, C-2, C-3, C-4, CR-5, CR-1, I-1, I-2 or a PD-C, PD-1, or PD-M district.

- (1) The maximum height of all temporary signs shall be 12 feet unless they are attached to a building as a wall sign in which case they shall not be attached in a manner as to exceed the height of the structure or unless otherwise allowed in this division.
- (2) A maximum of four temporary signs that are meant to be read from the roadway are permitted on each property provide they are 32 square feet or smaller in sign area and they are spaced no closer than 150 feet from another temporary sign. Such signs shall not require a zoning certificate or payment of a fee.

Signs that are not meant to be read from the roadway are exempt from the 150 feet spacing regulation.

- (3) Temporary signs or special event signage greater than 32 square feet in area may be permitted under the following provisions:
  - a. The owner of the property where the sign will be located applies for, and receives a zoning certificate for the sign;
  - b. There shall be a limit of one sign per premises per frontage and such sign shall not exceed the following square feet per side with a maximum of two sides:
    - 1. Lots on less than five acres, 128 square feet.
    - 2. Lots five acres or larger, 360 square feet.
  - c. The time limit for the zoning certificate shall comply with the following:
    - 1. A temporary sign under this section may be posted during construction and/or development of the subject property without a specific time limit. The sign shall be removed within 14 days of completion of construction or development.
    - 2. A temporary sign for the purpose of selling, renting or leasing the site may remain for a period up to 30 days after the property has been sold, leased or rented.

3. All other temporary signs under this section shall be displayed for not more than 30 days per zoning certificate, and not to exceed 90 days per year.
- (4) Temporary signs consisting of banners, pennants, ribbons, streamers, spinners may be permitted in addition to other signs permitted as part of this division provided they meet the following requirements except for pole pocket banner described in subsection (c)(5) of this section:
    - a. A zoning certificate shall be required for a banner sign or similar special event sign.
    - b. The signs may be permitted for a maximum of four periods in a calendar year not to exceed 60 days each period.
    - c. A minimum of 30 days between each 60-day period is required.
    - d. Any certificate issued in the same calendar year as provided in subsection (c)(4)b of this section shall count as one of the four 60-day periods permitted in this section.
    - e. Only one banner sign or one special event sign per use and per street frontage shall be used at a time.
    - f. The maximum sign height shall be 12 feet.
    - g. Lettering on banners shall be silk-screened, stenciled, created with vinyl letters or sewn into the fabric or material.
  - h. All signs are subject to the minimum setback requirements of temporary signs.
  - (5) Pole pocket banners may be permitted in addition to other signs as described in this subsection.
    - a. Banners shall have pole pockets on at least two sides.
    - b. Banners shall be mounted to permanent structures or poles by means of rods thru the entire length of the banner pocket.
- (d) *Downtown core signage standards.* All signs erected, maintained or located in the downtown core area (C-1), shall comply with the provisions described herein. In circumstances where said provisions do not address a particular aspect of signage, this division will take precedence. No sign shall be erected or altered before acquiring a sign permit. Moreover, no sign permit shall be issued for any additional sign or alterations to existing signs until all signs on the property or development conform to said provisions.



- (1) *Signage types permitted.* The types of signs permitted in the downtown core area will be limited to wall signs, temporary signs, hang-

ing signs, and logo signs. Awnings and monument signs will also be permitted. Illuminated signs will be permitted and shall conform with this article. Following are restrictions for each sign type:

- a. *Wall signs.* Wall signs shall not exceed 12 percent of the exposed area of the wall on which they are located. Said 12 percent also to include valance, permanent window signs and temporary signs. Maximum allowable sign area shall be 350 square feet.
  - b. *Hanging signs.* Hanging signs will be limited to 18 square feet in area and will be attached to the building. Material used for fastening or supporting hanging signs will be restricted to metals with porcelain enamel, stainless steel, brass or bronze finish. For adequate clearance, hanging signs will be placed no lower than eight feet above grade. Those signs projecting over publicly owned rights-of-way shall require an encroachment permit.
  - c. *Temporary signs.* Temporary signs shall not exceed ten percent of the window.
  - d. *Monument signs.* Monument signs shall be allowed but must satisfy the requirements of section 117-293(c).
- (2) *Signage types not permitted.* The following types of signs will be prohibited in the downtown core area (C-1):
    - a. Ground/pole signs.
    - b. Roof signs or any type of sign which is placed above the apparent flat roof or eaves of a building.
    - c. External rotating, moving, flashing, changing, blinking signs.
    - d. Permanent signs will be for business identification only; brand names or product advertising are not permitted.
    - e. Permanent signs will not cover windows, building details, trim, roof or tower over the building.
  - (3) *Signage area.* Total sign area allotment permitted will be one and one-half square feet of sign for each linear foot of qualified street frontage with a minimum allowance of 25 square feet. Maximum height of letters will be restricted to 18 inches; maximum height of letters on canvas awnings will be limited to ten inches. Business identification shall not exceed two feet, six inches.
  - (4) *Second story signage.* Where office lease space occurs on a second level, signage will be allowed for building identification. Window signs consisting of lettering only shall be allowed for business identification. Letters can be no higher than six inches. On a parapet or windowless wall, signage may include representational graphics, symbols or

logos not to exceed 16 square feet in area. This will not be counted as part of the allowable sign footage. (Zoning Ord., § 14.32.11.10; Ord. No. 07.81, § 1, 7-3-2007)

**Sec. 117-295. Maintenance.**

(a) All on-site advertising signs as herein permitted shall be constructed and maintained and illuminated in a safe manner, comply with applicable codes and kept in good repair.

- (1) Signs shall be free from rust, dust, dirt, and other such debris.
- (2) Exposed surfaces shall be clean and painted if paint is required.
- (3) Defective parts shall be replaced.
- (4) Anytime a lighted sign has the face remove overnight the power must be disconnected.
- (5) Signs shall not be left without a face more than a three-month period.
- (6) The zoning administrator shall have the right to order the repair or removal of any sign that is defective, damaged, or substantially deteriorated.
- (7) See section 117-291(1), pertaining to abandoned signs.

(b) Should any sign be or become unsafe or be in danger of falling, the owner, tenant, or lessee shall, upon receipt of written notice from the zoning administrator, proceed at once to correct the unsafe condition and/or remove the sign in question.

(c) Signs shall not be constructed, maintained, and/or illuminated in such a manner as to create or allow the obstruction of vision of drivers, pedestrians, or the general public, or create a fire or safety hazard. Signs shall be subject to the vision clearance regulations of section 117-327 corner visibility, vision clearance triangle.

(Zoning Ord., § 14.32.11.11; Ord. No. 07.81, § 1, 7-3-2007)

**Secs. 117-296—117-323. Reserved.**

**ARTICLE VIII. OTHER  
STANDARDS AND  
REQUIREMENTS**

**Sec. 117-324. Off-street parking and loading.**

(a) *Applicability.* Off-street parking and loading shall be provided in accordance with the regulations of this section for all new development, and for any existing development that is altered in a way that enlarges or increases capacity by adding or creating dwelling units, guest rooms, floor area or seats.

(b) *Parking and loading schedules.*

- (1) *Off-street parking schedule A.* Off-street parking spaces shall be provided in accordance with the following off-street parking schedule (schedule A), provided that there shall be no minimum off-street parking requirement for uses located in the C-1 district. In some cases, the applicable off-street parking space requirement in schedule A refers to schedule B.

(2) *Number of spaces required.* The number of parking spaces required for a use not listed herein shall be the same as for a similar use which is listed. Where the required number of spaces cannot be ascertained by this method, or the applicant and the city staff cannot agree, the

matter shall be submitted to the planning commission for determination.

(3) *Approval.* Such determination shall be subject to appeal to the city council.

Schedule A

<i>Uses</i>	<i>Number of Spaces Required</i>
<i>Residential</i>	
Single-family detached	2 per dwelling unit
Single-family attached	2 per dwelling unit
Duplex	2 per dwelling unit
Multifamily	1.25 per efficiency unit
	1.75 per one-bedroom unit
	2.25 per two-bedroom unit
	3.00 per three-bedroom and larger units
Manufactured housing (all)	2 per dwelling unit
Manufactured housing park	2 per unit, plus 1 for each 10 units
Zero lot line single-family	2 per dwelling unit
<i>Civic and commercial</i>	
Animal care, general	1 per 400 square feet
Animal care, limited	1 per 300 square feet
Auditorium, arena, theater	1 for each 4 seats, based on maximum capacity
Bank or financial institution	1 per 300 square feet
Bed and breakfast	2 per building, plus 1 per guest room
Church	1 for each 4 seats in the sanctuary (sharing possible)
College or university	1 per 300 square feet, or 1 for each 2 students, whichever is greater
Communication tower	1 space (plus office space, if on site)
Construction sales and service	Spaces to be provided pursuant to schedule B
Convenience store	1 per 200 square feet
Day care, limited or general	1 per employee and/or attendant, plus 2 spaces

<i>Uses</i>	<i>Number of Spaces Required</i>
Funeral home	1 for each 4 chapel seats, plus 1 per employee
Government service	1 per 300 square feet
Hospital	1 for each 3 beds, plus 1 for each 3 employees
Hotel or motel	1 per guest room, plus 1 per 10 guest rooms
Day care, limited or general	1 per employee and/or attendant, plus 2 spaces
Library	1 per 500 square feet
Medical service	6 per doctor or dentist
Museum	1 per 500 square feet
Office, general	1 per 300 square feet
Recreation/entertainment, indoor	1 per 400 square feet
Recreational vehicle park	1 per camping space
Restaurant, fast-food	1 per 75 square feet of customer service/dining area
Restaurant, general	1 per 150 square feet for first 2,500 square feet, plus 1 per 100 square feet over 2,500 square feet
Retail/service, general	1 per 250 square feet
Retail/service, furniture and bulky items	Spaces to be provided pursuant to schedule B
School, nursery, elementary and middle	1 per staff and employee, plus 1 space per classroom
School, high	1 for each 3 students, plus 1.5 per classroom
Service station	2 per service bay, plus 1 per pump
Vehicle and equipment sales	Spaces to be provided pursuant to schedule B
Vehicle repair, general or limited	5 per service bay
Vocational school	1 per 3 students, plus 1 per faculty member
Warehouse, residential (mini) storage	1 for each 5 storage bays, or 1 per 1,000 square feet, whichever is greater
<i>Industrial and manufacturing</i>	
Asphalt or concrete plant	Spaces to be provided pursuant to schedule B
Auto wrecking or salvage yard	Spaces to be provided pursuant to schedule B

<i>Uses</i>	<i>Number of Spaces Required</i>
Manufacturing, general	Spaces to be provided pursuant to schedule B
Manufacturing, limited	Spaces to be provided pursuant to schedule B
Research service	1 per 300 square feet
Warehousing	Spaces to be provided pursuant to schedule B
Welding or machine shop	1 per 1,000 square feet or 1 per employee, whichever is greater

- (4) *Off-street parking schedule B.* Off-street parking for schedule B uses shall be provided in accordance with the following table:

Schedule B

<i>Activity</i>	<i>Number of Spaces Required</i>
Office or administrative area	1 per 300 square feet
Indoor sales, service or display area	1 per 500 square feet
Outdoor sales, service or display area	1 per 750 square feet
Manufacturing area	1 per 1,000 square feet
Indoor storage, warehousing, or equipment servicing	1 per 5,000 square feet unless number of employees and visitors requires greater

- (5) *Off-street loading schedule.* Off-street loading spaces shall be provided in accordance with the following minimum standards:

Off-Street Loading Schedule

<i>Floor Area (in square feet)</i>	<i>Minimum Requirements</i>
Retail and service, warehouse, wholesale, and manufacturing uses	
3,000 to 25,000	1
25,001 to 85,000	2
85,001 to 155,000	3
155,001 to 235,000	4
235,001 to 325,000	5
325,001 to 425,000	6
425,001 to 535,000	7
535,001 to 655,000	8
655,001 to 775,000	9

<i>Floor Area (in square feet)</i>	<i>Minimum Requirements</i>
775,001 to 925,000	10
925,001 or more	10, plus 1 per 200,000 square feet above 925,001
Offices, nursing homes, hospitals, hotels and institutions	
3,000 to 100,000	1
100,001 to 335,000	2
335,001 to 625,000	3
625,001 to 945,000	4
945,001 or more	5, plus 1 per 500,000 square feet above 945,001

(c) *Computing off-street parking and loading requirements.*

- (1) *Multiple uses.* Lots containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all uses.
- (2) *Fractions.* When measurements of the number of required spaces result in fractions, any fraction of one-half or less shall be disregarded and any fraction of more than one-half shall be rounded upward to the next highest whole number.
- (3) *Area.* Unless otherwise noted in the provisions, all square footage-based parking and loading standards shall be computed on the basis of gross floor area.
- (4) *Employees, students and occupant-based standards.* For the purpose of computing parking requirements based on the number of employees, students, residents or occupants, calculations shall be based on the

largest number of persons working on any single shift, the maximum enrollment or the maximum fire-rated capacity, whichever is applicable and whichever results in the greater number of spaces.

- (5) *American's With Disability Act Requirements (ADA).* Pursuant to Federal ADA standards, a portion of the total number of required off-street parking spaces in each off-street parking area shall be specifically designated, located and reserved for use by person with physical disabilities. Responsibility for compliance, in all respects, shall rest with the applicant.

(d) *Location and design of off-street parking and loading spaces.*

- (1) *On-site.* Except as otherwise specifically provided, required off-street parking and loading spaces shall be located on the same lot as the principal use.
- (2) *Right-of-way.* Off-street parking spaces shall be prohibited within

the public right-of-way; and no portion of the abutting street right-of-way shall, except for the driveway, shall be paved or used in any manner except as green area.

(3) *Setbacks.*

- a. In single districts, required off-street parking shall not be located within a street setback. Parking in excess of the required number of spaces is allowed in the street setback, but not off the driveway, and not in a manner which obstructs sidewalks or visibility.
- b. Where parking is to be provided in the street setback of a multifamily dwelling, there shall be established a setback line of ten feet. The area between the setback line and the front lot line shall be prepared and planted with grass, shrubs, trees, or ground cover not inconsistent with other landscaping provisions contained herein, and protected by interior curbing.
- c. In all commercial and industrial districts, required parking is allowed within the street setback.

(4) *Ingress and egress.* Off-street parking and loading spaces shall be designed to permit exiting vehicles to enter the public right-of-way in a forward motion. No off-street parking or loading space shall be allowed that requires vehicles to back onto a public right-of-way,

except single-family and duplex residential development on local and collector streets.

- (5) *Surfacing.* All required off-street parking and loading spaces, and the driveways serving off-street parking and loading spaces, shall be paved with asphalt, concrete or brick; provided driveways serving single-family dwellings shall only be required to pave the first 100 feet, as measured from the street. The area of the driveway from the edge of the street to the property line shall be paved.
- (6) *Drainage.* All off-street parking and loading areas shall be designed with drainage facilities adequate to dispose of all stormwater, and to not increase the stormwater runoff onto the surface of adjoining properties or streets.
- (7) *Curbing.* The perimeter of all off-street parking and loading areas and their access drives shall be curbed, with the exception of single-family, duplex, triplex and fourplex residences. Landscape islands and other interior features within parking lots shall also be protected by curbs. The area between the curb and the property line, except for the driveway, shall be maintained as green space.
- (8) *Striping.* Off-street parking areas containing five or more spaces shall be delineated by pavement striping.
- (9) *Parking space dimensions.* Off-street parking spaces shall contain a minimum area of at least 180

square feet, with a minimum width of nine feet and a minimum length of 18 feet.

- (10) *Loading space dimensions.* Off-street loading spaces shall be at least 14 feet by 45 feet in size, with a minimum 18-foot height clearance.
- (11) *Aisle dimensions.* Drive aisles within off-street parking lots shall comply with the following minimum width requirements:

<i>Parking Angle (in degrees)</i>	<i>One-Way Aisle (in feet)</i>	<i>Two-Way Aisle (in feet)</i>
90	24	24
60	18	24
45	16	24
30	13	24

- (12) *Timing of construction.* All required parking and loading spaces, driving aisles, and accessways shall be constructed prior to the issuance of a certificate of occupancy, provided that a temporary certificate of occupancy may be issued by the inspection department if it is determined, based on information provided by the applicant, that inclement weather or other factors beyond the control of the applicant have prevented compliance with this timing requirement. Before approval of a temporary certificate of occupancy, the parking area subgrade, stone base, shall be compacted in accordance with the city's construction standards. The temporary certificate of occupancy shall expire at the end of 120 days or

within such shorter time-frame specified by the inspection department at the time of approval of the certificate.

- (13) *Use of off-street parking and loading spaces.* Required off-street parking spaces shall be used solely for the parking of motor vehicles in operating condition, and shall not be used for the storage of vehicles, boats, motor homes, campers, mobile homes, materials, tractor trailers or other temporary storage unless they are located in a designated staging area and are screened, fenced or otherwise fully shielded from public view.

(e) *Off-site parking.* Required off-street parking shall be located on the same lot as the use it is intended to serve, provided that a portion, not to exceed 25 percent, of the required off-street parking spaces may be located on a remote and separate lot from the lot on which the principal use is located, if the off-site parking complies with the following standards.

- (1) *Ineligible activities.* Off-site parking shall not be used to satisfy the off-street parking standards for residential uses, restaurants, convenience stores, or other convenience-oriented uses.
- (2) *Location.* No off-site parking area shall be located more than 80 feet from the required parking lot of the use served, unless a shuttle service is provided. Distance shall be measured along the shortest legal, practical walking route.

- (3) *Zoning classification.* Off-site parking areas shall require the same or a more intensive zoning classification than that required for the use served.
- (4) *Agreement for off-site parking.* In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement shall be required. An attested copy of the agreement between the owners of record shall be submitted to the zoning official for recording. In addition, whether under the same ownership or not, a legal document to prevent development of the off-site parking area shall be executed and recorded. Recording of the agreement shall take place before issuance of a building permit for any use to be served by the off-site parking area or in the case of an existing building, prior to issuance of a certificate of occupancy.

(f) *Shared parking.* The zoning official, subject to appeal to the planning commission, may authorize a reduction in the number of required parking spaces for multiple use developments and for uses that are located near one another that have different peak parking demands and operating hours. Shared parking shall be subject to the following standards.

- (1) *Location.* Shared off-street parking spaces shall be located no further than 500 feet from the building and uses they are intended to serve unless shuttle service is provided.
- (2) *Study.* An acceptable parking study shall be submitted which clearly

established that uses will make use of the shared spaces at different times of the day, week, month or year.

- (3) *Agreement.* A shared parking plan shall be enforced through written agreement. Proof of recording of the agreement shall be presented prior to issuance of a building permit.
- (4) *Revocation of certificate of occupancy.* Failure to comply with the shared parking provisions of this article shall constitute a violation of this article, and shall specifically be cause for revocation of a certificate of occupancy.

(g) *Outdoor parking/storage of boats, trailers, and recreational vehicles.* One boat, trailer and/or recreational vehicle may be parked outdoors on a lot in a residential district provided that:

- (1) The boat, trailer or recreational vehicle is owned and used by a resident of the premises;
- (2) The boat, trailer or recreational vehicle is not parked in the area between the front of the residence and the street or other area between the structure and the street, except for the purpose of loading or unloading during a period of less than eight hours;
- (3) If the boat, trailer or recreational vehicle is located in the side or rear yard, it shall be effectively screened from view of abutting lands by a wall, fence or dense hedge planting at least six feet in height;

- (4) The boat, trailer or recreational vehicle is not used for living, sleeping or housekeeping purposes; and
- (5) The boat, trailer or recreational vehicle is currently registered and licensed, as required by state law.

(h) *Vehicle stack space for drive-through facilities.* In addition to meeting the off-street parking requirements of the section, establishments with drive-through facilities shall comply with the following minimum vehicle stack space standards:

- (1) *Stack space schedule.*
  - a. Fast-food restaurants, 110 feet measured from the order station.
  - b. Banks, 70 feet measured from the teller drop.
  - c. Automatic carwash, 50 feet measured from the entrance.
  - d. Other uses, 30 feet measured from the pickup window.
- (2) *Design and layout.* Vehicle stack spaces shall be subject to the following design and layout standards:
  - a. Stack spaces shall be designed so as not to impede pedestrian access to the building, on and off site traffic movements or movements into or out of parking spaces.
  - b. Stack space lanes shall be a minimum of eight feet wide, and shall be separated from other internal driveways with painted lines or curbing.

(Zoning Ord., § 14.36.01)

**Sec. 117-325. Driveways and access; multifamily and non-residential.**

The following standards shall apply to all driveways providing access to multifamily or nonresidential uses.

- (1) *General standards.*
  - a. Access to property shall be allowed only by way of driveways, and no other portion of the lot frontage shall be used for ingress or egress. Continuous curb cuts are prohibited.
  - b. Driveway design shall be such that minimization of interference with through street traffic is achieved, and shall be subject to approval of the city engineer. The types of vehicles that a driveway is intended to serve shall be a prime factor in determining the acceptable radii of driveways.
  - c. Provisions for circulation between adjacent parcels should be provided through coordinated or joint parking system.
- (2) *Driveway spacing.*
  - a. *Arterial streets.* Direct access to any arterial street shall be limited to the following restrictions:
    - 1. *Spacing from signalized intersections.* All driveways providing access to arterial streets shall be constructed so that the point of tangency of the curb return radius closest to a signalized or stop sign-

controlled intersection is at least 120 feet from the perpendicular curb face of the intersecting street. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, the city engineer may approve a reduction in spacing as long as the reduction does not result in an unsafe traffic condition.

2. *Spacing from other, nonsignalized, access points.* All driveways providing access to arterial streets shall be constructed so that the point of tangency of the curb return radius closest to any nonsignalized street or driveway intersection is at least 80 feet from the perpendicular curb face of the intersecting street or driveway. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, the city engineer may approve a reduction in spacing as long as the reduction does not result in an unsafe traffic condition.
- b. *Collector streets.* Direct access to collector streets shall be regulated in accordance with the following standards:
1. *Spacing from signalized intersections.* All driveways providing access to collec-

tor streets shall be constructed so that the point of tangency of the curb return radius closest to a signalized or stop sign-controlled intersection is at least 120 feet from the perpendicular curb face of an intersecting arterial street and 80 feet from the perpendicular curb face of an intersecting collector or local street. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, the city engineer may approve a reduction in spacing as long as the reduction does not result in an unsafe traffic condition.

2. *Spacing from other, nonsignalized, access points.* All driveways providing access to collector streets shall be constructed so that the point of tangency of the curb return radius closest to a nonsignalized street or driveway intersection is at least 80 feet from the perpendicular curb face of the intersecting street or driveway. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, the city engineer may approve a reduction in spacing as long as the reduction does not result in an unsafe traffic condition.

c. *Driveways per parcel.*

1. At least one driveway shall be permitted for any lot. Shared driveways shall be recommended for lots that have less than 150 feet of frontage.
2. Driveways shall be located a minimum of 20 feet from the side property lines. A separation of 40 feet is required between the driveways on one lot and the driveways on the adjacent lots. Driveways on the same lot shall be no closer than 50 feet to each other.
3. Driveways on corner lots shall be located as far away from the intersection as possible. In no case shall a driveway be installed closer than five feet to the beginning of the curb radius.

d. *Ingress/egress driveway width.*  
The width of the driveway throat shall not exceed 40 feet in width. Driveway lanes shall be a minimum of 13 feet in width and shall not have more than three lanes in one entrance/exit.

(Zoning Ord., § 14.36.02)

**Sec. 117-326. Landscaping and screening.**

This section sets out the minimum landscaping and screening requirements for new development in the city as follows:

- (1) *Applicability exemptions.* The following shall be exempt from the standards of this section:
  - a. *Residential.* The AG, RR, R-O, RS-1—RS-8, R-1, R-1A, and R-2 districts shall be exempt from all standards of this section.
  - b. *Existing development; changes in use.* Improvements or repairs to existing development that do not result in an increase in floor area, and changes in use that do not result in an increase in intensity, shall also be exempt from all the standards of this section.
- (2) *General landscaping requirements.* In the absence of a landscape plan, the following general landscaping requirements shall apply to all development:
  - a. *Landscaping required.* All multifamily development of five units or more, and all commercial development shall be required to provide at least one tree and three five-gallon shrubs per unit within the development.
  - b. *Location.* Landscaping required pursuant to this section shall be installed between the property line and the required street setback areas.

- (3) *Parking lot. Landscaping.* In the absence of a landscaping plan, the parking lot landscaping standards of this section shall apply to the interior of all off-street parking areas containing more than ten off-street parking spaces. They shall not apply to vehicle and equipment sales lots or storage areas, multi-level parking structures, or areas devoted to drive-through lanes.
- a. *Relationship to other landscaping standards.* Trees provided to meet the general landscaping requirements of subsection (2) of this section may be used to meet a development's parking lot landscaping requirements.
  - b. *Required landscaping.* In the absence of a landscape plan, at least one tree and three five-gallon shrubs shall be provided for each ten parking spaces and fraction thereof within an off-street parking area.
  - c. *Location.* Required landscaping shall be reasonably dispersed throughout off-street parking areas.
  - d. *Planting areas.* Planting areas that contain trees shall be at least seven feet wide and protected by raised curbs to prevent damage by vehicle.
- (4) *Dumpster screening.* Dumpsters located in any district shall be completely screened from view on all sides visible to the public by a fence or wall with a minimum height of six feet, or one foot taller than the dumpster, whichever is greater. The fence or wall shall provide complete visual screening of the dumpster, and be compatible in material and color with the principal structure on the lot.
- (5) *Landscape material standards.* The following standards shall be considered the minimum required planting standards for all trees and landscape material:
- a. *Plant quality.* Plants installed to satisfy the requirement of this section shall conform to or exceed the plant quality standards of the most recent edition of American Standard for Nursery Stock, published by the American Association of Nurserymen. Plants shall be nursery grown and adapted to the local area.
  - b. *Artificial plants.* No artificial plants or vegetation shall be used to meet any standards of this section, unless expressly approved by the planning commission.
  - c. *Trees.*
    1. *Types.*
      - (i) *Required.* Where required or permitted, trees shall be of ornamental, evergreen, or of the large deciduous types.
      - (ii) *Prohibited.* The following trees shall be prohibited and shall not be used to satisfy the

landscaping or buffering standards of this section unless approved by the planning commission:

- A. Box elder;
- B. Soft maple;
- C. Hackberry; or
- D. American elm.

- (iii) *Species mix.* When more than ten trees are required to be planted to meet the standards of this section, a mix of species shall be provided. For each ten, or fractions thereof, another differing species shall be used.

2. *Size.*

- (i) *Medium and large deciduous trees.* Medium and large deciduous trees planted to satisfy the standards of this section shall have a minimum height of eight feet, and a minimum diameter of three inch, measured at a point that is at least four and one-half feet above existing grade level.
- (ii) *Small deciduous or ornamental trees.* Small deciduous and ornamental trees planted to satisfy the stan-

dards of this section shall have a minimum height of four feet.

- (iii) *Conifers or evergreens.* Conifers or upright evergreen trees planted to satisfy the standards of this section shall have a minimum height, after planting, of six feet.
- (iv) *Use of existing plant material.* Trees that exist on site, prior to its development, may be used to satisfy the landscaping standards of this section provided they meet the size, variety, and location requirements of this section.

(6) *Installation, maintenance and replacement.*

- a. *Installation.* All landscaping shall be installed according to sound nursery practices in a manner designed to encourage vigorous growth. All landscape material, both living and non-living, shall be in place prior to issuance of a final certificate of occupancy. A temporary certificate of occupancy may be issued prior to installation of required landscaping if binding, written assurances are submitted, ensuring that planting will take place when planting season arrives.
- b. *Maintenance and replacement.* Trees, shrubs, fences, walls and

other landscape features, which includes screening depicted on plans approved by the city shall be considered as elements of the project in the same manner as parking, building materials, and other details are elements of the plan. The landowner, or successors in interest, or agent, if any, shall be jointly and severally responsible for the following:

1. Regular maintenance of all landscaping in good condition and in a way that presents a healthy, neat, and orderly appearance. All landscaping shall be maintained free from disease, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, as needed and in accordance with acceptable horticultural practices;
  2. The repair or replacement of required landscape structures, e.g., fences and walls, to a structurally sound condition;
  3. The regular maintenance, repair, or replacement, where necessary, of any landscaping required by this section; and
  4. Continuous maintenance of the site.
- (7) *Alternative compliance.* Applicants shall be entitled to demonstrate that the intent of this section can be more effectively met, in whole or in part, through alternative means. If approved, an alternative compliance landscape plan may be substituted, in whole or in part, for landscaping that meets the expressed terms of this section.
- a. *Procedure.* Alternative compliance landscape plans shall be considered through the site plan review process.
  - b. *Review criteria.* In reviewing proposed alternative compliance landscape plans, favorable consideration shall be given to exceptional landscape designs that attempt to preserve and incorporate existing vegetation in excess of minimum standards, and plans that demonstrate innovative design and use of plant materials. Alternative compliance landscape plans may be approved upon a finding that any of the following circumstances exist on the proposed building site or surrounding properties:
    1. Natural land characteristics or existing vegetation on the proposed development site would achieve the intent of this section;
    2. Innovative landscaping or architectural design is employed on the proposed development site to achieve a buffering effect that is equivalent to the buffering or screening standards of this section;

- 3. The required landscaping or buffering would be ineffective at maturity due to topography, or the location of improvements on the site; or
- 4. The proposed alternative represents a plan that is as good or better than a plan prepared in strict compliance with the other standards of this section.

(Zoning Ord., § 14.36.03)

**Sec. 117-327. Corner visibility.**

On corner lots at intersecting two-way streets, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and eight feet above curb grade within the triangular area formed by an imaginary line that follows street side property lines, and a line connecting them, 25 feet from their point of intersection. This sight triangle standard may be increased by the city in those instances deemed necessary for promoting traffic safety, and may be lessened at intersections involving one-way streets.

(Zoning Ord., § 14.36.04)

**Sec. 117-328. Residential compatibility standards.**

The compatibility standards of this section are intended to protect low density residential uses and neighborhoods from the adverse impacts sometimes associated with high density residential uses and nonresidential development. The standards are intended to mitigate the effects of uses with operating and structural

characteristics that are vastly different than those associated with single-family and duplex uses.

- (1) *Applicability, triggering property.* Compatibility standards shall apply to all development in the C-1, C-2, C-3, C-4, CR-1, I-1 and I-2 zoning districts when such development is adjacent to triggering property, which shall include all property:
  - a. Occupied by a single-family or duplex dwelling unit that is a use permitted by-right in the zoning district in which it is located; or
  - b. Zoned in an RS or RM zoning district.

- (2) *Exemptions.*
  - a. Notwithstanding the applicability provisions of subsection (1) of this section, compatibility standards shall not be triggered by property that is public right-of-way, railroad track, roadway or utility easement.
  - b. The following uses and activities shall specifically be exempt from compliance with compatibility standards:
    - 1. Construction of a use permitted by right in a RS or RM district; provided that multifamily development shall be screened when abutting a single-family use or zone;
    - 2. Structural alteration of an existing building when such alteration does not

increase the building's square footage or height; and

- 3. A change in use that does not increase the minimum number of off-street parking spaces required.

(3) *Setback standards.* The following setback standards shall apply to all development that is subject to compatibility standards:

- a. *Small sites.* On sites with 20,000 square feet of area or less that also have less than 100 feet of street frontage, structures shall be set back from the lot line of triggering property in accordance with the following requirements:

<i>Street Frontage (in feet)</i>	<i>Minimum Setback (in feet)</i>
0 to 52.50	10.0
52.51 to 54.99	10.5
55.00 to 57.50	11.0
57.51 to 59.99	11.5
60.00 to 62.50	12.0
62.51 to 64.99	12.5
65.00 to 67.50	13.0
67.51 to 69.99	13.5
70.00 to 72.50	14.0
72.51 to 74.99	14.5
75.00 to 77.50	15.0
77.51 to 79.99	15.5
80.00 to 82.50	16.0
82.51 to 84.99	16.5
85.00 to 87.50	17.0
87.51 to 89.99	17.5
90.00 to 92.50	18.0
92.51 to 94.99	18.5

<i>Street Frontage (in feet)</i>	<i>Minimum Setback (in feet)</i>
95.00 to 97.50	19.0
97.51 to 99.99	19.5

- b. *Large sites.* On sites with more than 20,000 square feet of area or 100 feet of street frontage or more, no structure shall be erected within 20 feet of the lot line of triggering property.

- c. *Surface-level parking and driveways.* Surface-level off-street parking areas and driveways shall not be subject to the above setback standards, however such standards shall apply to parking structures. Surface-level parking areas shall be setback a minimum of ten feet from the lot line of triggering property.

- (4) *Building height.* No structure shall exceed 35 feet in height within 50 feet of the lot line of triggering property. Structures located over 50 feet from the lot line of triggering property may increase height, if permitted by base district zoning regulations, at a ratio of one foot in height for each five feet of setback. For example, a building limited to a maximum of 35 feet in height at 50 feet from triggering property may be increased to a maximum height of 45 feet at a point that is 100 feet from the lot line of triggering property.

- (5) *Screening standards.* Decorative walls, vegetative screening, fencing or earthen berms shall be pro-

vided to completely screen off-street parking areas, mechanical equipment, storage areas, and refuse collection areas from view of triggering property.

(6) *Site design standards.* The following additional site design standards shall apply to development that is subject to the compatibility standards of this section:

- a. No swimming pool, tennis court, ball field, or playground area, except those that are accessory to a single-family dwelling unit, shall be permitted within 50 feet of the lot line of triggering property.
- b. Dumpsters and refuse receptacles shall be located a minimum of 25 feet from the lot line of triggering property.
- c. Exterior lighting shall be designed to minimize light spilling onto surrounding property.

(Zoning Ord., § 14.36.05)

### **Sec. 117-329. Fences.**

Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of all fences:

- (1) *Maximum height.* Fences shall not exceed eight feet in height, unless approved by the planning commission. Fencing in the I-1 and I-2 districts, and around tennis courts and other recreational amenities, shall be exempt from this height limit.

(2) *Corner visibility.* Fences shall comply with the corner visibility standards of section 117-327.

(3) *Construction materials.* Fences in all residential zoning districts shall be constructed so that the horizontal and vertical support posts are inside the fence area or hidden from view of those outside the fenced area. This requirement shall not apply to fences that abut non-residential zoning districts or in situations where the owner of the lot adjacent to the fence agrees to a plan for placing support posts on the outside of the fence. All exposed steel, except galvanized metal, shall have a color finish coat applied to them and be preserved against rust and corrosion.

(4) *Design and maintenance.* All fences shall be maintained in their original upright condition. Fences designed to be painted or have other surface finishes shall be maintained in their original condition as designed. Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

(5) *Prohibited.* Barbed wire and electrified fences shall be prohibited on all lots of less than two acres in area.

(Zoning Ord., § 14.36.06)

### **Sec. 117-330. Sidewalks.**

(a) *Multifamily and commercial development.* Sidewalks shall be required for all multifamily developments that con-

tain five units or more. Sidewalks may be required through the site plan approval process for commercial developments.

(b) *Construction standards.* Sidewalks shall be constructed in accordance with all applicable city standards and specifications, and with all applicable ADA, Americans with Disabilities Act, requirements. If detached and set back at least five feet from the back of the curb, such sidewalks shall have a minimum width of four feet. If attached to the curb or located closer than five feet to the curb, such sidewalks shall have a minimum width of five feet.

(c) *Timing of installation.* Required sidewalks shall be installed prior to occupancy of any structure.  
(Zoning Ord., § 14.36.07)

Effective January 1, 2003, the provisions of this section shall become applicable to all development and redevelopment on tracts of one acre or more, regardless of type of development or use.  
(Zoning Ord., § 14.36.08)

**Sec. 117-331. Drainage and stormwater management.**

Adequate provision for drainage of surface water and stormwater management shall be made for all development and redevelopment. Plans for such, including grading plans, for all commercial and industrial development, and all multifamily developments that contain five units or more, shall be submitted and considered as part of the site plan approval process. All such plans shall be prepared by a registered, professional civil engineer licensed in the state, and submitted and considered as part of the site plan approval process. Such plans shall contain adequate and properly designed measures to control erosion and sediment discharge from the construction site, and to prevent water pollution which may result from such discharges and runoff.



## CODE COMPARATIVE TABLE

### 1934 Digest

This table gives the location within this Code of those sections of the 1934 Digest that are included herein.

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## CODE COMPARATIVE TABLE

### 1962 Code

This table gives the location within this Code of those sections of the 1962 Code that are included in the Code.

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## CODE COMPARATIVE TABLE

### 2006 CODE

This table gives the location within this Code of those sections of the 2006 Code, as updated through March 21, 2006, that are included herein.

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