

## CHAPTER 2

### ZONING CODE

Art. I.	Authority, Jurisdiction and Purpose, §§16-2-1--16-2-5
Art. II.	Administrative Procedures And Enforcement, §§16-2-6--16-2-20
Art. III.	Definitions, §16-2-21
Art. IV.	General Provisions, §§16-2-22–16-2-36
Art. V.	Establishment of Districts, §§16-2-37–16-2-40
Art. VI.	District Regulations, §§16-2-41–16-2-63
Art. VII.	Overlay Districts, §§16-2-64–16-2-69
Art. VIII.	Conditional Uses, §§16-2-70–16-2-80
Art. IX.	Wireless Communication Facilities, §§16-2-81–16-2-95
Art. X.	Additional Regulations, §§16-2-96–16-2-150
Art. XI.	Permitted Uses, §§16-2-151–16-2-160

#### ARTICLE I. AUTHORITY, JURISDICTION, AND PURPOSE

##### **16-2-1. Authority.**

These regulations are adopted under the authority cited in Arkansas Code Annotated §14-56-401 through §14-56-426, and shall be known as the Hot Springs Zoning Code and may be cited as such.

##### **16-2-2. Jurisdiction.**

The provisions of this Code shall apply to all land and structures within the corporate limits of Hot Springs, Arkansas, as they now or may hereafter exist.

##### **16-2-3. Purpose.**

Zoning is one tool used to carry out or protect provisions of the comprehensive plan. It is designed to protect and stabilize some areas while guiding development and redevelopment in others. It is not intended to change existing uses. Over the years, the Zoning Code directs growth and expansion toward the pattern set forth in the Future Land Use Plan.

More specifically, these regulations divide that portion of the planning area boundary existing within the corporate limits into zones. Within these zones or districts, it regulates the location, height, bulk, number of stories, and size of buildings; open space; lot coverage; density and distribution of population; and the uses of land, buildings, and structures. It does so in order to achieve the following objectives:

- (a) Efficiency and economy in the process of development;
- (b) The appropriate and best use of land;
- (c) Convenience of traffic and circulation of people and goods;

- (d) Safety from fire and other dangers;
- (e) Adequate light and air in the use and occupancy of buildings;
- (f) Healthful and convenient distribution of population;
- (g) Adequate public utilities and facilities; and
- (h) Wise and efficient expenditure of funds.

**16-2-4--16-2-5. Reserved.**

ARTICLE II. ADMINISTRATIVE PROCEDURES AND ENFORCEMENT

**16-2-6. Applications.**

No land shall be used or occupied and no structure shall be erected, converted, altered, enlarged, moved, used or occupied except in conformity with these regulations. The City will send notices to applicable property owners for all proceedings under this Code including, but not limited to, the Planning Commission, Board of Zoning Adjustment and Historic District Commission proceedings.

**16-2-7. Building permits.**

No structure may be erected, altered, moved or extended until a building permit has been issued by the city in accordance with such building code as may now or hereafter be adopted by the Hot Springs board of directors. The planning commission may impose conditions or time limits on such permits under the terms of these regulations. The building permit may be revoked if the conditions of the permit are not complied with; or, if construction has not been started six months after the permit is issued.

**16-2-8. Site plans.**

All applications for building permits shall be accompanied by a scaled site plan in duplicate and depict the following as a minimum, where applicable:

- (a) Vicinity map.
- (b) Lot drawing with dimensions.
- (c) Location and dimension of all buildings.
- (d) Location of all drives and parking, including handicapped parking.
- (e) Sidewalks, including ramps for handicapped access.

- (f) Drainage, existing and proposed. Drainage improvements requiring the sizing of pipes, the construction of drainage structures, or the handling of water that cannot be disposed of overland must be designed by a Professional Engineer registered in the State of Arkansas.
- (g) Location and type of exterior lighting
- (h) Location of trash dumpsters and external audio speakers
- (i) Location of signs

The plan does not have to be prepared by a registered professional, unless otherwise required, but shall be professionally drawn. Structures not served by the city sewer system must include details of the proposed sanitary sewage disposal system.

#### **16-2-9. Occupancy permits.**

No new structure shall be used or occupied unless a certificate of occupancy for such has been issued by the administrative officer. Land or structure may be used or occupied only for the use or uses shown on the certificate of occupancy.

#### **16-2-10. Violations and enforcement.**

##### **16-2-10.1. Penalty.**

The penalty for violation of this code shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

##### **16-2-10.2. Enforcement.**

There is hereby vested in administrative officer the duty of enforcing this code and the power necessary for such enforcement, incidental to which duty and power the commission shall:

- (a) Conduct investigations and surveys to determine compliance or non-compliance with the provision of this code. The right to entry and inspection to enforce this code may be enforced by application to and proper orders from a court of proper jurisdiction.
- (b) Make written orders requiring compliance with the provisions of this code. Such orders shall be served personally, or by registered mail upon the person, firm or corporation deemed by the commission to be violating the provisions of this code; provided, however, that if such person, firm or corporation is not the owner of the land on or the structure in which the violation is deemed to exist or have occurred, a copy of the order shall be sent by registered mail to

the owner of such land or structure, the owner to be determined from the tax roll for the preceding tax year in the office of the county assessor. The date of mailing shall be deemed the date of service of any order served by registered mail.

- (c) Through the city attorney, to institute in courts of proper jurisdiction, proceedings for the enforcement of the provisions of this code and administrative orders and determinations made hereunder. The commission may, by unanimous vote, delegate the authority for any portion of this enforcement such city office or department as the commission shall specify and the city manager approve.
- (d) To consider and act upon requests for reasonable accommodation.
  - (1) **Purpose and Intent.** The purposes of allowing Reasonable Accommodation(s) is to provide a process for individuals with disabilities to make requests for Reasonable Accommodation(s) for relief from the various land use, zoning, or rules, policies, practices, and/or procedures of the City. It is the policy of the City, pursuant to the Federal Fair Housing Act, to provide people with disabilities Reasonable Accommodation(s) in rules, policies, and procedures that may be necessary to ensure equal access to housing.
  - (2) **Requesting Reasonable Accommodation(s):** In order to make specific housing available to an individual with a disability, a disabled person, or representative may request Reasonable Accommodation(s) relating to the various land use, zoning, or rules, policies, practices, and/or procedures of the City.
    - a. If an individual needs assistance in making the request for Reasonable Accommodation(s) or appealing a determination regarding Reasonable Accommodation(s), the Planning Director will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant.
    - b. A request for Reasonable Accommodation(s) with regard to City Regulations, Rules, policies, Practices, and/or procedures may be filed on an application form provided by the Planning Director at the time that the accommodation may be necessary to ensure equal access to housing.
  - (3) **Required Information** The applicant shall provide the following information when requesting Reasonable Accommodation(s). This information shall be made part of the public record for the project and subject to all applicable State and Federal laws for public access to records.
    - a. A completed City application indicating, among other things, the applicant's name, address, and telephone;

- b. Property address for which the request is being made;
- c. The current actual use of the property;
- d. The Zoning Code provision, regulation, or policy from which Reasonable Accommodation(s) is being requested;
- e. The basis for the claim that the person(s) for whom the Reasonable Accommodation(s) is/are sought is/are considered disabled under the Fair Housing Act and why the accommodation is reasonably necessary to make specific housing available to the person(s);
- f. Such Other relevant information as may be requested by the Planning Director as the Director reasonably concludes is necessary to determine whether the findings required by Sec. 16-2-11(d)(6), Required Findings for Reasonable Accommodation(s), can be made so long as any request for information regarding the disability of the individuals benefited complies with fair housing law protections and the privacy rights of the individual(s) affected.

**(4) Approval Authority and Approval Procedure:**

- a. The Planning Director shall have the authority to consider and take action on requests for Reasonable Accommodation(s). When a request for Reasonable Accommodation(s) is filed with the Planning Department, it will be referred to the Planning Director for review and consideration as an administrative action unless determined otherwise by the Planning Director. Such a request may be a request for Reasonable physical improvement that cannot be constructed to conform to the City's setbacks or design standards, or may be a request for Reasonable treatment pursuant to interpreting a definition. Typical improvements considered to be "administrative" in nature would include ramps, walls, handrails, or other physical improvements necessary to accommodate a person's disability, or a request delineating grounds to exceed the maximum number of residents.

The Planning Director shall issue a written determination of his or her action within 15 days of the date of receipt of a completed application and may:

- i. Grant or deny the accommodation request; or
- ii. Grant the accommodation request subject to specified nondiscriminatory condition(s); or
- iii. Forward the request to the Planning Commission for consideration as a Conditional Use Permit and subject to the findings stated in Sec. 16-2-11(d)(6), Required Findings for Reasonable Accommodation(s).

- b. In the event the Planning Director determines that the request for Reasonable Accommodation(s) is non-administrative in nature, such request shall be forwarded to the Planning Commission in accordance with Section 16-2-75 through 79, Conditional Use Permit and shall be subject to the findings stated in Sec. 16-2-11(d)(6), Required Findings for Reasonable Accommodation(s).
  - c. All written determinations of actions of the Planning Director Shall give notice of the right to appeal and the right to request Reasonable Accommodation(s) on the appeals process(e.g., requesting that City staff attempt to schedule an appeal hearing as soon as legally and practically possible), if necessary. The notice of action shall be sent to the applicant by mail.
  - d. If necessary to reach a determination or action on the request for Reasonable Accommodation(s), the Planning Director may request further information from the applicant specifying in detail what information is required. In the event a request for further information is made, the 15-day period to issue a written determination shall be stayed until the applicant fully and sufficiently responds to the request.
- (5) **Considerations:** The city may consider, but is not limited to, the following factors in determining whether the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling:
- a. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability;
  - b. Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation;
  - c. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants;
  - d. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.
  - e. The city may consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's Zoning Code (HSC Title 16);

- f. Whether the requested accommodation would fundamentally alter the character of the neighborhood;
  - g. Whether the accommodation would result in a substantial increase in traffic or insufficient parking;
  - h. Whether granting the requesting accommodation would substantially undermine any express purpose of either the City's Land Use or Comprehensive Plan or an applicable specific plan.
  - i. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.
- (6) **Required Findings for Reasonable Accommodation(s).** In making a determination regarding the reasonableness of a requested Reasonable Accommodation(s), the Approving Authority shall make the following findings:
- a. The housing which is the subject of the request for Reasonable Accommodation(s) will be used for an individual protected under the Fair Housing Act.
  - b. The request for Reasonable Accommodation(s) is necessary to make specific housing available to an individual protected under the Fair Housing Act.
  - c. The requested Reasonable Accommodation(s) does not impose an undue financial or administrative burden on the City and does not fundamentally alter City zoning, development standards, policies or procedures.
  - d. The requested accommodation will not result in a fundamental alteration in the natures of the City's zoning process, as "fundamental alteration" is defined in fair housing laws and interpretive case law.
  - e. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

(Ord No. 5891, §3, 8-7-2012)

**16-2-11. Amendments to the regulations and map.**(a) *General*

- (1) This Code may be amended by changing the text, the official zoning map, or both in accordance with the procedures prescribed herein. Notice of any public hearings held using any of the methods of amendment shall be published at least one time, not less than fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation.
- (2) The following may initiate a request to amend this Code:
  - a. A member or members of the board of directors.
  - b. A member or members of the planning commission.
  - c. The owner of a property or his appointed agent.

(b) *Amendments by the board of directors and planning commission may be made in the following manner:*

- (1) The board of directors may refer a request for amendment to the planning commission to be considered in accordance with the procedures outlined in Section (3) below.
- (2) The board of directors may act upon a request to amend this Code when an emergency exists which threatens the health, safety, welfare, or morals of the citizens of the city. An amendment may be made under this section upon the approval of two-thirds of the entire board of directors.
- (3) Amendments by the planning commission may be made only in accordance with the procedures outlined herein.
  - a. The planning commission may, from time to time, either upon request by one or more of its members, by direction of the board of directors, or in the course of its normal planning activities, consider amendments or additions to the zoning code.
  - b. The planning commission shall prepare a work program and make studies, including the preparation of maps, to support its decisions regarding possible amendments.

**Editor's Note:** Ord No. 5893, §1, approved on 8-21-2012 inserted "and planning commission"; in §16-2-11(b). Ord No. 5893, §2 removed sections 16-2-11(b)(3)(c)—16-2-11(b)(3)(g).



- (c) *Amendments by property owners may be made in the following manner.*
- (1) An application for amendment shall be filed with the administrative officer.
  - (2) The application for a zoning map amendment shall contain the following information:
    - a. Name and address of applicant.
    - b. Statement that the applicant is the owner or the authorized agent of the owner of the property for which the zoning map amendment is proposed.
    - c. Address and legal description of property.
    - d. A map of the subject property, delineating:
      1. the dimensions of property;
      2. approximate location of buildings with appropriate dimensions;
      3. land uses of adjacent properties.
    - e. The application shall be accompanied by the prescribed fee as indicated in §16-2-36. Application Fee Schedule. The prescribed fee includes public notification and notification letters to surrounding property owners.
    - f. Applicant Statement: Applicant shall describe how the request meets each review standard listed in §16-2-11(c)(4)(e)(1). (Ord No. 5893, §3, 8-21-2012)
- (d) Planning Commission shall hold a public hearing to consider amendments to the zoning code text or map, and to consider amendments to the future land use plan in required
- (1) Notice of such hearing shall be sent by the city in a letter to surrounding property owners within 200 feet.
  - (2) Notice of such hearing shall be given by posting a suitable and pertinent sign on the subject property by the applicant not less than fifteen (15) days prior to the hearing.
  - (3) Upon receipt of an application for zoning code text amendment the administrative officer shall fix a date for a public hearing according to a monthly schedule maintained in the administrative office.

- (4) Notice of such hearing shall be published at least one time not less than fifteen (15) days prior to the public hearing according to a monthly schedule maintained in the administrative office.
  - (5) Applicant Public Hearing Attendance is Mandatory; Planning Commission shall dismiss any application for which the applicant or his/her designated representative fails to attend.
  - (6) If the proposed amendments are not consistent with the future land use plan, planning commission shall first consider and adopt any necessary changes to the future land use plan.
  - (7) Changes in zoning classifications initiated by planning commission shall be considered comprehensive changes affecting the entire city and no individual notifications shall be made. A map indicating the proposed changes will be available in city hall for interested citizens and property owners.
  - (8) Following the public Hearing, the proposed plans may be recommended as presented, or in modified form, by the majority of planning commission.
  - (9) Following its adoption of plans and recommendations of ordinances and regulations, the commission shall certify adopted plans or recommended ordinances and regulations to the board of directors for its adoption. (Ord No. 5893, §3, 8-21-2012)
- (e) Review Criteria and Finding of Fact.
- (1) Within thirty (30) days following the public hearing, the planning commission shall make a specific finding as to whether demonstrates compatibility with surrounding development or zoning; is consistent with the objectives of the zoning code; implements an approved City plan; responds to a significant change in surrounding physical, economic land use or other conditions; fulfills demonstrated public need for land so-zoned; or corrects an error in previous City action.
  - (2) Planning commission shall make written recommendations to the Board of Directors setting forth the basis for its recommendation. A copy of the recommendations shall be submitted to the applicant at the same time. (Ord No. 5893, §4, 8-21-2012)

- (f) Authorization by board of directors.

Any amendment hereto shall become effective only upon passage by a majority vote of the entire membership of the board of directors. (Ord. No. 5352, §1, 5-16-05)

- (g) Effect of denial of amendment.

No application for an amendment which has been denied wholly or partly by the planning commission shall be resubmitted for a period of one (1) year from the date of said denial, except upon a showing of a substantial change in conditions found to be valid by the planning commission and demonstrated by a majority vote of the full planning commission in favor of a rehearing. For purposes hereof, a change of ownership of the subject property shall not be deemed to be a change of conditions.

No further action will occur in the case of a request for an amendment denied by the planning commission unless the applicant files an appeal in accordance with the following section.

**Editor's Note:** Ord No. 5893, §4, 8-21-2012 re-lettered sections 16-2-11(f) and 16-2-11(g).

#### **16-2-12. Appeals to board of directors.**

(a) Any action of the planning commission, i.e., conditional use permits or zoning decisions, may be appealed to the board of directors. In order to make an appeal, the aggrieved party must file a "notice of appeal" with the planning department within 30 days of the planning commission's final action. The notice of appeal shall be filed on forms and in a format prescribed by the planning commission. As a minimum, however, the applicant shall provide the following information:

- (1) Summary of any reasons provided by the planning commission concerning the decision made in the case.
  - (2) Reasons why the applicant of the appeal contends that the planning commission erred in its decision.
  - (3) Reasons why the applicant of the appeal believes that the public health, safety, welfare, and morals would be better served if the planning commission's decision were reversed.
  - (4) Any new and pertinent information bearing on the case which may have been overlooked by the planning commission or which may have come to light following the meeting at which the planning commission made its decision.
- (b) The department of planning shall provide notice of the appeal in accordance with the applicable provisions of the zoning code in the same manner and to the same parties as the initial application.

(c) Appeals to the board of directors shall be de novo; however, they shall first be considered on the record of the public hearing and planning commission meeting at which the original case was heard and the original decision made. Based on this review, the board of directors may affirm the planning commission's decision, reverse it, or send the case back to the planning commission for further study and re-certification. If new information is placed before the board that, in the opinion of the board, would affect the planning commission's decision, the board may refer the case back to the planning commission for further study, including the new information, and re-certification.

**16-2-13. Board of zoning adjustment.**

(a) *Organization.* A board of zoning adjustment is hereby created consisting of five (5) members. The members of the board of zoning adjustment shall be nominated by the city manager, subject to confirmation by the board of directors, in accordance with such appointment procedures as may now or hereinafter be established by the board of directors. Members shall be appointed for three-year terms. No member shall serve more than three (3) consecutive terms, or any part thereof. (Ord. No. 5713, §1, 2-3-09)

(b) *Powers, duties, meetings and hearings.* The board of zoning adjustment shall have the following functions:

- (1) Hear appeals from the decision of the administrative officers in respect to the enforcement and application of the ordinance, and may affirm or reverse, in whole or in part, the decision of the administrative officer.
- (2) Hear requests for variances from the literal provisions of the zoning code in instances where strict enforcement of the code would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the code.
- (3) The board shall not permit, as a variance, any use in a zone that is not permitted under the ordinance.
- (4) The board may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.
- (5) Decisions of the board in respect to the above shall be subject to appeal only to a court of record having jurisdiction within thirty (30) days of the board's action.
- (6) The board shall establish regular meeting dates, adopt rules for the conduct of its business, establish a quorum and procedure, and keep a public record of all findings and decisions.
- (7) Each session of the board shall be a public meeting with public notice of the meeting and business to be carried on published in a newspaper of general circulation in the city, at least one (1) time seven (7) days prior to the meeting.

- (8) Petitions to the board shall also include the notification of adjacent property owners. Adjacent property owners shall be notified by the city by letter.
- (9) The ordinance shall be observed through denial of the issuance of building permits and use permits.
- (c) *Procedure.* The following procedure shall be used in presenting requests for variances from the provisions of the zoning chapter to the board of zoning adjustment:
  - (1) Any person applying for a variance from any of the provisions of the zoning code must submit a written application for a variance to the administrative officer on forms provided by the city. The administrative officer will set a date for hearing before the board of zoning adjustment.
  - (2) At the hearing on the application, the board of zoning adjustment shall hear all interested parties. The board of zoning adjustment may deny the variance, grant the variance without conditions, or grant the variance with conditions.
- (d) *Appeal from decision of board of zoning adjustment.* A decision of the board of zoning adjustment in respect to an appeal from a decision of the administrative officer or to a request for a variance shall be subject to appeal only to a court of record having jurisdiction. The appeal must be filed within thirty (30) days of the board's action.
- (e) *Application fee.* All applications to the board of zoning adjustment shall be accompanied by the prescribed fee as indicated in § 16-2-36. Application Fee Schedule. The prescribed fee includes public notification and notification letters to adjacent property owners.

**16-2-14–16-2-20. Reserved.**

## ARTICLE III. DEFINITIONS

**16-2-21. Definitions.**

*Accessory building/structure.* An accessory building/structure is a subordinate building/structure, the use of which is clearly incidental to, or customarily found in connection with, and located on the same lot as, the use of the main building or principal use of the land.

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

*Administrative official or officer.* The person designated by the city manager of the city of Hot Springs to administer the zoning code.

*Adult daycare center.* Establishment that provides, on a regular basis, assistance or care for five or more unrelated adults for a period of less than twenty-four hours a day and which receives a payment, fee, or grant for the adults attending the facility, whether or not operated at a profit.

*Adult use* – any use regulated by the sexually oriented business ordinance of the city of Hot Springs.

*Agriculture.* The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

*Alley.* A public or private right-of-way primarily designed to served as a secondary access to the side or rear of properties whose principal frontage is on some other street.

*Animal farms, intensive.* Establishments engaged in the fattening, raising, or breeding of animals typically for the commercial production of food, where the animals are fed primarily in pens, lots, or buildings (partially or wholly enclosed). Uses include, but are not limited to, hog ranches, poultry/egg farms, and cattle feed lots. The term does not include slaughterhouses.

*Animal farms, small specialty.* Wholesale farms for raising rabbits, birds, bees (honey), worms, minks, or similar small animals.

*Apartment.* A multiple family dwelling (see “Dwelling, Multiple”).

*Apartment building.* A residential building, other than a town-house, containing three or more dwelling units.

*Auction yard.* A place where vehicles, operable or inoperable, are offered for sale to persons who bid on the vehicles in competition with each other.

*Automobile body repair/painting.* Any building, premises, and/or land in which or upon which a business, service, or industry involving the repair or painting of the body of vehicles is conducted or rendered.

*Automobile junk or salvage yard.* An area outside of a building where motor vehicles are disassembled, dismantled, junked, or “wrecked”, or where motor vehicles not in operable condition or used parts of motor vehicles are stored.

*Automobile mechanical service/repair.* Any building, premises, and/or land in which or upon which a business, service, or industry involving the mechanical maintenance, servicing or repair of vehicles is conducted or rendered.

*Automobile sales or leasing.* The use of any building, land area, or other premise for the display and sale or leasing of new or used operable automobiles generally, but may include light trucks or vans, trailers, or recreational vehicles and including an vehicle preparation or repair work conducted as an accessory use.

*Bed and breakfast inn.* An owner-occupied dwelling unit that contains guest rooms where lodging, with or without meals, is provided for compensation. The operator of the inn shall live on the premises or in adjacent premises.

*Block front.* All of the property on one side of the street between two intersecting streets or between an intersecting street and the dead end of a street.

*Board of zoning adjustment (or board).* A board established by Section 16-2-13 of this Code.

*Boat docks and beaches, commercial.* Marinas, swimming and picnic areas that assess a fee for public use.

*Buffer area.* A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

*Buffering.* See Buffer area.

*Buildable area.* The area of that part of the lot not included within the yards or open spaces herein required.

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

*Building, coverage.* The percentage of the lot area covered by the building.

*Building height.* The average vertical distance from the highest point of the building to the sidewalk grade or finished lot grade adjacent to the building, whichever is higher.

*Building line.* The line within a property which defines a minimum horizontal distance to be provided between an exterior building wall or building support and the adjacent property line. This includes sun parlors and covered porches whether enclosed or unenclosed but does not include steps.

*Building location.* That portion of a lot upon which buildings or structures may be placed. In measuring setbacks or offsets, the following shall be excluded from distance requirements:

- (a) The outer three feet of roofs or cornices projecting beyond the wall or supporting columns
- (b) Walls or fences, not over eight feet in height, located behind the required front setback line
- (c) Unroofed structures or portions of structures, of a height not greater than the distance from the property line or four feet, whichever is less.

*Building, main or principal.* A building that is constructed or intended to be constructed, as the main or principal use of the lot on which said building is located.

*Building, temporary construction.* A building located at a construction site which serves only as an office until the given construction work is completed. A temporary construction building is not permitted to serve as a residence at any time.

*Car wash.* A building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical device, and which may employ some hand labor.

*Cemetery.* Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

*Child care center.* Any place, home, or institution which receives five or more children under the age of 16 years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation; provided, however, this definition shall not include public schools and private schools organized, operated or approved under the laws of this State, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree of the custodial persons, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services or meetings or classes or engaged in church activities.



*Church or place of religious worship.* An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term “church” shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

*Clinic, dental or medical.* A facility for the examination and treatment of ill and afflicted human outpatients; provided, however, that patients are not kept overnight.

*Clubs and lodges.* A membership organization established for specific purposes, having a charter of by laws, and operating in other localities in addition to Hot Springs.

*Cluster housing development.* An arrangement of houses or lots which provide a higher density in part of the development, balanced by common open space or larger lots so that the total average density does not exceed that of the zoning district.

*Commercial warehouse.* Space used by one or more parties for the storage of merchandise. Material may be transferred into and out of by owner or other authorized persons.

*Commission.* The Hot Springs planning commission.

*Community center.* A meeting place used by members of a community for social, cultural or recreational purposes.

*Community theater.* A building used for theatrical or other cultural activities, open to the public or designated part of a public, non-profit group or agency.

*Comprehensive plan.* An official statement reflecting the objectives, policies, and ambitions of the community regarding future physical growth. Once adopted, the plan serves as a guide for making land use changes, preparation of implementing ordinances (zoning, platting), preparation of capital improvement programs and the rate, timing and location of future growth. The plan reflects the general location for various land uses, major streets, parks, public buildings, zoning districts and other public improvements. The comprehensive development plan shall be hereinafter called the plan.

*Conditional use.* A use which may be permitted in a zone where it is specifically listed, subject to the provisions of Article VIII of this Code.

*Condominium.* A system of individual fee ownership of buildings or portions of buildings, combined with common ownership of buildings, portions of buildings, land and site improvements. See horizontal property regime.

*Contractor’s yard.* A place where contractor’s equipment and some unused materials are stored.

*Convenience store.* Any retail establishment that is 3,500 square feet or less in gross floor area which offers for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods for off-site consumption. For establishments greater than 3,500 square feet see “truck stop.” A gasoline or service station may be an accessory use to a convenience store.

*Country club.* A chartered, non-profit membership club catering primarily to its membership, providing one or more of the following recreational and social activities: golf, swimming, riding, outdoor recreation, club house, locker room, and pro shop.

*Daycare family home.* A situation in which children are cared for in a caregiver’s own family residence.

*District, zoning.* Any section, or sections, or divisions of the city for which the regulations governing the use of land, density, bulk, height, and coverage of buildings and other structures are uniform.

*Drive-in, drive-through, drive-up commercial uses.* An establishments that by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles. (i.e. drive-through banks, restaurants)

*Duplication shop.* A facility for the reproduction and copying of printed material or drawings. This does not include sign shops, printing establishments or similar large scale operations.

*Dwelling or dwelling unit.* Means any building, structures, or portion thereof, which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families; but not including motels, boardinghouses, tourist homes, convalescent homes, accessory storage building, travel trailers or recreational vehicles. (Ord. No. 5891, §1, 8-7-2012)

*Dwelling, attached or upper floor.* A dwelling having any portion of one or more walls in common with adjoining dwellings. Or a one-family dwelling that is attached to a non-residential building.

*Dwelling, detached.* A dwelling that is not attached to any other dwelling by an means.

*Dwelling, garden home/apartment.* See Dwelling, multi-family.

*Dwelling, multi-family.* A dwelling or complex designed for occupancy by eight or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or resort type hotels.

*Dwelling for resident security guard or caretaker.* A permanent dwelling for a security guard or caretaker employed on the premises of a site. A dwelling for a resident security guard or caretaker does not include recreational vehicles (RV) or manufactured homes.

*Dwelling, single family.* A dwelling designed to be occupied by one family.

*Dwelling, townhouse.* 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 may be owned by one family.

*Dwelling, two-family.* A dwelling designed to be occupied by two families living independently of each other.

*Duplex.* (See Dwelling, two-family)

*Easement.* A property interest granted to a public utility company, the city, or other public bodies, or the general public for the establishment, use, maintenance or enlargement of specified uses, such as, but not limited to utilities, drainage, and pedestrian or vehicular access.

*Erect.* To build, construct, attach, hang, place, suspend, or affix, and shall also include the painting of wall signs.

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

*Family.* One or more persons related by blood or marriage, including adopted children; also may be defined as a group of persons not related by blood or marriage, not to exceed eight persons, occupying premises and living as a single non-profit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use. A family may include domestic servants employed by said family.

*Familial Status.*

- (a) The status resulting from one (1) or more individuals who are under eighteen (18) years of age being domiciled with:
    - 1. The parent or another person having legal custody of the individual under the age of eighteen(18) years; or
    - 2. The designee of the parent or other person having custody, with the written permission of the parent or other person; or
  - (b) The Status resulting from being in the process of securing legal custody of any individual who is under the age of eighteen(18) years; or
  - (c) The status resulting from being pregnant
- (Ord. No. 5891, §2, 8-7-2012)

*Farming, general.* The growing of crops, plants, and trees. The term also includes the maintaining of horses, livestock, or poultry for the residents needs or use and the sale of agricultural products grown on the premises.

*Fast-food restaurant.* (See Restaurant, fast-food, and restaurant, drive-in)

*Fence.* A structure serving as an enclosure, barrier, or boundary and usually made of post boards, wire, stakes, or rails.

*Flood plain.* Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source.

*Floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

*Floodway fringe.* All that land in a flood plain not lying within a delineated floodway. Land within a floodway fringe is subject to inundation by relatively low velocity flows and shallow water depths.

*Floor area.* The sum of the gross horizontal areas of all of the floors of a building or buildings measured from the exterior faces of exterior walls or from the centerline of walls separating 2 buildings.

*Floor area, gross.* The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this bylaw, or any such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

*Floor area ratio.* The ratio derived by dividing the total floor area of all buildings on a parcel of land by the area of the parcel of land.

*Fish hatchery.* A place where fish are propagated for use elsewhere.

*Frontage.* The front or frontage is that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary sideline of a corner lot.

*Front of building.* That facade of the building that abuts the required front yard as stipulated in this zoning code. The entrance door does not have to be in this facade.

*Front of lot.* The front of lot is usually platted and marked on the plat; if it is not shown on the plat, it is the space parallel to the lot line having the least dimension along the street providing direct vehicular access.

*Garage, private.* An accessory building or a part of a main building used for storage purposes only for automobiles used solely by the occupants and their guests of the building to which it is accessory and not for commercial repair use.

*Garage, public or repair.* A building in which are provided facilities for the care, servicing, repair, or equipping of automobiles. See Section 16-2-97 of this Code.

*Gasoline or service station.* Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories. A convenience store or truck stop as defined herein, may also be accessory uses to a gasoline or service station. See Section 16-2-97 of this Code.

*Greenhouse.* A structure largely enclosed with translucent material and used for the propagation and/or growing of plants.

*Group dwelling.* The residence of six or more persons, not related by blood, marriage, adoption or guardianship and living together as a single housekeeping unit. Examples include convents, fraternities, half-way houses and similar uses.

*Halfway house.* A licensed home for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently. Such placement is pursuant to the authority of the State Department of Corrections.

*Hedge.* A barrier or boundary formed by a dense row of shrubs or low trees.

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

*Horizontal property regime.* A system of individual fee ownership of buildings or portions of buildings, combined with common ownership of buildings, portions of buildings, land and site improvements.

*Hospital.* An institution providing health services primarily for human in-patient or medical or surgical care for the sick or injured, and including the related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are integral part of the facilities.

*Hotel.* A building or part thereof occupied as a more or less temporary abiding place for individuals in which the rooms are usually occupied singularly for hire and in which rooms no provisions for cooking is made, and in which building there is usually a kitchen and public dining room for the accommodation of the guests. This definition does not include an auto or trailer court or camp, sanatorium, hospital asylum, orphanage, or building where persons are housed under restraint.

*Illumination, direct.* Illumination that is so arranged that the light is directed into the eyes of the viewer from the light source.

*Illumination, indirect.* Illumination that is so arranged that the light is reflected from the sign to the eyes of the viewer.

*Illumination, spot light.* Illumination that comes from lamps, lenses, or devices designed to focus or concentrate the light rays of the source.

*Institution.* An establishment providing residence and aid to persons for charitable, educational, corrective or religious purposes.

*Land-lease community.* A residential development typified by single ownership of the land within the development, with the landowner retaining the rights of ownership. Home sites within the community are leased to individual homeowners, who retain customary leasehold rights.

*Lot.* A parcel of land occupied, or to be occupied, by one principal building and its customary accessory structures, and which is of sufficient size to meet the minimum requirements of this code. Such lot may consist of one or more lots of record and shall front on a public street or have access to a public street by way of a private street, approved easement or other method permitted by this code or the subdivision regulations.

*Lot of record.* A parcel of land legally described and recorded in the office of the county recorder.

*Lot, corner.* A lot abutting upon two or more streets at their intersection.

*Lot, double frontage.* A lot that is an interior lot extending from one street to another and abutting a street on two ends. (mainly front and back yards.)

*Lot lines.* The lines bounding a lot as defined herein.

*Lot line, front.* 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.* 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.* Any lot line other than a front or rear lot line as defined herein.

*Lot width.* The width of a lot measured at the front building setback line.

*Mall.* Any concentration of retail stores and/or service establishments that share customer-parking areas and are located within an enclosure having public walkways whereby a customer in one store or establishment may walk to another store or establishment without leaving the enclosure.

*Mansard roof.* Any roof that has an angle greater than 45 degrees and which derives part of its support from the building wall and is attached to, but not necessarily a part of a low slope roof and which extends along the full length of a side building wall of  $\frac{3}{4}$  of the length of a side building wall. For purposes of this Code, a low slope roof shall mean any roof with a pitch less than 3 inches rise per 12 inches horizontal.

*Manufactured home.* A factory built, single-family dwelling, constructed in a factory pursuant to the Federal Manufactured Home Construction and Safety Standards (24 CFR 3280).

*Manufactured home overlay zone.* Areas of the city as defined on the zoning map for permitted placement of manufactured homes without a conditional use permit.

*Manufactured home park.* A tract of land, five (5) acres or more under one ownership, divided into separate individual spaces for placement of manufactured homes where the individual spaces for manufactured homes are intended for rent or lease.

*Manufactured home subdivision.* The division of a tract of land five (5) acres or more into two (2) or more parcels to be sold for the permanent placement of manufactured homes or other types of factory built homes including modular, panelized and pre-cut units.

*Manufacturing, general.* The production, fabrication, processing, or assembling of materials or substances into goods, merchandise and equipment, where the operation characteristics of the manufacturing process limits the extent of the external impacts to the immediate vicinity.

*Mini-warehouse.* See “Self-storage.”

*Mixed-use structure.* A building containing residential in addition to non-residential uses permitted in the zone.

*Mobile home.* A single family dwelling that is fabricated in an offsite facility prior to the enactment for the Federal Manufactured Home Construction and Safety Standards (24 CFR 3280), the same being no longer permitted in the city of Hot Springs, except as outlined in the manufactured home ordinance.

*Modular home.* A residential dwelling, constructed in a factory to a residential construction code other than the manufactured home construction and safety standards.

*Motel.* A motel or motor court is a business consisting of a building or group of buildings so arranged as to furnish overnight accommodations for transient guests.

*Non-conforming use of land or structures.* A lawful use of land or structure which does not conform to the use provisions of these regulations at the effective date of their adoption or amendment.

*Non-conforming lot.* Any lot of record that does not conform to the width and area requirements of these regulations at the effective date of their adoption or amendment.

*Non-conforming structure.* Any structure that does not conform to the bulk, setback, offset, height, floor area ratio, parking or loading requirements of these regulations at the effective date of their adoption or amendment.

*Nursing home or convalescent home.* A structure designed or used for residential occupancy and providing limited medical or nursing care for occupants, but not including a hospital or mental health center.

*Nursery.* An enterprise conducting retail and wholesale sale of plants grown on the site as well as accessory items such as pots, potting soil, fertilizers, insecticides, rakes, shovels, etc., but not including power equipment such as gas or electric lawnmowers and farm implements.

*Offset.* The perpendicular distance to the nearest portion of a building or structure from the side or rear lot line or on corner lots from the side street right-of-way line. The outer three feet of roofs or cornices projecting beyond the wall or supporting columns, shall not be included.



*Off-street loading space.* A paved space on private property of at least 10' X 45' plus driveways, for the loading or unloading of trucks.

*Off-street parking space.* A paved space on private property, of at least 9' X 18' for the storage of a motor driven vehicle, having unobstructed access to a driveway.

*Parcel.* A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.

*Park.* An area that is open to the general public and reserved for recreational, educational, cultural, or aesthetic use.

*Parking lot.* An off-street facility including paved parking spaces and drives and aisles for maneuvering, and providing access and for entrance and exit, developed in a way to accommodate the parking of automobiles.

*Parking lot, private.* A parking area for the exclusive use of the owners, tenants, lessees, or occupants of the lots on which the parking area is located or their customers, employees, or whomever else they permit to use the parking area.

*Parking lot, public.* A paved parking area available to the public, with or without payment of a fee.

*Parking space.* A paved off-street space available for the parking of one motor vehicle and having an area of not less than 180 square feet exclusive of passageways and driveways, and having direct access to a street or alley. It shall measure not less than 9 feet by 18 feet.

*Permitted uses.* A use that is permitted in a zoning district subject only to the requirements pertaining to all uses in the district.

*Person with a disability* means any person who:

- (a) Has a physical or mental impairment that substantially limits one or more major life activities;
- (b) Has a record of having the impairment; or
- (c) Is regarded by others as having the impairment.
- (d) The fact that a person is a registered sex offender does not make him or her a person with disabilities.(Ord. No. 5891, §2, 8-7-2012)

*Physical or mental impairment* includes, but is not limited to, orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. (Ord. No. 5891, §2, 8-7-2012)

*Planned development (PD).* A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

*Principal building.* A building which contains the principal uses, not an accessory building.



*Professional office.* An office that a member of a recognized profession maintains for the conduct of that profession.

*Public assembly.* A space, room, or structure designed or used for occupancy by 20 or more persons who are gathered for a non-commercial purpose. Clubs, lodges, halls, and churches are places of public assembly

*Public building.* A building owned by a governmental agency.

*Public utility.* Any person, firm, corporation, municipal department, or board, duly authorized to furnish and furnishing under regulations to the public, electricity, gas, telephone, television cable, telegraph, transportation, drainage, water, or sanitary sewage.

*Radio tower, commercial.* A commercial communication tower not covered under the Telecommunications Act of 1996.

*Radio tower, private.* A radio or TV tower that is attached to a residence(s) for home or amateur use, and not covered under the Telecommunications Act of 1996.

*Reasonable accommodation* means a modification or a waiver of zoning requirements, rules, policies, or practices if the modification or waiver is reasonable and necessary afford a person with disabilities an equal opportunity to use and enjoy a dwelling. “Necessary” means that without the accommodation, the person would not be able to live in the swelling of his or her choice. “Reasonable” means that the accommodation will not create an undue financial or administrative burden for the City and will not fundamentally alter the zoning scheme of the City. (Ord. No. 5891, §2, 8-7-2012)

*Recreation, active.* Recreation that is typically characterized by the participation in sports programs. This type of recreation usually involves high vehicle trip generations, or have the potential for greater nuisance to adjacent properties due to noise, light, glare, or odor. Examples include but are not limited to: outdoor swimming pools, lighted tennis courts, lighted baseball/softball, and football/soccer complexes, golf courses, and public boat ramps.

*Recreation, passive.* Outdoor leisure activities that are low vehicle trip generators, and have a low potential for nuisance to adjacent property owners. Examples, include, but are not limited to: parks, walking, jogging, hiking, and bicycle paths/trails.

*Recreational vehicle (RV).* Self propelled or towed temporary living quarters equipped with minimum of bed and cooking facilities.

*Recycle collection/transfer.* See Trash recycling transfer and storage business.

*Restaurant.* A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

*Restaurant, drive-in.* An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not is also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

*Restaurant, fast food.* Any establishment whose principal business is the sale of foods, frozen desserts, or beverages in ready-to-consume individual servings, for consumption either within the restaurant building or for carry-out, and where either: 1) foods, frozen desserts, or beverages are usually served in paper, plastic, or other disposable containers, and where customers are not served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed; or 2) the establishment includes a drive-up or drive-through service facility or offers curbside service.

*Retail sales.* A commercial activity involving the sale of goods or merchandise to the general public, with the intent to attract the general public to buy.

*Right-of-way.* A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

*School.* A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools.

*Scrap iron.* Discarded or rejected metals that result from manufacturing or fabricating operations.

*Self-storage.* A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

*Service station.* (See Gasoline or Service Station)

*Setback.* The required minimum horizontal distance between the structure line and the related front, side, or rear property line.

*Shopping center.* Two or more retail stores and/or service establishments, or one retail store and one service establishment, sharing customer-parking areas, regardless of whether said stores and/or service establishments occupy separate structures or are under separate ownership.

*Sketch plat.* A preliminary map or drawing and accompanying material indicating a proposed layout and design of a proposed development prepared by a developer for preliminary review and comment from the Planning Commission.

*Spot zoning.* Spot zoning is the zoning of a small land area for a use which differs measurably from the zoned land use surrounding this area. Land may not merely be so zoned in the interest of an individual or small group, but must be in the general public interest. Such zoning does not conform to the future land use plan and is not otherwise necessary in order to protect the health, safety, welfare, or morals of the community.

*Story.* That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is not floor above it, the space between the floor and ceiling next above it. A half story is a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than 4 feet above the floor of each story.

*Street.* Any public or private thoroughfare that affords the principal means of access to abutting property.

*Structure.* Anything constructed or erected, the use of which requires a fixed location on the ground or attached to something having a fixed location on the ground.

*Structural alterations.* Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

*Trailer park.* (See Manufactured Home Park)

*Trash recycling transfer and storage business.* A place of business where use materials are separated and processed for shipment for eventual reuse in new products.

*Truck stop.* Any retail establishment that is greater than 3,500 square feet in gross floor area which offers for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods for off-site consumption. For establishments 3,500 square feet or less see "Convenience Store." A gasoline or service station may be an accessory use to a truck stop.

*Variance.* Administrative relief from the literal provisions of this Code in instances where enforcement would cause undue hardship due to circumstances unique to the individual property under question.

*Vehicle, auto body repair/painting.* See Automobile Body Repair/Painting. See Section 16-2-97 of this Code.

*Vehicle, mechanical service/repair.* See Automobile Mechanical Service/Repair. See Section 16-2-97 of this Code.

*Vehicle sales or leasing.* See Automobile Sales or Leasing. See Section 16-2-97 of this Code.

*Wall.* An upright structure of masonry, wood, plaster, or other building materials serving to enclose, divide, or protect an area.

*Warehousing.* A building use primarily for the storage of goods or operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

*Yard.* The open space between the lot line and the main building line.

*Yard, front.* The open space between the front lot line and the main building line, extending from side lot line to side lot line; this being the minimum horizontal distance between the front lot 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.* The minimum allowable horizontal distance between the rear lot line and the main building, extending across the rear of the lot between the side lot lines. Neither the main building nor any projection thereof other than steps, unenclosed porches, or entranceways may extend into the required rear yard.

*Yard, side.* The required open space between the main building line and the sideline of the lot, extending from the front yard to the rear yard.

*Zero lot-line development.* An arrangement of housing on adjoining lots in which the required side yard offset is reduced on one side and increased on the other so that the sum of the offsets on any lot is no less than the sum of the required offsets. No building or structure shall be closer to a lot line than five feet unless it abuts the lot line and is provided with an access easement of five feet on the adjoining lot or abuts a building or structure on the adjoining lot. The offset adjacent to property not included in the zero lot line development or a street shall not be less than that required in the zoning district.

#### ARTICLE IV. GENERAL PROVISIONS

##### **16-2-22. Conformity.**

No land shall be used or occupied, no structure shall be erected, altered, used or occupied, and no use shall be operated, unless it is in conformity with the regulations herein prescribed for the district in which the structure or land is located.

##### **16-2-23. Continuation of existing uses.**

Any use of structure or land lawfully existing or one for which a permit had been lawfully issued on or before July 1, 1965, or on the effective date of any subsequent annexation, may be continued subject to the following conditions:

- (a) *Change in use.* A nonconforming use of structure may be changed to a conforming use or to another nonconforming use of the same or more restricted classification. It may not be changed to a nonconforming use in a less restricted category. Once it is changed to a conforming use, it may not be changed back to a nonconforming use. The nonconforming use of land shall not be extended or enlarged, either upon the same or adjoining property. Such nonconforming uses of land shall specifically include, but not be limited to, billboards, poster boards, automobile wrecking yards, scrap iron and junk storage, contractor's yards, and auction yards.
- (b) *Discontinuance.* A nonconforming use of land or nonconforming use in a structure designed for a conforming use shall not be restored to a nonconforming use after such nonconforming use has been discontinued for 12 consecutive months.

- (c) *Restoration.* A nonconforming structure may not be reconstructed and a nonconforming use may not be restored if more than sixty percent of the value of such structure is destroyed.
- (d) *Maintenance.* Repairs to nonconforming structures are permitted to maintain the structure in a safe condition

**16-2-24. Nonconforming lots of record.**

A building may be built on any lot of record that is smaller than required by these regulations provided that it was legally recorded before the effective date of these regulations. If the lot is less than 65 feet wide, offsets from side lot lines may be reduced to 5 feet.

**16-2-25. Access.**

Each permitted use or lot shall have access to a public street or road. Under unusual circumstances, the planning commission may permit a use on land without access to a public street or road, provided that it is connected to a public street by an easement at least 30 feet wide. Such easement must be approved by the Hot Springs Fire Marshall.

**16-2-26. Reduction of required spaces.**

No open space required by these regulations for a particular structure or use shall be included as open space for another structure or use.

No lot, open space, parking or loading space shall be reduced in area or dimension below that required by these regulations, except where variance is granted by the Board of Zoning Adjustment.

**16-2-27. Reserved.****16-2-28. Height of buildings.**

(a) Buildings shall not exceed three stories or 35 feet measured from the high side of the lot in the A, R-1, R-2, R-L and R-3 Zones, except that public, semipublic, or public service buildings, hospitals, institutions, or schools when permitted in a zone may be erected to a height not exceeding 60 feet if the building is set back from each yard line at least one foot for each two feet additional building height above the height limit otherwise provided in this zone in which said building is located.

(b) Buildings shall not exceed three stories or 35 feet measured from the high side of the lot in the R-4 zone, except that residential, public, semipublic, or public service buildings, hospitals, institutions, or schools is set back from each yard line at least one foot for each one foot additional building height above the height limit otherwise provided in this zone.

(c) Chimneys, church steeples, cooling towers, scenery lofts, tanks, water towers, ornamental towers, spires, wireless towers, grain elevators, or necessary mechanical appurtenances are exempt from the height requirements as contained herein.

(Ord. No. 5655, §1, 5-5-08)

**16-2-29. Creation of new zones.**

No new zones may be created within the land area of an existing zoning classification unless such rezoning is appropriate to the area and is in the general public interest, and not merely in the interest of an individual or small group. Such rezoning must also convincingly demonstrate that the character of the neighborhood will not be materially or adversely affected by the uses permitted in the proposed change.

**16-2-30. Size of new zones.**

In order to circumvent spot zoning in the city, new zones shall consist of a minimum of two acres, with the exception of the PD and CTR zoning districts. These districts are permitted to be less than two acres to provide innovation and flexibility. (Ord. No. 5905, §2, 11-20-2012)

**16-2-31. Creation of or additions to existing R-3 and R-4 zones.**

No changes to the zoning map may be made in order to create new or enlarged existing R-3, or R-4 residential zoning classification areas unless the land area contained within these proposed changes is served by a sanitary sewage disposal system approved by the Arkansas State Board of Health and maintained by the Hot Springs city sewer system.

**16-2-32. Zoning of lands annexed.**

(a) Territory may be annexed to the city by one of three methods. These are the election method, the petition method and the annexation of islands by city ordinance. The method of annexation shall determine the manner in which zoning classifications are assigned to newly annexed areas.

(b) Territory annexed by the election method will be temporarily zoned Rural Residential (R-1) for a period of 60 days following certification of the election. During this time the planning commission may conduct a public hearing to discuss the zoning of newly annexed areas and any modifications to the comprehensive plan that might be appropriate. Notice of the public hearing shall be advertised in a newspaper of general circulation no less than 15 days prior to the hearing. Following the public hearing, the planning commission shall forward a report to the board of directors proposing changes, as necessary, to the comprehensive plan and recommended zoning classification(s) to the newly annexed property. The board of directors shall then act upon the recommendations in accordance with the provisions of Section 16-2-11. If the planning commission has not initiated action for zoning the newly annexed areas within 60 days, the temporary Rural Residential (R-1) zoning shall become permanent.

(c) Following the entering of an order by the county court granting a petition for annexation, and during the 30 day waiting period during which proceedings may be instituted for having the annexation prevented, the planning commission shall conduct a public hearing to discuss the zoning of the proposed annexed areas and any modifications to the comprehensive plan that might be appropriate. Notice of the public hearing shall be advertised in a newspaper of general circulation no less than 15 days prior to the hearing. Following the public hearing, the planning commission shall forward a report to the board of directors proposing changes, as necessary, to the comprehensive plan and recommended zoning classification(s) to the proposed for annexation. If the board of directors accepts the recommendation, the zoning classifications shall be assigned at the time during which the board of directors accepts the territory. If no zoning is assigned at this time, the territory shall be classified as Rural Residential (R-1).

(d) Islands annexed by ordinance shall be assigned a temporary zoning classification of Rural Residential (R-1) at the time the board of directors annexes the territory by ordinance. The board of directors may request, at that time, that the planning commission hold a public hearing and recommend a permanent zoning classification to the board of directors. Notice of the public hearing shall be advertised in a newspaper of general circulation no less than 15 days prior to the hearing. If the board of directors does not request that the planning commission prepare a recommendation when the annexation ordinance is passed, the territory annexed by ordinance shall be classified as Rural Residential (R-1).

(e) An accurate plat of any newly annexed area shall be submitted by the owner(s)/developer(s) to the planning commission for the purpose of zoning. No building permits shall be issued prior to the completion of annexation.

**16-2-33. Conflict with other regulations.**

In the case of conflict between these regulations and others in force in the planning area, the most restrictive standard shall apply.

**16-2-34. Validity.**

The provisions of these regulations are severable. If any section, paragraph, sentence, or clause shall be declared invalid, the remainder of the regulations shall not be affected.

**16-2-35. Major street and land use plans adopted.**

These regulations exist, to a large degree, for the purpose of carrying out or protecting the provisions of various plans adopted by the planning commission and board of directors. These plans specifically include, but are not limited to, the Future Land Use Plan and the Master Transportation Plan. Where development proposals or code amendments vary from those plans, the planning commission shall require plan amendments, as appropriate, as part of the approval process.

**16-2-36. Application fee schedule.**

All applications shall adhere to the land use application fee schedule or as hereafter may be adopted by resolution of the board of directors.

## ARTICLE V. ESTABLISHMENT OF DISTRICTS

**16-2-37. Zoning map.**

For the purpose of this Ordinance, the city of Hot Springs is divided into the following zoning districts:

R-1, Rural Residential  
R-2, Suburban Residential  
R-3, Low Density Residential  
R-4, Medium/High Density Residential  
R-L, Lake Area Residential  
PD, Planned Development District  
VL, Village District  
C-TR, Commercial Transitional  
C-1, Central Business District  
C-2, General Business District  
C-3, Office/Neighborhood Commercial District  
C-4, Regional Commercial/Open Display District  
M-1, Light Manufacturing  
M-2, Heavy Manufacturing  
A Agriculture, Forestry & Conservation

**16-2-38. District boundaries.**

District boundary lines shall be as shown on the map entitled Hot Springs, Arkansas Zoning Map, which is a part of this Code. The following rules shall apply in determining the location of district boundaries:

- (a) Boundaries indicated as approximately following the center line of streets, highways, alleys, railways, or channelized waterways or other natural features shall be construed as following such center lines.
- (b) Boundaries indicated as approximately following section lines, part section lines or city limits shall be construed as following these lines.
- (c) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.



- (d) Boundaries indicated as following shore lines shall be construed to follow the shore line, and in the event of change in the shore line shall be construed as moving with the actual shore line.
- (e) Boundaries indicated as parallel to or extensions of features indicated above shall be so construed.
- (f) When distances are not specifically indicated on the map, they shall be determined by reference to the description contained in the ordinance adopting them and any accompanying maps used to indicate the intentions of the ordinance. Written dimensions shall take precedence over scaled measurements.
- (g) *Reserved.*

**Editor's note** - Regulations concerning split parcel zoning was deleted by Ord. No. 5602 dated 10-1-07.

- (h) Where the street or property layout existing on the ground is at variance with that shown on the Official Zoning Map or where, for other reasons uncertainty exists as to the location of a district boundary, the Board of Zoning Adjustment shall interpret the location of the boundary.

**Editor's note** - Section 2 of Ordinance No. 5158 passed 2-17-03 adopted the Official Zoning Map and provides for the amendment thereof. Amendments are accomplished by Ordinance in accordance with 16-2-11 hereof.

### **16-2-39–16-2-40. Reserved.**

## ARTICLE VI. DISTRICT REGULATIONS

### **16-2-41. R-1 Rural Residential.**

(a) *Description and concept.* This district serves to protect areas at the urban fringe from premature development. Properties within this district are rural and remote from existing development. They are generally not served by utilities and do not have access to transportation arteries that would allow development to any acceptable level of urban development. The corresponding land use in the comprehensive plan is Residential Suburban. As interim uses, the farming operations within this district will convert to urban uses as development occurs and should not be encouraged to expand.

(b) *Permitted uses.* Typical permitted uses in this district are single-family residences, field, row and tree crops, and customary accessory uses and structures. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses.* Typical conditional uses in this district are dairy farms, poultry raising, breeding, training, feeding, display and sale of livestock, churches, country clubs, golf courses, day care centers, greenhouses and nurseries, home occupations, nursing and convalescent homes, parks and playgrounds, primary and secondary schools, and similar uses and accessory uses in character with the zone. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of conditional uses in this district.

(d) *Minimum lot area:* One acre.

(e) *Building location:*

(1) Front yard – 35 feet, or upon petition to the planning commission, a lesser or greater distance as approved by the planning commission when it has been determined that:

- a. The fire marshal is satisfied that the proposed front setback will not hinder fire protection activities in any way;
- b. The police chief is satisfied that the proposed front setbacks will not hinder law enforcement activities in any way;
- c. The public works director is satisfied that no additional street right-of-way or utility easements will be needed and that the proposed front yard setback will not adversely affect traffic or utility service;
- d. The proposed front yard setback is not incompatible with adjacent properties and will not adversely affect the civic design and arrangement of existing development;
- e. The proposed front yard setback poses no threat to the public health, safety and welfare;
- f. The unit meets the minimum off-street parking requirements and also has two temporary off-street parking spaces for the storage of vehicles; and
- g. The petition has been duly presented and filed with city staff ten (10) days prior to the planning commission hearing.

*Note: See also §16-2-107, Setbacks for Residential Infill Development.*

(2) Side yard- 15 feet.

(3) Rear yard - 35 feet.

(f) Off-street parking. See Article X, § 16-2-103, Off-Street Parking and Loading.

**Cross reference** - Building height restrictions, §16-2-28.

**16-2-42. R-2 Suburban Residential.**

(a) *Description and concept:* This district meets the need for low-density suburban development at the edge of urban development. Appropriate gross densities, for the most part, are up to 3.6 units per acre. Large lot R-2 development in excess of one-half ( $\frac{1}{2}$ ) acre shall be discouraged where both water and sewer are available for the development. The corresponding land use in the comprehensive plan is Residential Low. R-2 developments shall provide internal traffic systems that reflect an interconnected grid system to the extent allowed by existing topography. Because of its lower densities, R-2 will be appropriate on steeper topography. Access to developments should be by collector or arterial level streets. Developments should exist away from both industrial development and intensely developed commercial areas.

(b) *Permitted uses.* Typical permitted uses in this district are single-family residences and customary accessory uses or structures. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses.* Typical conditional uses in this district are churches and charitable institutions, country clubs, golf courses, day care centers, home occupations, parks and playgrounds, primary and secondary schools, public buildings, utility substations, and similar uses and accessory uses deemed to be in character with the zone. See Article XI, § 16-2-152. Table of Permitted Uses for a complete list of conditional uses in this district.

(d) *Area requirements.*

- (1) Minimum lot area (served by either a public water supply or a public sewage system) 12,000 square feet.
- (2) Minimum lot area (served by private well and individual septic tank system) 20,000 square feet.

(e) *Building location.*

- (1) Front yard – 35 feet, or upon petition to the planning commission, a lesser or greater distance as approved by the planning commission when it has been determined that:
  - a. The fire marshal is satisfied that the proposed front setback will not hinder fire protection activities in any way;
  - b. The police chief is satisfied that the proposed front setbacks will not hinder law enforcement activities in any way;
  - c. The public works director is satisfied that no additional street right-of-way or utility easements will be needed and that the proposed front yard setback will not adversely affect traffic or utility service;

- d. The proposed front yard setback is not incompatible with adjacent properties and will not adversely affect the civic design and arrangement of existing development;
- e. The proposed front yard setback poses no threat to the public health, safety and welfare;
- f. The unit meets the minimum off-street parking requirements and also has two temporary off-street parking spaces for the storage of vehicles; and
- g. The petition has been duly presented and filed with city staff ten (10) days prior to the planning commission hearing.

*Note: See also §16-2-107, Setbacks for Residential Infill Development.*

- (2) Side yard – 12 feet
- (3) Rear yard – 25 feet
- (4) *Off-street parking.* See Article X, § 103, Off-Street Parking and Loading.

**Cross reference** - Building height restrictions, §16-2-28.

### **16-2-43. R-3 Low /Medium Density Residential.**

(a) *Description and concept.* This district serves the typical single-family subdivision that has full access to municipal water and sewer systems. This district should provide the bulk of single-family lots in new subdivisions. Appropriate gross densities are up to six units per acre. This district should, therefore, be compatible with all other residential districts including Planned Developments. The corresponding land use in the comprehensive plan is Residential Medium/High. R-3 developments shall provide internal traffic systems that reflect an interconnected grid system to the extent allowed by existing topography. Access to developments should be by collector or arterial level streets.

(b) *Permitted uses.* Typical permitted uses in this district are single-family residences and customary accessory uses or structures. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses.* Typical conditional uses in this district are churches and charitable institutions, day care center, home occupations, parks and playgrounds, public buildings, primary and secondary schools, utility substations, and similar uses and accessory uses deemed to be in character with the zone. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of conditional uses in this district.

- (d) *Area requirements.*
- (1) Minimum lot area
- a. Interior lots, 7,000 square feet
  - b. Corner lots, 7,500 square feet
- (2) Minimum lot width at the building line
- a. Interior lots, 70 feet
  - b. Corner lots, 75 feet
- (e) *Building location.*
- (1) Front yard- 25 feet, or upon petition to the planning commission, a lesser or greater distance as approved by the planning commission when it has been determined that:
- a. The fire marshal is satisfied that the proposed front setback will not hinder fire protection activities in any way;
  - b. The police chief is satisfied that the proposed front setbacks will not hinder law enforcement activities in any way;
  - c. The public works director is satisfied that no additional street right-of-way or utility easements will be needed and that the proposed front yard setback will not adversely affect traffic or utility service;
  - d. The proposed front yard setback is not incompatible with adjacent properties and will not adversely affect the civic design and arrangement of existing development;
  - e. The proposed front yard setback poses no threat to the public health, safety and welfare;
  - f. The unit meets the minimum off-street parking requirements and also has two temporary off-street parking spaces for the storage of vehicles; and
  - g. The petition has been duly presented and filed with city staff ten (10) days prior to the planning commission hearing.

*Note: See also §16-2-107, Setbacks for Residential Infill Development.*

- (2) Side yard – Interior lots- 7 ½ feet  
Corner lots - 12 feet
- (3) Rear yard- 15 feet
- (f) *Off-street parking.* See Article X, § 16-2-103, Off-Street Parking and Loading.
- (g) *Previous zoning designation.* Properties previously zoned R-3 Low Density Residential are included in this zoning district.

**Cross reference** - Building height restrictions, §16-2-28.

**16-2-44. R-4 Medium/High Density Residential.**

(a) *Description and concept.* This district serves the medium to high-density development in the city that has full access to municipal water and sewer systems. This district should be a mixture of single-family homes, duplexes, apartments, and customary accessory uses near schools, employment centers, and commercial centers. Appropriate gross densities are six units per acre and above. The corresponding land use in the comprehensive plan is Residential Medium/High. R-4 developments shall provide internal traffic systems that reflect an interconnected grid system to the extent allowed by existing topography. Access to developments should be by collector or arterial level streets.

(b) *Permitted uses.* Typical permitted uses in this district are apartment buildings, townhouses, duplexes, single-family residences, and customary accessory uses or structures. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses.* Typical conditional uses in this district are churches, charitable institutions, clubs, lodges, day care centers, home occupations, nursing/convalescent homes, public building, bed and breakfasts, primary and secondary schools, and similar uses and accessory uses deemed to be in character with the zone. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of conditional uses in this district.

(d) *Area requirements.*

- (1) Minimum lot area
  - a. Single family, 6,500 square feet
  - b. Duplex, 8,500 square feet
  - c. Multi-family, 8,500 square feet for the first two units plus 1,000 square feet per each additional unit
- (2) Minimum width at the building line
  - a. Single family, 65 feet

- b. Duplex, 75 feet
- c. Multi-family, 75 feet plus 5 feet per dwelling unit
- (e) *Building location*
  - (1) Front yard - 25 feet, or upon petition to the planning commission, a lesser or greater distance as approved by the planning commission when it has been determined that:
    - a. The fire marshal is satisfied that the proposed front setback will not hinder fire protection activities in any way;
    - b. The police chief is satisfied that the proposed front setbacks will not hinder law enforcement activities in any way;
    - c. The public works director is satisfied that no additional street right-of-way or utility easements will be needed and that the proposed front yard setback will not adversely affect traffic or utility service;
    - d. The proposed front yard setback is not incompatible with adjacent properties and will not adversely affect the civic design and arrangement of existing development;
    - e. The proposed front yard setback poses no threat to the public health, safety and welfare;
    - f. The unit meets the minimum off-street parking requirements and also has two temporary off-street parking spaces for the storage of vehicles; and
    - g. The petition has been duly presented and filed with city staff ten (10) days prior to the planning commission hearing.

*Note: See also §16-2-107, Setbacks for Residential Infill Development.*

- (2) Side yard - 7 ½ feet
- (3) Rear yard - 15 feet
- (f) *Deleted.*
- (g) Maximum floor area ratio - 35 percent
- (h) *Off-street parking.* See Article X, § 16-2-103, Off-Street Parking and Loading.

(i) *Previous Zoning Designation.* Properties previously zoned R-4 Medium Density Residential and R-5 High Density Residential are included in this zoning district.

**Cross reference** - Building height restrictions, §16-2-28.

**16-2-45. Reserved.**

**16-2-46. R-L Lakes Area Residential.**

(a) *Description and concept.* This district is established to preserve more leisure type living associated with the residential area in proximity to the lakes to afford protection from intrusive commercial and industrial activities.

(b) *Permitted uses.* Typical permitted uses in this district are single-family residences and customary accessory use or structures. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses.* Typical conditional uses in this district are apartment buildings, duplexes, commercial boat docks, clubs, lodges, day care centers, churches, charitable institutions, fish hatcheries, home occupations, hotels, motels, and resorts, parks and playgrounds, and similar uses and accessory uses deemed to be in character with the zone. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of conditional uses in this district.

(d) *Area requirements.*

(1) Single family residence

- a. Lot area 10,000 square feet where served by either public water supply or public sewage system
- b. Minimum lot where served by private well and septic tank system 20,000 square feet
- c. Minimum lot at the building line, 100 feet

(2) Multi-family unit

- a. Maximum floor area ratio, 35 percent
- b. Minimum parcel size, two acres

(e) *Building location*

(1) Front yard - 35 feet, or upon petition to the planning commission, a lesser or greater distance as approved by the planning commission when it has been determined that:



- a. The fire marshal is satisfied that the proposed front setback will not hinder fire protection activities in any way;
- b. The police chief is satisfied that the proposed front setbacks will not hinder law enforcement activities in any way;
- c. The public works director is satisfied that no additional street right-of-way or utility easements will be needed and that the proposed front yard setback will not adversely affect traffic or utility service;
- d. The proposed front yard setback is not incompatible with adjacent properties and will not adversely affect the civic design and arrangement of existing development;
- e. The proposed front yard setback poses no threat to the public health, safety and welfare;
- f. The unit meets the minimum off-street parking requirements and also has two temporary off-street parking spaces for the storage of vehicles; and
- g. The petition has been duly presented and filed with city staff ten (10) days prior to the planning commission hearing.

*Note: See also §16-2-107, Setbacks for Residential Infill development.*

- (2) Side yard – 12 feet
- (3) Rear yard – Rear yards may extend to the 400 foot elevation.
- (f) Off-street parking. See Article X, § 16-2-103, Off-Street Parking and Loading.

**Cross reference** - Building height restrictions, §16-2-28.

#### **16-2-47. PD Planned Development District.**

(a) *General description.* The purposes of this zone are to promote flexibility and innovation in design and to encourage innovation in the design of large-scale developments and the development of vacant, in-fill parcels in the built up portion of the city. The zone also promotes the inclusion of open space into project design. The Planned Development (PD) is a superimposed description that provides wider latitude of design to achieve the goals stated above.

In concept, the PD is a combination of zoning designation and site plan. A detailed site plan is required for permitting. Development must follow the site plan exactly. Failure in this respect will result in reversion of the property to the original zoning. Although design innovation is encouraged, and flexibility is allowed, the PD may not be used simply as a method of avoiding zoning regulations. Once approved, the site plan becomes a zoning district by city ordinance in the same manner as any other zoning parcel.

The planning commission shall consider a PD proposal only if it meets one of the following threshold criteria:

- (1) The PD will allow the development of an infill parcel in the developed portion of the city that could not be made productive under normal zoning regulations.
  - (2) The PD would further the city's goal of providing housing for all economic segments of the city and its Planning Area Boundary.
  - (3) The PD involves a parcel in which flexibility would allow high quality or innovative urban design.
  - (4) The PD would aid in the elimination of slums and blight within the city and its Planning Area Boundary.
  - (5) The PD design results in a minimum of 30 percent of the total development being reserved as permanent open space
- (b) *Application process.* The applicant for a Planned Development permit shall be the owner(s) of the property or the party designated to act as agent for the owners(s). The responsibilities of the applicant are as follows:
- (1) Pre-application conference. Each prospective applicant shall confer with city staff in connection with the preparation of the application prior to the submission. At this conference, the following information and data shall be considered.
    - a. The boundaries of the property
    - b. Existing easements and covenants affecting the property
    - c. Physical characteristics such as drainage, topography, vegetation and existing structures.
    - d. Development characteristics such as surrounding land uses, existing streets and availability of utilities.
    - e. Elements of the proposed layout such as land uses, open spaces, community facilities, densities, traffic flow and estimated impact on traffic and adjacent land uses.
  - (2) Pre-submission to the planning commission. The applicant may elect to present a sketch plat of the proposed PD to the Hot Springs Planning Commission. Pre-submission of the sketch plat to the planning commission is strictly to receive comments and/or suggestions from the commission. Approval of the sketch plat by the commission shall not be binding.

- (3) Site plan submittal. No less than thirty days prior to the planning commission meeting at which the proposed planned development is to be reviewed, the applicant shall submit ten (10) copies of the proposed site plan to the staff. The submittal shall include the following as a minimum. Any application that is incomplete in any respect, will be returned to the applicant for appropriate corrections. The commission will not review an incomplete application.
- a. A site plan drawn to scale on vellum accompanied by an electronic version of the same in a format compatible with AutoCad® Release 2000 or higher. Survey information shall be prepared by a professional surveyor (P.S.) Drainage and utility calculations shall be prepared by a professional engineer (P.E.) The stamps of the individuals responsible for the various elements shall be affixed to the drawing; and,
  - b. Building footprints for the individual buildings to be included in the PUD; and,
  - c. Topographic contours at two foot intervals; and,
  - d. All easements, existing or proposed; and,
  - e. All drives, access-ways, alleys, parking lots and any streets proposed to be dedicated; and,
  - f. Proposed landscaping; and,
  - g. Open space and community facilities, if any, proposed as part of the PUD; and,
  - h. Location of all existing and proposed private and public utilities; and,
  - i. Name(s) of the owners of the proposed project and their agent, if any; and,
  - j. Zoning classifications of adjoining properties; and,
  - k. Site improvement drawings as necessary to support the proposals outlined in the site plan.
- (c) *Uses Permitted.* The PD submittal will include a listing of the proposed land uses and the amount of land devoted to each. This list will constitute part of the zoning component of the PD. No other land uses will be allowed unless the PD is revised through a rezoning process.
- (d) *Regulations.*

- (1) Lot size: No minimum district sizes are established, per se, however, Planned Developments of less than two acres will only be considered for residential purposes. Planned Developments greater than two acres in size may contain mixed uses. Housing can be clustered or otherwise concentrated or arranged in planned locations on the site to take advantage of its natural features. The proposed lots and the type of development (i.e., housing, mixed use) for each shall be clearly depicted.
- (2) Open space reservation: Land not used by buildings, accessory structures, and yards, but required by the zoning district in which the site is located shall be maintained as open space for the purpose of providing parks, recreational facilities, ways for pedestrian movement and circulation, and conserving visually pleasing elements of the environment. Prior to the sale of any lot, site, home or other structure, a performance guarantee of sufficient surety determined by the city engineer shall be posted with the city for completion of said open space improvements. The site plan shall clearly depict the amount of land to be maintained as permanent open space.
- (3) Development density: The site plan shall clearly depict the proposed density by land use category.
- (4) Property owners' association: The developer shall submit a set of covenants running with the land, providing for an automatic membership in the property owners' association, to be an incorporated nonprofit organization, operating under recorded land agreements designed and intended to exist in perpetuity, through which each property owner in the Planned Development is automatically subject to a charge for an appropriate proportionate share of the expenses for maintaining the common property, open space and/or other activities of the association. Once established, the covenants shall continue and remain in force during the entire existence of the Planned Development.
- (5) Responsibility for open space: Nothing in this section of the Code shall be construed as assigning or assuming any responsibility or liability on the part of the city of Hot Springs, for maintenance of any private open areas, parks, or recreational facilities. A hold harmless clause shall be incorporated in the covenants running with the land to this effect. It shall be provided further, however, that when an owner of a Planned Development desires to dedicate certain land areas to the city for public parks and recreational facilities, and the city approves the nature and location of such lands, and accepts the dedicated areas, the city shall be responsible for the operation and maintenance of these lands and properties.
- (6) Common open spaces: The size, shape, dimension and location of the common open spaces shall be determined by the planning commission in conjunction with the developer or subdivider, with consideration being given to the size and extent of the proposed development and the physical characteristics of the land being developed. Consideration should also be given in providing parks, recreational facilities, both active and passive, and pedestrian walkways.

Common open space shall be guaranteed by a restrictive covenant, describing the open space and its maintenance and improvement, running with the land for the benefit of the residents of the Planned Development. The developer shall file, at the time the approved final plat is filed, legal documents that will produce the aforesaid guarantees and, in particular, will provide for restricting the use of common open spaces for the designated purpose.

- (7) Preservation plan: In order to minimize the disturbance of the natural environment, a general preservation plan shall be required at the time of preliminary plat submission; this shall show the specific type, size and nature of the preservation area. The planning commission shall review the preservation plan in conjunction with the review of the preliminary plat.

The preservation of the natural amenities within the Planned Development, including topography, trees, ground cover, natural bodies of water, and other significant natural features, shall be given due consideration. Existing trees shall be preserved wherever possible. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels. Excessive site clearing of topsoil, trees and natural features before the commencement of building operations shall be discouraged by the planning commission. The applicant shall provide evidence as how these objectives are to be met.

- (8) Transportation: The vehicular circulation system shall be designed so as to permit smooth traffic flow with minimum hazards to pedestrian traffic. Minor streets within Planned Development shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.

The pedestrian circulation system and its related walkways shall be insulated as reasonably as possible from the vehicular movement. This shall include, when deemed to be necessary by the planning commission, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses that generate a considerable amount of pedestrian traffic.

- (9) Land subdivision: In the construction and installation of all subdivision improvements in the Planned Development, said improvements shall conform to all requirements and standards as set forth in the city's subdivision regulations, unless exception to the requirements is recommended and approved by the planning commission.

If the owners in the future should request that the private streets be changed to public streets, the owners do fully agree that, before the acceptance of such streets by the city, the owners will bear full expense of reconstruction or any other action necessary to make the streets fully conform to the requirements applicable to public streets, prior to dedication and acceptance. The owners also shall agree that these streets shall be dedicated to public use without compensation to the owners.

(e) *Review process.* The planning commission shall review the proposed PD after proper submittal of all documents and review by the appropriate city staff. In reviewing any proposal, the planning commission shall determine that the PD will:

- (1) Provide public benefits that would not be achievable through the normal zoning regulations
- (2) Not create undue or unmitigated negative traffic impacts.
- (3) Be compatible with surrounding developments.
- (4) Be compatible with the city's future land use plan.
- (5) Not endanger the public health, welfare or safety, nor shall it substantially diminish or impair property values in the neighborhood in which it is located.
- (6) Be of a character and contain such uses that are needed in the area of the proposed project.

(f) *Board of directors approval.* Planned Developments represent zoning districts and must be approved by the board of directors. Upon approval by the planning commission, all recommendations shall be submitted to the Hot Springs Board of Directors for approval. The board of directors will not consider any revisions to the site plan or development proposal that have not been reviewed by the planning commission. The planning commission must approve any contemplated deviation from the approved site plan. Any dedications of streets or easements to the city must be included in the ordinance approving the PD.

(g) *Amendments.* Following board approval the staff may approve minor revisions to the site plan if:

- (1) No changes are made to either the access or the egress to the PD.
- (2) Any changes to internal traffic arteries do not alter overall traffic patterns, size of streets, or functional classification of streets.
- (3) No new streets are proposed for dedication.
- (4) No new private streets are proposed.
- (5) Overall residential density is not increased.
- (6) Overall drainage patterns are not altered.
- (7) No additional loads are placed on municipal utilities.
- (8) Retail and office space is not increased by more than five percent.

- (9) No open space is dedicated for public maintenance.

If there is disagreement about the administration of the above, or if the staff is unsure of its authority, proposed revisions shall be submitted to the planning commission.

**16-2-48. Village District.**

(a) *Description and concept.* The Village District allows the planning and development of self-sustaining, mixed use communities with distinct identities. Normally, a separate zoning district will exist in each village development; however, multiple villages could exist within a single district if their scale and design were appropriate. The Village District differs from a Planned Development insofar as the site plan requirements are concerned. Master plan approval is required for a Village District Zoning. The purpose of the master plan, however, serves to determine housing densities, land use allocations, the overall traffic system, and open space instead of a precise design of the development. This allows the developer more flexibility in phasing and adapting to market conditions. It also reduces the need for extensive plan amendments requirements for adjustments to the plan. By their nature, village districts will be large scale developments with enough land to permit buffers with adjoining neighborhoods. The key issues in locating Village Districts are access, connections to traffic arteries, and compatibility with the future land use plan.

(b) *Minimum size of development.* The minimum size of any development within a Village Zoning District shall be 40 (forty) acres.

(c) *Master plan required.* Each development within a Village Zoning District shall require a master plan approved by the planning commission. Exact building footprints are not required; however, the master plan shall be of sufficient detail to demonstrate clearly the following.

- (1) Street layout showing exact location of collector and higher level streets.
- (2) Approximate location of residential streets.
- (3) Proposed open space.
- (4) Land uses proposed. Residential uses shall indicate proposed densities for each neighborhood group. Commercial, institutional, and manufacturing uses shall indicate gross square footage in each building group.
- (5) Location and proposed layout of village center(s)
- (6) Adjacent land uses.
- (7) Location of parks, trails, and other public uses.

(d) *Residential densities.* The aggregate density for all residential areas combined shall not exceed six units per gross acre of land designated for residential development.

(e) *Land use allocations.* The total of all non-residential land uses, excluding open space, in the village development shall not exceed 20 (twenty) percent of the total area of the development.

(f) *Design standards.* There are no set standards for street widths, setbacks, or lot coverage. These will be approved on a case-by-case basis by the planning commission based on recommendations from each municipal department. No designs will be approved which, in the estimate of a particular department head, will adversely affect the public health, safety and welfare of the citizens of Hot Springs.

(g) *Buffer required.* Each development proposed in a Village Zoning District shall include, on all sides, an open-space buffer of not less than 75 (seventy-five) feet. This buffer shall be maintained in perpetuity and may be used as utility or drainage easements.

(h) *Conditions of approval.* The planning commission shall review each master plan and either approve or disapprove the plan based on the following criteria.

- (1) Is the capacity of the existing utility system capable of serving the proposed development?
- (2) Will the development create or add to existing storm water drainage on adjacent or downstream properties?
- (3) Will the development meet the requirements of the city's storm water quality management plan?
- (4) Is the existing transportation network capable of providing access to the proposed development?
- (5) Will the proposed development create instability in adjacent neighborhoods?
- (6) Does the proposed neighborhood represent good civic design?
- (7) Can the proposed development be adequately served by existing community facilities? If not, are additional facilities planned as part of the proposed development?
- (8) Does the proposed development represent an efficient use of the land?
- (9) What mitigating public benefits, if any, will accrue through the completion of this development?
- (10) What contingency plans exist in the event that the development should fail to meet its projected marketing goals?



**16-2-49. C-TR Commercial Transitional.**

(a) *Concept and description.* This district promotes infill development in existing neighborhoods of the city. It also encourages innovative adaptive reuse projects. In order to protect neighborhood stability, the planning commission carefully monitors development carried out in this district. The district exists to achieve the plan objectives of promoting positive development and redevelopment of mature areas of the city. Developments carried out in the district should promote the neighborhood or village image of the area. To this end, it is important that developments carried out in this district are in keeping with the character of the surrounding neighborhood. To this end, the planning commission shall carefully evaluate proposals according to the following standards:

- (1) Will the physical components of the proposed development, i.e. size, height, bulk, type of materials, and architectural style match or complement the surrounding development?
- (2) Will the development represent a logical addition to, or extension of, surrounding development?
- (3) Will the intensity of the development, i.e. traffic, parking, hours of use, level of business activity, noise levels, and signage be consistent with the current status of the neighborhood?
- (4) Would the proposed development enhance the viability of the neighborhood and not simply be proposed to circumvent the goals and objectives of the future land use plan?

(b) *Area requirements.* There shall be no minimum limit to the size of this zone.

(c) *Permitted uses.* Typical permitted uses in this district are single-family residences, duplexes, apartments, and customary accessory uses and structures. See Article XI, § 16-2-152. Table of Permitted Uses for a complete list of permitted uses in this district.

(d) *Conditional approval.* All non-residential uses shall be subject to review and approval by the commission and the commission may approve proposed uses subject to such limitations and conditions as to development and operation as it deems desirable to carry out the objectives of this district. See Article XI, § 16-2-152. Table of Permitted Uses for a complete list of conditional uses in this district.

Special attention shall be given to the nature and amount of non-residential activity and the appearance of the buildings and accessory facilities including parking areas, fences and signs, and to the landscape treatment of the site. There shall be no outside display of merchandise visible from the street or adjoining residential areas.

## ZONING CODE

(e) *Development plan.* For all non-residential uses, site plans showing the location of buildings, accessory structures, parking areas, walks, drives, walls or fences, signs, the proposed landscape treatment and provisions for drainage, shall be submitted for planning commission approval. In addition, architectural drawings, clearly delineating the design and appearance of new buildings or of proposed remodeling of existing buildings as well as accessory structures including fences and signs also shall be submitted for commission approval.

(f) *Building limitations.* Floor area ratio shall be a maximum of 40% for new construction or expansion of an existing building. This provision is not subject to variance by the city planning commission or the board of zoning adjustment. (Ord. No. 5905, §5, 11-20-2012)

(g) *Building location.*

(1) Front yard - Front yard setbacks are flexible according to the design proposed by the applicant. This will facilitate developments with parking proposed for the rear yard or side yards. The following process controls the establishing of front yard setbacks in the CTR zone:

- a. For front yard setbacks of 25 feet or greater, no further approval is required.
- b. For proposed front yard setbacks of less than 25 feet, the applicant shall adhere to the process outlined below:
  - i. A site plan shall be submitted for planning commission review at least 10 days prior to the next planning commission meeting.
  - ii. The site plan shall be drawn to scale and shall clearly indicate the proposed location of all buildings, parking, drives, easements, rights-of-way, alignment of adjacent buildings, dumpster locations, landscaping, signage, and lighting.
  - iii. A written justification shall be submitted by the developer outlining why the proposed front yard setback is in harmony with other development in the area.
- c. The planning commission shall consider the following in approval of front yard setbacks:
  - i. That there are no existing state or municipal plans that will require additional street or utility rights-of-way.
  - ii. That the proposed setback will not be out of alignment with adjoining properties.

- iii. That the proposed setback will not pose a threat to public health, safety, and welfare.
  - iv. That the proposed setback will otherwise promote good civic design in keeping with the health, safety and public welfare of the citizens of Hot Springs.
- (2) The minimum offset from side and rear lot lines shall be not less than that of the adjacent residential zone unless specifically modified by the commission as part of site plan approval.

*Note: See also §16-2-107, Setbacks for Residential Infill Development.*

- (h) *Off-street parking.* See Article X, § 16-2-103, Off-Street Parking and Loading.
- (i) *Vehicles limitation.* No commercial vehicles, other than panel trucks or vans of not over 3/4 ton capacity, shall be used in connection with the permitted uses. No commercial vehicles may be parked in front of the required building setback line. Commercial vehicles remaining on the site overnight shall be kept within buildings or behind solid walls or fences at least 6 feet in height.
- (j) *Exterior illumination.* All exterior illumination shall be so installed as to retain the light within the property.
- (k) *Outdoor display or storage.* The outdoor display or storage of goods or materials is prohibited unless specifically approved.
- (l) *Certificate of compliance.* No non-residential use shall be permitted until a certificate of compliance has been issued by the commission or its authorized representative indicating that architectural and site requirements have been met.

**16-2-50. Reserved.**

**16-2-51. C-1 Central Business District.**

(a) *Concept and description.* The Central Business District consists of that portion of the city commonly referred to as “downtown.” Because of its unique historical and cultural characteristics, the district enjoys benefits not applied to other zoning districts. These include no setbacks requirements. Also, off-street parking and landscaping are not required although the planning commission does encourage them where possible in order to improve the functioning and appearance of the area. In return, special conditions control the reconstruction of any buildings lost or demolished in the area. The planning commission may recommend expansion of the C-1 District from time to time; however, its boundaries remain fairly static and there is only one C-1 District in the city. Development in the district will focus heavily on historic development, thus multiple approvals and a long approval period are to be expected. The C-1 District is the most intensively developed district in the city and a wide variety of commercial and entertainment is allowed. Also, residential uses are encouraged in the district in order to utilize upper floors and create a resident population to support the downtown area.

(b) *Permitted uses.* Typical permitted uses in this district are retail appliance repair and sales, banks and financial offices, barber and beauty shops, bath houses and spas, business machine sales and services, commercial entertainment and recreation, day care centers, duplication shop, laundry and dry cleaning services, medical and dental offices and clinics, museums, galleries, theaters, offices, restaurants, the retail sale of food, clothing, home furnishings, and sporting goods, variety, drug, liquor and department stores, newsstands, adult uses, taverns, nightclubs, and customary accessory uses and structures. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses.* Typical conditional uses in this district are bus terminals, car washes, churches, charitable institutions, clubs, lodges, community centers, convention halls, hospitals, commercial laundry plants, mortuaries, funeral homes, commercial parking lots/structures, printing and publishing, business, vocational, or art schools or colleges, and similar uses and accessory uses deemed to be in character with the zone. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of conditional uses in this district.

(d) *Area requirements.* No limitations.

(e) *Building location.* No limitations.

(f) *Maximum height of buildings.* No limitations.

(g) *Maximum floor area ratio.* No limitations.

(h) *Off-street parking and loading.* None required.

(i) *Exterior illumination.* All exterior illumination shall be so installed as to retain the light within the property.

(j) *Outdoor display or storage.* The outdoor display or storage of goods or materials is prohibited unless specifically approved.

(k) *Historic District.* The Hot Springs Historic District overlays a portion of the C-1 zoning district. Buildings and structures within the Historic District must conform to all requirements and regulations of the Historic District. When the requirements or regulations of the Historic District conflict with the requirements or regulations of the C-1 Central Business District, the Historic District regulations shall supercede the zoning district requirements or regulations.

#### **16-2-52. C-2 General Business District.**

(a) *Concept and description:* The General Business District represents a zone for a wide variety of retail business and services that serve a trade area but do not require such a central location as the central business district. This district serves the residents of the planning area boundary and the motoring public. This district also serves the tourist industry that is so vital to the Hot Springs area. Thus, these businesses are found on the fringe of the central business district, along major streets and arteries, at crossroads and near wholesale or industrial

areas. C-2 Businesses are most often located on less expensive real estate, allowing parking spaces, loading areas, landscaping, increased traffic, and lower concentrations of buildings. Access, circulation, intensity of uses, and the limitation of the trade area to the planning area boundary are key issues in determining the appropriateness of the C-2 Districts.

(b) *Permitted uses.* Typical permitted uses in this district are retail appliance repair and sales, banks and financial offices, barber and beauty shops, bath houses and spas, business machine sales and services, commercial entertainment and recreation, day care centers, duplication shop, laundry and dry cleaning services, medical and dental offices and clinics, museums, galleries, theaters, offices, restaurants, the retail sale of food, clothing, home furnishings, and sporting goods, variety, drug, liquor and department stores, newsstands, adult uses, taverns, nightclubs, and customary accessory uses and structures. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses.* Typical conditional uses in this district are bus terminals, car washes, churches, charitable institutions, clubs, lodges, community centers, convention halls, hospitals, commercial laundry plants, mortuaries, funeral homes, commercial parking lots/structures, printing and publishing, business, vocational, or art schools or colleges, and similar uses and accessory uses deemed to be in character with the zone. See Article XI, § 16-2-152. Table of Permitted Uses for a complete list of conditional uses in this district.

(d) *Lot dimensions.* No limitations.

(e) *Building location.*

(1) Front yard setbacks are flexible according to the design proposed by the applicant. This will facilitate developments with parking proposed for the rear yard or side yards. The following process controls the establishing of front yard setbacks in the C-2 zone:

- a. For front yard setbacks of 25 feet or greater, only a building permit is required.
- b. For proposed front yard setbacks of less than 25 feet, the applicant shall adhere to the process outlined below:
  - i. A site plan shall be submitted for planning commission review at least 10 days prior to the next planning commission meeting.
  - ii. The site plan shall be drawn to scale and shall clearly indicate the proposed location of all buildings, parking, drives, easements, rights-of-way, alignment of adjacent buildings, dumpster locations, landscaping, signage, and lighting.
  - iii. A written justification shall be submitted by the developer outlining why the proposed front yard setback is in harmony with other development in the area.

- (c) The planning commission shall consider the following in approval of front yard setbacks:
- i. That there are no existing state or municipal plans that will require additional street or utility rights-of-way.
  - ii. That the proposed setback will not be out of alignment with adjoining properties.
  - iii. That the proposed setback will not pose a threat to public health, safety, and welfare.
  - iv. That the proposed setback will otherwise promote good civic design in keeping with the health, safety and public welfare of the citizens of Hot Springs.
- (2) Side yard - Corner lots – 12 feet.
- (3) Rear yards - In cases where the rear lot lines abut a residential district, the minimum offset shall be 25 feet. In individual cases, this restriction may be reduced at the judgment of the commission where it is indicated as desirable.
- (f) *Maximum height of buildings.* No limitation.
- (g) *Maximum floor area ratio.* Maximum F.A.R. = 0.60
- (h) *Off-street parking and loading* - See Article X, § 16-2-103, Off-Street Parking and Loading.
- (i) *Exterior illumination.* All exterior illumination shall be so installed as to retain the light within the property.
- (j) *Outdoor display or storage.* The outdoor display or storage of goods or materials is prohibited unless specifically approved.
- (k) *Previous zoning designation.* Properties previously zoned C-2 General Business and C-3 Shopping Center Zone are included in this zoning district.

**16-2-53. Reserved.**

**16-2-54. C-3 Office/Neighborhood Commercial.**

(a) Concept and description: The C-3 District exists to allow limited commercial along with office development in proximity to residential areas. Further, the district exists to promote mixed-use developments that increase the use of non-vehicular traffic. C-3 districts also serve as proper buffers between low density residential and higher intensity commercial uses. Building masses should be modest and in scale with residential developments. Although primarily serving surrounding neighborhoods, C-3 businesses must rely upon the migration of customers from outside the neighborhood boundaries. Access and traffic circulation are key issues in their location.

(b) Permitted uses. See Article XI, § 16-2-152, Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) Conditional uses. See Article XI, § 16-2-152, Table of Permitted Uses, for a complete list of conditional uses in this district.  
(Ord. No. 5905, §1, 11-20-2012)

(d) *Area requirements.*

(1) Front yard setbacks are flexible according to the design proposed by the applicant. This will facilitate developments with parking proposed for the rear yard or side yards. The following process controls the establishing of front yard setbacks in the C-3 zone:

- a. For front yard setbacks of 25 feet or greater, only a building permit is required.
- b. For proposed front yard setbacks of less than 25 feet, the applicant shall adhere to the process outlined below:
  - i. A site plan shall be submitted for planning commission review at least 10 days prior to the next planning commission meeting.
  - ii. The site plan shall be drawn to scale and shall clearly indicate the proposed location of all buildings, parking, drives, easements, rights-of-way, alignment of adjacent buildings, dumpster locations, landscaping, signage, and lighting.

- iii. A written justification shall be submitted by the developer outlining why the proposed front yard setback is in harmony with other development in the area.
  - c. The planning commission shall consider the following in approval of front yard setbacks:
    - i. That there are no existing state or municipal plans that will require additional street or utility rights-of-way.
    - ii. That the proposed setback will not be out of alignment with adjoining properties.
    - iii. That the proposed setback will not pose a threat to public health, safety, and welfare.
    - iv. That the proposed setback will otherwise promote good civic design in keeping with the health, safety and public welfare of the citizens of Hot Springs.
- (2) Side yard – 5 feet
- (3) Rear yard – 25 feet
- (e) *Maximum height of building.* 50 feet when the building is located on the building line. One foot of additional height may be permitted for every one foot the building is setback from the building line.
- (f) *Maximum floor area ration.* Maximum F.A.R. = 0.50 (Ord. No. 5905, §4, 11-20-2012)
- (g) *Off-street parking and loading.* See Article X, § 16-2-103, Off-Street Parking and Loading.
- (h) *Exterior illumination.* All exterior illumination shall be so installed as to retain the light within the property.
- (i) *Outdoor display or storage.* The outdoor display or storage of goods or materials is prohibited unless specifically approved.
- (j) *Previous zoning designation.* Properties previously zoned O-1 Quiet Business and C-4 Neighborhood Commercial are included in this zoning district.



**16-2-55. C-4 Regional Commercial/Open Display District.**

(a) *Concept and description:* The C-4 represents the largest scope of commercial development in the city. The market population extends beyond the planning area boundary to a regional trade area defined by such economic standards as Reilly's Law of Retail Gravitation, which is used to calculate the point at which customers will be drawn to one or another of two competing centers. C-4 districts should be located at major arterial interchanges so that traffic will not normally proceed into the densely populated area of the city. This district allows for regional shopping centers and so-called "big box" developments. It is also appropriate for business requiring large areas of open-display that require a large amount of land for product storage and traffic maneuvering. Potential conflicts with residential areas, control of large volumes of traffic, access to freeways and highways, and intensity of development are key issues in the location of C-4 districts.

(b) *Permitted uses.* Typical permitted uses in this district are the permitted uses in all the commercial districts, and open-display uses such as vehicle sales and uses that are regionally significant such as shopping malls and large retail discount stores. Customary accessory uses and structures are also permitted uses. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses.* Typical conditional uses in this district are amusement parks, bus terminals, recreational vehicle parks or campgrounds, car washes, churches, charitable institutions, clubs, lodges, community centers, hospitals, commercial laundry plants, self-storage facilities, manufactured home sales, mortuaries, funeral homes, commercial parking lots/structures, printing and publishing, race tracks, resorts, business, vocational, or art schools or colleges, animal clinics and kennels, and similar uses and accessory uses deemed to be in character with the zone. See Article XI, § 16-2-152. Table of Permitted Uses for a complete list of conditional uses in this district.

(d) *Area Requirements.*

(1) Front yard setbacks are flexible according to the design proposed by the applicant. This will facilitate developments with parking proposed for the rear yard or side yards. The following process controls the establishing of front yard setbacks in the C-4 zone:

a. For front yard setbacks of 25 feet or greater, only a building permit is required.

b. For proposed front yard setbacks of less than 25 feet, the applicant shall adhere to the process outlined below:

i. A site plan shall be submitted for planning commission review at least 10 days prior to the next planning commission meeting.

- ii. The site plan shall be drawn to scale and shall clearly indicate the proposed location of all buildings, parking, drives, easements, rights-of-way, alignment of adjacent buildings, dumpster locations, landscaping, signage, and lighting.
  - iii. A written justification shall be submitted by the developer outlining why the proposed front yard setback is in harmony with other development in the area.
- (c) The planning commission shall consider the following in approval of front yard setbacks:
- i. That there are no existing state or municipal plans that will require additional street or utility rights-of-way.
  - ii. That the proposed setback will not be out of alignment with adjoining properties.
  - iii. That the proposed setback will not pose a threat to public health, safety, and welfare.
  - iv. That the proposed setback will otherwise promote good civic design in keeping with the health, safety and public welfare of the citizens of Hot Springs.
- (2) Side yard- 5 feet. In cases where side and/or rear lot line abut a residential zone, minimum of 25 feet.
- (3) Rear yard – 25 feet
- (f) *Maximum height of building.* 50 feet when the building is located on the building line. One foot of additional height may be permitted for every one foot the building is setback from the building line.
- (g) *Maximum floor area ratio.* Maximum F.A.R. = 0.70
- (h) *Off-street parking and loading.* See Article X, § 16-2-103, Off-Street Parking and Loading.
- (i) *Minimum size of new zones.* Two acres
- (j) *Previous zoning designation.* Properties previously zoned C-5 Tourist Commercial are included in this zoning district.

**16-2-56. Reserved.**

**16-2-57. M-1 Light Manufacturing.**

(a) *Description.* This district is for clean, quiet industries on ample landscaped sites with plenty of room for parking and plant expansion. This district is also for rail and truck terminals along with warehousing, wholesaling, packaging, storage, fabrication, display and such limited manufacturing as does not create a nuisance for residential and commercial neighbors. These sites share access to highways and railroads; they are protected from the noise, dirt and hazards of more objectionable industries.

(b) *Permitted uses.* Typical permitted uses in this district are the sale of building materials, food and agricultural products processing plants, heavy equipment sales and services, ice and cold storage plants, commercial laundry plants, the manufacturing, assembly, treatment, storage, display and shipping of prepared materials such as electronic equipment, plastics, textiles, and metal or wood working, printing and publishing, restaurants, adult uses, warehouses, wholesale sales and storage, and customary accessory uses and structures. Single-family residential shall also be a permitted use in this district. (Ord. No. 5609, §1, 11-19-2007) See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses.* Typical conditional uses in this district are animal kennels or pounds, storage of bulk liquids or explosives, truck or rail terminal and similar uses and accessory uses deemed to be in character with the zone. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of conditional uses in this district.

(d) *Building location.*

(1) Front yard - 25 feet

(2) Side and rear yard - 25 feet

(3) Required setback or offset from a lot line may be reduced or eliminated when necessary to provide for loading or unloading from a railroad siding on adjacent property.

(e) *Maximum floor area ratio.* Maximum F.A.R. = 0.70

(f) *Off-street parking and loading.* See Article X, § 16-2-103, Off-Street Parking and Loading.

(g) *Previous zoning designation.* Properties previously zoned M-1 Wholesaling and Warehousing and M-2 Limited Manufacturing are included in this zoning district

**16-2-58. M-2 Heavy Manufacturing.**

(a) *Description.* This zone is for the most intensive industries and those making products from raw materials. Regulations are the minimum for mutual protection between industries.

(b) *Permitted uses.* Typical permitted uses in this district are any use permitted in the M-1 Light Manufacturing District and the majority of uses permitted in the C-4 Regional Commercial/Open Display District. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses.* Typical conditional uses in this district are the manufacturing of hazardous chemicals, automobile wrecking, junk, and salvage yards, the manufacture of cement, lime, gypsum, or plaster of paris, the distillation or manufacture or refining bones, coal, or tar asphalt, the manufacture and/or storage of explosives, fat, grease, lard or tallow rendering or refining, the manufacturing of fertilizer, garbage reduction by incineration, garbage, offal or dead animal reduction or dumping, glue or size manufacture, paper manufacturing, petroleum or asphalt refining, petroleum products terminal, smelting of tin or copper, storage or processing of rawhides or fur, stockyards, or the slaughtering of animals. Single-Family residential shall also be a conditional use in this district. (Ord. No. 5609, §2, 11-19-2007) See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of conditional uses in this district.

(d) *Building location.*

(1) Front yard - 50 feet

(2) Side and rear yard - 50 feet

(3) Required setback or offset from a lot line may be reduced or eliminated when necessary to provide for loading or unloading from a railroad siding on adjacent property.

(e) *Maximum floor area ratio.* Maximum F.A.R. = 0.60

(f) *Off-street parking and loading.* See Article X, § 16-2-103, Off-Street Parking and Loading.

(g) *Previous zoning designation.* Properties previously zoned M-3 General Manufacturing are included in this zoning district

#### **16-2-59. A Agriculture, Forestry, & Conservation.**

(a) *General description.* This district is designed to protect the agricultural nature of land currently located inside the city limits. These areas may undergo gradual transition to urban uses; however, this is expected to occur in a planned manner. In the interim, it is expected that uses in the agricultural zone will be restricted to those uses normally associated with agricultural enterprises and supporting residential and accessory uses.

(b) *Permitted uses.* Typical permitted uses in this district are single-family residences, field, row and tree crops, and customary accessory uses and structures. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of permitted uses in this district.

(c) *Conditional uses* – Typical conditional uses in this district are churches, country clubs, golf courses, day care centers, nursing and convalescent homes, parks and playgrounds, primary and secondary schools, and similar uses and accessory uses in character with the zone. See Article XI, § 16-2-152. Table of Permitted Uses, for a complete list of conditional uses in this district.

(d) *Area requirements.* Minimum lot area shall be one acre.

(e) *Building location.*

(1) Front yard - 35 feet.

(2) Side yard – 15 feet

(3) Rear yard – 35 feet

(f) *Off-street parking.* Agricultural, forestry, and conservation uses shall provide sufficient off-street parking and loading areas necessary for the conduct of the use. No parking or loading area shall infringe upon a public right-of-way or street. For residential uses, at least two off-street parking spaces shall be provided per dwelling unit.

(g) *Previous zoning designation.* Properties previously zoned A-1 Agriculture and Forestry, and A-3 Conservation and Forestry are included in this zoning district

**16-2-60–16-2-63. Reserved.**

## ARTICLE VII. OVERLAY DISTRICTS

### **16-2-64. Seasonal Parking Overlay District.**

(a) *Description.* This overlay district is intended to permit the parking of automobiles of persons attending races at Oaklawn Park Race Track on private property on days when live races are held without otherwise affecting the restrictions of the basic zoning districts over which this is superimposed.

The SP-Seasonal Parking Overlay District shall include certain properties lying within an area bounded on the east by Central Avenue, on the south by Leonard Street, on the west by Seventh Street and on the north by Garens Street extended as more particularly described by a plat attached hereto and made a part hereof.

(b) *Permitted uses:*

(1) Uses permitted in the zoning district over which this overlay district is superimposed.

- (2) Seasonal parking on private property for which a fee may be charged subject to the requirements of (c). The parking limitations of the zoning district over which this is superimposed shall not apply.
- (c) *Requirements for seasonal parking:*
  - (1) Seasonal parking lots shall comply with such ordinance(s) as may now or hereafter be adopted by the Hot Springs Board of Directors governing seasonal parking lots in the vicinity of Oaklawn Park. Provided, further, that any parking lot located in a commercial zone and otherwise approved and operated as a commercial parking lot shall, in addition, comply with all ordinances and codes governing permanent commercial parking lots.
  - (2) Parking shall be permitted only on days live races are held. There shall be no overnight parking.
  - (3) Only private automobiles, motor homes, buses, and pick-up trucks no larger than 1 ton shall be permitted. Trailers and commercial type trucks over 1 ton shall not be permitted.
- (d) *Designation on zoning map.* The boundaries of this overlay district shall be shown on the zoning map by a distinctive symbol and the letters SP in a manner that will clearly indicate its relationship to the basic zoning district over which it is superimposed.
- (e) *Specifications:*
  - (1) **Limitation.** No person, firm or corporation shall operate a seasonal parking lot, providing parking to patrons of Oaklawn Jockey Club (Oaklawn Park) on a commercial basis, other than within the area zoned SP Seasonal Parking and after issuance of a license as provided for herein.
  - (2) **Application.** The city manager or his designee shall issue a seasonal parking lot license to any person, firm, or corporation who shall submit an application therefore on a form prescribed by the city manager or his designee, which shall include the following:
    - a. The name, address and telephone number of the person, firm or corporation which will operate the proposed seasonal parking lot.
    - b. A plat of the proposed seasonal parking lot indicating its location, the number of vehicles proposed to be parked and ingress and egress to street right-of-way.
    - c. Evidence from the city planning department that the proposed seasonal parking lot is zoned SP Seasonal Parking.

- (3) Term. Except as provided hereinafter, the seasonal parking lot license herein authorized shall extend only through the live horse racing season at Oaklawn Park of the year in which the license is issued and shall expire at the conclusion of the live horse race meet. Provided, however, that the license term for any commercial parking lot located in a commercial zone and otherwise approved and operated as a permanent commercial parking lot shall extend through the calendar year in which the license is issued. Properties located in the Seasonal Parking Overlay District and are located in a commercial zoning district must have paved parking.
- (4) Regulations. Each licensee hereunder shall be subject to the following:
- a. There shall be displayed on each seasonal parking lot a sign constructed of a permanent material not less than two (2) feet high and three (3) feet wide, lettered with paint or plastic lettering in clear block print not less than four (4) inches high, not less than three (3) feet from the ground and so situated that it is clearly visible from the point of ingress and egress to the public right-of-way; said sign shall be posted prior to beginning business each day and shall include the name of the licensee, the licensee's license number, the words "Parking Today," and the price charged for parking that day, which may not be increased once posted.
  - b. Persons may solicit vehicles to park on seasonal parking lots, but each such person must have both feet on the sidewalk or curb adjacent to any public right-of-way to which solicitations are directed and any sign or flag if held by such person must state in lettering not less than four (4) inches high the price charged for parking that day.
  - c. No vehicle may be removed from a seasonal parking lot to another address after it has been left there by the owner, except as necessary, to permit other vehicles to enter or to exit the parking lot. Vehicles may be parked temporarily on city streets other than Central Avenue for periods not exceeding fifteen (15) minutes as necessary to allow other vehicles to enter or to exit a parking lot; provided that no licensee may park on city streets more than five (5) vehicles or five (5) percent of the number of vehicles for which his parking lot is licensed, whichever is greater; and provided, further, that neither pedestrian nor vehicular traffic may be obstructed at any time.



- d. Each licensee is granted the right to have any vehicle towed from licensee's lot that has not paid the price for the day's parking or that has been locked or left without keys and impedes the normal functions of the lot. Any towing charges incurred hereunder shall be assessed against the driver of the vehicle.
- e. Every licensee shall issue a receipt to the owner of each vehicle as it enters his lot for parking. The receipt shall contain at minimum the name of the lot and its location.

During the live racing season, the regulations set forth in this ordinance shall also apply to any permanent commercial parking lots located within the SP Seasonal Parking overlay district. In addition, permanent commercial parking lots shall comply with all other ordinances and codes governing permanent commercial parking lots.

- (5) Tax. Prior to issuance of a license hereunder, the applicant shall pay to the city the current occupation tax provided by the Hot Springs Code for seasonal parking lots. Provided, however, that any parking lot located in a commercial zone and otherwise approved and operated as a permanent commercial parking lot may pay the occupation tax for a commercial parking lot.
- (6) Penalty for violation. The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

#### **16-2-65. Malvern Avenue Overlay District.**

(a) *Purpose.* The purpose of establishing this district is to protect and enhance the visual appearance and character, promote traffic safety and maintain harmony with adjacent residential neighborhoods along Malvern Avenue. More particularly, the purpose of this district is to:

- (1) To allow land use patterns compatible with present and future traffic capacity for the Malvern Avenue.
- (2) To create a visually pleasing atmosphere along a major corridor in the city, especially as a means to promote a positive image of the city to visitors and residents alike.
- (3) To minimize the number of curb cuts along designated highways so that the roadways will function at an efficient level of service.



- (4) To establish land uses that will facilitate transition of areas from less to more intense land uses along Malvern Avenue without the undesired effects of small lot strip development.
- (5) To set standards for landscaping, signage, design and parking lot lighting which are in keeping with the intent of this overlay district.
- (b) *District name and boundaries.* The district shall be known as the Malvern Avenue Overlay District and shall extend from Grand Avenue to the city limits as depicted on the map entitled "Malvern Avenue Overlay District."
- (c) *Application of district regulations.* The regulations in this overlay district shall be in addition to and shall overlay all other zoning districts and other ordinance requirements regulating the development of land so that any parcel of land lying in the overlay district shall also lie within one or more of the other underlying zoning districts. Therefore, all property within this overlay district will have requirements of both the underlying and overlay zoning district in addition to other ordinance requirements regulating the development of land. In case of conflicting standards between the overlay district requirements and other city ordinances, the overlay requirements shall control. Single-Family Residences constructed on lots of record are exempt from these Malvern Avenue Overlay District Regulations. (Ord. No. 5888, §1, 7-17-2012)
- (d) *Site design and development standards.*
- (1) *Reserved*

Editor's Note: §16-2-65(d)(1) adopted by Ord. No. 5188 was repealed by Ord. No. 5888, §2, 7-17-2012

- (2) Green space. A minimum of ten percent (10 %) of landscaped green space exclusive of right-of-way shall be provided on each development site. (Ord. No. 5888, §3, 7-17-2012)
- (3) Parking lots. All parking lots for development shall have one (1) tree per ten (10) parking spaces. Trees shall be placed uniformly within the parking lot or in islands within the lot providing a minimum of twenty-five (25) square feet of unpaved area per tree. Parking lots shall be set back a minimum of five feet (5') from any side property line.
- (4) Landscaping treatment. Landscaping shall be required which is sufficient to provide soil stability and promote suitable drainage. Tree species planted within the overlay district should be consistent with other species present, preferably native. Trees shall be one-and-one-half (1 ½ ) inches DBH at planting with an expected height of sixty feet (60') or more at maturity. Species selection shall be at the discretion of the developer but if root or branching habits of plant material should be a nuisance (e.g., roots breaking through the sidewalk, messy fruit, etc.) plant materials shall be replaced at the owner's expense.
- (5) Curb cuts. One (1) curb cut shall be allowed per two hundred feet (200') of frontage. No curb cuts shall be allowed within one hundred feet (100') of any intersection. Shared driveways will be required for adjacent properties that are under construction at the same time.
- (6) Lighting. All parking and loading areas shall have lighting. Lighting facilities shall be designed so that there is no light trespass on adjacent properties, roadways, or other areas. Lighting shall not exceed thirty-five feet (35') in height.
- (7) Screening. All mechanical and utility equipment and trash enclosures shall be screened in the following manner:
  - a. All mechanical and utility equipment on side of the building and/or on the ground shall be screened by fencing and/or vegetation if visible from the highway or residential property. Screening of roof-mounted utilities shall be incorporated into the structure, utilizing materials compatible with the supporting building.
  - b. Trash enclosures shall be screened on three (3) sides with the access not visible from the highway.
- (8) Building consistency. All nonresidential buildings will have a masonry façade extending a minimum of eight feet on each sidewall.
- (9) Utilities. Above-ground utilities may be located at the rear property line. In the event it is not feasible to place utilities at the rear property line, utilities shall be placed underground.

- (10) Signage. All signs shall be ground-mounted and shall be no more than eight feet in height. The following signs are prohibited:
- a. Signs that are animated, blink, flash, or contain moving digital copy. (Ord. No. 5774, §1, 4-20-2010)
  - b. Banners, streamers, pennants, strobe lights, balloons and revolving signs.
  - c. Neon lighting or mini-lights as an adornment on any building, except as part of an approved sign.
  - d. Portable signs, trailer signs, signs painted on vehicles parked adjoining public streets, sandwich board signs, signs painted upon benches or temporary promotional signs.
  - e. Any sign or collection of signs covering more than twenty-five percent (25%) of a building window, including, but not limited to, storefront windows and display windows.
  - f. New billboards and pole signs, pylon signs, or other off-site signage.
- (e) *Review procedure.* All development within the corridor overlay district shall be reviewed by the Planning Department Staff. Staff shall not be authorized to deny a proposed Malvern Avenue Overlay Development plan, but shall refer any development plan not approved to Planning Commission for final consideration. (Ord. No. 5888, §4, 7-17-2012)
- (f) *Multiple building sites.* In the case of nonresidential development multiple building sites, whether one or more platted lots, the requirements of this section shall apply to the development as an entire tract rather than to each platted lot. If any part of the development lies within the corridor overlay district, the entire development shall be subject to the provisions of this section.

Editor's Note-Ord.No 5774, approved 4-20-2010 repealed section 16-2-65(g) formally codified in this section.

**16-2-66. MH Manufactured Home Overlay.**

(a) *Description.* This overlay district is intended to permit the placement of individual manufactured homes without affecting the restrictions of the basic zoning district over which it is superimposed.

(b) *Permitted uses.* Individual manufactured homes placed in accordance with the rules and regulations of the Hot Springs Manufactured Home Ordinance.

**16-2-67. Changes or expansion of overlay districts.**

Changes to or the expansion of overlay districts may be initiated in accordance with the rezoning procedure outline in Section 16-2-11.

**16-2-68–16-2-69. Reserved.**

## ARTICLE VIII. CONDITIONAL USES

**16-2-70. General purposes.**

The purposes of this section are to define more clearly the concept of conditional uses; to establish standards by which the planning commission shall evaluate conditional uses; and to set forth procedures for processing conditional uses.

**16-2-71. What is a conditional use?**

A conditional use is a use that conforms to the intent of the comprehensive plan for a specific area and is generally allowable. The use may represent potential problems, however, with respect to its impact on neighboring property or to the city as a whole. For this reason, it requires a careful review of its location, design, configuration, and spatial impact to determine the desirability of allowing it on a particular site.

The conditional use process must not allow an applicant to secure a use variance or as a means to circumvent the intent of the comprehensive plan or zoning code. Building configurations, footprints, and outlines should be compatible with other uses permitted for a district. Whether a proposed use is appropriate in a particular location depends upon a careful evaluation of the impacts to the neighborhood and the city by the planning commission and a weighing of conditions and methods proposed by the commission or by the applicant to ameliorate those impacts.

**16-2-72. Standards for conditional uses.**

The planning commission may approve, deny, defer, or modify a conditional use request based on findings of fact with regard to the standards set forth below. The appropriateness of these standards shall be determined at the discretion of the planning commission for each specific conditional use location. The planning commission shall not permit any use in a zone as a conditional use that is not permitted under the zoning code.

In carrying out the purpose of this section, the commission's consideration shall include, but not be limited to, the following development standards and design specifics. The appropriateness of these standards shall be determined at the discretion of the planning commission for each specific conditional use location.

- (a) The proposed use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
- (b) The proposed land use is compatible with and will not adversely affect other property in the area where it is proposed to be located.
- (c) The proposed use is within the provision of "conditional uses" as set out in this Ordinance.
- (d) The proposed use conforms to all applicable provisions of this code for the zoning district in which it is to be located, and the use facilitates public convenience at that location.
- (e) The size and shape of the site, and the size, shape and arrangement of the proposed structures, are in keeping with the intent of the comprehensive plan and this code.
- (f) The internal street system, ingress or egress, off-street parking, loading and pedestrian ways will be efficient and safe.
- (g) Safeguards, including, but not limited to, hours and methods of operation, landscaping and screening, controlling noxious or offensive emissions, including lighting, noise, glare, dust and odor, are satisfactory.
- (h) Landscaping, fencing and open space will be properly maintained by the owner/developer.
- (i) Proposed signs will be appropriate for the location and in accordance with the requirements of the existing city Code.
- (j) Public utilities are, or will be, available and will not be overloaded.

**16-2-73. Conditions.**

The planning commission may impose conditions and restrictions upon the premises benefitted by a conditional use permit as may be necessary to reduce or minimize the injurious effects of the conditional use, insure compatibility with the surrounding property, and carry out the general intent of this ordinance. The planning commission shall not permit any use in a zone as a conditional use that is not permitted under the zoning code.

Conditions imposed as part of the conditional use may be of two types. Threshold conditions are those that must be met by all proposed developments before an application for a conditional use permit will be forwarded to the planning commission. Implicit conditions are those that the planning commission may apply during the review of an individual case.

In no case shall the planning commission authorize relief from the minimum requirements of the ordinance relating to height, area, parking or screening. However, applicants may be directed to the board of zoning adjustment for variances.

**16-2-74. Uses exclusively conditional.**

Due to their public/quasi-public nature and their potentially deleterious impact on adjacent properties, certain uses are not applicable "by right" in any zoning classification except M-1 and M-2 zones. Such uses may only be placed within the city of Hot Springs as conditional uses. They are:

- (a) Airports and landing fields
- (b) Cemeteries
- (c) Quarries and gravel pits
- (d) Towers, tanks, antennae, reservoirs, settling basins and transformer stations
- (e) Water/sewage treatment plants or related ancillary facilities

The provisions of this section shall not apply to wireless communication facility installations and applications which shall be governed by Article IX hereof.

**16-2-75. Application procedure for conditional use permit.**

(a) *Conditional use permit application.* Application for a conditional use permit shall be made by the property owner or authorized agent for the owner. The application shall be submitted to the planning department which will process all applicable surveys, site plans and other supporting information pertinent to this review process and make recommendations to the planning commission.

(b) *Notice procedures.* Notice of the conditional use permit application and public hearing thereon shall be given in the following manner:

- (1) The city shall cause to be published a legal notice in a newspaper of general circulation at least one time, not less than ten (10) days prior to the date of the public hearing;
- (2) The applicant shall post a suitable and pertinent sign on the subject property not less than ten (10) days prior to the hearing; and
- (3) The city shall cause written notice of such hearing to be sent to all surrounding property owners of record within 200 feet of the proposed conditional use location as measured from the parcel perimeter. Provided, however, that in the case of conditional use permit applications for Type B home occupations, the city shall only notify all adjacent property owners. Should the adjacent property also be the applicant's or applicant's property owner, notice shall be expanded to the next adjacent property. All property owner notifications shall be mailed no less than ten (10) days prior to the public hearing by regular mail. (Ord. No. 5437, §1, 4-17-06; Ord. No. 5562, §1, 5-7-07)

**16-2-76. Development plan requirements.**

The development plan requirements for a conditional use application shall include a graphic representation of what is proposed and a general statement as to the intent of the use. The graphic representation shall include the following:

- (a) The location, size and use of buildings, signs, land and improvements
- (b) The location, size and arrangement of parking space, loading space, driveways and street access
- (c) The existing topography with proposed grading and drainage plans
- (d) Proposed screening and landscaping
- (e) The use of adjoining property
- (f) Scale, north arrow and vicinity map
- (g) Any additional information needed by the staff because of conditions peculiar to the development.

**16-2-77. Development plan review.**

The planning department staff shall review the proposed conditional use and report to the commission on its relation to and probable effect on the surrounding area as well as its compliance with the requirements of this Code and shall make recommendations to the planning commission.

**16-2-78. Planning commission action.**

The planning commission shall review conditional use applications at its regularly scheduled monthly meeting, at which time interested persons may appear and offer information in support of or against the proposed conditional use. The planning commission shall then make one of the following determinations: approve the conditional use as requested; approve the conditional use with modifications; defer the conditional use; or deny the conditional use.

The planning commission may impose conditions and restrictions upon the premises benefitted by a conditional use permit as may be necessary to reduce or minimize the injurious effects of the conditional use, insure compatibility with the surrounding property and carry out the general intent of the comprehensive plan, appropriate neighborhood plans and this code.

In no case shall the planning commission authorize reduction from the minimum requirements of the ordinance relating to height, area, parking or screening. However, the applicant may be directed to the board of zoning adjustment for variances under the zoning code.

**16-2-79. Status of conditions.**

Once any portion of the conditional use permit which has been authorized is utilized, all such conditions pertaining to such authorization shall become immediately operative. The violation of any condition so imposed shall constitute grounds for revocation of the conditional use permit. Such conditions may include time limits for exercise of such authorization and must commence within a reasonable time.

The board of zoning adjustment is not authorized to grant a variance from conditions imposed by the commission in connection with a conditional use. However, the board of zoning adjustment may grant variances as provided by the zoning code.

Amendments or major changes to a conditional use authorization must follow the same process as the original conditional use; however, the commission may delegate to the staff authority to approve minor modifications to the conditions approved, including modifications to an approved development plan. No building permit shall be issued except in conformance with the provisions of this section.

A conditional use permit is a part of the zoning code and shall run with the land upon which the use is located. The planning commission shall not permit any use in a zone as a conditional use that is not permitted under the zoning code.

**16-2-80. Reserved.**



## ARTICLE IX. WIRELESS COMMUNICATION FACILITIES

**16-2-81. Purpose and goals.**

- (a) *Purpose.* The purpose of this article is to establish general guidelines for the siting of WCF and granting of tower use permits (TUP).
- (b) *Goals.* The goals of this article are to:
- (1) provide a range of locations for WCF in all zones unless otherwise prevented;
  - (2) within each zoning district, provide clear performance standards addressing the siting of WCF;
  - (3) encourage the location of WCF on existing structures, including utility poles, signs, water towers, buildings and other WCF where feasible;
  - (4) encourage collocation and site sharing of new and existing WCF;
  - (5) streamline and expedite permitting procedures to effect compliance with the Federal Telecommunications Act of 1996;
  - (6) enhance the ability of providers of telecommunications services to provide such service to the community quickly, effectively, and efficiently; and
  - (7) protect residential and historic areas from the uncontrolled development of WCF by requiring reasonable siting conditions.

**16-2-82. Definitions.**

*Aeronautical facility* is any public airport or military airport which has a hard surface runway.

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

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

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

*Department* means the city department charged with the responsibility for administering the Hot Springs Zoning Code, said department being currently known as the planning and development department.

*Development standards*, as used in this article, shall mean those standards set forth in § 16- 2-84 hereof.

*Director* means the person designated by the city manager as the director of the department responsible for the administration of the Hot Springs Zoning Code.

*Equipment facility* means any structure used to contain ancillary equipment for a WCF that includes cabinets, shelters, a build-out of an existing structure, pedestals, and other similar structures.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communication Commission.

*FTA* means the Federal Telecommunications Act of 1996.

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

*Review process*. As used in this article, review process shall mean those processes set forth in § 16- 2-85. hereof.

*Setback* means the required distance from the foundation of WCF land based elements to the property lines of the parcel on which the WCF is located.

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

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

*Temporary wireless communication facility (Temporary WCF)* means a WCF to be placed in use for ninety (90) or fewer consecutive days at the same location.

*Tower use permit (TUP)* means a permit issued by the city specifically for the location, construction and use of a WCF subject to an approved site plan and any special conditions determined by the director or planning commission to be appropriate under the provisions of this article.

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

*Wireless communication facility (WCF)* means any un-staffed facility for the transmission or reception of wireless telecommunications services, usually consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation.

**16-2-83. Applicability.**

(a) *Permit required.* No person, firm or corporation shall install or construct any WCF unless and until a tower user permit (TUP) has been issued pursuant to the requirements of this Article.

(b) *Pre-existing WCF.* WCF for which a permit has been issued prior to the effective date of this Article shall not be required to meet the requirements of this Article as further specified in Section 16-2-90 hereof.

(c) *Amateur radio exclusion.* This article shall not govern the installation of any amateur radio facility that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. Such installations shall comply with any other applicable provisions of the zoning code.

(d) *Relationship to other ordinances.* This article shall supersede all conflicting requirements of other code provisions and ordinances regarding the locating and permitting of WCF except the Memorial Field Zoning Ordinance (Ordinance No. 3524) as may now or hereafter be amended.

(e) *Airport zoning.* Any WCF located or proposed to be located in any areas governed by the Memorial Field Zoning Ordinance shall comply with the provisions of that ordinance in addition to the requirements of this article.

(f) *Building codes.* Construction of all WCF's shall comply with the requirements of the Hot Springs Building Codes and permitting process in addition to the requirements of this Article.

(g) *Aeronautical facilities.* No structure in excess of one hundred feet (100') in height may be constructed within twenty-five hundred (2,500') feet from either side of a runway centerline running the full length of that runway, including the runway protection zone and runway safety area, extending outward from the approach end of any runway for seven (7) nautical miles, and rising upward from that runway end surface at a slope of sixty-five (65) feet horizontally to one (1) foot vertically for the seven (7) nautical miles of any aeronautical facility used by the public unless a permit for such construction has been issued by the Hot

Springs board of directors. In lieu of the penalty established in Section 16-2-92, the fine or penalty for violating this paragraph shall, upon conviction in the municipal court, not exceed one thousand dollars (\$1,000) per day against the owner of any structure constructed in violation of this act. This fine may be levied for each day until the structure is removed.

#### **16-2-84. Development Standards.**

(a) *Height standards.* The following height standards shall apply to all WCF facility installations:

- (1) Attached WCF. Attached WCF shall not add more than twenty (20) feet in height to the existing building or structure to which it is attached (attachment structure).
- (2) WCF with support structures. WCF with support structures shall have a maximum height of 150 feet in all zones except residential zones wherein the maximum height shall be 100 feet.

(b) *Setback Standards.* The following setback standards shall apply to all WCF installations:

- (1) Attached WCF. Antenna arrays for attached WCF are exempt from the setback provisions of the zone in which they are located. An attached WCF antenna array may extend up to 30 inches horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.
- (2) WCF with support structures. WCF with support structures shall meet the setback requirements for principle structures of the underlying zone in which they are located.
- (3) WCF with support structures abutting or located in residential zones. WCF with support structures which abuts property zoned residential on any side or which is located within any residential zone, shall be set back a distance at least the height of the tower measured from the base of the tower to the property line of the residential lot. Provided further, that all WCF's with support structures located within residential zones shall be of the monopole and/or stealth design.

(c) *Landscaping and screening.* The following landscaping and screening requirements shall apply to all WCF facility installations.

- (1) New construction. New WCF with support structures and attached WCF with new building construction shall be landscaped in accordance with the applicable provisions of the landscape ordinance which may now or hereafter be adopted.

- (2) Land form preservation. Existing mature tree growth and natural land form on the site shall be preserved to the extent feasible; provided, however, that vegetation that causes interference with the antennas or inhibits access to the equipment facility may be trimmed or removed.
- (3) Existing vegetation. Existing vegetation on a WCF site may be used in lieu of required landscaping where approved by the planning commission.
- (d) *Aesthetics, placement, materials and colors.* WCF shall be designed so as to be compatible with the existing structures and surroundings to the extent feasible, including placement in a location which is consistent with proper functioning of the WCF, the use of compatible or neutral colors, or stealth technology.
- (e) *Lighting and signage.* The following lighting and signage requirements shall apply to all WCF facility installations.
- (1) Artificial illumination. WCF shall not be artificially illuminated, directly or indirectly, except for:
- a. security and safety lighting of equipment buildings if such lighting is appropriately down shielded to keep light within the boundaries of the site; and
  - b. such illumination of the WCF as may be required by the FAA or other applicable authority installed in a manner to minimize impacts on adjacent residences.
- (2) Signage. WCF shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial nature, except for a small message containing provider identification and emergency telephone numbers and such other information as may be required by local, state or federal regulations governing WCF's.
- (f) *Security fencing.* WCF with support structures shall be enclosed by an opaque security fence not less than 6 feet in height. Security features may be incorporated into the buffer, landscaping and screening requirements for the site. Nothing herein shall prevent security fencing which is necessary to meet requirements of state or federal agencies.
- (g) *Radio frequency emissions.* The following radio frequency emissions standards shall apply to all WCF facility installations.
- (1) RF impact. The FTA gives the FCC sole jurisdiction of the regulation of radio frequency (RF) emissions, and WCF which meet the FCC standards shall not be conditioned or denied on the basis of RF impact.

- (2) FCC compliance. In order to provide information to its citizens, copies of ongoing FCC information concerning WCF and RF emission standards may be requested. Applicants for WCF shall be required to provide information with the application on the measurement of the effective radiated power of the facility and how this meets the FCC standards.
- (3) Sound prohibited. No sound emissions such as alarms, bells, buzzers or the like are permitted.

(h) *Structural integrity.* WCF with support structures shall be constructed to the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antennas Towers and Antenna Supporting Structures" (or equivalent), as it may be updated or amended. Each support structure shall be capable of supporting at least three antenna arrays.

(i) *Collocation agreement.* All applicants for WCF are required to submit a statement with their application agreeing to allow collocation of other WCF providers. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers. The collocation agreement shall be considered a condition for issuance of a TUP.

#### **16-2-85. Review process.**

(a) *General.* The applicable development standards referred to herein are those set forth in Section 16-2-84 of this article.

(b) *Permitting procedures.* Attached WCF with or without new building construction that meet the development standards may be permitted by administrative review except as hereinafter specified. All WCF with support structures, regardless of type or location shall be subject to the planning commission review process and may not be approved by the administrative review process. Provided, further, that any WCF (attached or with support structures), regardless of type, to be located within an established historic district, will be subject to review by the historic district commission and the planning commission. Review by the historic district commission shall be in accordance with the historic district ordinance administrative procedures for a certificate of appropriateness. Any WCF subject to the memorial field zoning ordinance may only be permitted by planning commission review in accordance with the airport zoning ordinance and this article. All WCF applications that do not conform with the development standards or are otherwise not eligible for administrative review shall be subject to the planning commission review process.

(c) *WCF as part of coordinated development approval.* WCF as part of a proposed residential or nonresidential subdivision, Planned District (PD) Zoning District, site plan, conditional rezoning, or other coordinated development approval shall be reviewed and approved through those processes.

(d) *WCF for temporary term.* Temporary WCF may be permitted by administrative review for a term not to exceed 90 days. Once granted, a temporary WCF permit may be extended for an additional 90 days upon evidence of need by the applicant. In case of emergency (e.g., storm damage to an existing tower or other circumstances resulting in the interruption of existing service) the administrative review shall be expedited to the extent feasible.

**16-2-86. Approval procedures.**

(a) *Application submission.* All requests for a tower use permit, regardless of WCF type shall submit an application in accordance with the requirements of this section..

- (1) Application contents. Each applicant requesting a TUP under this Article shall submit a scaled site plan containing a scaled elevation view and other supporting drawings, calculations and other documentation showing the location and dimensions of the WCF and all improvements associated therewith, including information concerning specifications, antenna locations, equipment facility and shelters, landscaping, parking, access, fencing and, if relevant as determined by staff, topography, adjacent uses and existing vegetation. Applicants proposing to collocate on an existing WCF shall include a radio frequency intermodulation study with their application.
- (2) Submission requirements. Application for a TUP shall be submitted to the department on forms prescribed by the department. The application shall be accompanied by a site plan containing the information described above and a copy of the appropriate FCC license or license application. If planning commission or historic district commission review is required, the application and site plan shall be placed on the next available commission agenda in accordance with the agenda deadlines established by the department.
- (3) Application fees. Each application shall be accompanied by a plan review fee of \$500 and a radio frequency intermodulation study review fee of \$500 (collocation applications only). These fees shall be used to engage an engineer(s) or other qualified consultant(s) to review the technical aspects of the application and radio frequency intermodulation study (if required).
- (4) Technical assistance. In the course of its consideration of an application, the director, the planning commission or the board of directors may deem it necessary, in complex situations, to employ an engineer(s) or other consultant(s) qualified in the design and installation of WCF to assist the city in the technical aspects of the application. In such cases, any reasonable costs incurred by the city not to exceed fifteen hundred dollars (\$1,500) for the technical review and recommendation shall be reimbursed by the applicant prior to the final city hearing on the TUP.

(b) *Administrative review.* The following administrative review process shall apply to all WCF applications eligible for administrative review.



- (1) Review authority. Review of WCF under this section shall be conducted by the director or his designee upon filing a WCF application.
  - (2) Review criteria. The department shall review the application for compliance with the development standards.
  - (3) Timing of decision. The department shall render a decision on the WCF application by written response to the applicant within ten (10) business days after receipt of the complete application, except that an extension may be agreed upon by the applicant.
  - (4) Deferral. The department may defer administrative approval of WCF for any reason. Deferral of administrative approval shall require submission to the planning commission for review.
  - (5) Application denial. If administrative approval is not obtained due to noncompliance with the development standards, the applicant may appeal the denial by applying for planning commission review.
  - (6) Application approval. If the TUP application is in compliance with the development standards and otherwise meets the requirements of this section, the department shall issue a tower use permit (TUP).
- (c) *Planning commission review.* The following shall apply to all tower use permit applications requiring submission to the planning commission.
- (1) Review authority. The planning commission shall be the review authority for TUP applications not eligible for administrative review or otherwise referred to the commission.
  - (2) Notice. Notice of the application and the public hearing by planning commission shall be accomplished in the same manner as a conditional use permit under the Zoning Code.
  - (3) Hearing. The planning commission shall review and consider the TUP application at a public hearing. At the hearing, interested persons may appear and offer information in support or opposition to the proposed application. The planning commission shall consider the following in reaching a decision.
    - a. Development standards variance. The TUP application shall be reviewed for compliance with the development standards set forth in Section 16-2-84; provided that the applicable development standards may be reduced or waived so long as the approval of the WCF meets the goals and purposes of Section 16-2-81 hereof. The planning commission may authorize a variance from the development standards by specific inclusion in a motion for approval. No such variance authorized by the planning commission shall be subsequently applied for a variance to the board of zoning adjustment.



- b. Tower siting conditions. The planning commission may impose conditions and restrictions on the application or on the premises benefitted by the TUP as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the WCF with the surrounding property, in accordance with the purposes and intent of this Article. The violation of any condition shall be grounds for revocation of the TUP. The planning commission may impose such conditions in addition to the development standards upon the following findings:
1. The WCF would result in significant adverse visual impact on nearby residences.
  2. The conditions are based upon the purpose and goals of this Article as set forth in Section 16-2-81.
  3. The conditions are reasonable and capable of being accomplished.
- c. Action. Following the public hearing and presentation of all evidence, the planning commission shall take one of the following actions:
1. approve the application as submitted;
  2. approve the application with conditions or modifications;
  3. defer the application for additional information or neighborhood input; or
  4. deny the application.
- (4) Findings. All decisions rendered by the planning commission concerning a tower use permit shall be supported by written findings of fact and conclusions of law based upon substantial evidence in the record.
- (5) Timing of decision. The planning commission shall render its decision within 60 days or less of the final submission of all required application documents and technical evaluations.
- (6) Appeals. The decision of the planning commission may be appealed to the board of directors of the city under the following circumstances:
- a. Only the applicant and those who registered an objection to the TUP in the record of the planning commission shall have standing to appeal.
  - b. Only such evidence or testimony in support of or opposition to the issuance of the TUP which was provided to the planning commission may be presented to the board of directors unless the board, by majority vote, decides to hear new information.

- c. Notice of appeal shall be accomplished by the appellant in the same manner as a conditional use permit under the Zoning Code.
  - d. Appeal of decisions of the board of directors shall be filed in chancery court within thirty (30) days of the final decision on the TUP.
- (7) Historic commission review. Should an WCF application require review by the historic district commission, such review shall be conducted by said commission in accordance with the procedures for issuance of a certificate of appropriateness. If granted the certificate, the application shall then be reviewed by the planning commission in accordance with the procedures contained herein. The planning commission shall not consider a WCF application requiring a certificate of appropriateness unless and until such certificate has been granted by the historic district commission. Historic district commission decisions regarding WCF applications may be appealed to the board of directors in accordance with Section 16-2-86(c)(8).

**16-2-87. Shared facilities and collocation policy.**

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

**16-2-88. Removal of abandoned WCF.**

Any WCF that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the WCF owner shall remove the WCF within ninety (90) days after notice from the city to remove the WCF. If the abandoned WCF is not removed within ninety (90) days, the city may remove it and recover its costs from the WCF owner. If there are two or more users of a single WCF, this provision shall not become effective until all providers cease to use the WCF. If the owner of an abandoned WCF 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 WCF is located.

**16-2-89. Change in ownership.**

If a tower use permit has been previously issued, any ownership or licensing change not involving new construction may be approved administratively by the city attorney.

**16-2-90. Nonconforming WCF.**

WCF in existence on the date of the adoption of this article which do not comply with the requirements of this article (nonconforming WCF) is subject to the following provisions:

- (a) *Expansion.* Nonconforming WCF may continue in use for the purpose now used, but may not be expanded without complying with this article except as further provided in this section.
- (b) *Additions.* Nonconforming WCF may add additional antennas (belonging to the same provider or other providers) subject to administrative review under Article 16-2-86 of this chapter.
- (c) *Repairs.* Nonconforming WCF which become damaged or destroyed due to any reason or cause, may be repaired and restored to its former use, location, and physical dimensions subject to the provisions of this article.

**16-2-91. Revocation of tower user permits.**

Any tower use permit issued pursuant to this article may be revoked by the planning commission after a hearing as provided hereinafter. If the commission finds that any permit holder has violated any provision of this article, or has violated any federal, state or local law or ordinance, or has failed to make good faith reasonable efforts to provide or seek collocation, the commission may revoke the tower use permit (TUP) upon such terms or conditions, if any, that the commission may determine. Prior to initiation of revocation proceedings, the director shall notify the permit holder, in writing, of the specific areas of non compliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed sixty (60) days. The permit holder shall provide the director with evidence that the required corrective action has been taken. Should the permit holder fail to correct any deficiencies in the time required, the planning commission shall convene a public hearing to consider revocation of the tower use permit. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the city not less than 10 days prior to the hearing and by written notice to the permit holder. At any such hearing, the permit holder may be represented by an attorney and may cross examine opposing witnesses. Other interested persons may comment. The planning commission may impose reasonable restrictions with respect to time and procedure. The proceedings shall be recorded; provided, however, that stenographic services, if desired, shall be provided by the requesting party at the party's expense.

**16-2-92–16-2-95. Reserved.**

## ARTICLE X. ADDITIONAL REGULATIONS

**16-2-96. Accessory buildings/structures in residential areas.**

(a) An accessory building/structure in a residential area may be built within a required rear yard when located at least 5 feet from the rear or side lot line or both and is not located within any easement or corner lot. On corner lots the side yard setback for corner lots shall apply.

(b) Carports, patios, decks, wheel-chair ramps, or other non-enclosed improvements are exempt from the accessory building/structures requirements.

**16-2-97. *Reserved***

Editor's Note: §16-2-97 adopted by Ord. No. 5158 was repealed by Ord. No. 5892 §1, 8-7-2012.

**16-2-98. Automobile wrecking and junk yards.**

(a) *General.* Because of the nature and character of their operations, automobile wrecking and salvage yards, junkyards, and similar uses of land can have a 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 an automobile wrecking or junkyard properly minimizes its objectionable characteristics, the standards established in items b and c shall be used.

(b) *Location.*

(1) Because of the tendency of salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than 400 feet to any established residential district.

(2) Salvage and wrecking yards annexed to the city after the adoption of this code, can continue in their present locations. Expansion must have prior approval of the planning commission.

(c) *Screening.* All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence or wall a minimum of eight feet as appropriate to the site, except the driveway area. Storage between the street and such fence is expressly prohibited. Any fence or wall erected for screening purposes shall be properly painted or otherwise maintained in good condition.

**16-2-99. Car wash, automatic and/or unattended.**

(a) *Building location.*

(1) Minimum setback from street, 25 feet

(2) Minimum offset from side lot lines, 10 feet

(3) Minimum offset from rear lot lines, 25 feet

(b) A raised curb at least 6 inches in height shall be constructed on all street property lines, except at driveway openings.

(c) Buffering shall be provided to protect adjacent residential areas. The planning commission may require opaque fences to buffer the site from adjacent properties.

**16-2-100. Reserved.**

**16-2-101. Fences, walls and hedges.**

(a) Notwithstanding other provisions of this Code, fences, walls and hedges shall be permitted in any required yard, or along the periphery or edge of any yard, provided that no opaque fence, wall or hedge along the sides or front edge of any required front yard shall obstruct view in the area of clear visibility (See Section 16-2-109).

(b) Whenever a commercial or industrial zone or use abuts a residential zone or use, a minimum six (6) foot opaque screening shall be required.

**16-2-102. Home occupations.**

(a) *Classification.* Home occupations, as defined herein, are divided into two classes, Type A and Type B, and may be permitted in accordance with the following provisions:

- (1) Type A. Type A home occupations are only those occupations that meet all of the requirements listed below. Type A home occupations are approved administratively by city staff.
  - a. The home occupation is located completely within the principal dwelling unit.
  - b. The home occupation is solely operated by the owner(s) and occupant(s) of the dwelling. No non-resident persons are employed.
  - c. The home occupation is not primarily a retail sales operation. (Incidental sales, i.e. shampoo, cosmetics, are permitted.)
  - d. The home occupation does not occupy more than 25 percent of the gross habitable ground floor area of the principal dwelling unit.
  - e. The home occupation does not display merchandise or have outside storage of equipment or materials.
  - f. The home occupation does not alter the external appearance of the principal dwelling unit.
  - g. The home occupation does not create noise, vibration, glare, fumes, electromagnetic interference, odors, or air pollution outside the principal dwelling unit.
  - h. The home occupation has no more than one non-illuminated business identification sign mounted flush to the dwelling unit, not more than two square feet in area.
  - i. The home occupation does not involve the storage of hazardous materials, other than substances of a type and quantity customarily associated with a home or hobby.

- j. The home occupation will not cause more than one customer vehicle to be parked in the vicinity of the principal dwelling unit at a time.
  - k. The home occupation does not involve the external or visible manufacturing of goods on-site.
- (2) Type B. Type B home occupations are those occupations that do not meet one or more of the requirements of a Type A home occupation and/or by their nature, have characteristics that may not be suitable for a residential structure or area. Type B home occupations must be approved by the planning commission through the conditional use procedure. However, Type B home occupations must meet the following requirements to be considered for a conditional use permit:
- a. Traffic generated by the proposed use must not negatively impact the safety, ambiance and characteristics of the residential neighborhood.
  - b. The home occupation does not create noise, vibration, glare, fumes, electromagnetic interference, odors, or air pollution outside a structure.
  - c. The home occupation is not primarily a retail sales operation. (Incidental sales, i.e., shampoo, cosmetics, are permitted.)
  - d. The home occupation does not involve the storage of hazardous materials, other than substances of a type and quantity customarily associated with a home or hobby.
  - e. The home occupation is solely operated by the owner(s) and occupant(s) of the dwelling. No non-resident persons are employed.
- (b) *Examples of home occupations*
- (1) Activities conducted principally by telephone, computer, facsimile, or mail.
  - (2) Studios where handicrafts or objects-of-art are produced.
  - (3) Dressmaking or apparel alterations.
  - (4) Barber and beauty shop (one chair).
- (c) *Prohibited home occupations*
- (1) Bed and breakfast.
  - (2) Eating and drinking establishments.
  - (3) Kennels.

- (4) Commercial sales or leasing of vehicles.
- (5) Rest home.
- (6) Clinic, doctor or dentist office.
- (7) Tourist home.
- (8) Any use that requires a building code upgrade (i.e., from residential standards to commercial standards) to accommodate the home occupation.

(d) *Hobbies.* Hobbies conducted solely within the confines of a structure with no external impacts whatsoever, are not considered home occupations, even if occasional items are sold on the premises or transported away from the premises for sale.

#### **16-2-103. Off-Street parking and loading requirements.**

##### **16-2-103.1. Purpose.**

To facilitate the movement of people and goods on the local street system, to lessen congestion in the streets, to assure that streets are clear of obstructions and as a means of protecting the lives and safety of motorists and pedestrians, the following off-street parking and loading standards are hereby established. Standards hereinafter established govern the provision, arrangement and access for parking lots or areas, and individual parking and loading spaces.

##### **16-2-103.2. Scope of regulations.**

Permanent off-street parking and loading space in the amount specified by this section shall be provided, at the time of the erection of any building or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area, or before conversion from one type of use or occupancy to another. Such parking space may be provided in a parking garage or parking lot or in driveways serving single and two family residences. Parking and loading facilities provided in accordance with the terms of this section shall not subsequently be reduced below the requirements of this section. No portion of the area of any street right-of-way shall be considered as fulfilling or partially fulfilling the off-street parking requirements of this section. Any area, lot or parcel intended for use as a commercial parking lot shall also met the requirements of this section whether or not a building permit is required.

Any area, lot or parcel, not duly authorized for use as a parking area, may not be so utilized unless the requirements of this section are met. Provided, however, that any area, lot or parcel designated as a seasonal parking lot shall met the requirements for seasonal parking lots as established by Article VII, Section 16-2-64 hereof.



**16-2-103.3. Development standards.**

The following development standards shall apply to all parking areas improved pursuant to this section.

- (a) *Certification of minimum parking requirements.* Each application for a building permit or certificate of occupancy shall include information as to the location and dimensions of off-street parking space or loading space, if required, and the means of ingress and egress between such space and a street or alley. This information shall be in sufficient detail to enable the Administrative Officer to determine whether or not the requirements of this Section are met. The certificate of occupancy for the use of any building, structure or land where off-street parking space is required shall be withheld by the appropriate Administrative Officer until the provisions of this Section are fully met. If at any time such compliance ceases, any certificate of occupancy which shall have been issued for the use of the property shall become void and of no effect.
- (b) *Free flow of traffic and pedestrian protection.* Ingress and egress for parking facilities shall be so arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing of vehicles on sidewalks or streets. No ingress or egress driveway, except for single and two family dwellings, shall be so arranged that vehicles can enter or leave the area only by backing to or from any street. Adequate sight distances shall be maintained for vehicles and pedestrians.
- (c) *Parking lots to be improved and maintained.* Parking lots intended to provide for the off-street parking space required by this section shall be improved and maintained with any of the following paving standards/methods: concrete; hot mix asphalt; porous concrete; and porous asphalt.

Any proposed alternative paving standard/method, other than those listed above, shall be submitted to and specifically approved by the City Engineer prior to paving in accordance with Section 103.11. However, chip and seal, and city pit (gravel/stone) shall not be permitted.

- (d) *Maneuvering space.* No part of any parking or maneuvering space shall be located closer to any property line facing a public thoroughfare or applicable property lines than the minimum distances identified in the “Thoroughfare Buffer” and “Land Use Buffer” sections of the latest adopted version of the City of Hot Springs Landscape Ordinance. Driveway paving for residential uses shall not be located closer than five (5) feet from side or rear property lines.

- (e) *Joint use of parking lots.* The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another for use during the same hours. The Board of Zoning Adjustment may grant a special exception reducing the number of parking spaces for a combined parking facility where the separate uses using such facility can prove that their parking demands do not occur during the same hours.
- (f) *Parking spaces for physically disabled.* When off-street parking is required for any building or use, except for those uses specifically exempt from ADA requirements, parking for physically disabled persons shall be provided in accordance with the ADA accessibility standards as follows:

<b>Total Spaces Required By Zoning Regulations</b>	<b>Spaces Reserved for Disabled Persons</b>
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total required
Over 1000	20, plus one (1) space for each 100 over 1000

- (g) *Remote parking space.* If off-street parking spaces required by this Section cannot be reasonably provided on the same lot on which the principal use is located they may be administratively approved by the Administrative Officer if the following criteria are met:
  - (1) Such spaces must be zoned properly;
  - (2) Such spaces must be provided within five hundred (500) feet walking distance of the main entrance to such principal use;

- (3) Such spaces shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory. Such possession may be either by deed or long-term lease for a minimum period of five (5) years. Continuation of the subject use, upon termination of the remote parking lease, is conditional upon provision of remote parking meeting the requirements of this Section.

If spaces proposed to meet the requirements of this section do not meet administrative criteria in sub-paragraph 2 or 3 above, the owner may apply for a variance to the Board of Zoning Adjustment.

- (h) *Markings.* Each required off-street parking space, except for parking spaces provided for a single family or two family residential structure, shall be clearly marked appropriately to the dimensions required for each space exclusive of the required access drive. (See “Parking Standards” and “Parking Standards Dimension Table” below.)

PARKING STANDARDS DIMENSION TABLE

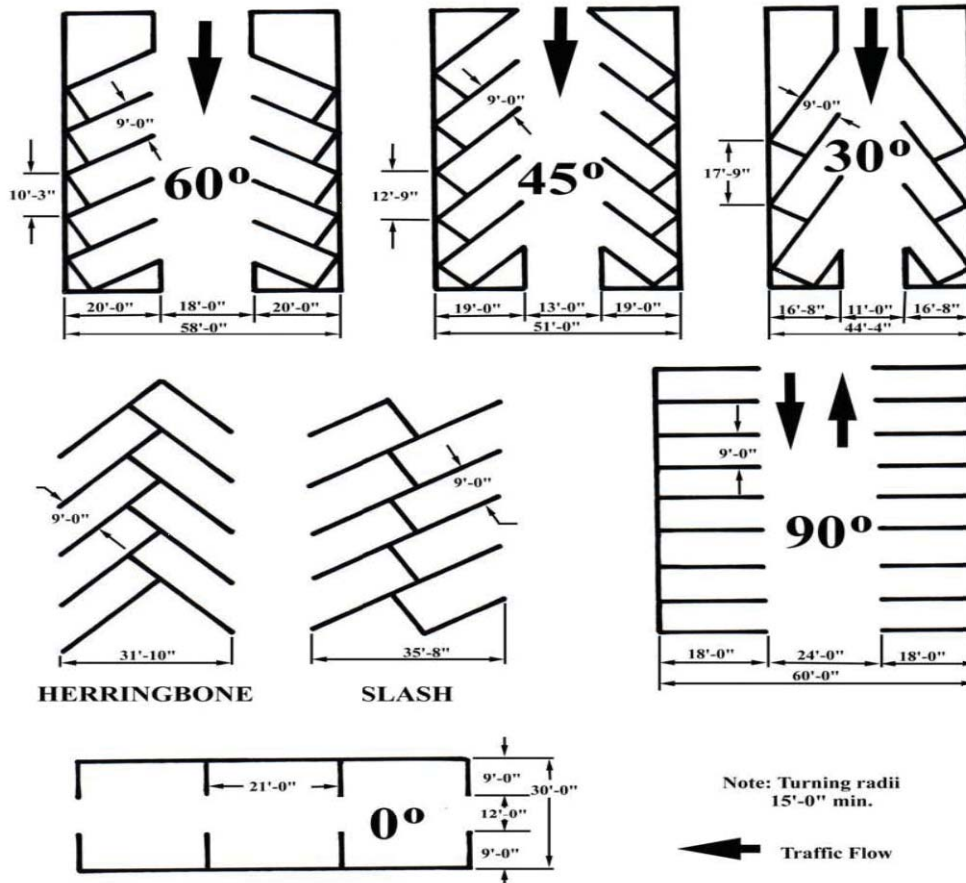
Angle of Parking	Width of Stall	Depth of Stall	Minimum Aisle Width	Length Of Curb Per Car
0°	9'	—	12'	21'
30°	9'	16' - 8"	11'	17' - 9"
45°	9'	19' - 0"	13'	12' - 9"
60°	9'	20' - 0"	18'	10' - 3"
90°	9'	18'	24'	9

(See Parking Standards Illustration This Section For Parking Lot Designs)

- (i) *Residential driveways.* A driveway ten (10) feet wide and thirty-five (35) feet long shall be deemed sufficient parking space, for single family or each unit in a duplex.
- (j) *Dimensional requirements.* For purposes of this Section, any off-street parking space required by this section shall conform to the minimum dimensions requirements as listed on the following “Parking Standards Dimension Table.”

- (k) *Parking standards.* Parking stalls shall be designed in one of the following standards.

**PARKING STANDARDS**



**16-2-103.4. Design and lighting.**

The design of parking lots or areas shall be subject to the approval of the Planning and Development Department during the process of site plan review. Any exterior lighting used to illuminate off-street parking areas or loading spaces shall be directed away from residential properties and public streets in such a way as not to create a nuisance or a traffic hazard.

**16-2-103.5. Reserved.**

**16-2-103.6. Minimum off-street parking index.**

All off-street parking spaces hereinafter required by this section, except those required for one and two-family dwellings, shall be designed in accordance with the off-street parking standards and illustration of this section. Off-street parking space for all uses of land and structures shall be provided in accordance with the “Minimum Off-Street Parking Index” as hereinafter set forth. Parking spaces for accessory uses not specifically enumerated within a parking class shall be assumed to be included in the principal use requirement. The following index is intended to be illustrative rather than exhaustive. In any cases where a parking standard for a use is not specifically referred to in the index, its status under this section shall be determined by the Administrative Officer by reference to the most clearly analogous use or uses that are specifically referred to in the index. When determination of the number of off-street parking spaces required by this section results in a requirement of a fractional space, any fraction of less than one-half (1/2) may be disregarded, while a fraction of one-half (1/2) or more, shall be counted as one (1) parking space. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time. As used in this subsection, the term “gross leasable area (GLA) shall mean t he total floor area designed for tenant occupancy.

**MINIMUM OFF-STREET PARKING INDEX****(a) Commercial**

Amusement Center – Three spaces per each 1000 sq. ft. of gross floor area, plus one additional space for each two licensed game machines or devices.

Amusement Park – Three spaces per each 1000 sq. ft. of gross floor area within enclosed public and administrative buildings, plus one space for every three persons that the outdoor facilities are designated to accommodate when used to the maximum capacity.

Automatic Teller Machine – Two spaces per machine.

Auction House – One space per two seats or two per 100 sq. ft. of gross leasable area, whichever is greater.

Auto Body Shop (See also Oil Change Shop and Auto Maintenance Center) One space per each service bay and mechanic.

Auto, Car Wash – Full-Serve – One parking space per employee of the largest shift. Stacking for five vehicles for automatic car wash lane, plus two drying spaces for each washing stall.

Auto, Car Wash – Self-Serve – Two stacking spaces per each washing stall, plus two drying spaces for each washing stall.

Auto, Gas Station, Full-Serve – One space per each gas pump, plus two spaces for each grease rack or similar facility, plus one space for each 1.5 employees.

Auto, Gas Station Self-Serve – One space per each employee. One space for each fuel nozzle. In addition, one parking space shall be provided for each 50 sq. ft. of usable floor area in the cashier's and office areas.

Auto Maintenance Center – One space per 250 sq. ft. Stacking for two vehicles for each bay.

Auto Oil Change Shop – See Auto Maintenance Center

Auto Parts Store – One space per each 400 sq. ft. of gross leasable area, plus one space for each employee on the maximum work shift.

Auto Rental – One space per 400 sq. ft. of gross floor area.

Auto Repair (See also Gas Station) – One space per each service bay and mechanic.

Auto Sales – Four spaces per 1,000 sq. ft. of gross floor area.

Auto Storage Areas – One space per 5000 sq. ft. of lot area, plus a minimum of 2 spaces outside any perimeter fence or secure area.

Bank, Credit Union, Savings & Loan Association (See also Bank, Savings & Loan Assoc., Credit Unions, Drive-Ins) – One space per each 400 sq. ft. of gross floor area up to 20,000 sq. ft., plus one additional space for each 500 sq. ft. of gross floor area in excess of 20,000 sq. ft.

Bank, Credit Union, Savings & Loan Association, Drive-Ins. – One space per each employee. In addition, stacking spaces at each service window or station shall be provided at the rate of three for each service window or station. Each waiting space shall measure not less than 18 feet in length.

Bar or Tavern (See also Night Club and Dance Hall) – One space per four seats.

Barber Shop (See also Beauty Parlor) – 1.5 spaces per chair and one per each two employees.

Bed and Breakfast – One space per guest room.

Beauty Parlor (See also Barber Shop) – Two spaces per operator station and one per each two employees.

Bicycle Repair – Three spaces per 1,000 sq. ft. of gross floor area.

Bingo Parlor – One space per three seats (based on design capacity) or one per 1,000 sq. ft. gross floor area, whichever is greater.

Bookstore – 4.5 spaces for every 1,000 sq. ft. of gross floor area.

Boarding House (See also Dormitory ) – One space per two beds.

Bowling Alley – Two spaces for each alley.

Convenience Store – 3 spaces per every 1,000 sq. ft. of gross floor area.

Convenience Store with Gas Pumps – 3 spaces per every 1,000 square feet of gross floor area and one space per gasoline pump.

Dance Hall – One space per each 200 sq. ft. of gross leasable area.

Drive-In Facility (See also Restaurant, Fast-Food and Bank, Drive-In) – One space per each motor vehicle served, plus one space per each two employees during period of greatest employment.

Dry Cleaning – One space per 300 sq. ft. of gross floor area.

Drug Store – Five spaces per 1,000 sq. ft. of gross floor area.

Exterminator – One space per each employee.

Furniture Store – One space per 1,000 sq. ft. of gross floor area.

Grocery Store – Three spaces per each 1,000 sq. ft. of gross floor area.

Gunsmith – Three spaces per 1,000 sq. ft. of gross floor area.

Hardware Store – One space per 400 sq. ft. of gross leasable area.

Health Club (See also Gymnasium) – One space per each 200 sq. ft. of gross leasable area.

Hotel/Motel (See also Bed and Breakfast) – 1 space per unit.

Indoor Racquet Courts (See also Tennis Club) – Three spaces per every court.

Laundromat– One space for each 200 sq. ft. of gross floor area used by the general public.

Kennel– One space per employee, plus one space per 1,000 sq. ft. of gross floor area.

Liquor Store – One space per every 400 sq. ft. of gross floor area.

Locksmith– Three spaces per 1,000 sq. ft. of gross floor area.

Massage Therapy, Therapeutic Steam Bath, or Day Spa – Four spaces per each 1,000 sq. ft. of gross floor area.

Miniature Golf Course – One space per hole, plus one space per employee on the largest work shift.

Mini-warehouse – See Self-Service Storage Facility.

Motorcycle Service and Sales - One space per each 400 sq. ft. of gross leasable area, plus one space for each employee on the maximum work shift.

Movie Theater, Indoor – One space per each 2 ½ seats.

Night Club – One space per each four seats.

Nursery or Greenhouse – One space per 1,000 sq. ft. of total sales area.

Outdoor Theater – One space per each four seats.

Parcel or Express Delivery Service (See also Post Office) – One space per each three employees, plus one space per each vehicle maintained.

Pawn Shop – One space per 300 sq. ft. of gross floor area.

Pet Shop – One space per each 300 sq. ft. of gross leasable area.

Photography Studio – One space for each 400 sq. ft. of gross leasable area.

Plumbing and Heating Supply – One space per 900 sq. ft. of gross floor area.

Pool or Billiard Hall – Two spaces per table.

Printing and Publishing – One space per 1,000 sq. ft. gross floor area, or one space per employee, whichever is greater.

Recycling Center – One space per employee.

Rental of Equipment – Three spaces per 1,000 sq. ft. of gross floor area.

Repair Shop – One space per each 600 sq. ft. of gross floor area.

Restaurant, Sit Down – One parking spaces per each 90 sq. ft. of gross floor area.



Restaurant, Fast-Food – One parking space per each 80 sq. ft. of gross floor area.

Restaurant (Walk-up or Drive Through with walk-up window and/or outdoor seating) – One space per 80 sq. ft. of gross floor area including outdoor areas or one space per 2 seats whichever is greater. A stacking area for nine vehicles for the first drive through and six for any additional drive through lanes.

Restaurant (Drive Through with no walk-up or outdoor seating) – Same stacking as required for Restaurant Walk-up above.

Retail Store	3.3 per 1,000 GLA up to 10,000
	.95 per 300 GLA 10,001 to 20,000
	.90 per 300 GLA 20,001 to 30,000
	.85 per 300 GLA 30,001 to 40,000
	.80 per 300 GLA 40,001 and up

Self-Service Storage Facility – One space per 2,000 sq. ft. gross floor area.

Shopping Center	3.3 per 1,000 GLA up to 10,000
	.95 per 300 GLA 10,001 to 20,000
	.90 per 300 GLA 20,001 to 30,000
	.85 per 300 GLA 30,001 to 40,000
	.80 per 300 GLA 40,001 and up

Note: To be computed on Gross Floor Area if not a mall.

Skating Rink – One space per each 250 sq. ft. of gross floor area.

Tennis Club (See also Indoor Racquet Courts) – Two spaces per court, plus one for each 200 sq. ft. of clubhouse floor area in excess of 1,000 sq. ft.

Travel Agency – Four spaces per 1,000 sq. ft. of gross floor area.

Truck Terminal – One space per 1,000 sq. ft. of gross floor area, or one space per employee, whichever is greater.

Video Stores – Six spaces per each 1,000 sq. ft. of gross floor area.

(b) *Office and Institutional*

Airport – One space per each 600 sq. ft. of gross floor area.

Art Gallery (See also Museum) – 1.2 spaces per 1,000 sq. ft. of gross floor area.

Assisted Living Facility – One space per 1,000 sq. ft. gross floor area.

Athletic Field – Twenty spaces per field.

Auditorium – One space per each six seats or nine linear feet of fixed benches, or one space for each 45 sq. ft. of floor area without fixed seats.

Botanical Garden – Two spaces per acre.

Crematorium – 0.25 space per seat of chapel capacity, plus 0.33 space per employee.

Cemetery (See also Pet Cemetery) – One space per full-time employee.

Church, Synagogue, or Mosque – One space per every four seats in the main sitting area.

Club or Lodge (See also Fraternity or Sorority) – One space per each four persons of the rated capacity.

College or University – One space per every three employees and members of the staff and one for every three full-time students.

Convention Center (freestanding) – One space per every four seats; or ten spaces per 1,000 sq. ft. of gross floor area.

Community Center – Four spaces per 1,000 sq. ft. of gross floor area.

Day Care Center – One space per staff member plus one space per five students.

Dentist – See Office, Dental

Diet Clinic – Four spaces per each Doctor plus one space for each two seats of food service.

Doctor – See Medical

Dormitory (See also Boarding House) – One space per each five beds.

Driving Range – One space per two employees, plus one space for every three persons that the outdoor facility is designed to accommodate when used to the maximum capacity.

Drug and Alcohol Treatment Center – One space per two beds and one space per staff member.

Emergency Medical Service – Adequate space to accommodate all motor vehicles operated in connection with such use and one additional space for each employee.

Employment Agency – Five spaces per 1,000 sq. ft. of gross floor area.

Fire or Police Station – One space per each two employees.

Fraternity or Sorority (off campus) – 3.3 spaces per 1,000 sq. ft. of gross floor area.

Funeral Home or Mortuary – One space per four seats, plus one space per two employees, plus one reserved space for each hearse, ambulance, or company vehicle.

Golf Course – One space per two employees, plus three per golf hole.

Government Building – Four spaces per each 1,000 sq. ft. of gross floor area.

Group Home – One space per each employee in the largest work shift, plus one per each five clients for fraction thereof; if clients may not own vehicles, one space per 600 sq. ft. of gross floor area.

Gymnasium (See also Health Club) – One space per every 100 sq. ft. of gross floor area.

Jail – One space per employee, plus one space per 25 inmates.

Library – One space per each 1,000 sq. ft. of gross floor area.

Mausoleums, Columbariums, and Memorial Gardens – Parking area equal to ground floor area.

Medical, Freestanding Office Building – One space per each 200 gross sq. ft.

Medical, Hospital – One space per each 400 gross sq. ft.

Medical, Office Building in a Medical Campus Setting – One space per each 250 gross sq. ft.

Museum (See also Art Gallery) – One space per each four seats in rooms for public assembly or for each 150 sq. ft. of gross floor area for use by the public, whichever is greater, plus one space for each two employees on shift of greatest employment.

Nursing Home or Convalescent Center – One space per 1,000 sq. ft. gross floor area.

Office – One space per 200 sq. ft. of gross floor space.

Office, Dental – Two spaces per each examination or treatment room, plus one space per each dentist and other employees.

Other Institutional Uses – One space per 300 sq. ft. of gross floor area.

Pet Cemetery – One per employee.

Police Station – See Fire or Police Station.

Post Office – One space per employee on shift of maximum employment and one space per 800 sq. ft. of gross floor area.

Radio or Television Station – One space per 1,000 sq. ft. of gross floor area.

Research & Development Facility – One space per 800 sq. ft. of gross floor area.

School, Beauty – Three spaces, plus one space per each operator station.

School, Dance – One space per 250 sq. ft. of gross floor area.

School, Elementary – One space per each vehicle owned or operated by the school, plus one space per each faculty member and administrative office.

School, Junior High – One space for each vehicle owned or operated by the school, plus one space for each faculty member, plus one space for each five seats in the auditorium or gymnasium.

School, High School – One space per teacher and staff member on the largest shift, plus one space per five students.

School, Trade, Vocational, or Business – One space per four students.

Stadium – One space per 75 sq. ft. of assembly area or one per five fixed seats, whichever is greater.

Telecommunications Facility – Four spaces per 1,000 sq. ft. of gross floor area.

Television Station – See Radio or Television Station.

Transit Terminals – One space per each 600 sq. ft. of gross floor area.

Utility – One space per each 400 sq. ft. of gross floor area devoted to office use; one space for each 800 sq. ft. of gross floor area per other use.

Veterinary Practice – Four spaces per every doctor, plus one space per every additional employee.

Zoo – One space per 2,000 sq. ft. of land area.

(c) *Residential*

Residential, Single-Family – Two spaces per each dwelling unit.

Residential, Single-Family, Townhouse – Two spaces per dwelling unit.

Residential, Two Family Dwelling – Two spaces per unit.

Residential, Multifamily – Two spaces per dwelling unit for two or more bedrooms.

Efficiency – One space per dwelling unit which contain only one bedroom.

(d) *Industrial*

Contractor's Yard – One space per each employee.

Hazardous Waste Transfer Facility – One space per employee on the largest shift.

Junkyard – Two spaces per every three employees on the maximum shift, plus one space per every vehicle customarily used in operation of the use or stored on the premises.

Lumberyard – One space per each 500 sq. ft. of gross floor area.

Machinery Sales – One space per each employee and one space per 1,000 sq. ft. of gross floor area.

Warehouse – One space per each two employees or one space per each 1,000 sq. ft. gross floor area, whichever is greater.

**16-2-103.7. Parking index deviations.**

Due to the peculiarities of any given development, the inflexible application of the minimum off-street parking index may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, the Board of Zoning Adjustment may permit deviations from the presumptive requirements of the minimum off-street parking index and may require more or allow less parking as may be deemed

appropriate during the process of site plan review. In determining whether or not it is appropriate to allow such deviations, the applicant shall have the burden of supplying evidence that such a change is warranted. This evidence shall include the applicant's experience with the same use in other jurisdictions, alternate standards (and an assessment of their adequacy) for the same use in other communities, or a suggested standard by a nationally recognized authority in parking (e.g. The Institute of Transportation Engineers, the American Planning Association, etc.).

#### **16-2-103.8. Future parking reserve.**

In situations where the total parking area should not be needed in the immediate future, but may be in the longer-term, the Planning Commission may require that all of the area be provided and reserved for parking, but may suspend or waive the requirement that it actually be paved, until such time as the Administrative Officer determines that it is necessary.

#### **16-2-103.9. Central business district.**

Due to the unique character of the C-1 (Central Business District) Zoning District the standards outlined in the minimum off-street parking index shall not apply to uses or projects within the C-1 Zoning District with the exception of residences located in the district. Section 104 hereof shall govern the off-street parking requirements for residences in commercial zones. However, if parking lots or areas are provided in the C-1 zoning classification, those areas shall be subject to the development standards outlined in Section 16-2-103.3. Development Standards.

#### **16-2-103.10. Off-street loading requirements.**

The following standards shall apply to off-street loading spaces.

- (a) *Load space required.* In any zone in connection with every building or part thereof having a gross floor area of four thousand (4,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display or sales, mortuary, or other uses similarly requiring the receipt and distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building or use at least one (1) off-street loading space plus one (1) additional such loading space for each ten thousand (10,000) square feet of gross floor area or major fraction thereof.
- (b) *Space dimensions.* Each loading space shall be not less than ten (10) feet in width and forty-five (45) feet in length, and shall have a minimum overhead clearance of fourteen (14) feet.
- (c) *Space location.* Such space may occupy all or any part of any required yard or court, except a front yard.

- (d) *Residential restriction.* No such space shall be located closer than fifty (50) feet to any lot located in any residential district, unless wholly within a completely enclosed building or unless enclosed on three sides by a wall of uniformly painted board fence or natural plantings. The height of all screening shall be determined by the administrative officer, but in no event shall the screening be less than six (6) feet in height.
- (e) *Maneuver area.* Loading spaces shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way, and complete the loading or unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
- (f) *Dual use prohibited.* No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

**16-2-103.11. Alternative material and methods.**

Developers may propose alternative materials, methods, and designs in accordance with the U.S. Green Building Council, Leadership Energy and Environmental Design (LEED) voluntary rating system. Such proposals must include documented evidence from professional engineers, architects, or environmental planners demonstrating the effectiveness of the proposed alternative materials, methods, and designs in meeting the intent and purpose of these regulations. For purposes of this section a LEED consists of a long-term, integrated, systems approach to developing and achieving a healthy community by jointly addressing economic, environmental, and social issues. Any such proposals must be specifically approved by the City Engineer.

**Editor's note** - Where a building permit has been issued prior to January 3, 2008 and provided that construction is begun within 12 months of January 3, 2008, and diligently prosecuted to completion, parking and loading facilities in the amounts required at the time of the issuance of said building permit may be provided in lieu of any different amounts required by this ordinance.

(Ord. No. 5614, §1,2,12-4-07)

**16-2-104. Residences in commercial zones.**

All residences located in commercial zones must meet all building, fire, and plumbing codes for residential buildings. Off-street parking shall be provided in accordance with Section 16-2-103, with the exception of residences located in the C-1 zoning district. No off street parking is required for residences located in the C-1 zoning district. (Ord. No. 5881, §1, 6-5-2012)

**16-2-105. Self-storage.**

The following are prohibited uses of self-storage facilities or areas:

- (a) Storage of flammable or hazardous chemicals or explosives;
- (b) Auctions, commercial, wholesale, or retail sales, or miscellaneous or garage sales;
- (c) The servicing, repairing, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment;
- (d) The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment.
- (e) The establishment of a trash/recycling materials transfer and storage business; and
- (f) Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.

**16-2-106. Service stations, automotive.**

- (a) There shall be a building setback from all right-of-way lines of no less than 40 feet.
- (b) Pump islands and the supports of any sheltering canopy shall set back a minimum of 25 feet from the street right-of-way.
- (c) Pump islands and main and accessory buildings shall not be constructed closer than 50 feet to any residential district.
- (d) A raised curb, at least 6 inches in height, shall be constructed along all street property lines, except at driveway openings.
- (e) All repairs to motor vehicles which result in disabling the vehicle for more than 24 hours shall be conducted inside closed facilities. See Section 16-2-97 of this Code.
- (f) All lighting or illumination on-site shall be contained on the premises.
- (g) Vehicle Storage. The outside storage of vehicles, whether operable or inoperable, at service stations or repair garages shall be limited to a maximum of 45 days. (Ord. No. 5892, §2, 8-7-2012)

**16-2-107. Setbacks for residential infill development.**

This section shall be applied where the setback requirements of this Code would create incompatible infill development. In cases where vacant lots exist in established residential neighborhoods or subdivisions, development of said vacant lots shall be compatible with those abutting lots. The proposed infill units shall conform to any standards required by valid recorded plats, or approved, valid site plans, to the extent provided by law. Where such documentation is not available, the setbacks of the proposed infill units shall be based upon the minimum setbacks of abutting units. [Example: if a proposed infill lot abuts two single-family homes with front setbacks of 15 feet and 25 feet, the proposed unit shall be constructed with a 20 feet front setback].

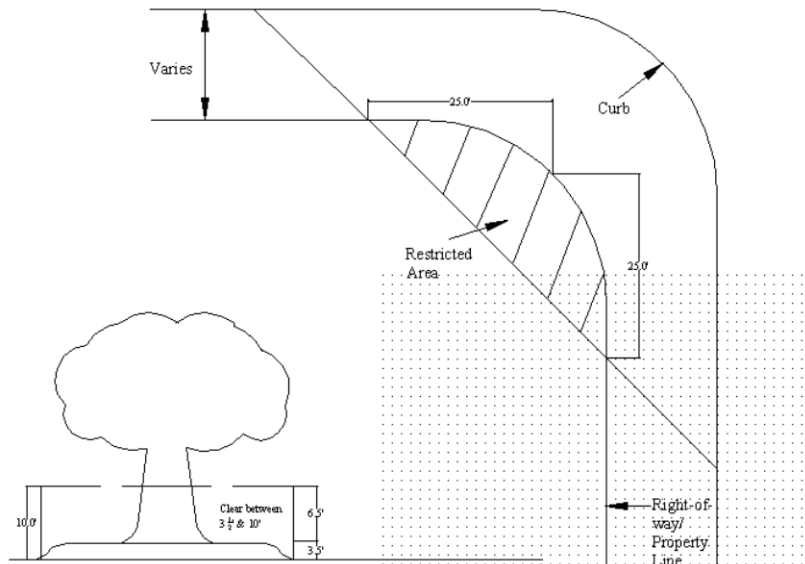


**16-2-108. Temporary uses or enterprises.**

Temporary uses or enterprises such as a carnival, circus, church tent revival, or similar temporary use shall be permitted only in a commercial zoning district and shall have no facilities located nearer to a residential district than two hundred (200) feet and no nearer to any occupied residential structure than five hundred (500) feet. The site shall have access drives so located as to minimize traffic hazards. The applicant shall show that adequate measures will be taken to prevent odor, dust, noise, lights, and traffic from becoming a nuisance to uses on other adjacent properties. Each temporary use permit for such an enterprise shall be valid for a period of not more than ten (10) days and shall not be granted for more than three such periods for the same location within any ninety (90) day period.

**16-2-109. Clear visibility at intersections.**

On a corner lot nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 3 ½ feet and 10 feet above the center line grade of the intersecting street in the area bounded by the street right-of-way lines (not curb lines but the rights-of-way lines which are also the property lines) of such corner lot and a line joining points along said streets rights-of-way lines 25 feet from the point of intersection. The following graphic illustrates this requirement. (Ord. No. 5904, §1, 11-20-2012)



Not to scale.

INTERSECTION VISIBILITY

**16-2-110—16-2-151. Reserved.**

HOT SPRINGS CODE  
ZONING CODE  
ARTICLE XI. PERMITTED USES

16-2-152. Table of permitted uses.

Permitted Use	R-1	R-2	R-3	R-4	R-L	PD	VL	CTR	C-1	C-2	C-3	C-4	M-1	M-2	A
Accessory Building/Structures/Uses						Uses to be proposed by the applicant	Uses to be proposed by the applicant								
Adult Daycare	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	CU	CU	CU
Adult Use								CU	P	P	CU	P	P	P	
Airport/Landing Field	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	P	P	CU
Alcohol Package Sales								CU	P	P	CU	P	P	P	
Amusement Park												CU	CU	P	
Animal Grazing	P	P													P
Animal Farm, Intensive	CU														CU
Animal Farm, Small, Specialty	CU														P
Animal Hospital, Pound, or Shelter								CU	CU	CU	CU	P	P	P	CU
Appliance Repair/Sales								CU	P	P	P	P	P	P	
Arcade								CU	P	P	P	P	P	P	
Asphalt Products Production														CU	
Barber/Beauty Shop								CU	P	P	P	P	P	P	
Bars, Lounges, Taverns								CU	P	P	P	P	P	P	
Batching or Mixing Plant, Asphaltic or Portland Cement, Concrete, Mortar or Plaster														CU	
Bath Houses/ Spas									P	P	P	P	P	P	
Bed and Breakfast			CU	CU	CU			CU	P	P	P	CU	P	P	
Boat/Marine Rental or Sales									P	P	P	P	P	P	
Bowling Alley									P	P	P	P	P	P	
Business Machine Sales/Service								CU	P	P	P	P	P	P	
Campground/Recreational Vehicle Park					CU										
Car Wash								CU	CU	CU	CU	P	P	P	
Card Shop								CU	P	P	P	P	P	P	
Cement, Lime or Plaster-of-Paris - Manufacture of-														CU	
Cemetery	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	P	P	CU

P – Permitted use by right. CU – Permitted use by conditional use approval. Blank – Not a Permitted Use.

HOT SPRINGS CODE  
ZONING CODE

Permitted Use	R-1	R-2	R-3	R-4	R-L	PD	VL	CTR	C-1	C-2	C-3	C-4	M-1	M-2	A
Ceramic Products – Brick, Tile, Clay, Glass, Porcelain - Manufacturing						Uses to be proposed by the applicant	Uses to be proposed by the applicant							CU	
Childcare Center	CU	CU	CU	CU	CU			CU	P	P	P	P	P	P	P
Christmas Tree Sales, Temporary	P	P	P	P	P			CU	P	P	CU	P	P	P	P
Clinics & Medical Offices								CU	P	P	P	P	P	P	P
Clothing Store								CU	P	P	P	P	P	P	P
Community Center	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	CU	CU	CU
Convenience Store, 3,500 Square feet or less								CU	P	P	P	P	P	P	P
Convenience Store, more than 3,500 Square feet								CU	CU	P	CU	P	P	P	P
Correctional Facility															CU
Country Club	CU	CU	CU	CU	CU					CU	CU	CU			CU
Dairies	CU														P
Department Store								CU	P	P	CU	P	P	P	
Dry Cleaners/Laundry								CU	P	P	P	P	P	P	
Duplication Shop								CU	P	P	P	P	P	P	
Dwelling, Multi-Family - Duplex				P	CU			P	CU	CU	CU	CU			
Dwelling, Multi-Family - up to 12 units per acre				P	CU			P	CU	CU	CU	CU			
Dwelling, Multi-Family - over 12 units per acre				CU	CU			CU	CU	CU	CU	CU			
Dwelling, Single-Family - Attached, or Upper Floor			P	P	P			P	P	P	P	P	P	CU	
Dwelling, Single-Family - Detached	P	P	P	P	P			P	P	P	P	P	P	CU	
Dwelling, Single-Family - Zero-Lot Lines	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	P	CU	
Dwelling, Resident Security Guard or Caretaker Employed on the premises. No RV or manufactured home.	P	P	P	P	P			P	P	P	P	P	P	P	P
Dwelling, Townhouse				P	CU			P	CU	CU	CU	CU			
Emergency Shelter	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	CU	CU	CU
Family Daycare	CU	CU	CU	CU	CU			CU							
Farming General	P	P													
Financial Institution								CU	P	P	CU	P	P	P	
Financial Institution, Drive Through								CU	CU	P	P	P	P	P	
Fish Hatchery					CU										P
Flea Market								CU		CU	CU	P	P	P	
Florist Shop								CU	P	P	P	P	P	P	

P – Permitted use by right. CU – Permitted use by conditional use approval. Blank – Not a Permitted Use.

HOT SPRINGS CODE  
ZONING CODE

Permitted Use	R-1	R-2	R-3	R-4	R-L	PD	VL	CTR	C-1	C-2	C-3	C-4	M-1	M-2	A
Food Products, including the slaughtering of animals or poultry- Manufacture of Forestry Operation						Uses to be proposed by the applicant	Uses to be proposed by the applicant						CU	CU	
Fortune Teller/Palm Reader/Psychic Operation									CU	CU	CU	P	P	P	P
Funeral Home and Related Facilities									CU	CU	CU	P	P	P	
Permitted Use	R-1	R-2	R-3	R-4	R-L			CTR	C-1	C-2	C-3	C-4	M-1	M-2	A
Gasoline or Service Station								CU	P	P	P	P	P	P	
Golf Courses	CU	CU	CU	CU	CU					CU	CU	CU			P
Grocery Stores								CU	P	P	P	P	P	P	
Hazardous Waste Transfer, Storage															CU
Hazardous Water Treatment Facilities															CU
Home Occupation - Type B	CU	CU	CU	CU	CU			CU							
Hospitals								CU	P	P	CU	P	P	P	
Hotels and Motels								CU	P	P	CU	P	P	P	
Kennels	CU														CU
Key Shop								CU	P	P	P	P	P	P	
Landfills															CU
Laundry plant, Commercial									CU	CU	CU	P	P	P	
Livestock Sales, Auction													P	P	CU
Lodges and Clubs	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	CU	CU	CU
Manufactured Home Sales												P	P	P	
Manufacturing, Explosives/Volatile Material														CU	
Manufacturing, General													P	P	
Marinas and Related Facilities										CU	CU	CU			
Massage Parlors								CU	P	P	CU	P	P	P	
Mining of Gravel, Topsoil, Rock or Similar Material (Quarries)	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	P	P	CU
Mining, Not Specified															CU
Motor Freight Terminal													CU	P	
Museums/Galleries								CU	P	P	P	P	P	P	
News Stands								CU	P	P	P	P	P	P	
Nightclubs and Dance Halls								CU	P	P	CU	P	P	P	

P – Permitted use by right. CU – Permitted use by conditional use approval. Blank – Not a Permitted Use.

HOT SPRINGS CODE  
ZONING CODE

Permitted Use	R-1	R-2	R-3	R-4	R-L	PD	VL	CTR	C-1	C-2	C-3	C-4	M-1	M-2	A
Nurseries and Greenhouses	CU	CU	CU	CU	CU	Uses to be proposed by the applicant	Uses to be proposed by the applicant	CU	P	P	P	P	P	P	
Nursing/convallescent Home	CU	CU	CU	CU	CU	Uses to be proposed by the applicant	Uses to be proposed by the applicant	CU	CU	P	CU	P	CU	CU	CU
Office								CU	P	P	P	P	P	P	
Outdoor Storage, Retail															
Outdoor Storage, Wholesale															
Park or Playground, Public	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	CU	CU	CU
Parking Lot or Garage, Public								CU	P	P	P	P	P	P	
Personal Services					CU			CU	P	P	P	P	P	P	
Pharmacy/Drug Store					CU			CU	P	P	P	P	P	P	
Power Plants/Generation														CU	
Printing and Publishing								CU	CU	CU	CU	CU	P	P	
Produce Stands	P	P	P	P	P			CU	P	P	P	P	P	P	P
Public Building	CU	CU	CU	CU	CU			CU	P	P	P	P	P	CU	CU
Race Track												CU			
Radio or TV Tower and/or Communication Tower, Individual Private Use (i.e. Hamm Radio)	P	P	P	P	P			P	P	P	P	P	P	P	P
Recreation, Active	CU	CU	CU	CU	CU			CU	CU	P	P	P	P	P	
Recreation, Passive	CU	CU	CU	CU	CU			CU	P	P	P	P	P	P	
Recreational Vehicle Park/Campground					CU										
Recycle Collection/Transfer															
Religious Institution	CU	CU	CU	CU	CU			CU	CU	P	P	P	CU	CU	CU
Residential Group Living Facility	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU			
Restaurant, Drive-Through/Drive-in								CU	CU	P	CU	P	P	P	
Restaurant, Sit-down/Take-out					CU			CU	P	P	P	P	P	P	
Riding Academy	CU														CU
Salvage/Junk Yard														CU	
School, Business, Commercial, or Trade								CU	P	P	P	P	P	P	
School, Preschool	CU	CU	CU	CU	CU			CU	CU	CU	P	P	P	P	
School, Primary or Secondary	CU	CU	CU	CU	CU			CU	CU	CU	CU	P	P	P	
Self-Storage Facility								CU		CU	CU	P	P	P	

P – Permitted use by right. CU – Permitted use by conditional use approval. Blank – Not a Permitted Use.  
Supplement 37

HOT SPRINGS CODE  
ZONING CODE

Permitted Use	R-1	R-2	R-3	R-4	R-L	PD	VL	CTR	C-1	C-2	C-3	C-4	M-1	M-2	A
Skating Rink						Uses to be proposed by the applicant	Uses to be proposed by the applicant		P	P	P	P	P	P	A
Sporting Goods Store									P	P	P	P	P	P	
Studio, Production								CU	P	P	P	P	P	P	
Tar or Tar Products, Creosoting, or Similar Process														CU	
Tattoo Parlor								CU	P	P	CU	P	P	P	
Temporary Construction Buildings – Office use only – no residence	P	P	P	P	P			P	P	P	P	P	P	P	
Theaters								CU	P	P	CU	P	P	P	
Transit Facility								CU	CU	CU	CU	P	P	P	
Truck Stop/Travel Center/Truck Parking								CU	CU		CU	P	P	P	
Utility Substations	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	P	P	CU
Variety Store/Discount Store								CU	P	P	P	P	P	P	
Vehicle, Auto Body Repair /Painting								CU	P	P	P	P	P	P	
Vehicle, Mechanical Service/Repair								CU	P	P	P	P	P	P	
Vehicle Parts Store – Retail								CU	P	P	P	P	P	P	
Vehicle Parts Store – Wholesale												P	P	P	
Vehicle Sales/Leasing												P	CU	CU	
Warehousing													P	P	
Water Treatment Plant	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	P	P	CU
Waste Water Treatment Plant	CU	CU	CU	CU	CU			CU	CU	CU	CU	CU	P	P	CU
Wholesale, Enclosed												P	P	P	

P – Permitted use by right. CU – Permitted use by conditional use approval. Blank – Not a Permitted Use.  
(Ord. No. 5229, §1, 10-6-03 [amends Ord. 5158 by adding Bed and Breakfast as a Conditional Use in R3, R4 and RL.]  
(Ord. No. 5889, §1, 7-17-2012) (Ord. No. 5905, §3, 11-20-2012)(Ord No. 5609, §3 11-19-2007)

**16-2-153—16-2-160. Reserved.****16-2-161. Zoning map.**

The Hot Springs, Arkansas, Zoning Map attached hereto is hereby adopted as the Official Zoning Map for the City of Hot Springs, Arkansas. Said map may be amended from time to time in accordance with the applicable provisions of the Zoning Code.

**Editor's note**-The Official Zoning Map can be found in the Office of the City Clerk or the Planning & Development Department of the City of Hot Springs.

**16-2-162. Penalty.**

The penalty for violation of this Code shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. No. 5158, §§1,2,5, 2-17-03)