



Planning Commission Special Session Agenda

Date: Monday, June 30, 2025
Time: 4:30 PM

Location: Bella Vista District Court
2483 Forest Hills Blvd

Planning Commission regular meetings are live streamed and archived for your convenience. View the meeting at its scheduled time or after at:

<https://bit.ly/bvmeetingslive>.

I. Call to Order

II. Roll Call

Members: Daniel Ellis, PE, Chairman; Doug Farner, Vice-Chairman; Gail Klesen, Secretary; Clayton Sedberry, JB Portillo; Jack Wagnon, and Linda Lloyd.

III. Unfinished Business

IV. New Business

- A. **ORDINANCE:** A proposal for a reformed Section 109 of the Bella Vista Municipal Ordinance known as the Zoning and Development Ordinance and accompanying Zoning Map.
- B. **ORDINANCE:** A proposal for a reformed Section 107 of the Bella Vista Municipal Ordinance known as the Subdivision Ordinance.

V. Open Discussion

VI. Announcements

- A. The Planning Commission Work Session will be Thursday, July 3, 2025 at 4:30 pm.
- B. The Board of Zoning Adjustment meeting will be on Monday, July 14, 2025 at 4:30 pm directly followed by the Planning Commission regular meeting.
- C. The City Council Work Session will be Monday, July 21, 2025 at 5:30 pm.
- D. The City Council Regular Meeting will be on Monday, July 28, 2025 at 6:00 pm.

VII. Adjournment

Chapter 109:

Zoning and Development

Bella Vista Code of Ordinances



This page intentionally left blank for double-sided printing.

Chapter 109: Zoning and Development

June 26, 2025

Article I. General Provisions	1
Division 1. Introduction	1
Division 2. Legal Provisions	1
Article II. Zoning Districts.....	4
Division 1. Introduction	4
Division 2. Residential Zoning Districts	5
Division 3. Nonresidential Zoning Districts	17
Division 4. Overlay Districts.....	28
Article III. Uses.....	30
Division 1. Introduction	30
Division 2. Use-Specific Regulations.....	38
Division 3. Accessory Use Regulations.....	61
Division 4. Temporary Use Regulations	69
Article IV. Development Standards.....	71
Division 1. Introduction	71
Division 2. Dimensional Regulations.....	72
Division 3. Parking and Loading	80
Division 4. Retaining Walls	96
Division 5. Landscaping	99
Division 6. Outdoor Site Lighting.....	109
Division 7. Screening.....	113
Division 8. Fencing.....	115
Division 9. Architectural Design.....	118
Division 10. Refuse Facilities	128
Division 11. Signs.....	129
Division 12. Steep Slopes	157
Division 13. Infill	160
Division 14. Performance Standards.....	162
Division 15. Animal Regulations	162

Division 16. Wastewater, Stormwater, and Grading.....	165
Division 17. Stormwater Management Permits	181
Article V. Procedures.....	194
Division 1. General Procedures	194
Division 2. Zoning Procedures	202
Division 3. Use Procedures.....	211
Division 4. Development Procedures	218
Division 5. Relief Procedures	236
Article VI. Nonconformities.....	243
Division 1. Introduction	243
Division 2. Nonconformity-Specific Regulations.....	244
Article VII. Enforcement.....	248
Division 1. Introduction	248
Division 2. Remedies and Penalties	251
Article VIII. Administration.....	253
Division 1. Introduction	253
Division 2. Quasi-Legislative Bodies and Personnel.....	253
Division 3. Administrative Bodies and Personnel	254
Article IX. Definitions.....	256
Division 1. Introduction	256
Division 2. Defined Terms.....	257

ARTICLE I. GENERAL PROVISIONS

Division 1. Introduction

Sec. 109-001. Title

This Chapter is known as the “Zoning and Development Ordinance of the City of Bella Vista, Arkansas” and may be referred to as the “Zoning Ordinance” or “this Chapter”.

Sec. 109-002. Purpose

This Chapter:

- (a) Implements Bella Vista’s adopted [Comprehensive Plan](#) and other long-range planning policies;
- (b) Promotes the public health, safety, and general welfare;
- (c) Protects and preserves natural resources;
- (d) Provides adequate facilities for transportation, drainage, water supply, sewage, stormwater, parks, and public utilities to ensure orderly development;
- (e) Facilitates and promotes safe and convenient travel for all modes of transportation;
- (f) Promotes the appropriate and best use of land;
- (g) Ensures safety from fire and other dangers;
- (h) Provides provisions for adequate light and air;
- (i) Encourages good civic design and arrangement; and
- (j) Provides for efficient and effective processing of land use and development applications.

Division 2. Legal Provisions

Sec. 109-003. Authority

- (a) *Arkansas State Law.*
 - (1) *Arkansas Code Annotated.* The following titles, subtitles, and chapters of the laws of the State of Arkansas, as amended, in Table 003.1: Applicable State Law References authorize the exercise of authority in this Zoning Ordinance.

Table 003.1: Applicable State Law References

Arkansas Code Annotated		
Title	Subtitle	Chapter
2 – Agriculture	1 – General Provisions	
	2 – Agronomy	
	3 – Livestock	
3 – Alcoholic Beverages		9 – On-premises Consumption

Arkansas Code Annotated		
<i>Title</i>	<i>Subtitle</i>	<i>Chapter</i>
8 – Environmental Law		6 – Disposal of Solid Wastes and Other Refuse
		7 – Hazardous Substances
		9 – Recycling
		14 – Shielded Outdoor Lighting Act
14 – Local Government	3 – Municipal Government	40 – Annexation, Consolidation, and Detachment by Municipalities
		41 – Additions to Cities and Incorporated Towns
		43 – Government of Cities of the First Class
		54 – Powers of Municipalities Generally
		55 – Ordinances of Municipalities
		56 – Municipal Building and Zoning Regulations – Planning
	4 – Public Finance Generally	72 – Bonds of Counties, Cities, and Towns
16 – Practice, Procedure, and Courts	5 – Civil Procedure Generally	
	7 – Particular Proceedings and Remedies	
17 – Professions, Occupations, and Businesses	2 – Nonmedical Professions	
	3 – Medical Professions	
18 – Property	2 – Real Property	
	5 – Civil Actions	
20 – Public Health and Welfare	2 – Health and Safety	
	3 – Mental Health	
	4 – Food, Drugs, and Cosmetics	64 – Alcohol and Drug Abuse
	5 – Social Services	

(2) *Arkansas State Constitution*. The following Arkansas Constitutional Amendments, as amended, applies to this Zoning Ordinance.

- a. [Ark. Const. Amendment 98](#) – Arkansas Medical Marijuana Amendment of 2016
- b. [Ark. Const. Amendment 100](#) – Arkansas Casino Gaming Amendment 2018

(b) *Exercise of Powers*. This Article is adopted in the exercise of power granted to municipalities by these statutes.

Sec. 109-004. Applicability

- (a) This Chapter applies to those areas within the City’s corporate limits.
- (b) This Chapter does not interfere with, abrogate, or annul any easements, covenants, or other legal agreements between parties.

Sec. 109-005. Consistency with Comprehensive Plan and Other Planning Policies

The City finds that this Zoning Ordinance is consistent with its Comprehensive Plan. The Comprehensive Plan policies provide guidance in the evaluation of future decisions relevant to the physical planning and development of the City of Bella Vista.

Sec. 109-006. Relationship to Other State, Federal, and Local Provisions

- (a) *Generally.* If this Chapter imposes a greater restriction upon the use of buildings or premises or building height or requires larger open spaces than are required by other ordinances, rules, regulations, easements, covenants, or agreements, the more restrictive provision is the one that imposes more stringent controls.
- (b) *Conflict with State or Federal Regulations.* If the provisions of this Chapter are inconsistent with state or Federal law, the more restrictive provision governs to the extent allowed by law. The more restrictive provision is the one that imposes more stringent controls.
- (c) *Conflict with other City Regulations.* If the provisions of this Chapter are inconsistent with one another or conflict with provisions found in other adopted ordinances or regulations of the City, the more restrictive provision governs unless otherwise expressly stated. The more restrictive provision is the one that imposes more stringent controls.
- (d) *Conflict with Plat Restrictions.*
 - (1) Nothing in this Chapter invalidates any plat restriction authorized by the Planning Commission or City Council nor any provision of adopted building codes.
 - (2) Building setback lines included in a recorded subdivision plat prior to adoption of this chapter control over general setback provisions required under the zoning provisions of this Chapter.
- (e) *Conflict with Building Code Requirements.*
 - (1) No building setback shall be less than that specified for the type of construction proposed by adopted [building codes](#).
 - (2) The Board of Zoning Adjustment has no authority to reduce any building setback required under adopted building codes.

Sec. 109-007. Private Restrictions

This Chapter does not abrogate any deed restriction, covenant, easement, or any other private agreement or restriction on the use of land. However, if the provisions of this Chapter are more restrictive than any private restriction, the requirements of this Chapter control. Where the provisions of any private restriction are more restrictive or impose higher standards than the provisions of this Chapter, the private restrictions control if properly enforced by a person having the legal right to enforce those restrictions. The City does not enforce private restrictions.

Sec. 109-008. Severability

If any portion of this Chapter shall be deemed invalid or unconstitutional, the remainder of the Chapter shall not become invalid, but remain in full force and effect.

ARTICLE II. ZONING DISTRICTS

Division 1. Introduction

Sec. 109-009. Generally

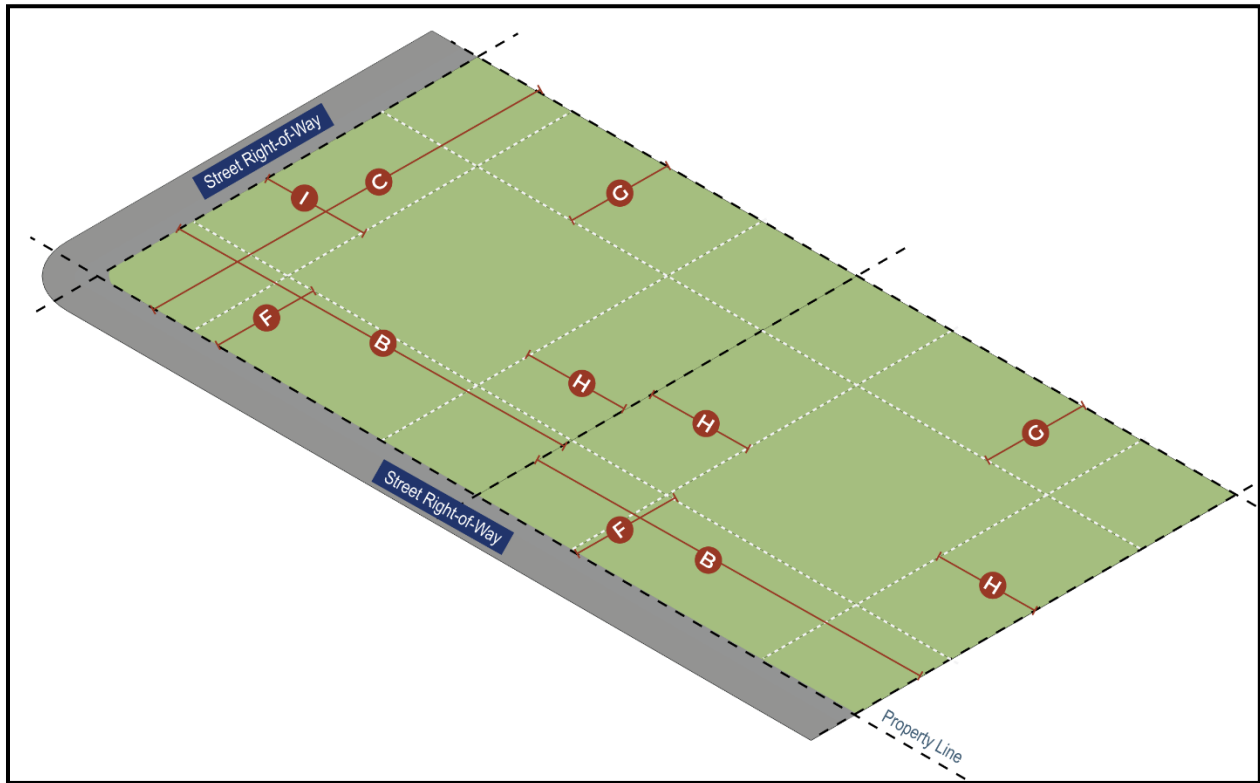
- (a) *Compliance Required.* The use, erection, construction, reconstruction, relocation, or alteration of any building, structure, or land shall comply with the regulations of this chapter for the zoning district in which the building, structure, or land is located.
- (b) *Dimensional Standards.* Division 2 and Division 3 establish the rules for applying dimensional standards in the zoning districts. These include height, lot area, and setback requirements. All buildings, structures, and lots in the zoning district must comply with the dimensional standards established for that district. Nothing in this chapter authorizes an encroachment within any easements or plat restrictions, unless otherwise specified.

Sec. 109-010. Zoning Map

The zoning districts and their boundaries are adopted and established as shown on the Zoning Map of the City of Bella Vista, Arkansas. The Zoning Map includes all notations, references, data, district boundaries, and other associated information, and is adopted as part of this Article. The Zoning Map and zoning district boundaries may be amended or interpreted as provided in Division 2. of Article V.

Division 2. Residential Zoning Districts

Sec. 109-011. Nature Preservation (NP) District



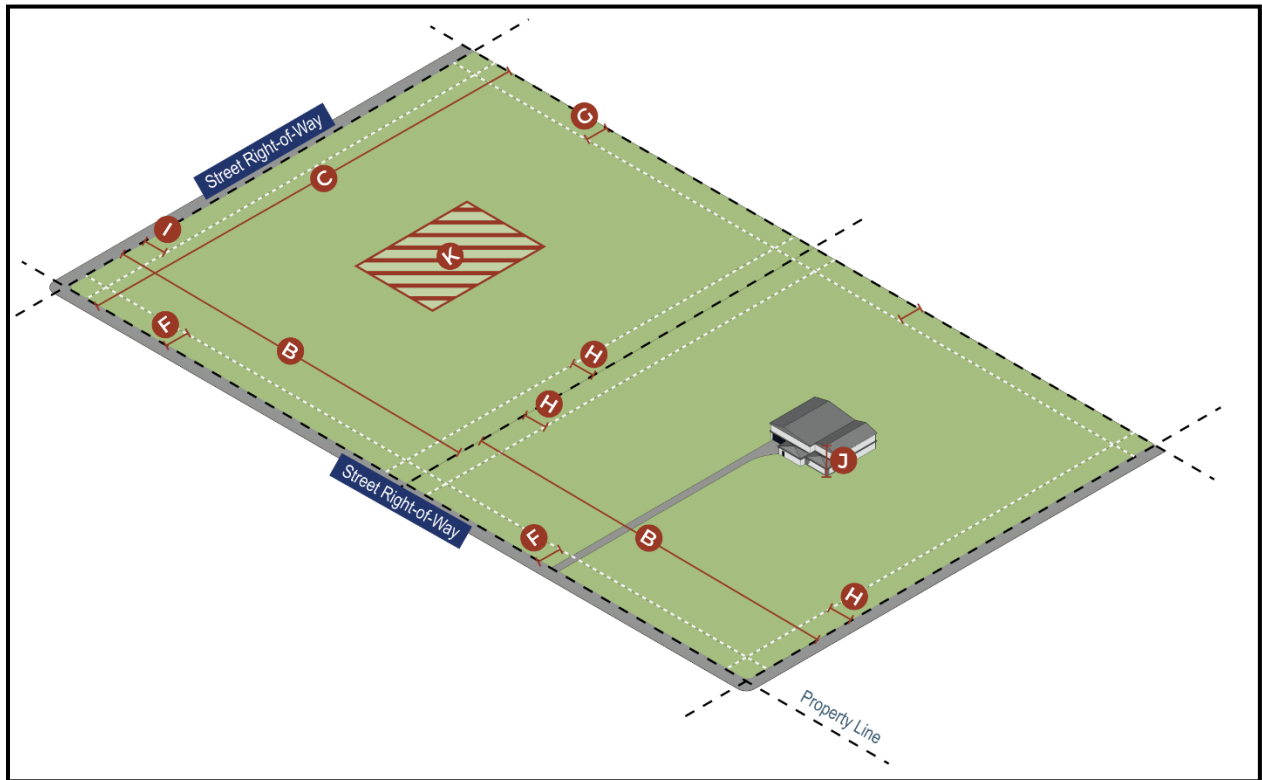
- (a) *Purpose.* The Nature Preservation (NP) District is designed to protect and enhance vital natural resources such as floodplains, streams, wetlands, exceedingly steep topography, woodlands, and wildlife habitat. Further, this district serves to maintain a buffer between incompatible land uses, and to restrict development in areas not suitable for, or capable of sustaining development, while allowing certain uses which are not detrimental to the land.
- (b) *Uses.* See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards.* Development in the Nature Preservation (NP) District shall follow Table 011.1: Nature Preservation (NP) District Dimensional Standards.

Table 011.1: Nature Preservation (NP) District Dimensional Standards

Nature Preservation (NP) District Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	N/A
B	Lot Width (min.)	N/A
C	Lot Depth (min.)	N/A
D	Lot Coverage (max.)	5%
E	Green Space (min.)	70%
Setback Requirements		
F	Front Setback (min.)	50 feet
G	Rear Setback (min.)	50 feet

H	Side Setback (min.)	50 feet
I	Corner Side Setback (min.)	50 feet
<i>Building and Site Requirements</i>		
J	Building Height (max.)	25 feet
K	Building Footprint (max.)	N/A
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing		Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards

Sec. 109-012. Agricultural Preservation (AP) District



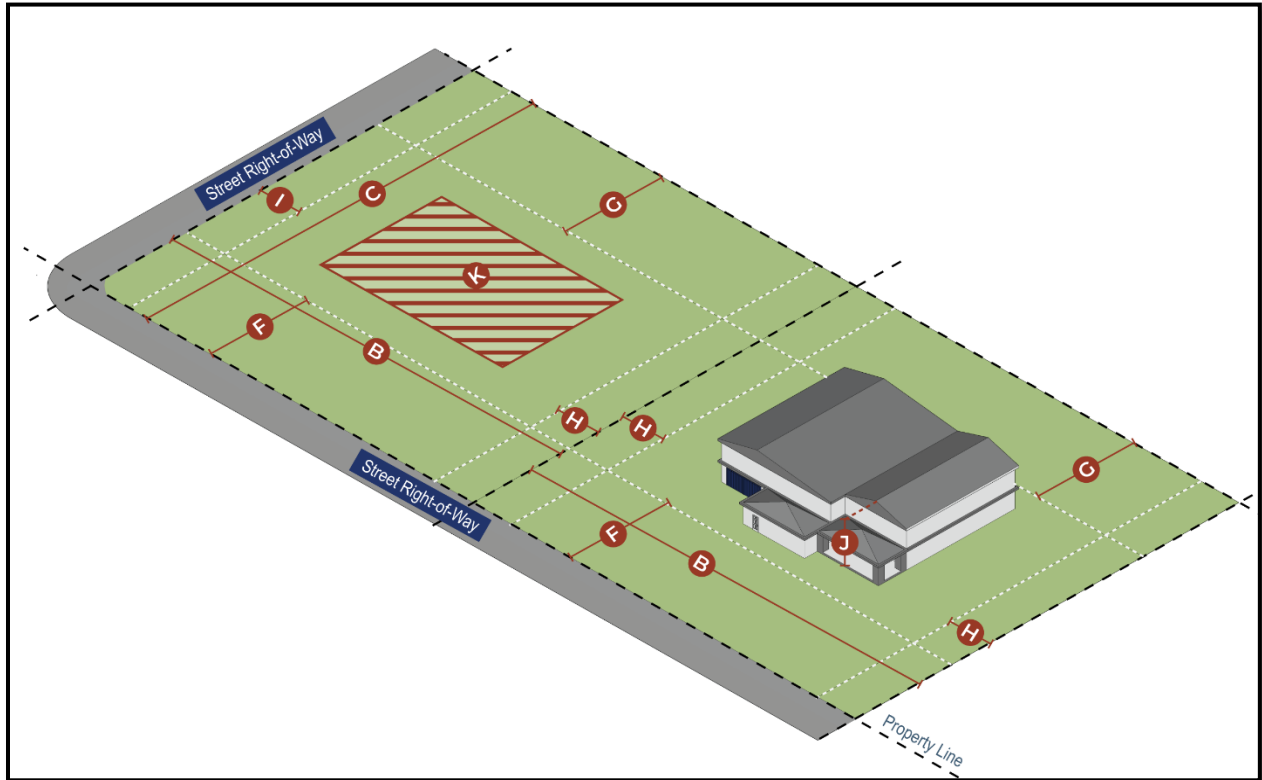
- (a) *Purpose.* The Agricultural Preservation (AP) District is designed to accommodate agricultural activities and maintain compatibility between these activities and adjacent, non-agricultural uses.
- (b) *Uses.* See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards.* Development in the Agricultural Preservation (AP) District shall follow Table 012.1: Agricultural Preservation (AP) District Dimensional Standards.

Table 012.1: Agricultural Preservation (AP) District Dimensional Standards

Agricultural Preservation (AP) District Dimensional Standards		
<i>Lot Requirements</i>		
A	Lot Area (min.)	217,800 square feet
B	Lot Width (min.)	100 feet
C	Lot Depth (min.)	100 feet
D	Lot Coverage (max.)	30%
E	Green Space (min.)	70%
<i>Setback Requirements</i>		
F	Front Setback (min.)	30 feet
G	Rear Setback (min.)	30 feet
H	Side Setback (min.)	30 feet
I	Corner Side Setback (min.)	30 feet
<i>Building and Site Requirements</i>		
J	Building Height (max.)	40 feet

K	Building Footprint (max.)	60,000 square feet
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing	Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards	

Sec. 109-013. Residential Estate (RE) District



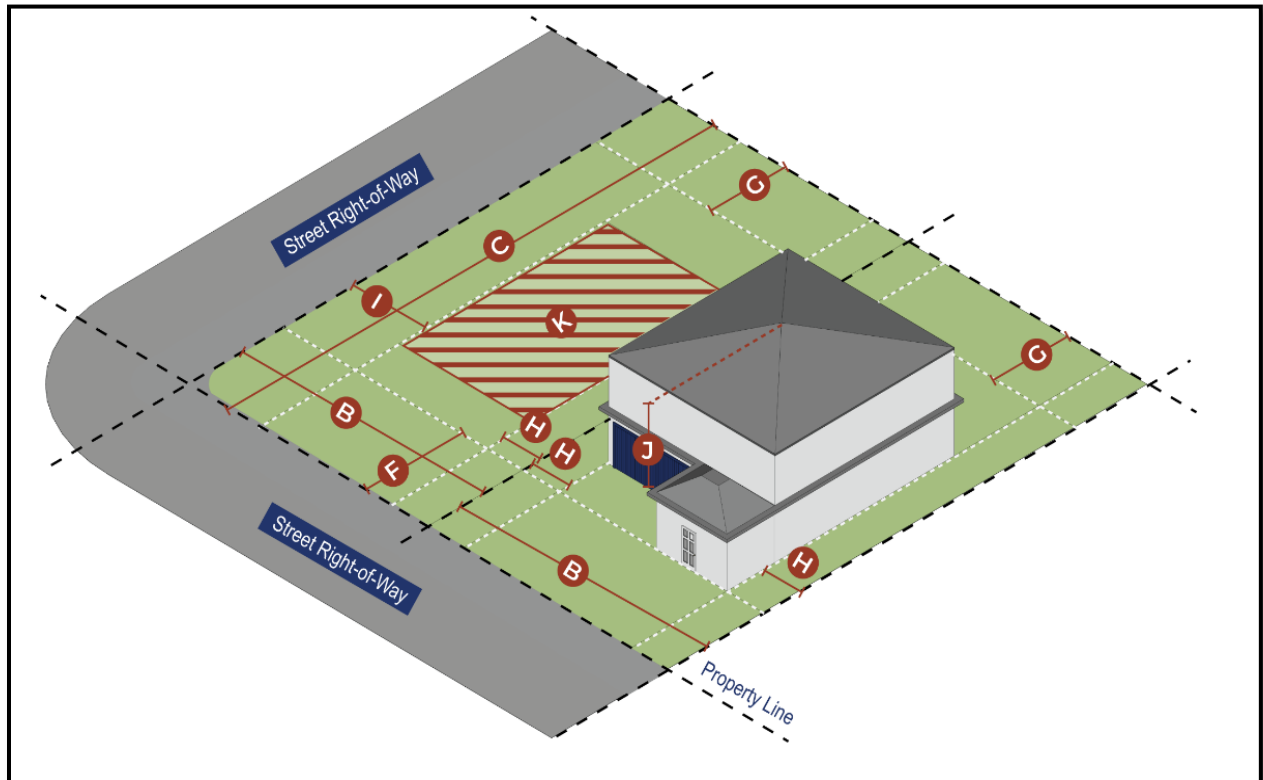
- (a) *Purpose.* The Residential Estate (RE) District intends to provide for single-family residences on large lots with an emphasis on preservation of natural character and open space within the development pattern.
- (b) *Uses.* See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards.* Development in the Residential Estate (RE) District shall follow Table 013.1: Residential Estate (RE) District Dimensional Standards.

Table 013.1: Residential Estate (RE) District Dimensional Standards

Residential Estate (RE) District Dimensional Standards		
<i>Lot Requirements</i>		
A	Lot Area (min.)	43,560 square feet
B	Lot Width (min.)	50 feet
C	Lot Depth (min.)	100 feet
D	Lot Coverage (max.)	25%
E	Green Space (min.)	75%
<i>Setback Requirements</i>		
F	Front Setback (min.)	25 feet
G	Rear Setback (min.)	25 feet
H	Side Setback (min.)	20 feet
I	Corner Side Setback (min.)	20 feet
<i>Building and Site Requirements</i>		
J	Building Height (max.)	40 feet

K	Building Footprint (max.)	N/A
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing		Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards

Sec. 109-014. Low Density Residential (R-1) District



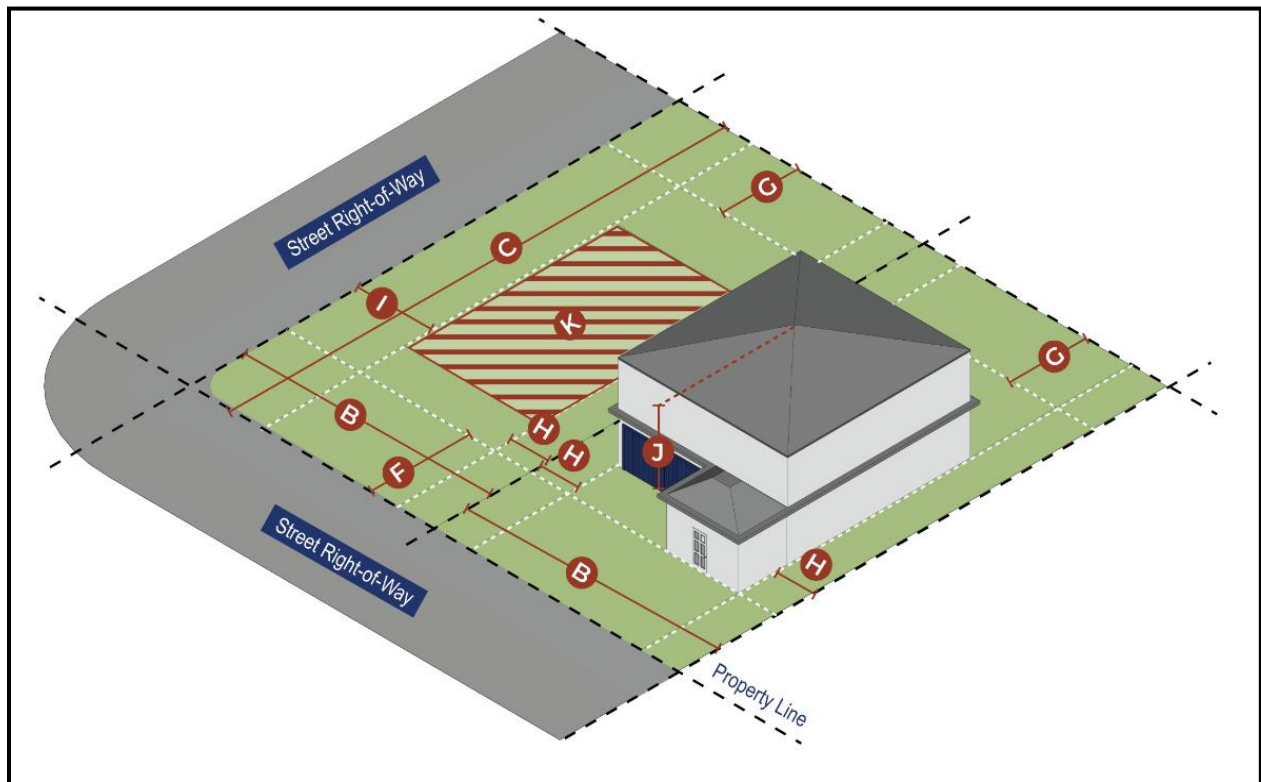
- (a) *Purpose.* The Low Density Residential (R-1) District intends to provide for low density, primarily single-family development supported by parks, open space, and cultural or educational amenities. These areas should serve as the primary neighborhood pattern in Bella Vista, being buffered from more intensive uses and served by local roads.
- (b) *Uses.* See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards.* Development in the Low Density Residential (R-1) District shall follow Table 014.1: Low Density Residential (R-1) District Dimensional Standards.

Table 014.1: Low Density Residential (R-1) District Dimensional Standards

Low Density Residential (R-1) District Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	5,000 square feet
B	Lot Width (min.)	50 feet
C	Lot Depth (min.)	100 feet
D	Lot Coverage (max.)	35%
E	Green Space (min.)	65%
Setback Requirements		
F	Front Setback (min.)	20 feet
G	Rear Setback (min.)	15 feet
H	Side Setback (min.)	7.5 feet
I	Corner Side Setback (min.)	15 feet
Building and Site Requirements		

J	Building Height (max.)	40 feet
K	Building Footprint (max.)	N/A
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing		Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards

Sec. 109-015. Moderate Density Residential (R-2) District



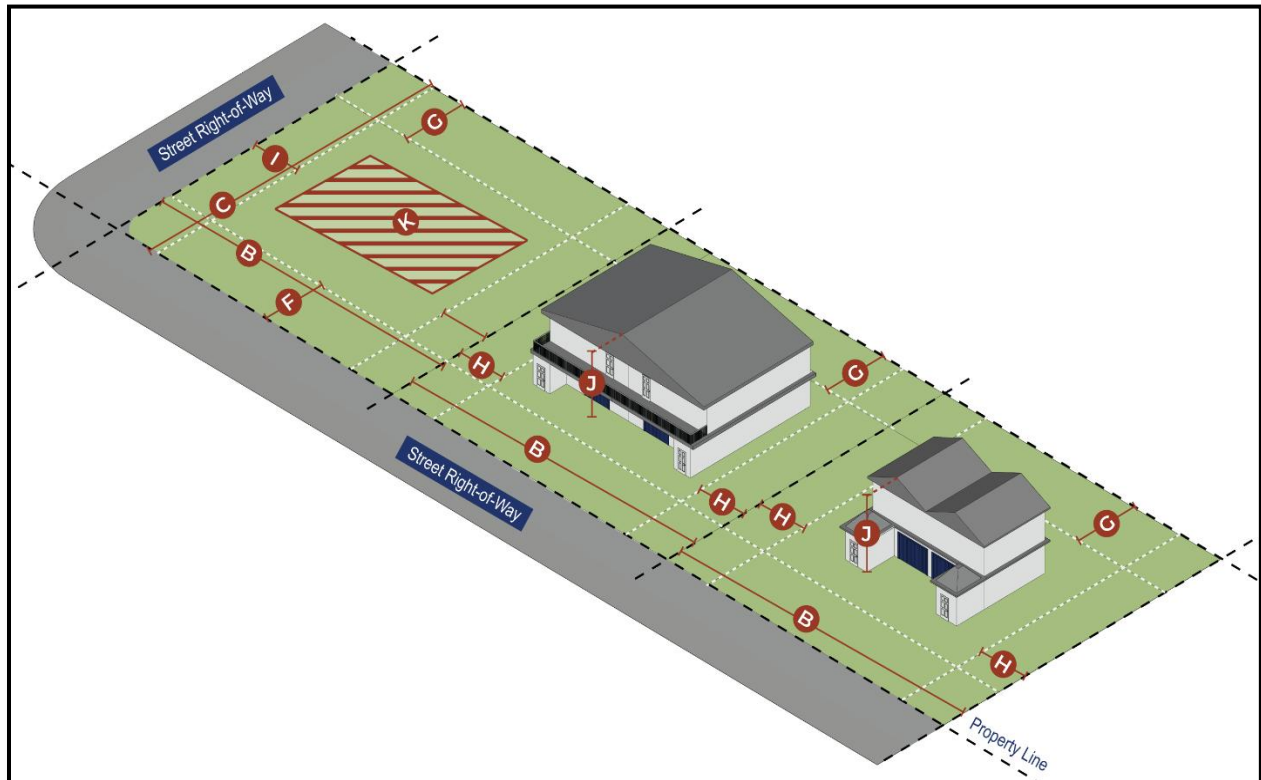
- (a) *Purpose*. The Moderate Density Residential (R-2) District intends to provide for the development of small-lot detached single family dwellings, attached dwellings and townhomes at moderate densities. These areas should be supported by parks, open space, and appropriate cultural or educational amenities. These areas should serve as transition zones between single-family residential areas and more intensive uses, and should be in locations with convenient access to major thoroughfares.
- (b) *Uses*. See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards*. Development in the Moderate Density Residential (R-2) District shall follow Table 015.1: Moderate Density Residential (R-2) District Dimensional Standards.

Table 015.1: Moderate Density Residential (R-2) District Dimensional Standards

Moderate Density Residential (R-2) District Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	5,000 square feet
B	Lot Width (min.)	50 feet
C	Lot Depth (min.)	100 feet
D	Lot Coverage (max.)	45%
E	Green Space (min.)	55%
Setback Requirements		
F	Front Setback (min.)	20 feet
G	Rear Setback (min.)	15 feet

H	Side Setback (min.)	7.5 feet
I	Corner Side Setback (min.)	15 feet
<i>Building and Site Requirements</i>		
J	Building Height (max.)	50 feet
K	Building Footprint (max.)	N/A
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing		Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards

Sec. 109-016. Mixed Residential (R-3) District



- (a) *Purpose.* The Mixed Residential (R-3) District intends to accommodate the greatest variety of housing types and supporting public amenities, and allow for the integration of supporting private enterprises whose proximity can enhance residents' quality of life. These areas may serve as a transition zone between less and more intensive uses, and should be in locations with convenient access to major thoroughfares.
- (b) *Uses.* See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards.* Development in the Mixed Residential (R-3) District shall follow Table 016.1: Mixed Residential (R-3) District Dimensional Standards.

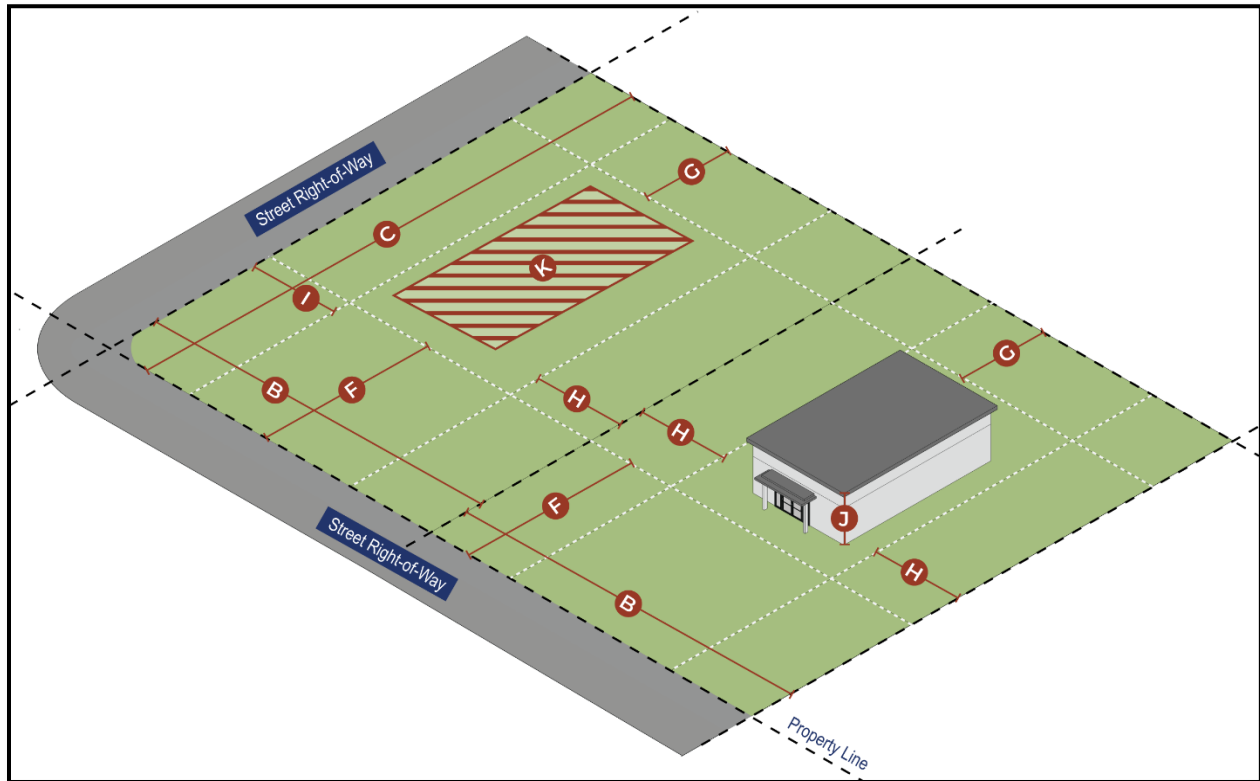
Table 016.1: Mixed Residential (R-3) District Dimensional Standards

Mixed Residential (R-3) District Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	5,000 square feet
B	Lot Width (min.)	50 feet
C	Lot Depth (min.)	100 feet
D	Lot Coverage (max.)	65%
E	Green Space (min.)	35%
Setback Requirements		
F	Front Setback (min.)	20 feet
G	Rear Setback (min.)	20 feet
H	Side Setback (min.)	15 feet
I	Corner Side Setback (min.)	15 feet

<i>Building and Site Requirements</i>		
J	Building Height (max.)	70 feet
K	Building Footprint (max.)	N/A
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing		Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards

Division 3. Nonresidential Zoning Districts

Sec. 109-017. Commercial Recreation (CR) District



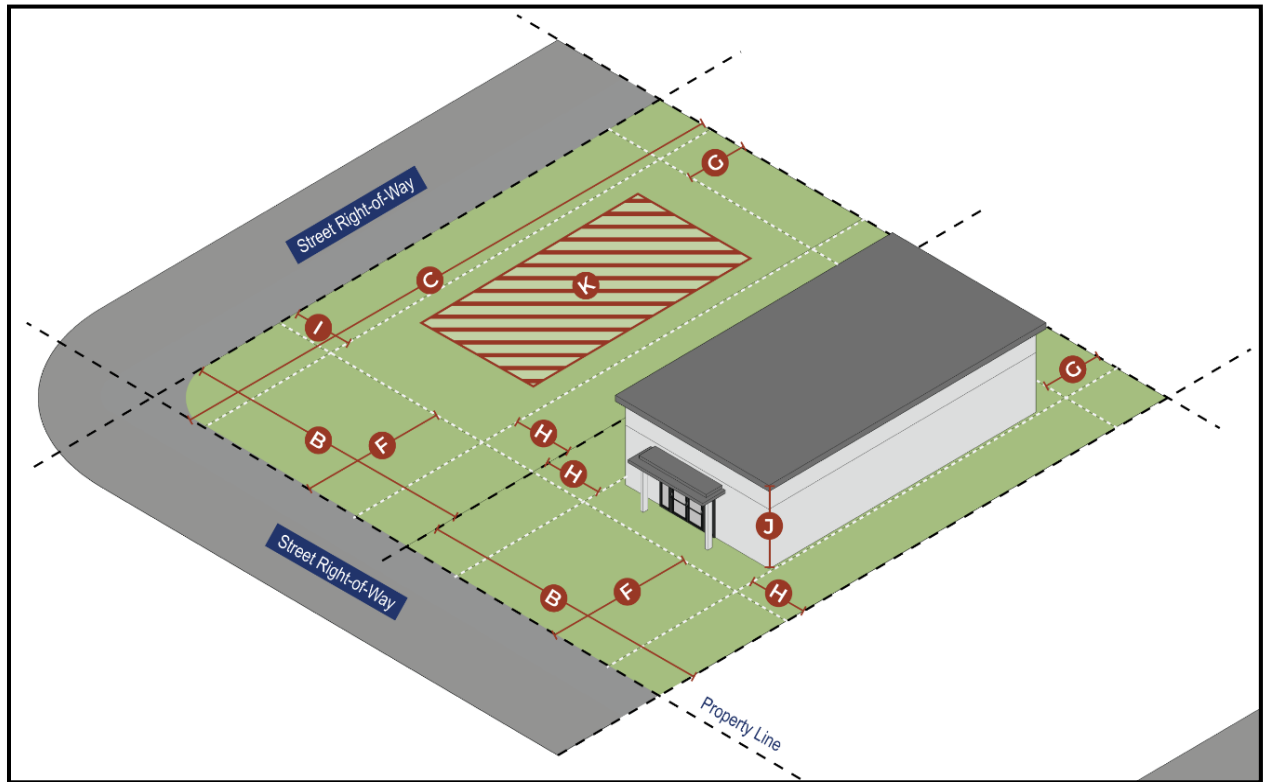
- (a) *Purpose.* The Commercial Recreation (CR) District is intended to provide for the existence and operation of Bella Vista's recreational property, such as its golf courses and lakes, including customary ancillary uses such as restaurants, trail heads, and marinas when properly integrated with the principal use of the site and adequately buffered from adjacent residential and low-intensity uses.
- (b) *Uses.* See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards.* Development in the Commercial Recreation (CR) District shall follow Table 017.1: Commercial Recreation (CR) District Dimensional Standards.

Table 017.1: Commercial Recreation (CR) District Dimensional Standards

Commercial Recreation (CR) District Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	N/A
B	Lot Width (min.)	N/A
C	Lot Depth (min.)	N/A
D	Lot Coverage (max.)	30%
E	Green Space (min.)	70%
Setback Requirements		
F	Front Setback (min.)	20 feet
G	Rear Setback (min.)	15 feet

H	Side Setback (min.)	20 feet
I	Corner Side Setback (min.)	20 feet
<i>Building and Site Requirements</i>		
J	Building Height (max.)	35 feet
K	Building Footprint (max.)	N/A
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing		Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards

Sec. 109-018. Neighborhood Commercial (C-1) District



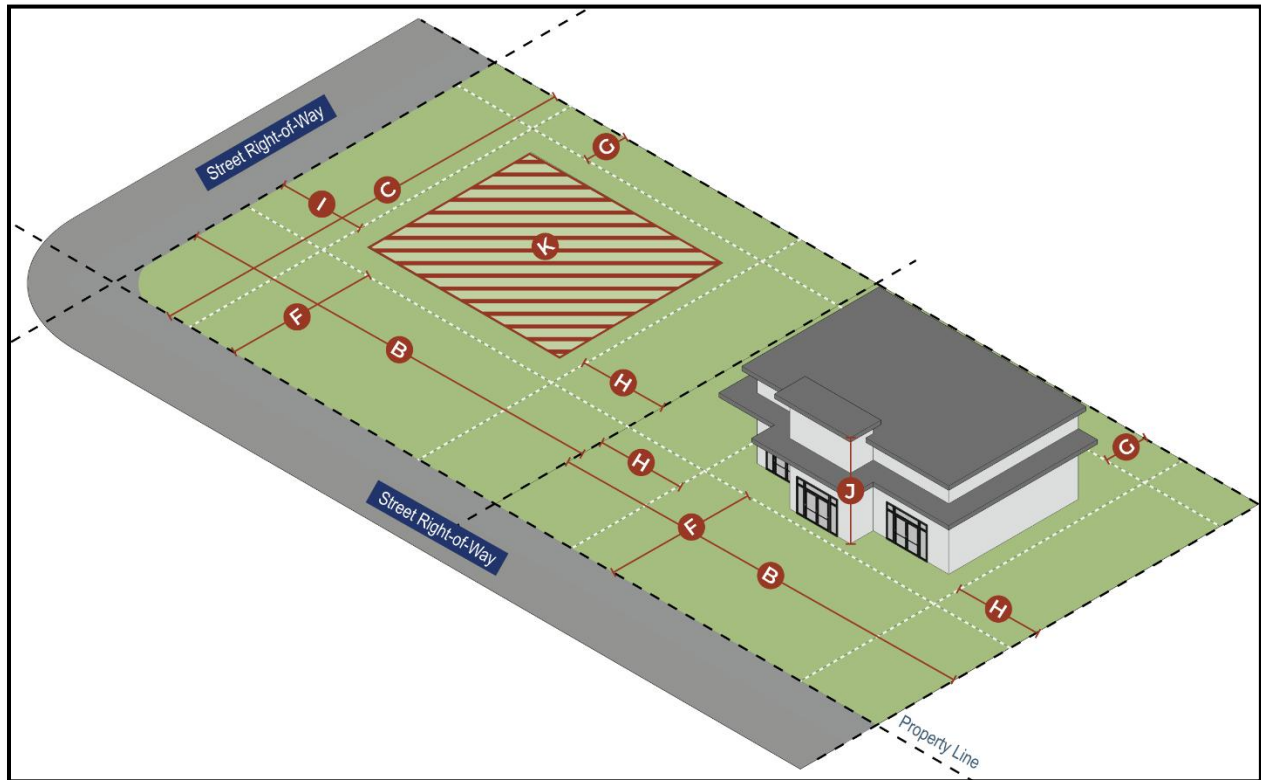
- (a) *Purpose.* The Neighborhood Commercial (C-1) District intends to provide for commercial activities such as neighborhood offices, low-intensity retail and service businesses, and restaurants which primarily serve nearby residential areas. These commercial zones should be held to performance standards ensuring compatibility with adjacent residential uses, and therefore serve well as transitional areas between higher-intensity commercial uses and residential areas.
- (b) *Uses.* See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards.* Development in the Neighborhood Commercial (C-1) District shall follow Table 018.1: Neighborhood Commercial (C-1) District Dimensional Standards.

Table 018.1: Neighborhood Commercial (C-1) District Dimensional Standards

Neighborhood Commercial (C-1) District Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	7,500 square feet
B	Lot Width (min.)	50 feet
C	Lot Depth (min.)	100 feet
D	Lot Coverage (max.)	50%
E	Green Space (min.)	50%
Setback Requirements		
F	Front Setback (min.)	10 feet
G	Rear Setback (min.)	10 feet
H	Side Setback (min.)	10 feet

I	Corner Side Setback (min.)	10 feet
<i>Building and Site Requirements</i>		
J	Building Height (max.)	40 feet
K	Building Footprint (max.)	15,000 square feet
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing		Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards

Sec. 109-019. Local Commercial (C-2) District



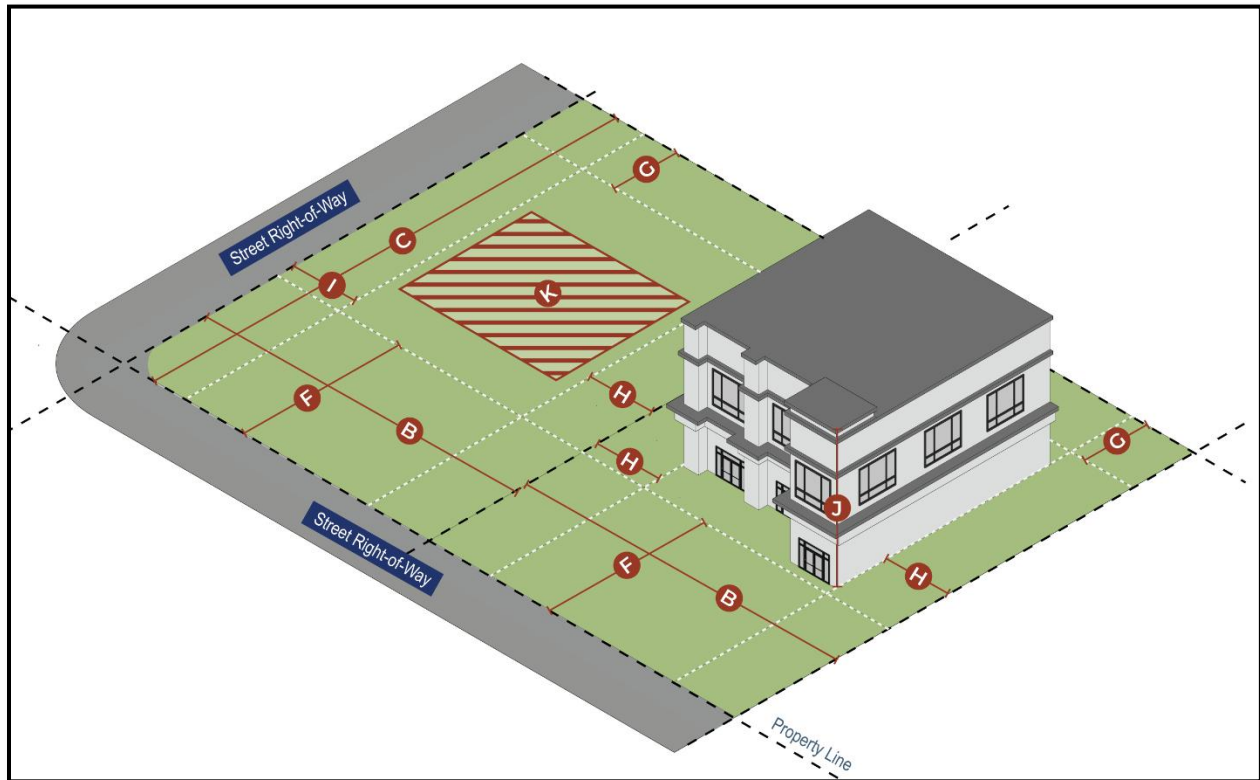
- (a) *Purpose.* The Local Commercial (C-2) District intends to provide for commercial activities of small to medium scale which may not be appropriate as transitional uses, and which may serve broader segments of the community than uses within the C-1 District. Appropriately-integrated residential uses may be present as well.
- (b) *Uses.* See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards.* Development in the Local Commercial (C-2) District shall follow Table 019.1: Local Commercial (C-2) District Dimensional Standards.

Table 019.1: Local Commercial (C-2) District Dimensional Standards

Local Commercial (C-2) District Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	10,000 square feet
B	Lot Width (min.)	100 feet
C	Lot Depth (min.)	100 feet
D	Lot Coverage (max.)	60%
E	Green Space (min.)	40%
Setback Requirements		
F	Front Setback (min.)	20 feet
G	Rear Setback (min.)	10 feet
H	Side Setback (min.)	20 feet
I	Corner Side Setback (min.)	20 feet
Building and Site Requirements		
J	Building Height (max.)	35 feet

J	Building Height (max.)	40 feet
K	Building Footprint (max.)	35,000 square feet
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing		Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards

Sec. 109-020. Mixed Commercial (C-3) District



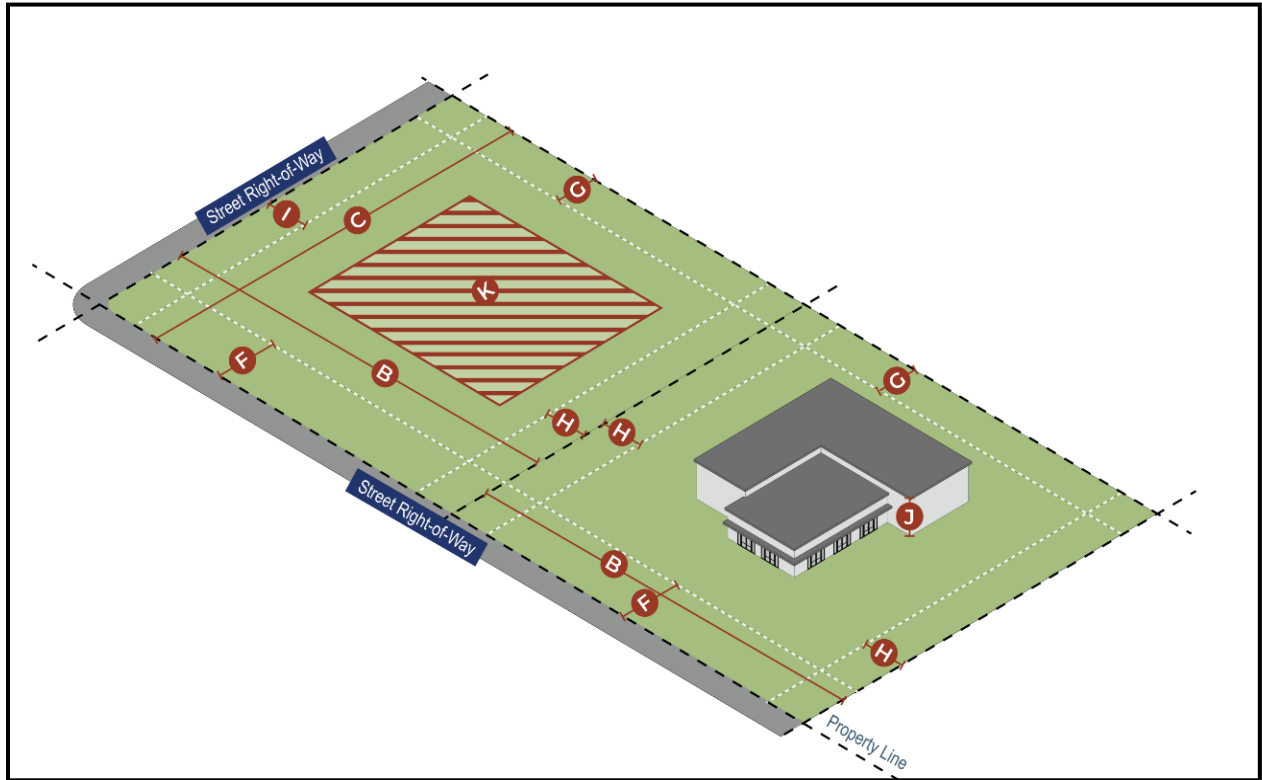
- (a) *Purpose.* The Mixed Commercial (C-3) District intends to provide for medium and large-scale office, retail, and commercial developments serving the City at large, and potentially serving a regional customer base. This District should also support mixed-use development including appropriately-integrated residential uses, parks and other public amenities, and should be afforded convenient access to major transportation routes.
- (b) *Uses.* See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards.* Development in the Mixed Commercial (C-3) District shall follow Table 020.1: Mixed Commercial (C-3) District Dimensional Standards.

Table 020.1: Mixed Commercial (C-3) District Dimensional Standards

Mixed Commercial (C-3) District Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	N/A
B	Lot Width (min.)	N/A
C	Lot Depth (min.)	N/A
D	Lot Coverage (max.)	90%
E	Green Space (min.)	10%
Setback Requirements		
F	Front Setback (min.)	N/A
G	Rear Setback (min.)	25 feet
H	Side Setback (min.)	N/A
I	Corner Side Setback (min.)	10 feet

<i>Building and Site Requirements</i>		
J	Building Height (max.)	70 feet
K	Building Footprint (max.)	N/A
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing		Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards

Sec. 109-021. Industrial Activity (IA) District



- (a) *Purpose.* The Industrial Activity (IA) District intends to accommodate all light and heavy industrial uses, as well as high-impact warehousing and resource extraction uses. These uses should all be accompanied by robust performance standards, dimensional requirements, and any other regulations needed to mitigate any of the common undesirable effects associated with these uses on adjacent properties.
- (b) *Uses.* See Table 026.1: Use Table and all applicable regulations in Article IV.
- (c) *Dimensional Standards.* Development in the Industrial Activity (IA) District shall follow Table 021.1: Industrial Activity (IA) District Dimensional Standards.

Table 021.1: Industrial Activity (IA) District Dimensional Standards

Industrial Activity (IA) District Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	87,120 square feet
B	Lot Width (min.)	100 feet
C	Lot Depth (min.)	100 feet
D	Lot Coverage (max.)	75%
E	Green Space (min.)	25%
Setback Requirements		
F	Front Setback (min.)	45 feet
G	Rear Setback (min.)	30 feet
H	Side Setback (min.)	30 feet
I	Corner Side Setback (min.)	30 feet

<i>Building and Site Requirements</i>		
J	Building Height (max.)	60 feet
K	Building Footprint (max.)	N/A
<i>Applicable Development Standards</i>		
Article IV. Division 2. – Dimensional Regulations Article IV. Division 3. – Parking and Loading Article IV. Division 5. – Landscaping Article IV. Division 6. – Outdoor Site Lighting Article IV. Division 7. – Screening Article IV. Division 8. – Fencing		Article IV. Division 9. – Architectural Design Article IV. Division 10. – Refuse Facilities Article IV. Division 11. – Signs Article IV. Division 13. – Infill Article IV. Division 14. – Performance Standards

Sec. 109-022. Planned Zoning (PZD) District

(a) *Purpose.* The Planned Zoning (PZD) District proposes a development with a mix of uses that is innovative, but which does not strictly comply with the provisions of the zoning district in which the property is located and cannot be achieved through conventional zoning. The purpose of the Planned Zoning (PZD) District is to:

- (1) Provide for maximum flexibility and diversification in the development of property;
- (2) Protect the integrity and character of both residential and nonresidential areas of the City;
- (3) Encourage efficient use of land for preservation of sensitive environmental areas such as open space and topographic features;
- (4) Encourage use of design features to achieve development that is compatible with the area; and
- (5) Allow for creative and imaginative design that will promote amenities beyond those expected in conventional developments.

(b) *Required Elements.*

- (1) A PZD shall provide a statement of purpose articulating, in general, its intended development types, relationship to the natural environment, relationship to existing development, and unique characteristics warranting its establishment as a new district.
- (2) A PZD shall provide standard minimum and/or maximum values for, or indicate the non-applicability of, the following dimensions:
 - a. Lot Area
 - b. Lot Width
 - c. Lot Depth
 - d. Lot Coverage
 - e. Green Space
 - f. Front Setback
 - g. Rear Setback
 - h. Side Setback
 - i. Corner Side Setback
 - j. Building Height
 - k. Building Footprint
- (3) A PZD shall provide a list of permitted land uses, including permanent principal uses and accessory uses, derived from those uses defined and established in Article III of this Chapter. This shall be accompanied by an acknowledgement of the sustained

applicability of all use specific standards regulating the district's permitted uses, unless a specific exemption is sought by the applicant.

- (4) A PZD shall provide by reference applicable development standards addressing all components of development established in Article IV. of this Chapter, indicating specific deviations or exemptions from these standards.
- (5) A PZD shall provide common open space. A minimum of at least 20% of the total project area, excluding right-of-way and parking lots, shall be devoted to open space that is open to tenants or customers within the PZD. Access by general public is desired.

(c) *Establishment.* See Article V. Division 2. Sec. 109-135. Sec. 109-135. and Sec. 109-139. (j)

Division 4. Overlay Districts

Sec. 109-023. Generally

Overlay districts are created to facilitate specific development outcomes in unique geographic or development contexts within Bella Vista which cannot be achieved by base zoning districts, and for which the PZD process may not be appropriate or efficient. Overlay districts do not replace base zoning, and properties within an overlay district may be rezoned, with new zoning accordingly modified by the overlay district. The regulations of a base zoning district shall remain applicable to all development within the district unless explicitly altered or nullified by the overlay district's regulations, in which case the regulations of the overlay district shall control.

Sec. 109-024. Trailside Stop Overlay

- (a) *Purpose.* The Trailside Stop Overlay intends to facilitate appropriate development around Bella Vista's multiuse trails and best capitalize on its natural character and corresponding tourism. Trailside Stop Overlay Districts may apply to any base zoning district.
- (b) *Applicability.* Trailside Stop Overlay Districts are established and applicable as shown on the adopted Zoning Map and to all trailheads within Bella Vista city limits. Each such trailhead shall define the center point of the overlay district, from which a circular area with a radius of seven hundred fifty (750) feet shall encompass the Trailside Stop Overlay.
- (c) *Standards.* All lots where at least fifty-one percent (51%) of the lot area is contained within the Trailside Stop Overlay shall be subject to the following standards:
 - (1) *Dimensional Regulations.*
 - a. The dimensional regulations of the base zoning district shall remain in effect in the Trailside Stop Overlay.
 - (2) *Uses.*
 - a. Permitted Residential Uses: All Residential Uses permitted in the base zoning district are permitted in the Trailside Stop Overlay.
 - b. Permitted Nonresidential Uses: See Table 026.1: Use Table.

(3) *Development Standards.*

- a. *Generally.* The Development Standards established in Article IV shall apply to all properties within the Trailside Stop Overlay District.

(4) *Procedures.*

- a. *Generally.* Establishment or modification of boundaries of a Trailside Stop Overlay District shall follow the procedures for Non-PZD Rezoning established in Article V. Division 2. Sec. 109-134.

ARTICLE III. USES

Division 1. Introduction

Sec. 109-025. Generally

- (a) *Purpose.* Table 026.1: Use Table lists the uses allowed within all zoning districts. All uses are defined in Sec. 109-172. Approval of a use compliant with the standards of this Article authorizes the construction and operation only of the approved use. Development or occupancy of a property for any other use not specifically allowed in Article III. and approved under the appropriate process is prohibited.
- (b) *Unlisted Uses.* If a proposed use is not specifically listed in Table 026.1: Use Table, the Director shall determine whether the use is permitted or not permitted. This determination shall be based upon the similarity in nature and character to one or more uses that are listed in Table 026.1: Use Table.
 - (1) In making this determination, the Director may consider whether the use has similar visual, traffic, environmental, parking, employment, and other impacts as an expressly listed use.
 - (2) In making this determination, the Director may also refer to empirical studies or generally accepted planning or engineering sources, such as the American Planning Association's "A Planner's Dictionary."
 - (3) Unauthorized if Prohibited.
 - a. If the Director determines that a proposed use does not fit within a given use type and is not functionally the same as an allowed, accessory, conditional, or temporary use, then the use is a prohibited use.
 - b. After furnishing the applicant with the Director's determination in writing, the same may be appealed as provided in Article V. Division 2.

Sec. 109-026. Use Table

(a) *Applicability.* This Division shall follow the requirements established in Table 026.1: Use Table.

(b) *Use-Specific Standards.* Use-specific standards are established in Division 2. and Division 3. of this Article.

Table 026.1: Use Table

Use Table														
Key	P = Use Allowed By-Right C = Use Allowed by Conditional Use Permit blank cell = Use Prohibited Sec. 109-0XX = Applicable Use-Specific Standards													
Zoning District → Use ↓	NP	AP	RE	R-1	R-2	R-3	CR	C-1	C-2	C-3	IA	TSO	Use-Specific Standards	Parking Ratios
Residential														
	<i>Household Living</i>													
Assisted Living						P		P	P	P				1.5/1,000 sf
Cottage Court					P	P		P					Division 2. Sec. 109-028. (a)	1/DU
Manufactured Home		P		P	P	P							Division 2. Sec. 109-028. (b)	2/DU
Mixed-Use Building					P	P		P	P	P			Division 2. Sec. 109-028. (c)	
Mobile Home		P				P								2/DU
Modular Home		P	P	P	P	P							Division 2. Sec. 109-028. (d)	2/DU
Multi-Family Dwelling					P	P		P	P	P			Division 2. Sec. 109-028. (e)	1/1 BRU 1.75/2 BRU 2/3 BRU
Single-Family Dwelling		P	P	P	P	P								2/DU
Townhome					P	P		P	P	P			Division 2. Sec. 109-028. (f)	2/DU
Triplex					P	P		P						2/DU
Two-Family Dwelling				P	P	P		P						2/DU
	<i>Group Living</i>													
Educational Housing						C		P	P	P				

Use Table														
Key	P = Use Allowed By-Right C = Use Allowed by Conditional Use Permit blank cell = Use Prohibited Sec. 109-0XX = Applicable Use-Specific Standards													
Zoning District → Use ↓	NP	AP	RE	R-1	R-2	R-3	CR	C-1	C-2	C-3	IA	TSO	Use-Specific Standards	Parking Ratios
Emergency and Rehabilitative Housing		P				P		P	P				Division 2. Sec. 109-028. (g)	
Commercial														
	<i>Retail Sales</i>													
Retail Store							P	P	P	P		P		
	<i>Food and Beverage</i>													
Outdoor, Mobile, or Temporary Vending		P				P	P	P	P	P		P	Division 2. Sec. 109-029. (a)	
Restaurant						P	P	P	P	P		P	Division 2. Sec. 109-029. (b)	
Tavern or Bar							P	P	P	P		P	Division 2. Sec. 109-029. (c)	
	<i>Personal Services</i>													
Day Care			P	P	P	P		P	P	P			Division 2. Sec. 109-029. (d)	
Personal Services								P	P	P				
	<i>Lodging</i>													
Bed and Breakfast			C	C	C	C		P				P	Division 2. Sec. 109-029. (e)	2/DU + 1/guest room
Hotel							C	C	P	P				
Recreational Vehicle Park							P						Division 2. Sec. 109-029. (f)	
Short-term Rental		C	P	P	P	P	P	P	P	P		P		
	<i>Professional Services</i>													
Alternative Financial Institution								P	P	P			Division 2. Sec. 109-029. (g)	
Professional and Trade Office								P	P	P				
Research Services											P			
Studio								P	P	P				
	<i>Medical Facilities</i>													

Use Table														
Key	P = Use Allowed By-Right C = Use Allowed by Conditional Use Permit blank cell = Use Prohibited Sec. 109-0XX = Applicable Use-Specific Standards													
Zoning District → Use ↓	NP	AP	RE	R-1	R-2	R-3	CR	C-1	C-2	C-3	IA	TSO	Use-Specific Standards	Parking Ratios
Clinic						P		P	P	P				
Hospital		P							P	P			Division 2. Sec. 109-029. (h)	
<i>Recreational Entertainment and Amusement</i>														
Campground		P					P					P	Division 2. Sec. 109-029. (i)	
Indoor Entertainment and Amusement Venue							P		P	P				
Outdoor Entertainment and Amusement Venue		C					P		P				Division 2. Sec. 109-029. (j)	
Sport Shooting Range		P					C		C		P		Division 2. Sec. 109-029. (k)	
<i>Animal Services</i>														
Animal Boarding		P						P	P	P			Division 2. Sec. 109-029. (l)	
Commercial Stables		P											Division 2. Sec. 109-029. (m)	
Veterinary Services		P						P	P	P	P		Division 2. Sec. 109-029. (n)	
<i>Automotive and Equipment Storage, Sales, and Service</i>														
Auto Sales									P		P		Division 2. Sec. 109-029. (o)	
Heavy Auto Repair											C		Division 2. Sec. 109-029. (p)	
Large Equipment and Materials Storage and Sales											P		Division 2. Sec. 109-029. (q)	
Light Auto Repair									P		P		Division 2. Sec. 109-029. (r)	
<i>Adult Entertainment</i>														

Use Table														
Key	P = Use Allowed By-Right C = Use Allowed by Conditional Use Permit blank cell = Use Prohibited Sec. 109-0XX = Applicable Use-Specific Standards													
Zoning District → Use ↓	NP	AP	RE	R-1	R-2	R-3	CR	C-1	C-2	C-3	IA	TSO	Use-Specific Standards	Parking Ratios
Gaming Facilities									C		C		Division 2. Sec. 109-029. (s)	
Sexually Oriented Business											C		Division 2. Sec. 109-029. (t)	
Civic														
<i>Afterlife Care</i>														
Cemetery	P	P	P	C									Division 2. Sec. 109-030. (a)	
Funeral Services								P	P	P			Division 2. Sec. 109-030. (b)	
<i>Assembly</i>														
Public Assembly		P	C	C	C	P	P	P	P	P				
Religious Land Use		P	P	P	P	P	P	P	P	P	P			
Sporting Venue		C					P		C	C				
<i>Parks and Open Space</i>														
Private Parks and Recreational Facilities	C				C	C	P	P	P			P		
Public Parks and Recreational Facilities	P	P	P	P	P	P	P	P	P	P	C	P		
<i>Government Facilities</i>														
Detention Facilities		C									C			
Government Services		P	P	P	P	P	P	P	P	P	P			
Natural Resource Preservation Area	P	P	P	P	P	P	P					P	Division 2. Sec. 109-030. (c)	
Safety Services	C	P	P	P	P	P	P	P	P	P	P	P		
<i>Educational Facilities</i>														
Business or Trade School		P						P	P	P				
College or University								P	P	C				

Use Table														
Key	P = Use Allowed By-Right C = Use Allowed by Conditional Use Permit blank cell = Use Prohibited Sec. 109-0XX = Applicable Use-Specific Standards													
Zoning District → Use ↓	NP	AP	RE	R-1	R-2	R-3	CR	C-1	C-2	C-3	IA	TSO	Use-Specific Standards	Parking Ratios
School			P	P	P	P		P	P	P			Division 2. Sec. 109-030. (e)	
<i>Cultural Facilities</i>														
Library			C				P	P	P	P			Division 2. Sec. 109-030. (d)	
Museum							P	P	P	P				
Agricultural														
Animal Production		P												
Confined Animal Feeding Operation		C												
Crop Production		P												
Horticulture		P												
Livestock Sales		C												
Industrial														
Artisan Industry		P						P	P	P	P	P		
Heavy Industry											C		Division 2. Sec. 109-031. (a)	
Light Industry											P			
Personal Storage Facility									P		P		Division 2. Sec. 109-031. (b)	
Resource Extraction		C									C			
Warehousing											P			
Miscellaneous														
<i>Infrastructure, Utilities, and Technology Uses</i>														
Alternative Energy Production		P									P	P	Division 2. Sec. 109-032. (a)	
Communications Tower	C	C	C	C	C	C	C	C	C	C	C		Division 2. Sec. 109-032. (b)	
Utility Facilities	C	P	P	P	P	P	P	P	P	P	P	P		
<i>High-Impact Uses</i>														
Landfill											C		Division 2. Sec. 109-032. (c)	

Use Table														
Key	P = Use Allowed By-Right C = Use Allowed by Conditional Use Permit blank cell = Use Prohibited Sec. 109-0XX = Applicable Use-Specific Standards													
Zoning District → Use ↓	NP	AP	RE	R-1	R-2	R-3	CR	C-1	C-2	C-3	IA	TSO	Use-Specific Standards	Parking Ratios
	<i>Marijuana Uses</i>													
Medical Marijuana Cultivation Facilities		P									P		Division 2. Sec. 109-032. (e)	
Medical Marijuana Dispensaries									C		C		Division 2. Sec. 109-032. (f)	
	Accessory Uses													
	<i>Residential</i>													
Accessory Dwelling Unit		P	P	P	P	P		P				P	Division 3. Sec. 109-037. (a)	
Carport		P	P	P	P	P		P	P	P	P	P	Division 3. Sec. 109-037. (b)	
Dock or Pier	P	P	P	P	P	P	P	P	P	P	P		Division 3. Sec. 109-037. (c)	
Home Occupation		P	P	P	P	P		P	P	P		P	Division 3. Sec. 109-037. (d)	
Private Stable		P	P	C										
Hobby Chickens		P	P	P	P	P							Article IV. Division 15. Sec. 109-111. (c)	
Livestock		P	P										Article IV. Division 15. Sec. 109-111. (d)	
Personal Recreational Facilities		P	P	P	P	P		P	P	P		P		
	<i>Nonresidential</i>													
Accessory Alternative Energy Production		P	P	P	P	P		P	P	P	P		Division 3. Sec. 109-037. (e)	
Accessory Building	C	P	P	P	P	P	P	P	P	P	P	P	Division 3. Sec. 109-037. (f)	
Automatic Teller Machine								P	P	P			Division 3. Sec. 109-037. (g)	

Use Table														
Key	P = Use Allowed By-Right C = Use Allowed by Conditional Use Permit blank cell = Use Prohibited Sec. 109-0XX = Applicable Use-Specific Standards													
Zoning District → Use ↓	NP	AP	RE	R-1	R-2	R-3	CR	C-1	C-2	C-3	IA	TSO	Use-Specific Standards	Parking Ratios
Drive-in Facility									P				Division 3. Sec. 109-037. (h)	
Drive-through Facility								C	P				Division 3. Sec. 109-037. (i)	
EV Charging Station		P	P	P	P	P	P	P	P	P	P		Division 3. Sec. 109-037. (j)	
Fuel Pumps									P		P		Division 3. Sec. 109-037. (k)	
Marina	C						P	P	P	P			Division 3. Sec. 109-037. (l)	
Outdoor Dining							P	P	P	P		P	Division 3. Sec. 109-037. (m)	
Outdoor Display									P	P	P	P	Division 3. Sec. 109-037. (n)	
Outdoor Storage		P							P	P	P		Division 3. Sec. 109-037. (o)	

Division 2. Use-Specific Regulations

Sec. 109-027. Generally

- (a) *Applicability.* This Division provides additional standards for certain permitted uses in a zoning district, as shown in the Use Specific Standards column of Table 026.1: Use Table. A building permit or certificate of occupancy shall not be issued for any permitted use with Use Specific Standards until all of the required criteria have been met.
- (b) *Residential Adjacency.* Wherever a nonresidential use is permitted adjacent to and abutting a residential use or district, the nonresidential use shall be subject to additional buffering, screening, or other standards which mitigate increased noise, light, odor, or other effects commonly associated with nonresidential uses from extending beyond the property line and impacting the residential use or district. These standards shall include the following:
 - (1) Minimum side and rear setbacks shall be increased by ten (10) feet parallel to all property lines which abut residential uses or districts.
 - (2) Type A screening as defined in Sec. 109-074. shall be installed.
 - (3) Fencing as established in Sec. 109-077. shall be installed.
 - (4) Outdoor lighting designed as regulated in Sec. 109-071. , and constructed to prevent light trespass or light pollution of surrounding residential uses shall be installed.
 - (5) Any additional buffering, screening, or other requirements particular to the nonresidential use in question as established in this Division shall be installed.

Sec. 109-028. Residential Uses

- (a) Cottage Court
 - (1) A Cottage Court shall have at its center a common green space.
 - (2) The front door of each Cottage within the Cottage Court shall face the common green space, with requisite pedestrian access infrastructure, such as sidewalks or similar paved or otherwise improved paths, extending from the front of each Cottage into the perimeter of the common green space or through the common green space as reflected on an approved site plan.
 - (3) The maximum building height for Cottages within the Cottage Court shall conform to that of the zoning district in which the Cottage Court is proposed.
 - (4) The maximum lot coverage and minimum front, rear, and side setbacks of each lot in the Cottage Court shall accord to that of the zoning district in which the Cottage Court is proposed.
 - (5) Each Cottage within the Cottage Court shall take vehicular access from its rear side.
- (b) Manufactured Home
 - (1) Single Manufactured Homes

- a. A Manufactured Home shall conform to all applicable zoning regulations for its respective zoning district.
- b. A Manufactured Home shall comply with setbacks, subdivision control, landscaping, square footage, and other site requirements applicable to single-family dwellings.
- c. A Manufactured Home shall be securely fixed to a permanent foundation.
- d. A Manufactured Home shall be set on a solid slab structure and/or 18- to 20-inch runners.

(2) Manufactured Home Park

- a. A Manufactured Home Park provides for an area designed and platted for the permanent parking of manufactured homes, with parking spaces in a predetermined arrangement.
- b. In addition to the requirements provided in Sec. 109-028. (b)(1), a Manufactured Home Park shall meet the following requirements:
 1. All lots and areas shall include on-site, hard surface, off-street parking spaces.
 2. A manufactured home park must provide water, sewer or septic, electric utilities, and streets and may also provide playgrounds and public use areas.
 3. *Lot Requirements.* The following lot requirements apply to a Manufactured Home Park:
 - a) The minimum lot size shall be no less than fourteen thousand 14,000 square feet ($\frac{1}{3}$ or 0.32 acres) in size.
 - b) The minimum street frontage shall be no less than fifty (50) feet.
 - c) The minimum lot width shall be no less fifty (50) feet. Lot width is measured at the building setback.
 - d) The minimum lot depth shall be no less than one hundred (100) feet.
 - e) Maximum lot coverage shall be no more than thirty-five (35) percent of the parcel area.
 4. *Setback Requirements.* The following setbacks requirements apply to a Manufactured Home Park:
 - a) A minimum front setback from all property lines shall be twenty (20) feet, unless otherwise stated on the subdivision plat.
 - b) A minimum side setback of 15 feet shall be established parallel to all street right-of-way lines, unless otherwise stated on the subdivision plat.
 - c) A minimum side setback of ten feet shall be established parallel to side property lines, unless otherwise stated on the subdivision plat.

- d) A minimum rear setback of 20 feet shall be established parallel to rear property lines, unless otherwise stated on the subdivision plat.
- e) Setbacks between any Manufactured Home and any other structures within the park shall be a minimum of ten (10) feet.
- f) Lots or parcels with access to bodies of water shall have at least 25-foot setback from the water's edge in which no primary and accessory structures may be built, except as provided in Sec. 109-037. (c).

5. *Height Requirements.* The maximum building height in a Manufactured Home Park shall be forty (40) feet.

(c) Mixed-Use Building

- (1) Where a Mixed-Use Building contains residential uses, the residential uses shall not occupy the floor at ground level, but nonresidential uses may occupy the ground floor and higher floors

(d) Modular Home

- (1) A Modular Home shall meet or exceed all building code requirements that apply to other dwelling units concerning on-site construction.
- (2) A Modular Home shall conform to all applicable zoning regulations for its respective zoning district.
- (3) A Modular Home shall comply with all site and other requirements applicable to single-family dwellings established in Article IV.
- (4) A Modular Home shall be securely fixed to a permanent foundation.

(e) Multi-Family Dwelling

- (1) Where a Multi-Family Dwelling is erected to create inner courts, the faces of all opposite walls in those courts shall be at least thirty (30) feet apart, and no balcony or canopy shall extend into that court area more than five (5) feet.
- (2) A Multi-Family Dwelling in the R-2 Moderate Density Residential District shall not contain more than twelve (12) dwelling units.
- (3) A Multi-Family Dwelling shall comply with all applicable standards and regulations established in Article IV.

(f) Townhome

- (1) Side setback requirements do not apply to Townhomes at adjoining walls.
- (2) All other setback requirements shall remain in accordance with the standards established in the zoning district in which the Townhomes are located.
- (3) Lot widths may be reduced to a minimum of twenty (20) feet, and total minimum lot areas may be adjusted accordingly based on this requirement and on the required lot depth.

(g) Emergency and Rehabilitative Housing

- (1) The Emergency and Rehabilitative Housing facility shall not be within one-thousand (1,000) feet of a(n):
 - a. Educational Facility;
 - b. Public Park or Recreational Facility;
 - c. Religious Land Use;
 - d. Day Care; or
 - e. Another Emergency and Rehabilitative Housing facility.
- (2) Emergency and Rehabilitative Housing shall not accept visitors or non-emergency patient or occupant intake or discharge earlier than 6:00 A.M. or later than 10:00 P.M. during any day of the week.

Sec. 109-029. Commercial Uses

(a) Outdoor, Mobile, or Temporary Vending

- (1) Outdoor vending. The following requirements shall apply to outdoor vending at fixed locations:
 - a. Trailside Stop Overlays are exempt from the regulations of Outdoor Vending established here.
 - b. Private property.
 1. Single Vendor.
 - a) Number of Vendors. Only one (1) outdoor vendor shall be permitted per lot. However, if more than one vendor is proposed for a single lot, it shall be considered an outdoor vendor park and shall meet the requirements for Outdoor Vendor Park below.
 - b) Permission required. Outdoor vendors shall first obtain written permission from the property owner prior to submitting for an application.
 - c) Size restrictions. The area occupied by a vendor shall not exceed 900 square feet and shall be located on hard surface paving.
 2. Outdoor vendor park.
 - a) Requirements. The property owner proposing an outdoor vendor park may be required to make any of the following necessary improvements to the property in order to meet the city development codes and be approved for this semi-permanent use:
 - 1) Make any improvements necessary to the site to meet the requirements of this Chapter's Landscaping, Screening and Fencing provisions.

- 2) Make any improvements necessary to the site to meet the requirements of this Chapter's Parking and Loading provisions. This may include paving, striping and the construction or designation of handicapped parking spaces.
 - 3) Make any necessary improvements to provide permanent utility connections for each outdoor vending unit in the outdoor vendor court. This shall include permanent water, sanitary sewer and electricity connections.
 - 4) Make any improvements necessary to ensure safe pedestrian and vehicular access to the site. This may include sidewalk and curb-cut improvements.
 - 5) Individual outdoor vendor units operating in an outdoor vendor park shall obtain shall meet all of the applicable requirements.
- c. Public property/right-of-way. Outdoor vending on public right-of-way and public property shall only be permitted at the discretion of the approval authority processing the application to establish an Outdoor, Mobile, or Temporary Vending use.
- d. Location restrictions. No outdoor vendor shall be permitted to operate in the following areas:
1. Within 10 feet of any street intersection or pedestrian crosswalk.
 2. Within 10 feet of any driveway, loading zone or public transit stop.
 3. In any area within 15 feet of a building entrance.
 4. On the median strip of a divided roadway unless the strip is intended for use as a pedestrian mall or plaza.
 5. Any area within 100 feet of a hospital, college or university, or a school.
 6. Within 10 feet of any fire hydrant or fire escape.
 7. Within 10 feet of any parking space or access ramp designated for persons with disabilities.
 8. In a public parking space or public parking lot unless located in a Trailside Stop Overlay.
 9. Within 25 feet of any public transit stop sign unless located in a Trailside Stop Overlay.
 10. Within 50 feet of a driveway to a safety services use.
 11. Within 50 feet of principal public entrance to food and beverage business not owned by vendor.
 12. Any area that obstructs pedestrian traffic. Must provide four (4) feet clear passageway for pedestrians at all times.

13. Vacant or undeveloped property.
 14. Any location other than the assigned location as expressly described on the permit.
 15. On grass.
 - e. Hours of operation. Outdoor vendors shall be allowed to engage in the business of vending only between the hours of 7:00 a.m. and 10:00 p.m.
 - f. Mobility. The conveyance used by the outdoor vendor shall be mobile, able to be moved freely or easily, and may not be a permanent structure.
- (2) Mobile food vending. The following requirements apply to mobile food vendors:
- a. Equipment Requirements. All mobile food vendor conveyances shall have the following features:
 1. Convex mirror mounted on the front of the vehicle such that the driver in their normal seating position can see the area in front of the truck obscured by the hood.
 2. "SLOW CHILDREN CROSSING" sign printed in six-inch black letters on yellow background on both the front and back of the vehicle.
 3. Passenger side mirror.
 4. Business name, address and phone number printed in 2" letters on each side of the vehicle.
 5. Trash receptacle.
 6. "Slow" signal arm that can be extended horizontally from the left side of the truck. This arm shall be yellow with six-inch black lettering and two alternating flashing amber lights three to five inches in diameter. The bottom of the signal arm shall be approximately 42" above the roadway or street.
 7. The vehicle shall be lawfully parked or stopped before vending can take place.
 - b. General Requirements.
 1. "Slow" signal arm shall be deployed when vehicle is stopped for vending purposes.
 2. The vehicle shall not be stopped for vending purposes when no customers are present.
 3. Vending shall take place from the right side of the vehicle.
 4. Vending shall not occur with a customer standing within the roadway.
 5. Vending shall only include prepackaged products.
 6. Vehicles shall not be operated in reverse to accommodate a customer.
 - c. Location restrictions.

1. Mobile food vending shall only take place on streets where on-street parking is allowed.
 2. No vending shall be permitted within 500 feet of a school while school is in session and one hour before and after school is in session.
 - d. Hours of operation. Mobile food vendors shall be allowed to engage in the business of vending only between 10:00 a.m. and 30 minutes before sunset.
- (3) Littering and trash removal.
- a. Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from the operation of their business. All trash or debris accumulating within 25 feet of any vending stand shall be collected by the vendor and deposited in a trash container.
 - b. Persons engaged in food vending shall provide a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter.
- (4) Prohibited conduct. No person authorized to engage in the business of vending under these regulations shall do any of the following:
- a. Unduly obstruct pedestrian or motor vehicle traffic flow, except for up to 20 minutes to load and unload vending conveyance and/or vending merchandise.
 - b. Obstruct traffic signals or regulatory signs.
 - c. Stop, stand or park any motor vehicle or any other conveyance upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.
 - d. Leave any conveyance unattended at any time or store, park, or leave such conveyance in a public way overnight.
 - e. Use any conveyance that when fully loaded with merchandise cannot be easily moved and maintained under control by the permittee, their employee or an attendant.
 - f. Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention. However, mobile food vendors are permitted to play non-vocal music within the regulations of the City of Bella Vista noise regulations, but shall not do so within 500 feet of hospitals, schools or churches.
 - g. Conduct their business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
 - h. Use, install or display any signage or lighting that is not in compliance with the regulations of this Chapter and Chapter 107.

- i. Alter the vehicle to allow for additional signage.
 - j. No vending conveyance or other item related to the operation of a vending business shall be located on any city sidewalk or other public way during non-vending hours. Nor shall any mobile food vehicle be parked, stored or left overnight other than in a lawful parking place.
 - k. Run hoses, cords or other apparatus across a pedestrian pathway.
 - l.
- (b) Restaurant
 - (1) Drive-through and Drive-in Facilities shall only be permitted as accessory uses to Restaurants in the C-2 district. Drive-through Facilities may be permitted conditionally as an accessory use to Restaurants in the C-1 district.
 - (2) Where a new Restaurant is permitted in the R-3 Mixed Residential district, it is subject to the following standards:
 - a. Drive-through and Drive-in Facilities are prohibited.
 - b. Outdoor Dining may be permitted as an accessory use and shall meet the requirements provided in Sec. 109-037. (m).
- (c) Tavern or Bar
 - a. A Tavern or Bar shall demonstrate compliance with Arkansas Alcoholic Beverage Control Enforcement requirements, and all other applicable State and Federal regulations.
- (d) Day Care
 - (1) A Day Care shall comply with any statutes regulating such uses as established by the State of Arkansas, including but not limited to the Arkansas Child Care Licensing Act, as amended.
- (e) Bed and Breakfast
 - (1) A Bed and Breakfast shall be considered to be a single-family residential structure and shall not be treated as a hotel, and shall not operate as a restaurant.
 - (2) A Bed and Breakfast shall be owner-occupied, with a maximum of four outside employees permitted to help operate the business.
 - (3) A Bed and Breakfast shall conform to all federal, state, and local laws and regulations concerning health, safety, licensing, nondiscrimination, or any other applicable law or regulations.
 - (4) A Bed and Breakfast shall have a working smoke detector in every sleeping room and a fire extinguisher in proper working order on every floor, and shall otherwise conform to all applicable building, fire, and life safety regulations.
 - (5) No significant or substantial landscaping or structures shall be removed to provide the required parking.

- (6) Prior to occupancy as a Bed and Breakfast, inspections shall be made by the City and any other inspection required by state and federal laws.
 - (7) A site plan of the property and a building floor plan shall be submitted with the application for a conditional use permit showing entryways, guest room locations, exits, verification of compliance with building, fire, and life safety codes, and any other information required by City staff or the Planning Commission.
 - (8) A maximum of five bedrooms may be available for rental for a maximum of five consecutive nights to any one guest and breakfast may only be served to registered guests.
 - (9) There shall be no individual cooking facilities for guests.
 - (10) The facilities shall not be rented for receptions, parties, weddings or similar activities unless potential negative impacts, including, but not limited to, traffic, parking and noise, have been addressed and the activity is specifically permitted in the use permit.
 - (11) Prior to any functions located at the Bed and Breakfast, the City shall be contacted and a temporary use permit requested. At this time the proposed activity will be evaluated, and if allowed, a temporary use permit may be issued for that particular event with a set time period, not to exceed three days. A maximum of four temporary permits shall be issued per year.
- (f) Recreational Vehicle Park
- (1) A Recreational Vehicle Park shall provide adequate access and internal maneuverability for moveable sleeping quarters.
 - (2) A Recreational Vehicle Park shall clearly define, through paint striping, fencing, posts, parking blocks, or other visible indicators or blockages, drive aisles, parking areas, and pedestrian paths where applicable.
 - (3) A Recreational Vehicle Park shall principally be constructed from improved surfaces, whether pavement or permeable materials such as pavers or gravel.
 - (4) A Recreational Vehicle Park shall not be within three hundred (300) feet of any residential district.
- (g) Alternative Financial Institution
- (1) No Alternative Financial Institution shall be located within:
 - a. Five hundred (500) feet of any residential district or use.
 - b. Two hundred fifty (250) feet of any School or Religious Land Use.
 - c. One thousand (1,000) feet of another Alternative Financial Institution.
- (h) Hospital
- (1) No building, work area or recreation area on Hospital grounds shall be within 100 feet of any residential zoning district.

- (2) If a Hospital is adjacent to a residential zoning district, screening shall be provided as established in Sec. 109-074.
- (3) Screening shall be at least eight feet tall, well maintained and in good condition.
- (i) Campground
 - (1) A permanently-installed waste receptacle is required for every two thousand (2000) square feet of campground space, which must be emptied a minimum of three times per week.
- (j) Outdoor Entertainment and Amusement Venue
 - (1) An Outdoor Entertainment and Amusement Venue shall not be within three hundred (300) feet of any residential zoning district.
 - (2) Any driving or racing facilities associated with an Outdoor Entertainment and Amusement Venue, such as go-kart tracks and bumper cars, shall not be located within two thousand (2,000) feet of any residential zoning district.
 - (3) Any Outdoor Entertainment and Amusement Venue outdoor lighting shall not operate earlier than 8:00 A.M. on any day of the week, nor shall it operate later than 9:00 P.M. from Sunday to Thursday, nor shall it operate later than 10:00 P.M. from Friday to Saturday.
- (k) Sport Shooting Range
 - (1) A Sport Shooting Range shall not be within one thousand (1,000) feet of any residential zoning district, any Religious Land Use, or any Civic uses.
 - (2) A Sport Shooting Range shall comply with all applicable State and Federal regulations.
 - (3) A Sport Shooting Range shall be constructed as an indoor facility, and all shooting activities shall occur within a fully enclosed structure, subject to the following standards:
 - a. Backstop material must be sufficient to prevent projectile overflow of all munitions permitted for use within the facility, and shall be demonstrated via written documentation to conform to the standards for indoor ranges established by the United States Environmental Protection Agency.
 - b. Peripheral walls and ceiling materials around shooting lanes must be sufficient to prevent projectile overflow of all munitions which may be accidentally discharged away from backstop material.
 - c. Construction techniques and materials must ensure no noise, odor, or other adverse effects extend beyond the property line of the lot or parcel on which the Sport Shooting Range is located.
 - d. Shooting lanes shall be oriented such that projectiles are discharged away from public roadways.

- e. A Sport Shooting Range shall not operate earlier than 9:00 A.M. during any day of the week, nor shall it operate later than 9:00 P.M. during any day of the week.

(l) Animal Boarding

(1) In the Neighborhood Commercial (C-1) District

- a. The Animal Boarding shall not be located within one hundred (100) feet of any residential district.
- b. No outside runs are allowed.

(2) In any other zoning district

- a. The Animal Boarding shall not be located within two hundred fifty (250) feet of any residential district.
- b. Outside runs shall be operated only with an attendant present on the premises twenty-four (24) hours a day.
- c. At a minimum, the animals shall be enclosed within a six-foot (6') fence or wall to restrain animals from running at large.

(m) Commercial Stables

- (1) Commercial Stables shall be constructed and maintained to provide safe and humane conditions for all animals housed within.
- (2) Commercial Stables shall facilitate safe operation by staff, patrons, and others, and shall ensure that animals can be safely transported into and out of the structure.
- (3) Accessory structures and uses necessary to the housing and sustainment of boarded animals, such as caretaker's quarters, educational or training facilities for equitation, or incidental storage areas, may be permitted.

(n) Veterinary Services

(1) Generally

- a. If the Veterinary Services facility offers boarding, treatment, or other services in whole or in part to large, exotic, or livestock animals such as horses, cows, sheep, or goats, then the facility must construct adequate screening or other facilities to inhibit effects such as noise from impacting surrounding properties.

(2) In the Neighborhood Commercial (C-1) District

- a. No outside runs are allowed.

(3) In any other zoning district

- a. Outside runs are allowed.
- b. Outside runs shall be operated only with an attendant present on the premises twenty-four (24) hours per day.

- c. At a minimum, animals shall be enclosed within a six-foot (6') fence or wall to restrain animals from running at large.

(o) Auto Sales

- (1) Auto Sales shall not be within one hundred fifty (150) feet of any residential district, or another Auto Sales use.
- (2) No more than 50% (fifty percent) of the total building floor area may be used for related accessory uses such as retail sales, repair and service, and washing.
- (3) Inventory parking spaces shall not contribute to the total parking provided by the use.

(p) Heavy Auto Repair

- (1) Heavy Auto Repair shall not be within three hundred (300) feet of any residential district.
- (2) All Heavy Auto Repair operations and activities shall occur behind adequate screening or within a fully enclosed structure sufficient to prevent noise, glare, odors, heat, or other adverse effects from extending beyond the property line of the lot or parcel on which the Heavy Auto Repair use is permitted.

(q) Large Equipment and Materials Storage and Sales

- (1) Large Equipment and Materials Storage and Sales shall not be within three hundred (300) feet of any residential district.
- (2) Where the use is engaged in the storage, display, and sale of agricultural and construction materials such as feed, grain, paint, lumber, or others, these materials shall be stored within a screened, partially enclosed, or fully enclosed structure such as a barn, silo, shed, or incidental warehousing structure.

(r) Light Auto Repair

- (1) Light Auto Repair shall not be within one hundred fifty (150) feet of any residential district.
- (2) All Light Auto Repair operations and activities shall occur within a fully enclosed structure sufficient to prevent noise, glare, odors, heat, or other adverse effects from extending beyond the property line of the lot or parcel on which the Light Auto Repair use is permitted.

(s) Gaming Facilities

- (1) Gaming Facilities shall not be within one thousand (1,000) feet of a(n):
 - a. Educational Facility;
 - b. Public Park or Recreational Facility;
 - c. Religious Land Use;
 - d. Day Care;
 - e. Alternative Financial Institution; or

- f. Any other Gaming Facilities.
- (t) Sexually Oriented Businesses
 - (1) *Separation.* A Sexually Oriented Business shall not be located or operated within a half-mile (2,640 feet) radius, as measured from the lot's property lines, of:
 - a. A Religious Land Use;
 - b. A School;
 - c. A Day Care;
 - d. A property line of all residential zoning districts;
 - e. A Public Park or Recreational Facility;
 - f. An Outdoor Entertainment and Amusement Venue;
 - g. An Indoor Entertainment and Amusement Venue;
 - h. A Hospital;
 - i. Any properties listed on the National Register of Historical Places or local historic districts as identified by the Arkansas Historic Preservation Program;
 - j. Another Sexually Oriented Business; or
 - k. Any building premises, private club or establishment that sells or dispenses any alcoholic beverage.
 - (2) *Prohibited Activities.* A Sexually Oriented Business shall not be conducted in any manner that provides the observation of any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," from any public right-of-way. This provision shall apply to any and all displays, decorations or show windows.
 - (3) *Subsequent Location of Certain Other Uses.* A lawfully operating sexually oriented business shall not be rendered illegal by the subsequent location of any of the uses or items specified in Sec. 109-029. (t)(1), above.

Sec. 109-030. Civic Uses

- (a) Cemetery
 - (1) A Cemetery shall be a minimum of two (2) acres in area.
 - (2) No structure, excluding fences, walls, or other permitted screening structures, shall be permitted within fifty (50) feet of any residential use or district.
 - (3) Graves and monuments shall be set back at least twenty (20) feet from all property lines.
- (b) Funeral Services

- (1) Where a Funeral Services use is permitted to include facilities on the premises for embalming or cremating human remains, the Funeral Services use shall not be within three (300) feet of a(n):
 - a. Residential district;
 - b. Civic use except for Cemeteries;
 - c. Day Care; or
 - d. Recreational Entertainment and Amusement use.

(c) Natural Resource Preservation Area

- (1) A Natural Resource Preservation Area shall be left in as near a condition to its natural, unaltered state as possible.
- (2) Land clearance or disturbance, and installation of infrastructure or other buildings or uses, shall be minimized to the extent possible without impacting the health, safety, and welfare of the public.

(d) Library

- (1) When located within a residential zoning district, a Library shall have its primary vehicular entrance and exit onto a major street or on another thoroughfare within one hundred fifty (150) feet of its intersection with a major street.

(e) School

- (1) All queuing of vehicles for student pick-up and drop-off shall occur on School property using the School's parking, loading, and stacking facilities, and no queuing shall occur in the public right of way.
- (2) Painted, illuminated, or signaled crosswalks may be required at pedestrian access points to the School property.
- (3) Irrespective of the District in which a School is located, the school may construct signage in accordance with the permissions of the R-3 District as established in Table 382.1.
- (4) Bicycle parking shall be provided on the School property in accordance with Article IV. Division 3. Sec. 109-052.
- (5) In the RE, R-1, and R-2 Districts:
 - a. Vehicle parking shall be minimized to the amount needed to provide parking for all faculty and staff and no more than one (1) additional parking space per classroom in addition to any required ADA parking spaces.
 - b. Vehicle parking shall be oriented toward and take access from the most major thoroughfare possible in order to protect less intense neighborhood uses from noise and traffic.

- c. Outdoor lighting associated with sports facilities shall not operate earlier than 7:00 A.M. on any day of the week, nor shall it operate later than 9:00 P.M. from Sunday to Thursday, nor shall it operate later than 10:00 P.M. from Friday to Saturday.

Sec. 109-031. Industrial Uses

(a) Heavy Industry

- (1) Heavy Industry shall not be within two-thousand six-hundred forty (2,640) feet of a(n):
 - a. Residential district;
 - b. Civic use;
 - c. Day Care;
 - d. Medical Facilities use;
 - e. Animal Services use; or
 - f. Recreational Entertainment and Amusement use.

(b) Personal Storage Facility

- (1) A Personal Storage Facility shall be secured to limit access to tenants or owners, and to Fire, Police, or emergency service officials.
- (2) A Personal Storage Facility shall provide adequate drive aisles between all buildings for vehicle circulation and emergency services access.
- (3) A Personal Storage Facility shall not permit the storage of explosives, ammunition, or other materials that are flammable or hazardous.
- (4) Units within the Personal Storage Facility shall be used solely for the purpose of storage of goods and possessions, and shall not be used for operation of a business, hobby activities, residents, or any other use not related to the storage of the personal property of the tenant or owner of the unit.
- (5) No outdoor storage is permitted in the C-2 or C-3 districts in association with this use.
- (6) Outdoor storage may be permitted within the IA district in approved on-site areas for vehicles and recreational equipment if they are covered by an awning or canopy structure.

Sec. 109-032. Miscellaneous Uses

(a) Alternative Energy Production

- (1) Alternative Energy Production and all equipment included shall demonstrate compliance with all Federal and State requirements imposed on such facilities.
- (2) Wind Energy Conversion Systems
 - a. Setbacks

1. A minimum of 1.1 times the total extended height of the wind turbine, as measured from the average ground level of the lot to the uppermost part of the wind turbine, from the project property lines.
2. Guy wire anchors may not extend closer than ten (10) feet from any property line.
- b. A maximum of four wind turbines are permitted per acre.
- c. Subject to the above-referenced setback requirements, the maximum total extended height of tower-mounted wind energy conversion systems, as measured from the average ground level of the lot to the uppermost part of the wind turbine, is seventy (70) feet on parcels less than five (5) acres in size and one hundred forty (140) feet on parcels five (5) acres or greater. If roof-mounted, the extended height shall not exceed ten (10) feet above the roof ridge and in no case be higher than thirty-five (35) feet.
- d. Wind system towers shall not be artificially lit unless required, in writing, by the FAA or other applicable authority that regulates air safety. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations; the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground; and no strobe lighting shall be permitted, unless expressly required by the FAA.
- e. Access
 1. The tower shall be designed and installed so that there shall be no exterior step bolts or a ladder on the tower readily accessible to the public for a minimum height of twelve (12) feet above the ground. For lattice or guyed towers, sheets of metal or wood or other barrier shall be fastened to the bottom tower section such that it cannot readily be climbed; and
 2. All ground-mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
- f. Rotor Safety
 1. Each wind turbine shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. An external, manual shutoff switch shall be included with the installation.
 2. The minimum distance between the ground and any protruding blades utilized on a private wind turbine shall be ten (10) feet, as measured at the lowest point of the arc of the blades.
 3. All blades of a wind turbine are required to be within a shroud.
- g. Noise
 1. No wind energy conversion system or combination of wind energy conversion systems on a single lot or parcel shall create noise that exceeds a maximum of thirty-five (35) decibels (dBA) at any property line where the property on which

the wind energy conversion system(s) is located or the abutting property is less than one acre. On a single lot or parcel that a wind energy conversion system or a combination of wind energy conversion systems are located that is larger than one acre, the maximum noise level shall be fifty (50) decibels (dBA) at any other property line. Measurement of sound levels shall not be adjusted for or averaged with non-operating periods. A manufacturer's sound report shall be required with a building permit application.

2. Any wind energy conversion system(s) exceeding these levels shall immediately cease operation upon notification by the Director. The system(s) may not resume operation until the noise levels have been reduced and verified by an independent third-party inspector, approved by the Director, at the property owner's expense. Upon review and acceptance of the third-party noise level report, the Director will allow the operation of the affected wind energy conversion system(s). Wind energy conversion system(s) unable to comply with these noise level restrictions shall be shut down immediately and removed upon notification by the Director after a period established by the Director.
- h. Aesthetics and Maintenance
1. Wind turbines, unless subject to any applicable standards of the FAA, shall be a non-obtrusive color such as tan, sand, gray, black, or similar colors. The painting or coating shall be kept in good repair for the life of the wind turbine. In addition, any changes to the approved color shall result in notification by the Director that the affected wind turbine(s) shall cease operation until a color correction has been made. If the affected wind turbine(s) are not repainted using an approved color within the period established by the Director, the owner shall remove the affected wind energy conversion system(s).
 2. All electrical wires leading from the tower to electrical control facilities shall be located underground.
 3. Wind turbines shall be maintained in good repair, as recommended by the manufacturer's scheduled maintenance or industry standards.
- i. One sign is allowed on the wind turbine and it shall not exceed one square foot in size.
- j. All wind turbines shall comply with applicable FAA regulations, including any necessary approvals for installations.
- k. An Arkansas professional engineer sealed drawing or statement shall accompany a building permit application confirming that the wind energy conversion system(s) has been designed and is planned to be constructed in accordance with accepted industry standards and certified safe.
- l. Repair and Removal of Wind Turbines
1. Any wind turbine found to be unsafe by the Director or Fire Department shall immediately cease operation upon notification by the Director or Fire

Department and shall be repaired by the owner to meet federal, state, and local safety standards or be removed within six (6) months. Wind turbines that are not operated for a continuous period of twelve (12) months shall be removed by the owner of the wind turbine.

2. When a wind turbine is removed from a site, all associated and ancillary equipment, batteries, devices, structures, or support(s) for that system shall also be removed. For the purposes of this Subsection, non-operation shall be deemed to include, but shall not be limited to, the blades of the wind turbine remaining stationary so that wind resources are not being converted into electric or mechanical energy, or the wind turbine is no longer connected to the public utility electricity distribution system.

m. Galvanized steel or metal is the acceptable system for the support structures.

n. Compliance with Regulations

1. All wind energy conversion systems shall comply with applicable fire codes and building codes.

(3) Solar Energy System

a. *Setbacks.* All Solar Energy System panels, equipment, and associated security fencing shall be setback:

- a) One hundred (100) feet from a:
 - 1) Public right-of-way; or
 - 2) Water body.
- b) Fifty (50) feet from all property lines.

b. Height and Configuration

1. The maximum height of a Solar Energy System, including all mounts, panels, and other equipment, shall not exceed 20 feet above grade when oriented at maximum height.
2. The panels and equipment shall be configured to avoid glare beyond the lot's property lines.

c. Maintenance

1. The lot shall be maintained in a trash and debris free manner.
2. Any Solar Energy System that becomes inoperable shall, at the owner's expense, be made operational or shall be removed from the property within one year of the date the system became inoperable. An appropriate reclamation and closure plan, including recycling, subject to the City's approval, shall be required prior to removal.

(b) Communications Tower

- (1) *Applicability.* Wireless communication may not be constructed, erected, moved, enlarged, or substantially altered in any zoning district unless allowed as a conditional use, except in accordance with the provisions of this Subsection.
- (2) Exemptions and Exclusions.
 - a. Repainting of a wireless communication facility shall not, in and of itself, be considered a substantial alteration.
 - b. Communications towers and antennas not exceeding seventy (70) feet in height and that are customarily associated with residential uses (not of a commercial nature) shall not be subject to these regulations. Such towers and antennas include receive-only antennas and towers and antennas used for private use such as ham radio operation.
- (3) *Permitting Required.* Except for instances where approval can be issued administratively, as outlined in item a of this Subsection, all wireless communication facilities must fulfill the conditional use permitting procedures found in Sec. 109-137. , in addition to the proceeding requirements.
 - a. *Minor Wireless Communication Facilities.* The Director, following an administrative review and without requiring the issuance of a conditional use permit may approve the following:
 1. Installation of an antenna on an existing structure other than a tower (such as a building, sign, light pole, electric transmission tower and similarly scaled public utilities facilities, water tower, or other freestanding nonresidential structure), provided that the addition of the antenna does not add more than twenty (20) feet to the height of the existing structure or exceed the maximum height allowed on the lot, whichever is less. The addition or modification, to the extent possible, should be designed to minimize visibility.
 2. Installation or replacement of an antenna on an existing tower of any height, and the placement of additional buildings or other supporting equipment used in connection with such additional antenna, so long as the proposed additions would add no more than twenty (20) feet to the height of the existing tower and would cause no more than twenty-five percent (25%) increase in the square footage occupied by the communication facility. The addition or modification, to the extent possible, should be designed to minimize visibility.
- (4) *Applicable Standards when a Conditional Use Permit is Required.* When a conditional use permit is required for a communications tower, the following standards apply:
 - a. Generally
 1. Antennas and towers may serve either principal or accessory uses.
 2. A different or existing use or an existing structure on the same lot shall not prohibit the installation of an antenna or tower on such lot.

3. For purposes of determining whether the installation of a tower or antenna complies with applicable development regulations, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.
 4. Towers that are constructed and antennas that are installed in accordance with the provisions of this Chapter shall not be deemed to constitute the expansion of a separate nonconforming use or structure.
 5. All towers must meet or exceed the then current federal standards and regulations of the FAA, the FCC, and any other agency of the federal or state government with the authority to regulate towers and antennas and the construction and specifications thereof. If such standards and regulations are changed, then the tower and antenna owners governed by this Chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency.
 6. Failure to timely bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for removal of the tower or antennas at the owner's expense and/or grounds to terminate or not renew the owner's conditional use permit.
 7. To ensure the structural integrity of towers, the owner of a tower shall construct and maintain the tower in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. To this end, prior to the initial issuance or the renewal of any permit, the tower shall be certified by a licensed engineer and knowledgeable in the design and/or analysis of towers as being safe and meeting all applicable codes and standards. If upon inspection, the building inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon written notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, the approval authority may terminate that owner's conditional use permit, cause that owner's permit to not be renewed, and/or cause the removal of such tower (at the owner's expense).
 8. Accessory equipment, either mobile or immobile, not used in direct support of a communication facility, shall not be stored or parked on the communication facility, unless repairs to the tower are in progress.
- b. *Setbacks and Separation*

1. Accessory facilities, towers, guy wires and other support devices must satisfy the minimum zoning district setback requirements.
 2. Towers must be set back away from existing residential structures a minimum distance equal to the height of the proposed tower. Such setback is measured from the center of the tower location to any residential structures within the setback required.
- c. *Tower and Antenna Height Limitations*
1. Wireless communication facility towers, including any provisions for a lightning rod, shall be limited to a maximum height of 199 feet.
 2. All other proposed structures shall be subject to the maximum height limitations of the zoning district.
- d. *Landscaping.* The landscaping requirements set forth in this Subsection are required for telecommunication tower and antenna sites only.
1. Communication facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the communication facility from adjacent properties.
 - a) Along the street frontage a minimum buffer of ten (10) feet in width shall be provided, planted with a minimum of one (1) evergreen tree and four (4) shrubs per twenty-five (25) linear feet of street frontage.
 - b) The remaining perimeter shall consist of a continuous landscaped area around the communication facility. This shall consist of at least two (2) courses of evergreen trees that are, at the time of initial planting, at least six (6) feet in height.
 2. Existing mature tree growth and natural landforms on or surrounding the communication facility shall be preserved to the maximum extent possible. In some cases (such as for towers situated on large, wooded lots), natural growth around the property perimeter may be a sufficient buffer. In such cases, the requirements listed in Subsection d.1 above may be waived pursuant to Sec. 109-144.
- e. *Aesthetics.* The following requirements apply; however, the Planning Commission may approve variance from these requirements pursuant to Sec. 109-144. , where it is determined that the goals of this Subsection would be better served by the approved variance.
1. *Lighting.*
 - a) Towers shall be artificially illuminated if required by the FAA or other applicable authority or the governing authority. If artificial lighting is required, the lighting design and intensity chosen should be that which complies with the applicable guidelines, yet causes the least disturbance to the surrounding and nearby properties.

- b) Security lighting or motion activated lighting may be used around the base of a tower and within the telecommunication facility, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or rights-of-way.
- 2. *Stealth Technologies*. This Subsection encourages creative design measures to camouflage facilities by integrating them with existing buildings, among other existing uses, and/or their surroundings. Based on this, the color and design of towers and antennas shall meet the following requirements:
 - a) Towers shall be maintained with a galvanized steel finish, wood laminate or, subject to any applicable FAA standards, be painted a neutral color so that visual obtrusiveness is minimized.
 - b) The design of buildings and related structures within a telecommunication facility shall, to the extent possible, utilize building materials; colors, screening, and landscaping that will camouflage and blend the tower and related facilities into the natural and/or surrounding environment.
 - c) If an antenna is to be attached to a supporting structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a color closely compatible with the color of the supporting structure.
- (5) *Abandonment*. Any tower no longer in use for its original communications purpose or any tower for which a conditional use permit has been, for any reason, terminated or not renewed shall be considered abandoned. The owner of the tower shall provide the City with a copy of any notice given to the FCC relating to its intent to cease operations.
 - a. The telecommunication facility and all accessory structures shall be dismantled and removed at the owner's expense within ninety (90) days of the date of cessation of operations. Failure to timely remove these facilities shall constitute a nuisance under this Chapter subjecting the owner and/or users to a fine not exceeding \$500.00. Each day of delinquency shall constitute a new violation. Upon removal, the tower owners shall re-vegetate the telecommunication facility site to blend with the existing surrounding vegetation at their expense.
 - b. In the case of multiple antenna operators sharing use of a single tower, the provisions of this Subsection regarding removal of abandoned towers shall not become effective until all users have ceased communications operations, provided all other provisions of this Subsection are fully complied with.
 - c. All obligations imposed by this Chapter shall be the obligation of the applicant and, if applicable, the lessee of the property upon which the tower and/or antenna are located. Prior to colocation of a site, the original applicant shall sign an agreement where co-locators accept full site maintenance in the event that the original applicant abandons the site. In the event that any tower or antenna is not properly and timely removed as required hereunder, then the city may proceed to remove the abandoned tower and/or antenna and the communication facility, in general, and

thereafter recover the costs of removal, together with the costs of enforcement of this article (including reasonable attorney's fees), from the applicant.

- (6) *Notification of Change of Ownership/Operator.* Upon assignment or transfer of a conditional use permit or any of the rights thereunder to a new wireless telecommunication operator, the owner or operator shall provide written notice within thirty (30) days to the Director.
- (7) *Communications Tower Applications.* In addition to the standards established under this Section, the following factors will be considered in granting a conditional use permit. The Planning Commission may waive or reduce the burden upon the applicant for one or more of the following criteria if it is determined that the goals of this Subsection and the standards of Sec. 109-032. (b) would still be served by it.
- a. Height of the proposed tower;
 - b. Proximity of the tower to residential structures and residential district boundaries;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Surrounding topography;
 - e. Surrounding tree coverage and foliage;
 - f. Design of the tower, with particular attention paid to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
 - g. Availability of suitable existing towers and other structures.

(c) *Utility Facilities*

- (1) Privately owned and provided utility facilities such as electrical power poles and cables, shall only be constructed on property owned by the owner of the facilities, or in a properly recorded utility easement on private property or in the public right-of-way.

(d) *Landfill*

- (1) A Landfill shall comply with all applicable County, State of Arkansas, and Federal regulations and permit requirements prior to approval.
- (2) A Landfill shall:
- a. Not be located one thousand (1,000) feet within any residential use or district.
 - b. Have a minimum property size of ten (10) acres.

(e) *Medical Marijuana Cultivation Facilities*

- (1) Medical Marijuana Cultivation Facilities shall comply with all applicable County, State of Arkansas, and Federal regulations and permit requirements prior to approval.
- (2) Medical Marijuana Cultivation Facilities shall comply with [Ark. Const. Amendment 98, § 8](#), as amended.

(f) *Medical Marijuana Dispensaries*

- (1) Medical Marijuana Dispensaries shall comply with all applicable County, State of Arkansas, and Federal regulations and permit requirements prior to approval.
- (2) Medical Marijuana Dispensaries shall comply with [Ark. Const. Amendment 98, § 8](#), as amended.

Division 3. Accessory Use Regulations

Sec. 109-033. Purpose

This Division authorizes the establishment of accessory uses and buildings that are incidental and customarily subordinate to principal uses. An accessory use is “incidental and customarily subordinate” to a principal use if it complies with the standards established in this Division. All principal uses allowed in a zoning district shall be deemed to include those accessory uses, buildings, and activities typically associated with the use, unless specifically prohibited in this Division.

Sec. 109-034. Approval Procedure

- (a) Any of the accessory uses identified in this section may be allowed as an accessory to an authorized principal use provided that:
 - (1) The proposed accessory use is allowed as a principal or accessory use in the base district where proposed; and
 - (2) The proposed accessory use or building is consistent with this Division’s general and specific standards for accessory uses.
- (b) When proposed simultaneously with a principal use, accessory uses or buildings may be reviewed as part of a review of an associated principal use. In cases where the principal use is subject to a Conditional Use Permit, an accessory use may only be authorized in accordance with an approved Conditional Use Permit.
- (c) When proposed subsequently to a principal use:
 - (1) Unless exempted, a building permit shall be required in cases where an accessory use or building is proposed subsequent to a principal use.
 - (2) In cases where the principal use is subject to a Conditional Use Permit, an accessory use may only be authorized in accordance with Division 3. of Article V.

Sec. 109-035. Interpretation of Unidentified Accessory Uses

The Director shall evaluate applications for accessory uses that are not identified in this Article on a case-by-case basis, considering the following standards:

- (a) The definition of “accessory use” in this Division and the general accessory use standards and limitations established in this Division.
- (b) The purpose and intent of the zoning districts in which the accessory use is located.

- (c) Potential adverse effects the accessory use or building may have on other lots, compared with other accessory uses permitted in the district.
- (d) The compatibility of the accessory use with other principal and accessory uses permitted in the district.

Sec. 109-036. General Standards for all Accessory Uses

- (a) All accessory uses and buildings shall be subject to the general standards in this Section, as well as all standards applicable to the associated principal use as set forth in this Article.
 - (1) *Size.* All accessory uses shall:
 - a. Be clearly subordinate in area, extent, and purpose to the principal use or structure; and
 - b. Not violate this Chapter's bulk, density, parking, landscaping, or open space standards when taken together with the principal use or structure.
 - c. The floor area of any detached accessory building shall not exceed 50% (fifty percent) of the floor area of the principal structure. The total combined floor area of all buildings shall not exceed the maximum lot coverage for the zoning district in which they are located. The Director may authorize a building to exceed this percentage if the building is used as a guest house, or is used for animal production or crop production associated with an agricultural use.
 - d. Accessory uses shall not be constructed or established prior to the start of construction of the principal use or building. An accessory building shall not be used until the construction of the primary building is complete.
 - (2) *Function.* All accessory uses shall directly serve the principal use or building, and be accessory and clearly incidental to the principal use or building.
 - (3) *Height.* All accessory structures shall comply with the height maximum established in the zoning district in which they are located. Accessory structures shall not be greater in height than the principal structure with which they are associated.
 - (4) *Location.*
 - a. Accessory structures shall not be located within platted or recorded easements.
 - b. Accessory structures shall not be located within setback limits as established within the zoning district in which they are located and to which the principal structure must also comply.

Sec. 109-037. Accessory Use-Specific Regulations

This Section provides additional standards for certain permitted uses in a zoning district, as shown in the Use Specific Standards column of Table 026.1: Use Table. A building permit or certificate of occupancy shall not be issued for any permitted use with Use Specific Standards until all of the required criteria have been met.

(a) Accessory Dwelling Unit

- (1) Only one (1) Accessory Dwelling Unit shall be located on a lot or parcel that contains a single-family dwelling.
- (2) An Accessory Dwelling Unit may be developed in either an existing or a new dwelling unit.
- (3) A manufactured dwelling unit may be used as an Accessory Dwelling Unit in any district where that type of structure is permitted if the proposed Accessory Dwelling Unit is consistent with that of a site-built, single family dwelling unit.
- (4) The minimum green space must be maintained per the applicable zoning district standards.
- (5) An Accessory Dwelling Unit shall limit occupancy to a single household as defined in this Zoning Ordinance.
- (6) An Accessory Dwelling Unit shall serve as an accessory structure to the primary dwelling unit and shall meet all regulations for Accessory Buildings.
- (7) An Accessory Dwelling Unit shall be a minimum of three hundred (300) square feet and a maximum of one thousand (1,000) square feet in floor area, and no larger than 75% (seventy-five percent) of the gross floor area of the primary single-family dwelling unit, whichever is less
- (8) An Accessory Dwelling Unit and the primary dwelling unit shall be under the same ownership.

(b) Carport

- (1) In the R-1 and R-2 districts
 - a. A Carport shall be attached to the principal structure to which it is an accessory.
- (2) In the AP, RE, R-3, C-1, C-2, and C-3 districts
 - a. A Carport may be attached to the principal structure to which it is an accessory, or as a detached structure.
 - b. A detached Carport shall be permanently constructed and shall be securely affixed to the ground.

(c) Dock or Pier

- (1) Any construction or improvements associated with a Dock or Pier shall not infringe the side setbacks required for the district in which they are located. This provision is not subject to a request for a minor modification.
- (2) Whether parallel or perpendicular to the shoreline of the body of water, structures can extend a maximum of eighteen (18) feet into the water body, or a minimum twenty-five (25) foot channel that is free of structural encroachment shall be maintained between such structures and any other structures or the opposite shoreline, whichever is more restrictive.

- (3) Structures shall not infringe side setbacks as provided above, with the exception of required seawalls, which may extend to side property lines.
- (4) Piers and parts of the structures covered under this Subsection that come into contact with the water body may not be constructed of treated wood, railroad ties, or other materials that could leach chemicals into the water body.
- (5) Barrels or pontoons are not permitted for floatation.
- (6) Wood piers are not allowed unless encapsulated in concrete a minimum of one (1) foot above the normal pool elevations as established in Table 037.1: Water Body Elevation Levels.
- (7) Any wood which is in constant contact with water must be cypress, cedar, or redwood. Dock skirting must be cypress, cedar, or redwood. Any Styrofoam or equivalent material must be encapsulated in a polyethylene shell or an approved equal material. Approved equals must be submitted for review at time of application.
- (8) The following elevations are established as the normal pool elevation for water bodies within Bella Vista:

Table 037.1: Water Body Elevation Levels

Water Body Elevation Levels	
Water Body	Normal Pool Elevation
Loch Lomond	1,120 feet
Lake Avalon	1,075 feet
Lake Windsor	1,069 feet
Lake Norwood	1,060 feet
Lake Ann	1,055 feet
Lake Rayburn	1,090 feet
Lake Brittany	1,200 feet

(d) Home Occupation

- (1) *Generally.* A Home Occupation shall:
 - a. Be located completely within the principal dwelling unit and is prohibited within accessory structures
 - b. Be solely operated by the owner and occupant of the dwelling where no non-resident persons are employed.
 - c. Not be primarily a retail sales operation.
 - d. Not occupy more than 25% of the gross habitable ground floor area of the principal dwelling unit.
 - e. Not display merchandise or have outside storage of equipment or materials.
 - f. Not alter the external appearance of the principal dwelling unit.
 - g. Not create noise, vibration, glare, fumes, electromagnetic interference, odors, or air pollution outside the principal dwelling unit.

- h. Not involve the storage of hazardous materials.
 - i. Not generate more than one customer vehicle to be parked within 300 feet of the principal dwelling unit at a time.
 - j. Not involve the external or visible manufacturing of goods on site.
- (2) *Examples of Allowed Home Occupations.* The following Home Occupation activities are allowed including but not limited to:
 - a. Those activities conducted principally by telephone, computer, facsimile or mail;
 - b. Studios where handicrafts or objects of art are produced;
 - c. Dressmaking or apparel alterations;
 - d. Barber or beauty shop with one chair; and
 - e. Independent consultants including Mary Kay, Pampered Chef, Avon, etc.
- (3) *Examples of Prohibited Home Occupations.* The following Home Occupation activities are prohibited including but not limited to:
 - a. Eating and drinking establishments;
 - b. Commercial sales or leasing of vehicles;
 - c. Rest home;
 - d. Clinic;
 - e. Doctor or dentist office;
 - f. Any use that requires employees who are not the sole owner or occupant of the dwelling;
 - g. Residential child care; and
 - h. Any use that requires a building code upgrade (i.e., from residential standards to commercial standards) to accommodate the home occupation.
- (4) *Hobbies.* Hobbies conducted solely within the confines of a structure with no external impacts whatsoever, are not considered Home Occupations.
- (e) Accessory Alternative Energy Production
 - (1) *Roof-mounted Solar Panels.* The following requirements apply:
 - a. Roof-mounted solar panels may be located on principal and accessory buildings.
 - b. On a pitched roof, roof-mounted solar panels may not extend more than twelve (12) inches above the roof surface if the roof is visible from the public right-of-way or from a residential property, nor may it extend more than twelve (12) inches beyond any edge of the roof.

- c. Atop a flat roof, roof-mounted solar panels may not extend more than five (5) feet above the roof and shall be screened from the public right-of-way with the building's facade parapet or similar mechanism.
- (2) *Ground-mounted Solar Panels*. The following requirements apply:
 - a. Ground-mounted solar panels shall be located within the side or rear yard; and
 - b. Ground-mounted solar panels shall be set back from property lines as if they were detached accessory buildings if the highest point on the panels is more than six (6) feet above grade.
- (3) *Micro-wind Generators*. The following requirements apply:
 - a. Micro-wind generators shall be installed at the rear of the primary structure present on the lot or parcel with which they are associated.
 - b. Micro-wind generators shall not exceed the maximum height limit of the zoning district in which they are located, nor shall they exceed the height of the principal structure to which they are an accessory.
- (4) *Micro-hydroelectric Generators*. Micro-hydroelectric generators shall demonstrate compliance with all State and Federal regulations governing streams, creeks, rivers or other water bodies.
- (5) *Agreement*. If Accessory Alternative Energy Production is to be interconnected to the electric utility grid, proof of an executed interconnection agreement shall be provided to the City before the system is interconnected. Systems approved pursuant to this Subsection may not generate power as a commercial enterprise.
- (f) *Accessory Building*
 - (1) An Accessory Building shall be clearly subordinate in area, extent, and purpose to the principal use or structure.
 - (2) An Accessory Building shall not, in conjunction with the principal use or structure, violate this Chapter's bulk, density, landscaping, lot coverage, open space, or other dimensional and development standards.
 - (3) An Accessory Building shall not exceed 720 square feet, and the total combined floor area of all buildings shall not exceed the maximum lot coverage for the zoning district in which it is located.
 - (4) An Accessory Building shall not exceed the height of the principal structure to which it is subordinate, nor shall it exceed the maximum height permitted for the district in which it is located.
 - (5) An Accessory Building located on a lot adjacent to the lot on which the principal structure is located, and under the same ownership as the principal structure, shall not exceed 1200 square feet in size and shall be subject to all other of the standards governing Accessory Buildings as if it were located on the same lot as the principal structure

(g) Automatic Teller Machine

- (1) If permitted and constructed as a Drive-through Facility, the Automatic Teller Machine shall conform to the standards established for Drive-through Facilities.
- (2) If permitted and constructed for outdoor pedestrian use, the Automatic Teller Machine shall be sited and oriented to enable use while ensuring users do not impede the movement of other pedestrians, or safe ingress and egress from surrounding structures.

(h) Drive-in Facility

- (1) Drive-in Facilities with individual service speakers shall not be permitted within one hundred fifty (150) feet of any residential district unless the speaker is appropriately screened by a sound abatement system.
- (2) Wing walls, landscape screens, changes in building orientation, and/or other design elements to screen and provide noise abatement to minimize the impact of individual service speakers on residential districts may be required as determined by the Director or Planning Commission.
- (3) Vehicle stalls used as Drive-in Facilities shall not contribute to the total parking provided by the establishment.

(i) Drive-through Facility

- (1) Drive-through Facilities with individual service speakers shall not be permitted within one hundred fifty (150) feet of any residential district unless the speaker is appropriately screened by a sound abatement system.
- (2) Wing walls, landscape screens, changes in building orientation, and/or other design elements to screen and provide noise abatement to minimize the impact of individual service speakers on residential districts may be required as determined by the Director or Planning Commission.
- (3) An escape lane shall be provided parallel to the drive-through lane from the beginning of the drive-through lane to the pick-up window.
- (4) An escape lane shall be an area measuring a minimum of 11 feet wide that provides access around the drive-through facility.

(j) EV Charging Station

- (1) The location and orientation of the EV Charging Station shall facilitate convenient ingress and egress by vehicles utilizing the EV Charging Station and shall not impede ingress or egress from the surrounding access and parking facilities. An EV Charging Station shall provide all necessary facilities and items required to charge a vehicle shall be in operable condition.
- (2) An EV Charging Station shall be identified on-site by a sign, striping, or parking space painting unless associated with a single-family or two-family residential use.

- (3) An EV Charging Station shall not receive electricity or power supply from another lot unless mutually agreed upon by the property owners.

(k) Fuel Pumps

- (1) Fuel Pumps shall not be located within one hundred fifty (150) feet of any residential district.

(l) Marina

- (1) A Marina shall comply with the standards provided in Sec. 109-037. (c) except for Sec. 109-037 (c) (2). A Marina may extend more than eighteen (18) feet into a body of water, but a minimum twenty-five (25) foot channel that is free of structural encroachment shall be maintained between such structures and any other structures or the opposite shoreline

(m) Outdoor Dining

- (1) Outdoor Dining shall be designated on an approved site plan.
- (2) The Outdoor Dining shall be paved or constructed using gravel or other permeable or non-paved improved surfaces.
- (3) Any shade structures, whether permanent, such as canopies, pergolas, roof overhangs, or awnings, or temporary, such as umbrellas, parasols, or other demountable shade structures, shall not exceed the approved maximum height of the primary structure.

(n) Outdoor Display

- (1) Outdoor Display shall be designated on an approved site plan.
- (2) Outdoor Display shall be limited to five percent (5%) of the total lot area or twenty percent (20%) of the primary building's gross floor area, whichever is more restrictive.
- (3) Outdoor Display shall be placed within ten (10) feet of the front façade of the primary building and shall not exceed four (4) feet in height.
- (4) Temporary storage of merchandise for display and sale placed on a sidewalk or other pedestrian area must maintain a six (6) foot wide pedestrian path through and adjacent to an Outdoor Display area. The pedestrian path must be improved to standard pedestrian accessibility requirements and may not be located within off-street parking areas, fire lanes, easements, maneuvering aisles, or loading zones.

(o) Outdoor Storage

- (1) Outdoor Storage shall be designated on an approved site plan.
- (2) Outdoor Storage shall not be constructed:
 - a. Within any required setbacks;
 - b. Within any parking spaces, fire lanes, easements, maneuvering aisles, or loading areas;
 - c. On the roof of any structure;

- d. To exceed the required screening height; and
 - e. At the front of any primary building.
- (3) Outdoor Storage shall be limited to five percent (5%) of the total lot area or twenty percent (20%) of the primary building's gross floor area, whichever is more restrictive.
- (4) Items within Outdoor Storage shall be stored on a paved surface, and associated access and maneuvering drives shall be a paved surface.
- (5) Within the AP and IA districts, items within Outdoor Storage may be stored on gravel or other permeable or non-paved improved surfaces.

Division 4. Temporary Use Regulations

Sec. 109-038. Purpose

This Division authorizes the establishment of temporary uses. A temporary use is considered permissible if it complies with the standards established in this Division, and may be conducted as the principal use of land or as an accessory to a permanent principal use.

Sec. 109-039. Temporary Use Types

Temporary uses are classified into three categories: Type A, Type B, and Type C. Temporary use types shall comply with the standards provided in Table 039.1: Temporary Use Type Standards.

(a) Standards.

- (1) "Adverse Impacts," in the context of Temporary Use Type Standards, shall indicate noise, odor, fumes, glare, or similar effects of a temporary use that may extend beyond the property line if not effectively mitigated or enclosed.
- (2) "Mitigation Required," in the context of Temporary Use Type Standards, shall indicate that a temporary use must demonstrate the adequacy of existing screening, fencing, or other mitigation facilities to inhibit the extension of adverse impacts beyond the property line. If such facilities are absent or inadequate, the use shall provide such facilities. Existence or provision of these facilities shall not enable a temporary use to generate more adverse impacts than it typically would for normal operations.
- (3) "Parking Required," in the context of Temporary Use Type Standards, shall indicate that existing parking facilities on the property on which the temporary use will be located, or any available on-street parking within seven hundred fifty (750) feet, are not sufficient for the anticipated parking demand generated by the temporary use. In this event, the use shall utilize off-site parking facilities as permitted by the owner of said facilities.
- (4) "Refuse Facilities Required," in the context of Temporary Use Type Standards, shall indicate that existing refuse facilities on the property on which the temporary use will be located are absent or not sufficient for the anticipated refuse volume generated by the temporary use. In this event, the use shall provide waste receptacles which shall be emptied at least one (1) time per day while the temporary use is in operation.

- (5) “Sanitary Facilities Required,” in the context of Temporary Use Type Standards, shall indicate that existing sanitary facilities on the property on which the temporary use will be located are absent or not sufficient for the anticipated demand generated by the temporary use. In this event, the use shall provide sanitary facilities which shall be cleaned at least one (1) time per day while the temporary use is in operation.
- (6) All temporary uses shall provide an access, circulation, and parking plan demonstrating adequate facilities for the safe and convenient traversal of vehicles, pedestrians, and cyclists.

Table 039.1: Temporary Use Type Standards

Temporary Use Type Standards			
Temporary Use Type → Applicable Standards ↓	A	B	C
Operational Period			
1 – 15 consecutive days in any given month	✓		
16 – 30 consecutive days in any given month		✓	
31 – 90 consecutive days			✓
Standards			
Mitigation Required?	No	Yes	Yes
Parking Required?	No	Yes	Yes
Refuse Facilities Required?	No	Yes	Yes
Sanitary Facilities Required?	No	No	Yes

Sec. 109-040. Approvals

- (a) Temporary uses shall be approved according to the procedures outlined in Article V.
Division 3. Sec. 109-138.

ARTICLE IV. DEVELOPMENT STANDARDS

Division 1. Introduction

Sec. 109-041. Purpose

This Article establishes uniform standards for the development and improvement of property throughout Bella Vista to ensure quality development that is consistent with the Comprehensive Plan.

Sec. 109-042. Organization

This Article is organized into the following divisions for each development standard, as summarized in Table 042.1: Development Standards Overview. Specific regulations and standards apply as provided in this Article.

Table 042.1: Development Standards Overview

Development Standards Overview		
Site Development Standard	Chapter Location	Overview
Dimensional Regulations	Division 2.	Addresses the various yards, setbacks, and dimensional requirements that apply to a lot or development
Parking and Loading	Division 3.	Provides for when parking and loading is required
Landscaping	Division 5.	Regulates the necessary landscaping requirements to improve the development aesthetic and maintain the City's natural feel
Outdoor Site Lighting	Division 6.	Provides outdoor lighting requirements that ensure adequate visibility for safe traversal and navigation of the environment while preventing light pollution and light trespass
Screening	Division 7.	Provides regulations where more intensive development needs to buffer from less intensive development
Fencing	Division 8.	Accommodates instances where fencing may be applied to protect privacy
Architectural Design	Division 9.	Provides a set of architectural design requirements to produce attractive development (these requirements are not applicable for single-family residential development)
Refuse Facilities	Division 10.	Provides requirements for on-site trash and refuse facilities that improves the development aesthetic
Signs	Division 11.	Regulates the various sign types and prescribes allowances based on zoning districts
Infill	Division 13.	Addresses instances where redevelopment is to occur on previously developed lots
Performance Standards	Division 14.	Mitigates a development's potential to create public nuisances (smoke, odor, dust, noise, etc.)
Animal Regulations	Division 15.	Provides specific regulations that apply to the keeping of certain animals

Land Development Standards	Chapter Location	Overview
Steep Slopes	Division 11	Provides standards and procedures for development occurring on or near steep slopes
Wastewater, Stormwater, and Grading	Division 15	Provides standards and procedures for the installation and maintenance of wastewater and stormwater infrastructure, and when grading of land is required for development
Stormwater Management Permits	Division 16	Provides standards and procedures for the application of stormwater management permits.

Sec. 109-043. Applicability

(a) Generally

- (1) This Article applies to all new development, expansions, and redevelopment within the corporate limits of Bella Vista unless otherwise specified.
- (2) Each division in this Article establishes when a particular standard applies.

(b) Minor Modification Opportunities

- (1) Minor modifications as provided in this Article may be considered to allow for development flexibility.
- (2) The Director may modify the standards in this Article pursuant to Sec. 109-143.

Division 2. Dimensional Regulations

Sec. 109-044. Purpose

The purpose of this Division is to establish the general rules and exceptions for required lots, yards, setbacks, and height requirements.

Sec. 109-045. Applicability

This Division applies to any lot, yard, setback, and height required by this Chapter.

Sec. 109-046. Standards

(a) Number of Buildings per Lot

- (1) *Single-Family and Two-Family Residential Uses.* Only one primary building for single-family or two-family residential uses with permitted accessory buildings is allowed on a lot, unless specified otherwise in this Chapter.
- (2) *Nonresidential and All Other Uses.* Where a lot is used for townhomes, multi-family, nonresidential uses, or a combination of those uses, more than one primary building may be located upon the lot, but only when conforming to all applicable requirements to those uses and the zoning district in which it is located, unless specified otherwise in this Chapter.

(b) Lot Area and Dimensions

- (1) No lot shall be created or reduced in area, width, or depth below the minimum requirements established in Article II.
- (2) A lot that was legally created prior to the adoption of this Chapter may be redeveloped, but any deviations from the dimensional standards other than minimum lot area shall require a variance unless located within an infill development.

(c) Yard and Setback Regulations

(1) Generally

- a. Every part of a required yard shall be unoccupied and unobstructed by any portion of a structure from the ground upward, except as provided below.
- b. In measuring a setback, the shortest distance between a lot line and the building applies.
- c. The required setback shall be the distance between the property line or street right of way and the structure, whichever provides the greater setback.
- d. Required yard means that portion of any yard constituting the minimum area required in any zoning district by the setback requirements, but excluding that portion of the yard in excess of the minimum required area.
- e. For residentially-zoned lots that are adjacent and under the same ownership, applicable side and rear setbacks of the adjoining lots under the same ownership shall be eliminated entirely for the purpose of constructing over, under, or across, the setback lines and property lines a building for human occupancy (the principal building); accessory buildings, including, but not limited to, garages, shop buildings, swimming pools, and gazebos; accessory infrastructure such as driveways, septic systems and leach fields; or other improvements associated with the primary structure such as retaining walls contingent upon the owner filing a notice of structural encroachment of property line with the County Circuit Clerk and providing a copy of the recorded encroachment document to the Director prior to the City's issuance of a building permit.
- f. Any deviation from the conditions above shall require applicants to seek a variance as provided Sec. 109-144.
- g. Utility facilities, using land or an unoccupied building are exempt from minimum lot size requirements of all districts. Utility facilities shall be maintained in good condition and will be located within the utility easement, except supporting structures that encompass equipment such as back-up generators and network connections, which shall be on property that is either owned or leased by the utility.
- h. This Chapter's required yards and setbacks are summarized in Figure 046.1: Lots, Yards, and Setbacks Summary and Table 046.1: Lots, Yards, and Setbacks Key.

Figure 046.1: Lots, Yards, and Setbacks Summary

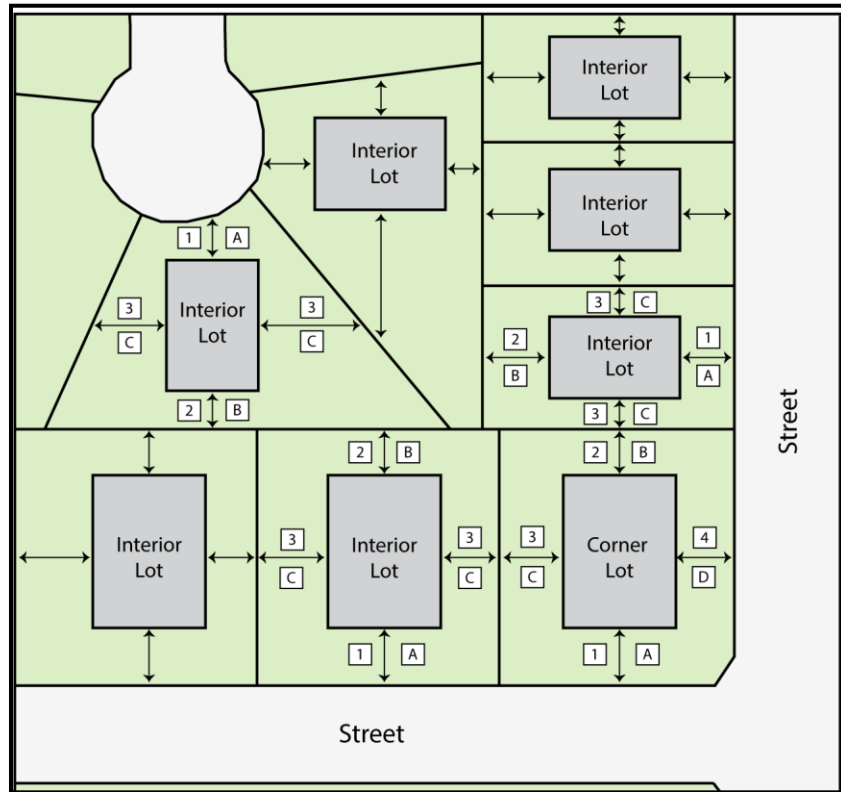


Table 046.1: Lots, Yards, and Setbacks Key

Lots, Yards, and Setbacks Key	
Symbol	Yard/Setback Type
1	Front Yard
2	Rear Yard
3	Side Yard
4	Corner Side Yard
A	Front Setback
B	Rear Setback
C	Side Setback
D	Corner Side Setback

(2) Front Yard Regulations

- The required front yard shall be open and unobstructed from a point forty (40) inches above the general ground level of the graded lot to the sky. Subsurface structures, platforms, or slabs may not project into the front yard to a height greater than forty (40) inches above the average grade of the yard.
- Where a building line has been established by an approved plat that deviates from the setback that is prescribed by this Chapter, the required front yard shall comply with the building line established by that plat.

(3) Side Yard Regulations

- a. . A fence (in accordance with Division 8. of this Article) may be constructed on the property line adjacent to a side yard.
- b. Mechanical equipment such as air conditioning compressors, swimming pool pumps and filters, and similar devices may be installed in the side yard at a maximum height of sixty (60) inches above finished grade.
- c. Where a side property line divides a nonresidential district from a residential district, a minimum 10-foot side yard is required for the nonresidential lot side adjacent to that residential district.

(4) Corner Side Yard Regulations

- a. Corner lots are on the junction of and abutting two (2) or more intersecting streets.
- b. Where only one wall of a primary structure facing a corner yard possesses a door, the yard in front of that wall shall be the front yard.
- c. Where both walls facing corner yards possess doors, the longest dimension of the yard abutting the street shall be identified as the corner side yard. The other yard that abuts a street adjoined to the corner side yard shall be identified as the front yard.

(5) *Projections into Required Yards.* Certain architectural and site features may project into required yards as follows:

- a. Cornices, attached canopies, eaves, or other architectural features, may project a distance not to exceed forty-eight (48) inches.
- b. Fire escapes may project a distance not exceeding sixty (60) inches from the exterior wall of the building.
- c. An uncovered stair and necessary landings may project a distance not to exceed seventy-eight (78) inches, provided such stair and landing shall not extend above the entrance floor of the building except for a guard- or hand-rail not exceeding forty-eight (48) inches in height.
- d. Bay windows, balconies, and chimneys may project a distance not exceeding thirty-six (36) inches.
- e. An overhang or canopy roof with its support structures may not project beyond the building setback line and must be no less than eight (8) feet above a walkway.
- f. Where a utility easement extends beyond the required building setback, the most restrictive constraint of the utility easement shall become the building setback.
- g. Sidewalks may be located within the setback line or the easement.

(6) *Special Setback Requirements.* The following setbacks apply for development as provided in Table 046.2: Special Setback Applicability.

Table 046.2: Special Setback Applicability

Special Setback Applicability	
Requirement	Applicable Zoning District
A minimum setback of 25 feet shall be established parallel to all floodplain lines as shown on currently adopted FIRM panels	All
A minimum setback of 50 feet shall be established parallel to the top of bank along all perennial and intermittent streams	NP, AP
Lots or parcels with access to bodies of water shall have at least 25 foot setback from the water's edge in which no primary or accessory structures may be built, except as provided in Sec. 109-037. (c).	RE, R-1, R-2, R-3, CR, C-1, C-2
Lots or parcels with access to bodies of water shall have at least 35 foot setback from the water's edge in which no primary or accessory structures may be built, except as provided in Sec. 109-037. (c).	C-3
Lots or parcels with access to bodies of water shall have at least 40 foot setback from the water's edge in which no primary or accessory structures may be built, except as provided in Sec. 109-037. (c).	IA
Lots or parcels with access to bodies of water shall have at least 50 foot setback from the water's edge in which no primary or accessory structures may be built, except as provided in Sec. 109-037. (c).	NP, AP
A minimum side setback of zero feet shall be established on the shared property line of attached dwelling units and/or townhomes.	R-3

(d) Septic System Regulations

- (1) *Generally.* Driveways, sidewalks, primary or accessory buildings, or other structures shall not be erected over or infringe upon an existing or proposed septic system or septic leach field unless otherwise provided below.

a. Setbacks.

1. Septic systems or septic leach fields may be located no closer than ten feet to a property line, nor any closer to a property line than the minimum setback for the zoning district in which the system or field is located, whichever provides the greater distance from the property line.
2. Ten feet of separation must be maintained between all primary buildings and existing or proposed septic systems and septic leach fields.
3. Ten feet of separation must be maintained between all accessory buildings with permanent foundations and existing or proposed septic systems and septic leach fields.
4. Other structures. Footings for decks or structures with pier or column foundations shall maintain five feet of separation between existing or proposed septic system and septic leach fields.

b. Land with access to water bodies.

1. Lots or parcels with access to water bodies shall maintain a 100-foot setback away from the edge of water or property line which abuts the body of water, whichever is greater, for any existing or proposed septic system and septic leach field without an Arkansas Department of Health approved pretreatment system.

2. Lots or parcels with access to water bodies shall maintain a 25-foot setback away from the edge of water or property line which abuts the body of water, whichever is greater, for any existing or proposed septic system and septic leach field with an Arkansas Department of Health approved pretreatment system.

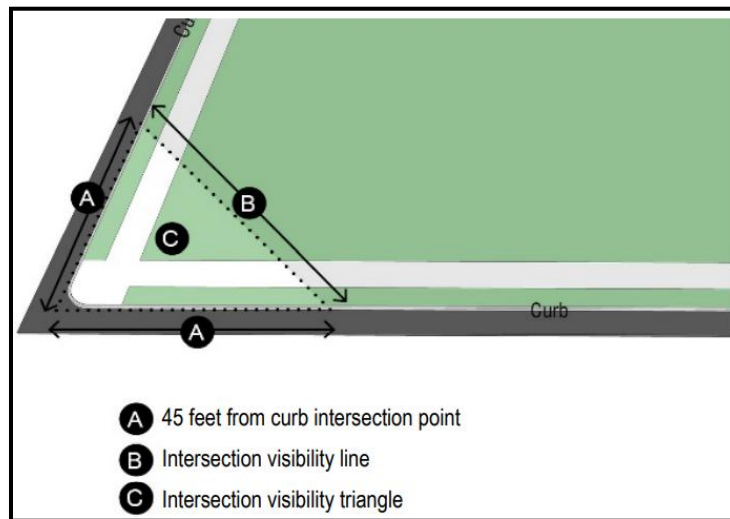
(e) Intersection Visibility Triangle

(1) Generally

- a. These provisions apply to all new development or proposed expansions into the intersection visibility triangle. However, these provisions do not apply to or otherwise interfere with the: placement and maintenance of traffic control devices under governmental authority and control and public utilities; existing screening and fencing requirements; and existing and future City, state, and federal regulations.
- b. Obstructions are prohibited at elevations between two and one-half (2½) feet and nine (9) feet above the average street grade within the intersection visibility triangle. Prohibited obstructions include any fence, wall, screen, billboard, sign, structure, landscaping, or any other object.
- c. At intersections where streets do not intersect at or near right angles, the Director shall have the authority to increase the minimum sight distances required above as they deem necessary to provide safety for both vehicular and pedestrian traffic.

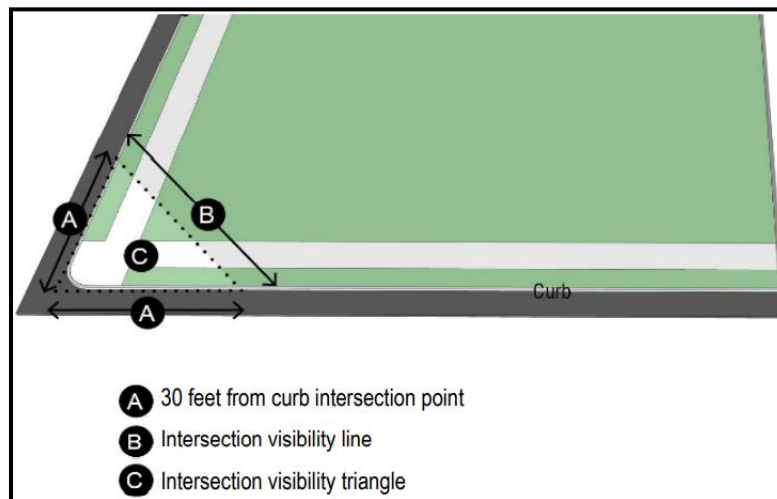
- (2) *Intersections of Arterial or Collector Streets.* At intersections where arterials and collectors intersect at or near right angles, the Intersection Visibility Triangle shall be the area formed by extending the two curb lines from their point of intersection forty-five (45) feet along the curb and connecting these points with an imaginary line, creating a triangle (see Figure 046.2: 45' Intersection Visibility Triangle). Where an intersection of arterials or collectors exists without curbs, the Intersection Visibility Triangle shall be the area formed by extending the two

Figure 046.2: 45' Intersection Visibility Triangle



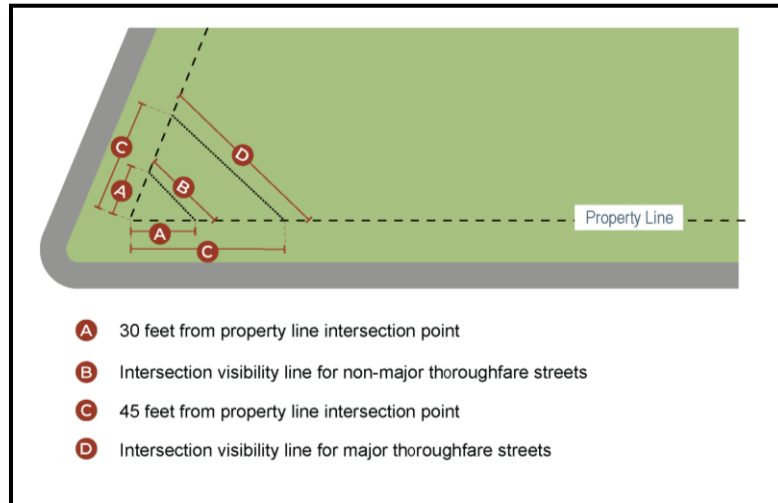
- (3) *Intersections of Unclassified Streets.* At all intersections where local streets intersect at or near right angles, the Intersection Visibility Triangle shall be the area formed by extending the two curb lines from their point of intersection thirty (30) feet along the curb and connecting these points with an imaginary line, creating a triangle (see Figure 046.3: 30' Intersection Visibility Triangle).

Figure 046.3: 30' Intersection Visibility Triangle



- (4) *No Curb Intersections.* If there are no curbs existing, the triangular area shall be formed by extending the property lines from their point of intersection forty-five (45) feet on arterials and collectors and thirty (30) feet on local streets, and connecting these points with an imaginary line, creating a triangle (see Figure 046.4: Other Intersection Visibility Triangles).

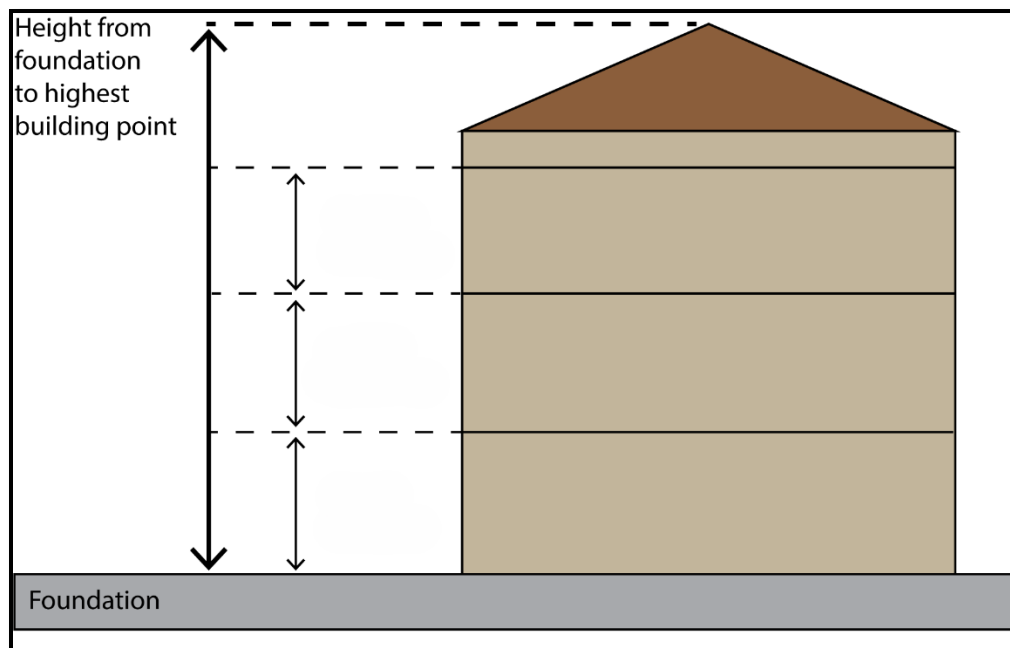
Figure 046.4: Other Intersection Visibility Triangles



(f) Height Regulations

- (1) A building or structure shall meet the requirements established in this Division unless specified otherwise.
- (2) The height of a building or structure is the vertical distance as measured through the highest point in the structure from the grade or foundation of the ground floor (see Figure 046.5: Height Measurement).

Figure 046.5: Height Measurement



- (3) Religious steeples, domes, spires, cooling towers, roof gables, chimneys, vent stacks, and athletic field equipment and fencing are exempt from maximum height provisions.

- (4) A building or structure may exceed the maximum height shown for its zoning district provided each of its front, side, and rear setbacks are increased at a ratio of one additional foot for each foot the building or structure exceeds the maximum height.
- (g) *Building Separation*. Unless stipulated elsewhere, a minimum of ten feet shall separate all detached buildings on a common lot.
- (h) *Measurements and Calculations of Certain Dimensional Regulations*
 - (1) *Green Space Calculations*.
 - a. Land areas with the following characteristics shall be included in all green space area calculations:
 - 1. The 100-year floodplain and floodway;
 - 2. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
 - 3. Open water bodies over five thousand (5,000) square feet in area;
 - 4. Riparian zones at least fifty (50) feet from the top of bank along all perennial and intermittent streams;
 - 5. Hills with at least five thousand (5,000) square feet of area containing slopes above twenty-five percent (25%);
 - 6. Existing healthy, native forest lands of at least one-quarter acre (10,890 sq. ft.) in area;
 - 7. Habitat areas for populations of endangered or threatened species; and
 - 8. Archaeological sites, cemeteries, and burial grounds.
 - b. At least fifty percent (50%) of the area designated as green space shall connect with adjoining areas of common green space where possible.
 - (2) *Cul-de-sac Lots*. For lots situated on cul-de-sacs or curves, a 40-foot minimum street frontage is acceptable, provided that the required condition of minimum lot width at the setback line is met as measured along the radius.
 - (3) *Lot width*. A lot's width is measured at the front setback.
 - (4) *Lot Size*. Minimum lot size requirements shall not be interpreted as prohibiting the construction of a single-family residential dwelling unit on a lot that was legally platted and recorded before the adoption of this Chapter. For lots that are rendered nonconforming, the necessity of obtaining a variance from such created nonconformity shall not be required as a condition of issuance of a building permit, provided all setback and other requirements can be met.

Division 3. Parking and Loading

Sec. 109-047. Purpose

The purposes of this Division are to:

- (a) Ensure that adequate off-street parking and loading facilities are provided for new land uses and changes in use;
- (b) Minimize the negative environmental and development design impacts that can result from excessive parking, driveways, and drive aisles within parking areas;
- (c) Establish standards and regulations for safe and well-designed parking, vehicle circulation areas, and loading facilities that minimize conflicts between pedestrians and vehicles within parking areas and surrounding land uses;
- (d) To regulate off-street parking and to specify the requirements for residential off-street parking as they pertain to the appearance and the health, safety, and welfare of the City;
- (e) Provide adequate areas for off-street parking and storage of motor vehicles, while at the same time preventing over-supply of parking in mixed-use circumstances;
- (f) Ensure compliance with provisions of the Americans with Disabilities Act (ADA);
- (g) Minimize the visual impact of off-street parking areas;
- (h) Encourage the use of energy efficient, alternative modes of transportation;
- (i) Ensure that adequate off-street bicycle parking facilities are provided in walkable areas and promote parking that offers safe and attractive pedestrian routes;
- (j) Minimize the impact of improperly planned loading areas; and
- (k) Protect adjoining properties from the adverse impacts associated with parking and loading spaces such as noise, appearance, and effect on property values.

Sec. 109-048. Applicability

- (a) Any new building, structure, use, redeveloped site, parking lot, trailhead, or expanded existing building or use, must meet the standards of this Division.
- (b) *Existing spaces.* Parking spaces used in connection with an existing or continuing use or building on the effective date of this Chapter is derived, up to the number required by this Division, shall be continued and may not be counted as serving a new structure or addition.

Sec. 109-049. General Requirements

- (a) *Permitted Locations by Right.* Parking shall be located within the same zoning district as the use it serves. Required parking for uses allowed by right within a zoning district are allowed as a use by right in the same zoning district.
- (b) *Off-site Locations.* If off-street parking cannot be provided on the same lot as the principal use due to existing buildings or the shape of the parcel, parking may be located on other property which is under common ownership as the principal use and which is adjacent to the principal use, subject to conditional use approval by the Planning Commission.

- (c) *Use of Off-street Parking and Loading Spaces.* Required off-street parking and loading spaces shall be used solely for motor vehicles in operating condition, and shall not be used for the storage of vehicles, boats, motor homes, campers, mobile homes, materials, tractor trailers or other temporary storage unless they are located in a designated staging area and are screened, fenced or otherwise fully shielded from public view.
- (d) *Surfacing.* All areas regulated under this Division shall be constructed from asphalt, concrete, brick, or semi-permeable pavement. All parking shall be graded and drained to dispose of surface water into appropriate structures or appurtenances. Parking facilities surfaced with approved, fully permeable materials are eligible for a ten percent (10%) increase in building footprint area of the principal structure with which the parking is associated, not to exceed three thousand (3,000) square feet. Other surfacing materials meeting low-impact development standards may be approved by the City Engineer.
- (e) *Barriers.* Parking spaces shall be provided with wheel guards or curbs so no part of a parked vehicle extends into or over sidewalks, property lines, or street rights-of-way. Parking associated with Single-Family Dwellings, Cottage Courts, Manufactured Homes, Modular Homes, Two-Family Dwellings, and Triplexes is exempt from this requirement.
- (f) *Striping and Marking.* Parking lots spaces shall be striped to indicate the location of the individual spaces, directional arrows shall be provided at the entrance of aisles and entry drives, and accessible spaces shall be marked to meet current Americans with Disabilities Act (ADA) requirements. All striping and marking shall comply with the Manual on Uniform Traffic Control Devices. Parking associated with Single-Family Dwellings, Cottage Courts, Manufactured Homes, Modular Homes, Two-Family Dwellings, and Triplexes is exempt from this requirement.

Sec. 109-050. Parking Ratios and Required Parking

- (a) Generally
 - (1) A required number of minimum off-street parking spaces shall be provided as established in Table 026.1: Use Table for residential uses.
 - (2) There is no requirement that establishes a minimum number of off-street parking spaces for the development of nonresidential uses unless specified in Table 026.1: Use Table. However, certain nonresidential development proposals are required to provide a parking plan, per Sec. 109-050. (b), which can result in necessary off-street parking spaces. Where provided, off-street parking must comply with the standards provided in Sec. 109-050. (b).
- (b) Required Parking for Nonresidential Uses
 - (1) A parking plan must be prepared for certain development projects, as follows:
 - a. A parking plan is required for new construction of a nonresidential principal building more than 10,000 square feet.
 - b. A parking plan is required for a change of use or substantial renovation of a principal building with a gross floor area of at least 25,000 square feet.

- (2) A parking plan must be reviewed and approved as a part of a site plan application per Sec. 109-139.

Sec. 109-051. ADA Compliant Parking Standards

- (a) *Americans with Disabilities Act Reference.* Accessibility for persons with disabilities in parking lots and building approaches shall be as required by the current Americans with Disabilities Act and as may from time to time be amended.
- (b) *Location and Size.* The location and minimum stall size for accessible parking spaces, passenger loading zones, or valet parking facilities, when provided, shall meet the standards adopted in the Americans with Disabilities Act.
- (c) *Buildings.* Standards shall follow the accessibility guidelines (ADAAG) for buildings and facilities, Appendix A to 28 CFR part 36, or the current federal standard.
- (d) *Signage.* Accessible parking spaces for persons with disabilities shall be identified with signs in accordance with the Americans with Disabilities Act of 1990 or the current federal statute.
- (e) Curb ramps shall be provided in accordance with Americans with Disabilities Act of 1990 wherever an accessible route crosses a curb in the parking lot.
- (f) *Minimum Number of Accessible Spaces.* Table 051.1: Required Number of Accessible Parking Spaces shall be used to determine the minimum number of accessible parking spaces to be provided.

Table 051.1: Required Number of Accessible Parking Spaces

Required Number of Accessible Parking Spaces	
Total Parking Spaces	Minimum Number of Accessible Spaces
1 – 25	1
26 – 50	2
51 – 75	3
76 – 100	4
101 – 150	5
151 – 200	6
201 – 300	7
301 – 400	8
401 – 500	9
501 – 1,000	2% of total spaces
Over 1,000	20 spaces plus one space for each 100 spaces over 1,000

- (g) *Multi-Family Dwellings.* Multi-Family Dwellings containing four or more dwelling units shall provide accessible parking spaces as follows:
- (1) *Fair Housing Act Reference.* Accessible parking shall be provided which meets the Final Housing Accessibility Guidelines, 24 CFR, chapter 1, subchapter A, appendix II, of the Fair Housing Act of 1968, as amended, or the current federal standard.

- (2) *Number of Required Accessible Spaces.* Designated accessible parking shall be provided for at least two percent of the dwelling units and at amenities such as swimming pools and clubhouses that serve accessible buildings.

Sec. 109-052. Bicycle Parking

(a) *Generally*

- (1) All proposals subject to Sec. 109-048. unless specified otherwise, shall meet the requirements of this Section.
- (2) Bicycle parking is required for non-residential and multi-family residential uses in the R-2, R-3, CR, C-1, C-2, and C-3 zoning districts to encourage the use of bicycles by providing secure and convenient places to park and store bicycles.
- (3) Any required bicycle parking shall be indicated on a site plan as required in Article V. Division 4. Sec. 109-139.
- (4) Each bicycle parking rack shall hold a minimum of two bicycles.
- (5) Any required bicycle parking shall be indicated on a site plan as required in Sec. 109-139.

(b) *Where Required*

- (1) All nonresidential and multi-family residential developments shall provide Class II bicycle parking.
- (2) Multi-family residential uses shall provide Class I and Class II bicycle parking.

(c) *Standards*

- (1) *Amount of Bicycle Parking Racks Required.* Table 052.1: Required Bicycle Parking shall be used to determine the minimum number of bicycle parking racks to be provided:

Table 052.1: Required Bicycle Parking

Required Bicycle Parking		
<i>Total bicycle racks required</i>	<i>Equivalent total off-street automobile proposed in a nonresidential development</i>	<i>Equivalent total off-street automobile parking proposed in a multi-family development</i>
1	1 – 20	1 – 30
2	21 – 40	31 – 60
3	41 – 60	61 – 90
4	61 – 80	91 – 120
5	81 – 100	121 – 150
1 additional rack per	Each additional 100 spaces	Each additional 150 spaces

- (2) Each development subject to this Section shall provide a minimum of 4 bicycle parking spaces, or the number of bicycle parking spaces required in Table 051.1.
- (3) Class I
 - a. Position: All Class I bicycle parking:

1. shall be located in enclosed and secured or supervised areas providing protection from theft, vandalism and weather and shall be accessible to intended users.
2. shall not be located within dwelling units or within deck, patio areas, or private storage areas accessory to dwelling units.
3. shall be located so that a minimum of three-foot clear pedestrian passage is provided to all sides of a standard six-foot bicycle parked in each space, and so that there is at least 48 inches of clear width remaining for pedestrian access routes.
4. shall not interfere with Americans with Disabilities Act standards.

b. Design and Installation

1. Outdoor enclosures containing group long-term Class I bicycle parking will be developed with at least one electrical outlet per five bicycle parking spaces and located within the enclosure.
2. shall be located in enclosed and secured or supervised areas by the use keyed or keycard access to entry
3. Surface. Bicycle parking areas shall be placed on a paved surface composed of concrete, asphalt, brick pavers, or the like. Bark mulch, crushed stone, stone, rock, dirt, sand or grass shall not be permitted as a surface for bicycle parking areas.

(4) Class II

a. Position. All Class II bicycle parking:

1. shall be located within fifty (50) feet of a public entry.
2. shall be accessible from the pedestrian/bicycle way without the need to lift the bicycle over a curb.
3. shall have adequate lighting for the operation of combination and key locks at night and to minimize theft.
4. shall not be located within bus stops, loading zones, or other curb space where on-street parking is permitted unless approved by the Director.
5. shall have a 15-foot clearance from the edge of fire hydrants.
6. shall be located so that a minimum of three-foot clear pedestrian passage is provided to all sides of a standard six-foot bicycle parked in each space, and so that there is at least 48 inches of clear width remaining for pedestrian access routes.
7. shall not interfere with Americans with Disabilities Act standards.

b. Design and Installation.

1. **Surface.** Bicycle parking areas shall be placed on a paved surface composed of concrete, asphalt, brick pavers, or the like. Bark mulch, crushed stone, stone, rock, dirt, sand or grass shall not be permitted as a surface for bicycle parking areas. Surfaces shall have a slope of no greater than three percent (3%).
2. **Installation and Anchoring.** The following will be required for short-term Class II bicycle parking racks:
 - a) **Embedded in Concrete.** The rack legs shall extend a minimum of 9 inches into a concrete footing with an anchoring crossbar mounted 3 inches above the base.
 - b) **Surface Flange Mount.** A pre-drilled, steel flange, minimum 8-inch square, shall be welded to the bottom of each leg before final finish is applied. The flange shall have a minimum of three bolt holes. Each bolt hole shall accept a ½ inch diameter steel bolt.
 - c) **Alternative Anchoring Methods.** Alternative methods of anchoring bicycle racks may be permitted with approval by the Director.
- (5) **Amount of Bicycle Parking spaces Required.** Table 051.1: Required Bicycle Parking shall be used to determine the minimum number of bicycle parking racks to be provided:
 - a. **Multi-Family Development:**
 1. **Class I:** shall require the initial 4 spaces, as required by (b)(1) and increase at a rate of one space for every five (5) bedrooms proposed in each development.
 2. **Class II:** shall require the initial 4 spaces as required by (b)(1) and increase according to the off-street parking equivalent total off-street parking table.
 - b. **Nonresidential Development.** Class II: shall require the initial 4 spaces as required by (b)(1) and increase according to the off-street parking equivalent total off-street parking table.
- (6) **Spacing of Racks.** Each bicycle parking space shall have two (2) feet by six (6) feet clear space, paved or unpaved, beside the rack allowing each rack to potentially count as two (2) spaces. The two-foot dimension may overlap another bicycle parking space such that racks positioned in a parallel row may be two (2) feet, six (6) inches on center.
- (7) **Position of Bicycle Parking Racks.**
 - a. Bicycle parking racks shall be located within fifty (50) feet of a public entry.
 - b. Bicycle parking facilities shall have adequate lighting for the operation of combination and key locks at night and to minimize theft.
 - c. Bicycle parking racks shall be positioned so that no pedestrian traffic is impeded.
 - d. Bicycle parking racks shall not be located within bus stops, loading zones, or other curb space where on-street parking is permitted unless approved by the Director.

- e. Bicycle parking racks shall have a 15-foot clearance from the edge of fire hydrants.
 - f. Bicycle parking racks shall have a four-foot clearance from existing street furniture, including mailboxes and light poles.
 - g. Bicycle parking rack location shall not interfere with Americans with Disabilities Act standards.
- (d) *Shared Bicycle Parking.* Any property owner required to have bicycle parking may elect to establish a shared bicycle parking facility with any other property owner within the same block to meet the combined requirements.

Sec. 109-053. Parking Design

(a) Parking Space Location.

- (1) *On-site.* Required off-street parking shall be located on the same lot as the principal use, except as provided under Sec. 109-049. (b).
- (2) Setbacks.
 - a. In districts zoned AP, RE, R-1, and R-2, required off-street parking shall not be located within a front or corner side yard.
 - b. In the R-3 zoning district, a 15-foot minimum parking setback shall be established from all property lines or right-of-way. Off-street parking spaces are allowed within the front yard but not in a manner that obstructs sidewalks or visibility.
 - c. In all nonresidential zoning districts, except for the C-3 and PZD zoning districts, the following applies:
 - 1. *Front and Corner Side Yards.* A 20-foot minimum parking setback shall be established from the front or corner side property line or right-of-way.
 - 2. *Rear and Side Yards.* A 15-foot minimum parking setback shall be established from the property line or right-of-way for rear and side yards.
 - 3. Off-street parking spaces are allowed within a front or corner side yard, but not off the driveway, and not in a manner that obstructs sidewalks or visibility.

(b) Parking Space Dimensions.

- (1) A standard parking space shall be a minimum length of nineteen (19) feet and a minimum width of nine (9) feet.
- (2) Curvilinear parking spaces occurring on the arc of a curve will be allowed, provided that the dimensional requirements of ninety (90) degree spaces are met.
- (3) All dimensions outlined in this Subsection are exclusive of access drives and aisles.

(c) Parking Orientation

- (1) Orienting off-street parking lots and structures toward the rear of a property, and locating them behind principal structures, is encouraged.

- (2) Applicants submitting site plans which include parking plans that orient off-street parking toward the rear of the site and behind principal structures are eligible for:
- Up to a ten percent (10%) increase in the building footprint of the principal structure with which the parking is associated, not to exceed three-thousand (3,000) square feet; or
 - Up to a fifteen (15) foot increase in the height of the principal structure with which the parking is associated.

Sec. 109-054. Loading Ratios

The required number of off-street loading spaces is determined by gross floor area. Outdoor storage, sales, or display areas must be added to the gross floor area if these areas contain materials that are received or distributed by trucks (Display areas for Auto Sales are excluded from this calculation). If a development has more than two uses, the off-street loading space requirement is the highest number of spaces required by a single use. Required loading spaces follow the standards prescribed in Table 054.1: Required Loading.

Table 054.1: Required Loading

Required Loading		
Use	Floor Area (square feet)	Number of Loading Spaces Required
Commercial and Industrial Uses	3,000 – 25,000	1
	25,001 – 85,000	2
	85,001 – 155,000	3
	155,001 – 235,000	4
	235,001 – 325,000	5
	325,001 – 425,000	6
	425,001 – 535,000	7
	535,001 – 655,000	8
	655,001 – 775,000	9
	775,001 – 925,000	10
	> 925,001	10 plus one per 200,000 square feet above 925,001
Civic and Miscellaneous Uses	3,000 – 100,000	1
	100,001 – 335,000	2
	335,001 – 625,000	3
	625,001 – 945,000	4
	> 945,001	5 plus one per 500,000 square feet above 945,001

Sec. 109-055. Loading Design

(a) Loading Space Location

- Required loading spaces shall be located on the same lot as the principal use, unless specified otherwise.
- Required loading spaces are prohibited from projecting into a sidewalk, street, or public right-of-way, including any maneuvering area.

- (3) Required loading spaces are prohibited from being located between the front building line and the lot line.
- (4) Required loading spaces must be placed to the rear or side of buildings in visually unobtrusive locations.
- (5) Required loading spaces must be set back a minimum distance of one hundred (100) feet from any adjacent residential zoning district or use.
- (6) Required loading spaces must be set back a minimum distance of twenty (20) feet from any public street or front property line.

(b) Loading Space Dimensions

- (1) Each loading space shall be a minimum length of thirty (30) feet and a minimum width of ten (10) feet.
- (2) All loading spaces shall have a minimum clearance of fourteen (14) feet above finished grade.
- (3) All loading spaces shall be defined by paint striping compliant with the Manual on Uniform Traffic Control Devices.

Sec. 109-056. Vehicle Stacking

- (a) *Generally.* Developments providing drive-through facilities and automatic teller machines shall comply with the following standards in this Section, including those provided in Table 056.1: Stacking Requirements.

Table 056.1: Stacking Requirements

Stacking Requirements		
Use	Length	Measuring Point
Drive-Through	110 ft	Order Point
Automatic Teller Machine	70 ft	Order Point
Automatic Car Washing Facilities	50 ft	Entrance
Other Uses	30 ft	Pick-Up Window

- (b) *Design and Layout.* Vehicle stack spaces shall be subject to the following design and layout standards:
- (1) Stack spaces shall be designed so as not to impede pedestrian access to the building, on and off-site traffic movements, or movements into or out of parking spaces.
 - (2) Stack space lanes shall be a minimum of eight (8) feet wide by twenty (20) feet long and shall be separated from other internal driveways with painted lines or curbing.

Sec. 109-057. Access Management, Connectivity, and Parking Facility Design

(a) Purpose

These regulations are intended to reinforce community standards for access management and to promote safe and attractive parking facilities for new, redeveloped, and expanded

development within the City. Access management and parking facilities are regulated in order to:

- (1) Provide for the safe and orderly circulation of motor vehicles within parking facilities;
- (2) Provide safe ingress and egress to parking facilities from public and private streets;
- (3) Provide for the safe and efficient use of active transportation including walking and cycling.

(b) Applicability

(1) When Required

Parking facilities and access management shall be provided in accordance with these regulations for all new development, and for any existing development that is altered in a way that enlarges or increases capacity by adding or creating dwelling units, guest rooms, floor area, or seats.

(2) Examples of Parking Facilities

Examples of parking facilities include, but are not limited to, parking near trailheads, parking lots, parking garages, underground parking facilities, RV Parking, and any other facilities that accommodate motorized and non-motorized vehicles.

(3) Conformance with Other Codes

Parking facilities within the corporate limits of the City shall provide parking spaces in accordance with Chapter 109 of this Code. Parking facilities within the corporate limits of the City shall provide landscaping in accordance with Chapter 109 of this Code.

(4) Permitting Required

- a. Property owners desiring access drives onto City streets or Arkansas Highway and Transportation Department Highways, not associated with an approved development or subdivision, must obtain a letter of approval from the Planning and Development Department prior to the construction of said access drive.
- b. For parking facilities containing five or more spaces, development permit and grading permits are required. Site, building, and grading plans shall be approved by the Planning and Development Department prior to initiation of any work.
- c. All access drives shall be approved by the City and by the Arkansas Department of Transportation where applicable.
- d. For access drives designed to access Arkansas Department of Transportation rights-of-way, an approval letter from the agency indicating that the design conforms to the agency's regulations shall be presented to the Planning and Development Department prior to the issuance of a building permit.

(c) General Standards

(1) Ingress and Egress

Parking facilities shall be designed to permit exiting vehicles to enter the public right-of-way in a forward motion. No parking facility shall be allowed that requires vehicles to back onto a public right-of-way, except single-family and duplex residential development on local and sub-collector streets.

(2) Maneuvering

Parking facilities shall be designated, maintained, and regulated so that no parking or maneuvering incidental to parking will encroach into areas designated for sidewalks, streets, or required landscaping. Parking facilities shall be designed so that parking movements can occur without moving other vehicles.

(d) Parking Lot Design Standards

(1) Access drives

- a. Access drives that access City streets or Arkansas Highway and Transportation Department highways shall be designed so that they intersect at 90 degrees to the roadway.
- b. A minimum 18" asphalt approach is required for concrete access drives.
- c. Width
 1. For properties adjacent to unclassified and collector streets, as identified on the master street plan, access drives shall be a maximum of 24 feet.
 2. For properties adjacent to arterial streets, as identified on the master street plan, access drives shall be a maximum of 39 feet.
 3. For properties with access drives that are not connected to parking lots, the access drives or driveway width shall be a maximum of 24 feet for two-lanes, consisting of one ingress and one egress. One-way driveways shall be no wider than 14 feet.
- d. Turning Radii
 1. Turning radii for access drives to properties adjacent to unclassified and sub-collector streets, as identified on the master street plan, shall be a minimum of 15 feet.
 2. Turning radii for access drives to properties adjacent to collector streets shall be 15 feet and for minor arterial or major arterial streets, as identified on the master street plan, shall be at least 20 feet. Exceptions may be granted through a minor modification from the Director for larger radii needed where there may be a need to accommodate truck traffic.

(2) Internal Drive Aisles

- a. Aisles shall be designed so that they intersect at 90 degrees with other aisles and driveways where practical.
- b. Minimum aisle widths are 12 feet for one-way and 24 feet for two-way aisles.

(e) Fire Access Requirements

- (1) The latest version of the Arkansas Fire Prevention Code shall prevail when considering the requirements of the following subsections of this section. Any deviation may only be considered or approved by the Fire Chief and is not subject to appeal to the Planning Commission.
- (2) Single-Family and Two-Family Access Requirements
 - a. The maximum number of single-family and two-family residential units served by a single access shall be 30.
 - b. For more than 30 residential units, there shall be no fewer than two separate and approved fire apparatus access roads.
 - c. For more than 200 residential units, three access routes must be provided.
- (3) Multifamily Access Requirements
 - a. Multiple-family residential projects having more than 100 residential units shall be equipped throughout with two separate and approved fire apparatus access roads.
 - b. Multiple-family residential projects with more than 200 residential units shall be provided with three separate and approved fire apparatus access roads.
- (4) A single access point to premises may have one or more lanes in the same direction, but shall be considered one access point. An access point is the point of departure from an existing street or road from which the new project expects to gain access.

(f) Access Management

- (1) Multimodal transportation impact analysis (MTIA) Study
 - a. Applicability

Any proposed site plan or subdivision plan located along a collector, minor arterial, or major arterial street that would be expected to generate over 100 directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over 750 trips in an average day shall be analyzed by a qualified traffic engineer, licensed to practice in the State of Arkansas.
 - b. If the site plan or subdivision plan does not generate the threshold level of trips, a multimodal transportation impact analysis study may be required by the Planning and Development Department under the following conditions:
 1. High traffic volumes on surrounding roads that may affect movement to and from the proposed development;
 2. Lack of existing left turn lands on the adjacent roadway at the proposed access drive;
 3. Inadequate sight distance at access points;
 4. The proximity of the proposed access points to other existing drives or intersections; or

5. A Development that includes a drive-through operation.

(2) Distance from intersections

- a. Access drives proposed on a major or minor arterial street shall not be closer than 250 feet from another intersecting street. This dimensional measurement runs from the intersecting street right-of-way to the centerline of the proposed access drive.
- b. Access drives proposed on a collector street shall not be closer than 100 feet from another intersecting street. This dimensional measurement runs from the intersecting street right-of-way to the centerline of the proposed access drive.
- c. Access drives proposed on a sub-collector street shall not be closer than 75 feet from another intersecting street. This dimensional measurement runs from the intersecting street right-of-way to the centerline of the proposed access drive.
- d. Access drives proposed on an unclassified street shall not be closer than 50 feet from another intersecting street. This dimensional measurement runs from the intersecting street right-of-way to the centerline of the proposed access drive.
- e. The requirements of this subsection (2) shall not apply to existing platted residential lots.

(3) Offset

Either the centerline of opposing nonresidential driveways shall align or shall be offset no less than 75 feet. This condition shall not apply where a permanent median exists without a break for these driveways.

(4) Number of Access Drives Permitted

Unless otherwise specified by this article, the maximum number of access drives for each property shall be determined by length of road frontage and the maximum speed limit of the road as determined by the master street plan. Where lots are contiguous, a common ingress/egress drive is required to minimize access drives and better facilitate traffic.

Table 3-2. Number of Access Drives

Length of street frontage in feet	Maximum number of access drives
150 or less	1
151—600	2
601—1,000	3
1,001—1,500	4
More than 1,500	5

(5) Distance between Access Drives

- a. Access drives located on unclassified and sub-collector streets shall be located a minimum of 25 feet apart, as measured from the centerline of each drive.
- b. The minimum distance between access drives on collector, minor arterial, and major arterial streets shall be determined by the desired operating speed of the road, as determined by the master street plan.

Table 3-3. Distance Between Access Drives

Travel speed permitted	Minimum distance between access drives
30 mph	100
35 mph	150
40 mph	200
45 mph	250
50 mph	300
55 mph	350

(6) Right Turn Only

Site plans for all commercial development and multifamily dwellings on minor arterial and major arterial streets shall contain a lane dedicated for "right turn only" onto a public street.

(7) Acceleration and Deceleration Lanes

- a. Arkansas Highway and Transportation Department deceleration lanes are required for single and combined uses that generate driveway volumes (trip ends) of 300 or more vehicles in the peak hour, as determined using standard Institute of Transportation Engineers (ITE) trip generation rates for the subject land uses.
- b. Additional development requiring a building permit, which would generate driveway volumes (trip ends) of 300 or more vehicles in the peak hour, shall require the installation of an Arkansas State Highway and Transportation Department-approved deceleration lane.
- c. 400 feet minimum spacing between drives, measured centerline to centerline or from the right-of-way intersecting lines of public streets to the centerline of an access drive, is required when deceleration lanes designed in accordance with the Arkansas Highway and Transportation Department are required.
- d. Construction of driveways along acceleration lanes, deceleration lanes, or tapers is prohibited due to the potential for vehicular weaving conflicts.

(8) Joint and Cross Access

- a. Cross Access

- b. Adjacent properties shall provide a cross-access drive and pedestrian access to allow circulation between sites unless otherwise approved by the Director.

- c. Techniques

A system of joint-use driveways and cross-access easements shall be established wherever feasible along streets designated as collector, minor arterial, or major arterial on the master street plan, and the building site shall incorporate the following:

- 1. A continuous service drive or cross-access corridor extending the entire length of each property served to provide for driveway separation consistent with the curb-cut standards;
- 2. A design speed of ten miles per hour and sufficient width to accommodate two-way travel aisles designed to accommodate automobiles, service vehicles, and loading vehicles;
- 3. Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross access via a service drive;
- 4. A unified access and circulation system plan that includes coordinated or shared parking areas is encouraged wherever feasible.

- d. Documentation

Pursuant to this section, property owners shall:

- 1. Access Easement

Record an easement with the deed allowing cross access to and from other properties served by the joint-use driveways and cross-access or service drive.

- 2. Access Agreement

Record an agreement with the deed that remaining access rights along the thoroughfare will be dedicated to the City and preexisting driveways will be closed and eliminated after construction of the joint-use driveway.

- 3. Maintenance Agreement

Record a joint maintenance agreement with the deed defining the maintenance responsibilities of property owners.

(9) Reduction in Separation Distance

The Planning Commission may reduce the required separation distance of access drives where they prove impractical, provided all of the following requirements are met:

- a. Joint access driveways and cross-access easements are provided wherever feasible in accordance with this section.
- b. The site plan incorporates a unified access and circulation system in accordance with this section.

- c. The property owner shall enter a written agreement with the City, recorded with the deed, that preexisting connections on the site will be closed and eliminated after the construction of each side of the joint-use driveway.

(10) Nonconforming Access Features; Existing

Permitted access connections in place as of the date of the adoption of the ordinance from which this article is derived that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with applicable standards under the following conditions:

- a. When new access connection permits are requested;
- b. Substantial enlargements or improvements of 50 percent or more of the existing access feature surface area;
- c. As roadway improvements allow; or
- d. Significant change in trip generation. An increase in the intensity of the use shall cause the proposed use being brought up to the current code regulations.

(g) Minor Modifications

Minor modifications to the requirements of this article, unless provided for separately herein, shall be made as stipulated in Article V. Division 5. Sec. 109-143.

Division 4. Retaining Walls

Sec. 109-058. Applicability

- (a) The requirements of this article shall apply to the construction, installation, extension, or replacement of all retaining walls 4 (four) feet or more in height, as measured from the final grade at the lower side of wall to the top of the wall, unless specifically exempted by (c) below. All retaining walls subject to this article must obtain a permit from the Planning and Development Department. Retaining walls less than four (4) feet tall in height measured from the final grade at the lower side of the wall to the top of the wall do not require a permit. Retaining walls shall be constructed of stone, brick, or other masonry materials.
- (b) Retaining walls that separate land from bodies of water, regardless of height, must adhere to the requirements of this article. All such retaining walls must obtain a permit from the Planning and Development Department.

(c) Exemptions

Retaining walls that meet the following requirements shall be exempt from the requirements of this section:

- (1) Retaining walls designed must be part of a primary structure's foundation authorized by a valid building permit, unless such retaining walls separate land from bodies of water.
- (2) Retaining walls designed as part of a public capital improvement project.

Sec. 109-059. Design and Inspection

(a) Slopes

Slopes of one-to-one or steeper shall be treated as a retaining wall and shall comply with the regulations of this section.

(b) Safety Railings

Safety railings may be required for any retaining wall 2.5 feet or higher. The decision to require safety railing shall be based on specific site conditions, potential pedestrian and public access to the retaining wall, and applicable building codes.

(c) Drainage

All walls, regardless of height, must provide some means of alleviating hydrostatic pressure behind the wall and conveyance of water.

(d) Prohibited Materials

Walls coming into contact with a lake, stream, or other body of water may not be constructed of treated wood or railroad ties that could leach chemicals into the water body.

(e) For Retaining Walls Four Feet or More in Height

(1) Any retaining wall measuring four feet or more in height shall be designed by a registered professional engineer and shall be field inspected by the design engineer.

(2) Upon completion of construction, the engineer shall provide the Planning and Development Department with a certification letter stating that all code and plan requirements have been fulfilled.

(3) Investigation Report

All proposed retaining walls ten feet or greater in height will require a geotechnical investigation and a formal report submitted by a registered professional engineer.

(f) Minimum Elevation Requirements for Retaining Walls Separating Land from Bodies of Water

(1) Retaining walls that separate land from bodies of water must maintain a minimum elevation of 24 inches above normal pool elevation as established in Table 037.1: Water Body Elevation Levels. Such will be demonstrated through inspection of the retaining wall by the Planning and Development Department.

(2) For retaining walls that separate land from bodies of water that do not have any even surface due to construction materials, such as large boulders or other similar materials, demonstration of the 24-inch minimum elevation requirement can be an average of several points along the entire length of the retaining wall. Such will be demonstrated through inspection of the retaining wall by the Planning and Development Department.

(g) Retaining Wall Submittal Specifications

(1) A site plan shall be submitted with all required retaining wall permits. The site plan shall be drawn to a typical engineering scale and include the following:

- a. Location of all property lines;
 - b. Location of all existing and proposed structures;
 - c. Locations of existing retaining walls on or adjacent to the property that are to remain in place, if applicable;
 - d. Portions of existing retaining walls that will be replaced, if applicable;
 - e. Location of any septic drainage fields, if applicable;
 - f. Locations of new retaining walls; and
 - g. Location of all utilities, utility easements, drainage easements, and drainageways.
 - h. Location of nearby right-of-way, such as streets and sidewalks.
- (2) All applications for a retaining wall permit shall contain construction details that include the following:
- a. Dimensions and height of the wall;
 - b. Cross section of the wall, including footing design;
 - c. Elevations above and below the wall; and
 - d. Proposed wall material.
 - e. For walls in excess of 4 feet in height, all plans submitted for a retaining wall permit shall be stamped and signed by a professional engineer registered in the State of Arkansas.
 - f. The Planning and Development Department may require additional information to process a permit application.
- (h) Retaining Wall Placement
- (1) Rights-of-Way
- Retaining walls shall not be located in a public right-of-way.
- (2) Private Property
- All retaining walls shall be located on private property and shall be built with the consent of the property owner. The retaining wall contractor and/or property owner shall be responsible for correctly locating property boundaries. Retaining walls shall not encroach on neighboring properties.
- (3) Sight Triangle
- All retaining walls constructed near street intersections shall not be located in the sight distance triangle, as described in Article IV. Division 2. Sec. 109-046. (d), to provide a reasonable degree of traffic visibility.
- (4) Easements
- a. Utility Easements

Retaining walls shall not restrict access to utilities. Where no utilities are present in an easement, or where utilities are planned to be relocated, and where such action is approved by all utility agencies, then retaining walls may be placed within the easement.

b. Drainage Easements

Retaining walls shall not impede the normal flow of stormwater and shall not cross open drainage channels. Retaining walls proposed in drainage easements shall be approved on a case-by-case basis.

c. Access Easements

Retaining walls shall not be constructed over a public or private access easement.

(5) Setbacks

a. From Structures

Retaining walls shall be placed a minimum of 1.5 times the height of the wall, away from existing or proposed structures, unless such wall is exempted under Sec. 109-058. (c) above. An exception from the structure setback can be granted if a report from a professional engineer is provided that proves the structure does not contribute load to the wall or that the wall is designed for the additional load from the foundation of the structure.

b. From Property Lines

Retaining walls shall be placed a minimum of 7.5 feet or 1.5 times the height of the wall, whichever is greater, away from property lines. In cases where the retaining wall is supporting an access drive, the wall shall be allowed to be placed up to the front property line. Sea walls shall be allowed property line to property line and are excluded from side setback requirements.

(6) Septic Systems

Retaining walls shall not be placed over any existing or proposed septic drain fields. Retaining walls shall not be placed any closer than ten feet in any direction to a septic leach field.

(7) Terraced Retaining Walls

- a. If retaining walls are terraced, the upper wall shall be located no closer to the lower wall than one times the height of the tallest wall.
- b. Terraced walls that are less than 2 times the height of the lower wall shall be considered a single wall. In this situation, to account for the dead and live loads of the upper wall on the lower wall, the wall height will be the sum of the heights of both the lower and upper walls.

Division 5. Landscaping

Sec. 109-060. Purpose

The purposes of this Division are to:

- (a) Enhance the environmental and visual character of the community.
- (b) Preserve and stabilize the area's ecological balance by establishing a healthier environment.
- (c) Mitigate the negative effects of air and noise pollution by using plants as buffers.
- (d) Maintain a minimum of open space and green areas to protect the health and welfare of Bella Vistans;
- (e) Reinforce the identity of the community;
- (f) Appropriately situate new buildings in the natural landscape;
- (g) Provide adequate vegetation for screening and buffering between land uses;
- (h) Provide tree canopies to reduce the urban heat island effect and moderate the effects of sun, wind, and temperature changes;
- (i) Stabilize soil and prevent erosion;
- (j) Provide landscaping regulations that help filter pollutants from the air and release oxygen;
- (k) Preserve existing trees and establishes procedures for replacing removed trees; and
- (l) Identify and use climate-appropriate landscape material.

Sec. 109-061. Applicability

- (a) *Generally.* This Division applies to:
 - (1) All nonresidential development and multi-family development, including mixed-use developments for new construction, unless otherwise specified;
 - (2) Additions ten percent or more of the gross floor area of the building or more than two thousand five hundred (2,500) square feet, whichever is more.
 - (3) Residential development in certain instances, as specified and provided in this Division;
- (b) *Exemptions.* This Division exempts:
 - (1) Single-family residential and duplex development, unless otherwise specified.
 - (2) Additions to existing structures that are under ten percent of the gross floor area of the building or no more than two thousand four hundred ninety-nine (2,499) square feet, whichever is less.
 - (3) Previously approved developments which have been given a permit to begin building construction.

Sec. 109-062. General Requirements

- (a) Sight Distances.

- (1) Safe sight distances at intersections and points of access must be maintained as provided in Division 2. Sec. 109-046. (d).
 - (2) No landscaping between thirty (30) and sixty (60) inches in height shall be placed within the intersection visibility triangle of an intersection or curb cut.
- (b) *Soil and Climatic Conditions.* Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for their growth habits. Plants used in the landscape design shall to the greatest extent be:
- (1) Appropriate to the conditions in which they are to be planted;
 - (2) Have non-invasive growth habits;
 - (3) Encourage low maintenance, high-quality design; and
 - (4) Be otherwise consistent with the intent of this Division.

Sec. 109-063. Standards

(a) Landscaped Street Frontage Buffer.

- (1) *Purpose.* The landscaped street frontage buffer serves two primary purposes:
 - a. When a parking lot is located adjacent to a public right-of-way, a strip of landscaping helps shield projecting headlights that may impair the vision of passing motorists or pedestrians, therefore creating a safer environment.
 - b. It also provides an aesthetically pleasing transition from the public right-of-way to private property.
- (2) *Prohibitions.* Parking, outdoor display, and off-street loading are prohibited in the landscaped street frontage buffer.
- (3) *Buffer Options.* All development, other than those exempt in Sec. 109-061. (b), shall provide a landscaped street frontage buffer along all public rights-of-way. The applicant may choose one or a combination of the four options provided in Table 063.1: Buffer Option Standards to meet the particular site constraints of the development.

Table 063.1: Buffer Option Standards

Buffer Option Standards						
Buffer Option		Width (min.)	Height (min.)	Slope (max.)	Number of Trees (min.)	Number of Shrubs* (min.)
Strip	6 ft	6 ft landscaped street buffer with 3 ft of fall	N/A	N/A	1 shade tree & 1 ornamental tree per 25 linear feet of street frontage	3 shrubs per 25 linear feet of street frontage
	10 ft	10 ft			10 shrubs per 25 linear feet of street frontage	
	25 ft	existing woodlands maintained in 25 ft strips along the street frontage			N/A	N/A

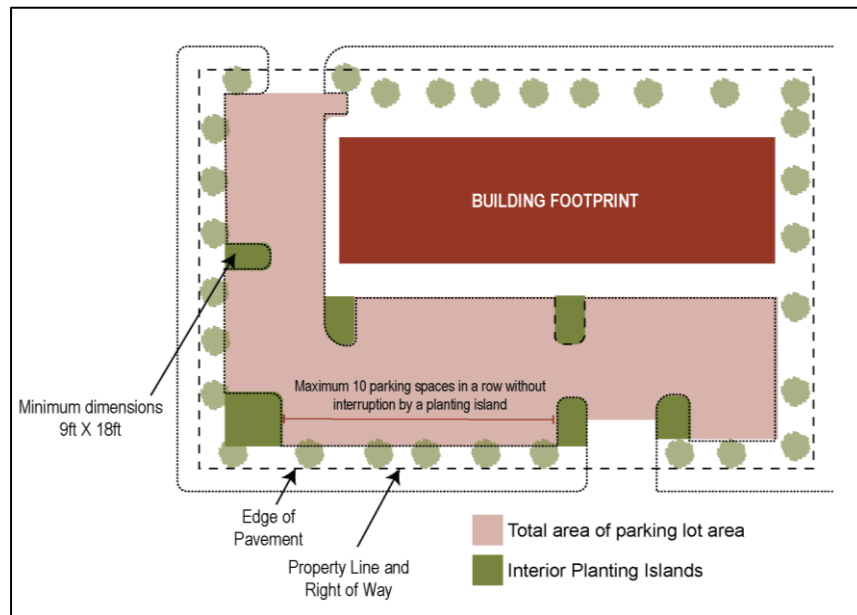
Earth Berm	N/A	2.5 feet higher than the finished elevation of the parking lot	3:1	1 shade tree & 1 ornamental tree per 25 linear feet of street frontage	3 shrubs per 25 linear feet of street frontage
Notes	* = A minimum of 50% of required shrubs shall be evergreen				

- (4) *Groundcover*. All areas of the landscaped street buffer that are not dedicated to tree or shrub plantings shall be landscaped with ground cover.
- (5) *Massing*. Massing shall be integrated into a bed or in a curb to ease maintenance. If the minimum number of trees per 25 linear feet is provided, the maximum distance between massing is fifty (50) feet.

(b) Interior Parking Lot Landscaping.

- (1) *Purpose*. The interior parking lot landscaping requirement serves several purposes:
- To provide necessary green space to give relief to expansive paved parking areas;
 - To provide shade and to serve as windbreaks; and
 - To assist with vehicular circulation.
- (2) *Applicability*. Interior parking lot landscaping requirements apply to all parking areas required in Division 3. of this Article to have ten (10) or more parking spaces.
- (3) *Requirement*. Any development where parking lots are provided shall install and maintain interior parking lot landscaping.
- Standard*. The percentage of the total area of parking lot dedicated to interior planting shall be as provided in Table 063.2: Interior Landscaping Requirements
 - Calculating Lot Area*. Figure 063.1: Calculating Lot Area illustrates what areas of the lot are considered when determining the total area of the parking lot.

Figure 063.1: Calculating Lot Area



1. *Included in Calculation.* The square footage of all areas within the parking lot's perimeter are counted, including the planting islands required, curbed areas, corner lots, parking spaces and interior driveways and aisles.
2. *Excluded from Calculation.* Driveways and aisles with no parking spaces located on either side, buildings, street frontage buffer, and perimeter strips are not counted. Landscaped areas outside the parking lot may not be used to meet the interior planting requirement.
3. The total amount of landscape area for the interior lot is determined by figuring five percent (5%), eight percent (8%), or ten percent (10%) of the total parking lot area as explained in 1 and 2 of this Subsection above.

Table 063.2: Interior Landscaping Requirements

Interior Landscaping Requirements	
Total Area of Parking Lot	Minimum Percent Dedicated to Interior Landscaping
3,000 – 49,999 sq. ft.	5%
50,000 – 149,000 sq. ft.	8%
150,000 sq. ft. or larger	10%

- c. *Planting Islands.* Planting islands are required as a part of the landscape area percentage in the interior parking lot area.
 1. *Dimensions.* The dimensions of a planting island must be a minimum of nine (9) feet by nineteen (19) feet as measured from the face of the curb, the same as a parking space, and must be curbed to protect landscaping and trees.
 2. *Minimum Number Required.* No more than ten (10) parking spaces shall be permitted in a row without interruption by a planting island. In parking lots over

150,000 square feet, the number of planting islands may be reduced but the total square footage of landscape area must remain according to the requirements.

- d. *Trees.* Trees are required to be planted in the interior parking area to offer shade from the heat and sun.
 - 1. *Minimum Number Required.* One shade tree per ten (10) parking spaces is required for the interior parking area.
 - 2. *Location.* Trees shall be planted within the island.
 - e. *Groundcover.* All interior parking lot landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover.
- (4) *Vehicular Display Areas.* A development shall provide one of the following options for vehicular display areas:
- a. Compliance with the interior parking lot landscaping requirements described in this Section and the requirements in Sec. 109-063. (a); or
 - b. In lieu of the interior parking lot landscaping requirements, increase the required street frontage buffer to twenty-five (25) feet wide and install the number of trees required for the interior landscape requirements within the street frontage buffer.
- (c) *Landscaped Perimeter.*
- (1) *Purpose.* Perimeter landscaping has the following purposes to:
 - a. Define parking areas;
 - b. Prevent two adjacent lots from becoming one large expanse of pavement;
 - c. Provide vegetation in densely developed areas; and
 - d. Enhance the appearance of individual properties.
 - (2) *Requirement.* All development, other than that exempt in Sec. 109-061. Sec. 109-061. (b), shall provide perimeter landscaping, in addition to the landscaped street frontage buffer required in Sec. 109-063. (a).
 - a. *Width.* A ten-foot landscaped strip is required along the side and rear lot lines of a development.
 - b. *Minimum Number of Trees.* One shade tree and one ornamental tree per fifty (50) linear feet.
 - c. *Groundcover.* All perimeter landscaped areas not dedicated to the preservation of existing vegetation shall be landscaped with groundcover.
 - d. *Vehicular Access.* The perimeter landscaping requirement does not preclude the need for vehicular access to be provided between lots.
 - e. *Adjacent Properties.* The ten-foot perimeter strip is required for each development, regardless if one is already in place from an adjacent, developed lot.

(d) Residential Tree Planting

- (1) Number of trees required. Newly constructed single-family residential and duplex residential structures shall plant two (2) shade trees in each front yard adjacent to the right-of-way. For corner or through lots, one (1) shade tree shall be provided in each yard adjacent to the right-of-way. Certificate of Occupancy may be held for those who fail to complete landscape requirements, but may be provided at the Director's discretion in instances where development occurs outside of an appropriate planting season.
- (2) Tree size and location. Minimum tree size and location shall comply with Sec. 109-068. at the time of planting.
- (3) Tree species. The required trees shall be of a species that is considered native and non-invasive, and an acceptable species by the City.
- (4) Existing trees. Existing trees may be preserved for a credit toward the number of required trees if such trees comply with Sec. 109-065. .
- (5) Septic field exception. Newly constructed single-family residential and duplex residential structures utilizing septic fields in the front yard shall be exempt from the requirements of this Section.

Sec. 109-064. Landscape Installation Requirements

- (a) *Location*. The following applies to the location and installation of landscaping:
- (1) *Drainage*. Trees shall not be placed where they interfere with site drainage.
 - (2) *Overhead Utilities*. Trees shall not be placed where they require frequent pruning in order to avoid interference with overhead power lines or to otherwise prevent their growth into easements. In such locations, small ornamental trees may be substituted to meet the requirements of this Division.
 - (3) *Water Lines*. Landscaping shall be installed at locations that avoid placement directly above water lines.
 - (4) *Fire Hydrants*. Landscaping shall not be placed within three (3) feet of a fire hydrant.
- (b) *Minimum Size*. Immediately upon planting, trees shall meet the minimum requirements established in Table 064.1: Minimum Planting Size. Note that caliper dbh means caliper diameter at breast height.

Table 064.1: Minimum Planting Size

Minimum Planting Size	
Type	Minimum Size
Ornamental Trees	1.5 inches caliper dbh
Evergreen Trees	6 feet in height
Shade	2.5 inches caliper dbh
Shrubs	18 inches in height

- (c) *Species Mix*. When more than ten trees are to be planted to meet the requirements of this Division, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. The minimum number of species to be planted is provided in Table 064.2: Required Species Mix. Species shall be planted in proportion to the required mix. This species mix shall not apply to areas of vegetation required to be preserved.

Table 064.2: Required Species Mix

Required Species Mix	
Required Number of Trees	Minimum Number of Species
11 – 20	4
21 – 30	5
31 – 40	6
41 +	7

- (d) *Irrigation*.
- (1) Except as provided below, required landscaping shall be irrigated by one of the following methods:
- An underground sprinkling system;
 - Automatic drip system; or,
 - Hose attachment within 100 feet of all landscaped areas.
- (2) Landscaping with native and drought tolerant species shall not require irrigation, provided the following certification is made on the landscape plan by a licensed landscape architect who is registered with the State of Arkansas:
- "Automatic irrigation is not required on this project due to environmental conditions that do not warrant the installation of an irrigation system for plant establishment and survival."*
- (e) *Weed Barrier*. If utilized in a landscape design, a weed barrier shall be permeable to water. Non-permeable and plastic weed barriers are expressly prohibited.

Sec. 109-065. Trees and Shrubs

- (a) *Criteria*. Plantings shall adhere to the approved plant list maintained by the City.
- (b) *Plant Selection*. When selecting new plantings for a particular site, a developer shall consider the type of approved plants that are thriving on or near that site. However, if an introduced species has proven highly effective for screening or shading in this area, it too may be a proper selection.

Sec. 109-066. Maintenance

- (a) *Financial Guarantee*.

- (1) The following vegetation, planted or preserved, that does not remain alive shall be replaced with equivalent vegetation for a period of three years from the date a certificate of occupancy is issued:
 - a. Vegetation planted or preserved according to an approved landscape plan; and
 - b. Preserved trees for which credit under Sec. 109-067. tree preservation requirements were awarded, but subsequently die.
- (2) Procedures.
 - a. Prior to the issuance of a building permit, the applicant will prepare and provide a cost estimate of the value of required and preserved vegetation by the licensed landscape architect to the Director. Upon agreement to the estimate by the Director, the building permit may be issued.
 - b. At development final approval of a project requiring landscape improvements under this Division, the applicant shall provide the City a three-year financial guarantee in the form of a cash deposit, letter of credit, or maintenance bond in the amount of fifty percent (50%) of the previously agreed to cost estimate prior to the issuance of a certificate of occupancy.
 - c. The financial guarantee will warrant that all vegetative materials, planted or preserved, will survive for one year and name the City as the sole beneficiary. If any of the vegetative materials fail to survive during that period, it shall be replaced during the appropriate planting season.
 1. *Exemption:* Any vegetation covered by (a) of this Section that dies as a result of an inclement weather (e.g. tornados, straight line winds, flooding) shall be exempt from replacement. For this exemption to be effective, the applicant must notify the Director within seven business days from the event. After a site inspection, any plant material destroyed will be credited toward the final inspection for guarantee release.
 - d. The warranty period for financial guarantees shall run for one year from the date of the issuance of a certificate of occupancy.
 - e. *Final Inspection.* At the end of the three-year warranty period, the Director shall conduct a final inspection of guaranteed vegetation which must be completed prior to the release of financial guarantee.
 - f. If, at the time of final inspection, any vegetative material has failed to survive, the City shall be entitled to payment to replace that vegetative material under the terms of the financial guarantee. The City shall be entitled to use all of the money secured by the financial guarantee to assure the cost of completion of the work. The applicant shall not be entitled to any excess monies from the financial guarantee until vegetative material is replaced or the guarantee's time period has expired, whichever is longer.

- g. *Guarantee Released.* Upon completion of the warranty period or replacement of any vegetative material that failed to survive the warranty period, whichever is longer, the Director may release the unused balance from the financial guarantee back to the applicant.
- (3) *Forms.* Financial guarantees required under this Section shall take the form of a cash deposit or cashier's check, letter of credit, or maintenance bond.
 - a. Financial guarantees in the form of a cash deposit or cashier's check shall be made into a financial institution approved by the Mayor and staff attorney pursuant to state statute.
 - b. Financial guarantees in the form of a letter of credit will be irrevocable, in a form approved by the staff attorney, and list the City as the sole beneficiary.
 - c. Financial guarantees in the form of a maintenance bond shall be issued by a surety company authorized to do business in the State of Arkansas.

Sec. 109-067. Tree Preservation

- (a) *Healthy Trees.* No tree preservation credits will be allowed for any dead tree as classified by a registered arborist, any tree in poor health, or any tree subjected to grade alterations.
- (b) *Protection During Construction.* Trees for which credit is given shall be protected during construction from:
 - (1) Mechanical injuries to root, trunk and branches;
 - (2) Injuries by chemical poisoning;
 - (3) Injuries by excavation; and
 - (4) Injuries by paving.
- (c) *Credit Options.* If an applicant is preserving trees, the applicant may use the existing trees as credit either toward a reduction in parking requirements or in a reduction of the number of trees required, as described below.
 - (1) *Reduction of Parking Requirements.* To allow an existing or new development to preserve trees within or adjacent to a parking lot, the number of required off-street parking spaces may be reduced as provided in Table 067.1: Parking Space Reduction Credits.

Table 067.1: Parking Space Reduction Credits

Parking Space Reduction Credits	
Total Diameter of all Preserved Trees	Number of Parking Spaces Credited
4 – 7.9 inches	1
8 – 22.9 inches	2
23 – 29.9 inches	3
30+ inches	4

- (2) *Reduction of required trees.* Preservation and protection of existing trees on the lot may be credited toward the tree planting requirements. Credit for preserved trees shall be permitted as provided in Table 067.2: Tree Reduction Credits.

Table 067.2: Tree Reduction Credits

Tree Reduction Credits	
Diameter of Preserved Tree	Number of Shade Trees Credited
4 – 7.9 inches	1
8 – 22.9 inches	2
23 – 29.9 inches	3
30+ inches	4

Sec. 109-068. Minor Modifications

- (a) This Division may be modified in the following instances through the minor modification process approved by the Director when one of the conditions in Subsection (2) below are present.

(1) Modifications

- a. Landscaped street frontage buffer widths may be reduced by ten percent (10%).
- b. One shade tree may be substituted by a cluster of three (3) ornamental trees.
- c. Trees required by Sec. 109-065. may be relocated from the landscaped perimeter to other areas within the development if the Conditions outlined in this Section are present.

(2) Conditions

- a. *Space Limitations.* The site involves space limitations or unusually shaped parcels.
- b. *Site Conditions.* Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical.
- c. *Change of Use.* Due to a change of use of an existing site, the required buffer yard is larger than can be provided.
- d. *Safety.* Safety considerations require a change.
- e. *Utility Conflict.* Due to platted or required utility easements that prevent certain height of vegetation.

- (b) Any other modification outside the scope of the items listed above requires a variance.

Division 6. Outdoor Site Lighting

Sec. 109-069. Purpose

The purposes of this Division are to:

- (a) Allow the use of outdoor lighting for night-time safety, utility, security, productivity, enjoyment, and commerce;

- (b) Protect the privacy of property owners by minimizing light pollution and limiting the potential for glare and light trespass from outdoor lighting fixtures located on adjacent properties;
- (c) Minimize adverse off-site impacts of lighting;
- (d) Reduce atmospheric light pollution by limiting skyglow and improving the nighttime environment for astronomy;
- (e) Conserve energy and resources to the greatest extent possible by promoting efficient and cost effective lighting;
- (f) Allow for flexibility in the style of light fixtures by encouraging outdoor lighting that is functional, aesthetically pleasing, and complementary to the architectural style of buildings or settings; and
- (g) Protect pedestrians, motorists, and the visually impaired from the glare of non-vehicular light sources that can impair safe travel.

Sec. 109-070. Applicability

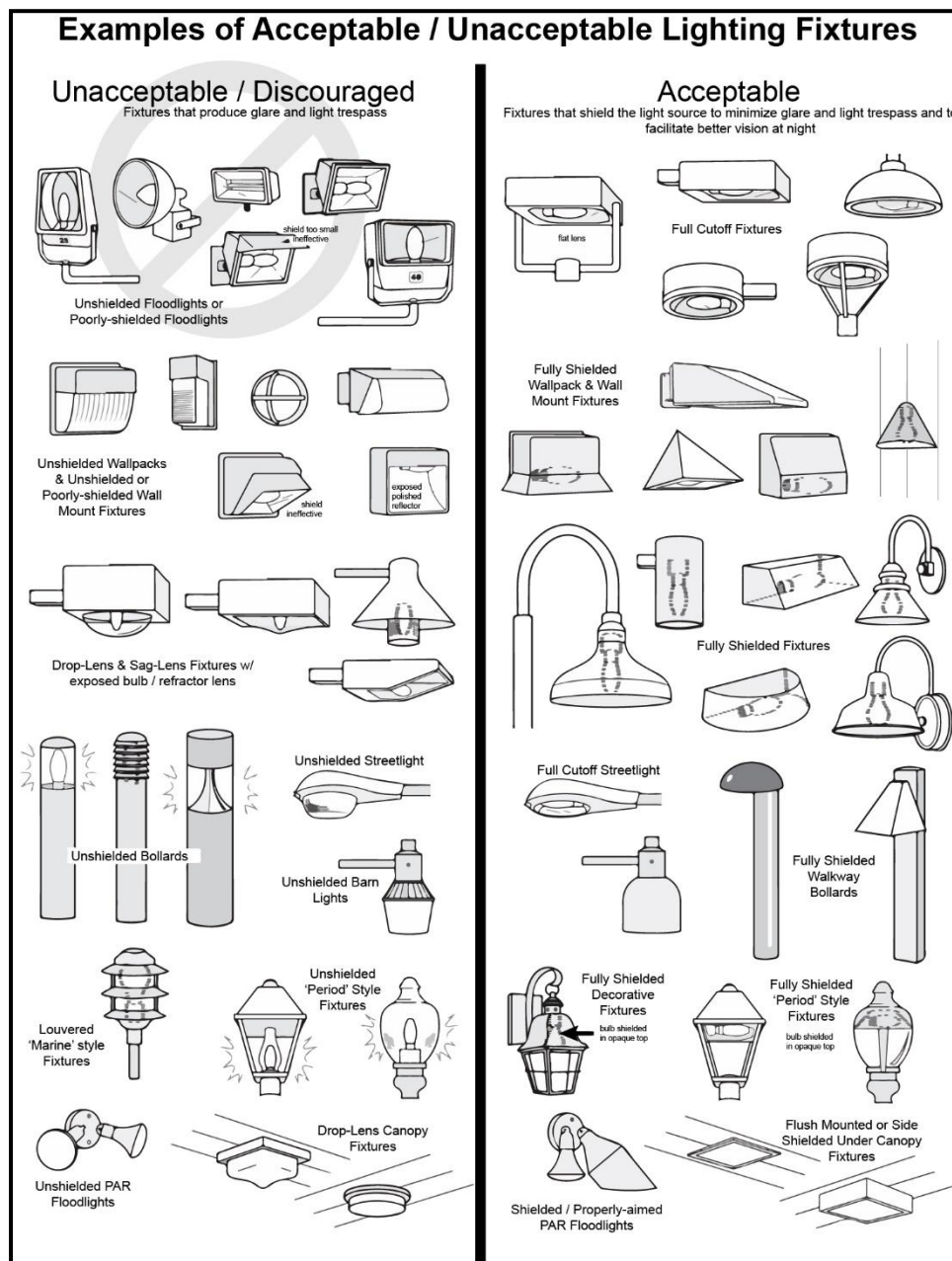
- (a) *Generally.* This Division applies to:
 - (1) All outdoor lighting within the City's corporate limits unless otherwise specified;
 - (2) All new development unless otherwise specified;
 - (3) Additions over 10% of the gross floor area of the building or more than 2500 square feet, whichever is more;
 - (4) All outdoor lighting fixture replacements; and
 - (5) Any new outdoor lighting fixtures installed on private and public property after the effective date of this Chapter unless otherwise specified.
- (b) *Exemptions.* This Division exempts:
 - (1) Single-family residential and duplex development unless otherwise specified;
 - (2) Emergency lighting, used by Police, firefighting, or medical personnel during times of emergency;
 - (3) Outdoor lighting regulated under Division 11. of this Article or other City ordinances; and
 - (4) Routine lighting maintenance, including changing the lamp ballasts, starter, photo control, fixture housing, lens, and other required components.

Sec. 109-071. Standards

- (a) *Generally*
 - (1) The direct or reflected light from any light fixture shall not create a traffic hazard to operators of motor vehicles on public streets or to operators of aircraft, and no colored

- lights may be used in such a way as to be confused or construed as street traffic or air traffic control devices.
- (2) No blinking, flashing, or fluttering lights, or other illuminated device that has a changing light intensity, brightness, or color, is permitted in any zoning district.
 - (3) The Director may require modifications to outdoor lighting after installation upon finding that the lighting, as installed, does not comply with these standards.
- (b) Lighting Design

Figure 071.1: Light Fixtures



- (1) All outdoor lighting shall meet the functional security needs of the proposed land use without adversely affecting surrounding properties and the natural environment.
 - (2) All new and replacement light fixtures shall be full cutoff, except that light sources not exceeding 500 lumens for individual light fixtures, 150 lumens for individual lights in a light string (e.g., patio lights), and 3000 Kelvin in color temperature are not required to be full cutoff. For cutoff light fixtures, refer to Figure 071.1: Light Fixtures.
 - (3) Light sources shall be concealed or shielded to minimize the potential for glare and light pollution.
 - (4) Light fixtures shall be installed so that the luminaire angle is zero degrees (vertical to the ground).
 - (5) Lights that shine outward and create direct glare are prohibited.
 - (6) The amount of light trespass projected onto a residential use from another property shall not exceed 0.1 footcandles at the property line.
 - (7) Lighting shall be distributed evenly to minimize extremes in luminance levels.
 - (8) Light types of limited spectral emission, such as low-pressure sodium or mercury vapor lights, are prohibited in all areas.
 - (9) Energy efficient lighting shall be used to the maximum extent practicable.
 - (10) Light sources in residential zoning districts shall not exceed 3000 Kelvin in color temperature.
 - (11) Light sources in nonresidential zoning districts shall not exceed 5000 Kelvin in color temperature.
 - (12) Light fixtures used to illuminate flags, statues, or any other objects shall minimize glare beyond the illuminated object.
- (c) Lighting Height
- (1) Light fixtures mounted to a building or structure shall not exceed the height of the building or structure.
 - (2) Freestanding light fixtures located on lots within residential zoning districts shall be mounted no higher than 20 feet from the ground.
 - (3) Freestanding light fixtures located on lots within other zoning districts shall be mounted no higher than 35 feet from the ground.
 - (4) Light fixtures higher than the maximum heights specified in this Subsection, but not exceeding the maximum structure height in the applicable zoning district, are prohibited unless the Director finds that such lighting is appropriate and necessary for the development, shall not adversely affect surrounding properties and is consistent with the purpose of the lighting standards.
- (d) Recreational Lighting

- (1) Outdoor recreational lighting (ball fields, tennis courts, etc.) shall be designed in accordance with IESNA standards located in IESNA RP 6-01 "Sports and Recreational Area Lighting."
 - (2) Lighting design requirements in Subsections (2), (4), (10), and (11) of Sec. 109-071. (b) do not apply to outdoor recreational lighting.
 - (3) Lighting height requirements as specified in Sec. 109-071. (c) do not apply to outdoor recreational lighting.
 - (4) All activity and lights shall be turned off one hour after the end of the last event.
- (e) Temporary Lighting and Displays.
- (1) Temporary lighting and displays are subject to the following:
 - a. *Time Period.* Temporary displays and lighting shall not be illuminated more than 90 days.
 - b. *Location.* Displays shall not be located in the public right-of-way.
 - c. *Orientation.* Displays shall be oriented to prevent glare and light trespass onto adjacent properties.

Division 7. Screening

Sec. 109-072. Purpose

The purposes of this Division are to:

- (a) Minimize conflicts between potentially incompatible land uses and development on abutting property; and
- (b) Ensure that screening is attractive and in character with its surroundings.

Sec. 109-073. Applicability

- (a) *Generally.* This Division applies to:
 - (1) All nonresidential and multi-family development within Bella Vista's corporate limits.
 - (2) Additions over 10% of the gross floor area of the building or more than 2,500 square feet, whichever is more; and
 - (3) Residential development in certain instances, as specified and provided in this Division.
- (b) *Exemptions.* This Division exempts:
 - (1) Additions to existing structures that are under 10% of the gross floor area of the building or two thousand four hundred ninety-nine (2,499) square feet, whichever is less; and
 - (2) Previously approved developments which have been given a permit to begin building construction.

Sec. 109-074. Standards

(a) Generally

(1) Every development shall provide sufficient screening as established in Table 074.1: Screening Applicability Summary and Table 074.2: Screening Types and Characteristics Summary, unless otherwise specified.

(2) Required screening shall also meet certain standards to ensure:

- a. Neighboring properties are shielded from any adverse external effects of that development.
- b. The development is shielded from the negative impacts of adjacent uses such as major streets or railroads.
- c. Refuse facilities are enclosed with opaque screening materials on all sides.

(b) *Screening Requirements.* Required screening shall be provided as established in Table 074.1: Screening Applicability Summary.

Table 074.1: Screening Applicability Summary

Abutting Uses → ↓	Low Density Residential	Multi-Family	Commercial	Industrial
Low Density Residential	None	B	A	A
Multi-Family	B	None	B	A
Commercial	A	B	None	C
Industrial	A	A	C	None
Key	A = Type A Screening B = Type B Screening C = Type C Screening			

(c) *Screen Types.* The following three types of screens are established in Table 074.2: Screening Types and Characteristics Summary and are used as the basis for the screening requirements provided in Sec. 109-074. (b).

Table 074.2: Screening Types and Characteristics Summary

Screening Types and Characteristics Summary				
Screen Type	Intent	Height	Materials	Vegetative Screens
A: Opaque	To exclude all visual contact between uses and to create a strong impression of spatial separation	Opaque from the ground to a height of at least 6 feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet	- Wall - Fence - Landscaped earth berm - Planted vegetation or	- The opaque portion of the screen shall be opaque in all seasons of the year. - At maturity, the portion of intermittent visual obstructions shall not contain any completely unobstructed openings more than 10 feet wide - The screen may contain deciduous plants
B: Semi-Opaque	To partially block visual contact between uses and to create a strong impression of the	Opaque from the ground to a height of 3 feet, with intermittent visual obstruction from above the opaque portion to a	Existing vegetation	At maturity, the portion of intermittent visual obstructions shall not contain any completely unobstructed openings more than 10 feet wide

	separation of spaces	height of at least 20 feet. Visual obstructions shall be no less than 2 and no more than 4 feet in width, and shall be no less than 5 and no more than 10 feet apart.		The screen may contain deciduous plants
C: Broken	To create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces	Composed of intermittent visual obstruction from the ground to a height of at least 20 feet. Visual obstructions shall be no less than 2 and no more than 4 feet in width, and shall be no less than 3 and no more than 6 feet apart.		The screen may contain deciduous plants
Notes	<i>For Type A and Type B screens, compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species or field observation of existing vegetation.</i>			

Division 8. Fencing

Sec. 109-075. Purpose

The purposes of this Division are to:

- (a) Minimize conflicts between potentially incompatible land uses and development on abutting property;
- (b) Maintain fences by recognizing their use to create privacy; and
- (c) Ensure that fences are attractive and in character with the neighborhood.

Sec. 109-076. Applicability

- (a) *Generally.* This Division applies to all development in the following circumstances within Bella Vista's corporate limits unless otherwise specified.
 - (1) *New Construction.* Construction of a new fence;
 - (2) *Extension.* Extension of an existing fence; or
 - (3) Replacement.
 - a. Replacement of an existing fence that is a different size, at a different location or of a different material (e.g., a chain link fence being replaced by a wood privacy fence); or
 - b. Replacement of more than fifty percent (50%) of the linear length of an existing fence.

(b) *Exemptions.* This Division exempts:

- (1) Previously approved developments which have been given a permit to begin building construction; and
- (2) Replacement of less than forty-nine percent (49%) of the linear length of an existing fence, except that the portion being replaced shall not:
 - a. Impede visibility at the intersection visibility triangle;
 - b. Impede a natural drainageway;
 - c. Be located in certain utility easements that require gated access; or
 - d. Encroach neighboring property lines.

Sec. 109-077. Standards

(a) Generally

- (1) Fences are not required for any property within the corporate limits, however when fences are provided, they shall follow the requirements of this Division.
- (2) No fence shall be allowed in the right-of-way and is not subject to a variance request.
- (3) No fence shall conflict with the intersection visibility triangle requirements of Sec. 109-046. (d).
- (4) No fence shall be erected on any property without the consent of all owners of the property.
- (5) Fences shall not encroach onto adjoining property not owned by the owner of the fence.
- (6) Fences may be located directly adjacent to existing fencing or attached to such fencing with the consent of the fence owner.
- (7) Every fenced enclosure constructed under the provisions of this Division shall have at least one gate in its perimeter.
- (8) All fences constructed under the provisions of this Division shall be maintained so as to comply with the requirements of this Division at all times. The Director may order the repair or removal of a fence if it is more than five percent (5%) damaged or leaning ten (10) degrees from vertical. Fences shall be repaired in compliance with the provisions of this Division.

(b) Fence Location

- (1) No fences exceeding three (3) feet in height shall be allowed in the required front yard in any residential district where a lot is less than four (4) acres in area. For lots adjacent to the lot with the primary structure and owned by the same property owner, the required front yard shall extend onto the adjacent undeveloped lot.
- (2) For residentially zoned lots four (4) acres or more in area, fences taller than three (3) feet in height may be erected in the required front yard. Such fences shall not

- completely visually occlude the lot from the public right of way. Such fences shall not exceed eight (8) feet in height.
- (3) For all nonresidential zoning districts, fences erected in the front yard shall not exceed eight (8) feet in height.
 - (4) A fence that does not cross any portion of the front yard may begin on a rear or side property line at the full height of the fence, but shall not exceed eight feet (8) in height.
 - (5) A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this Section.
 - (6) Construction of fences in utility easements is permitted, but the applicant assumes risk by doing so. The fence enclosing the utility easement shall have a gate installed to permit access to the easement.
 - (7) Fences shall not impede the normal flow of stormwater and shall not cross an open drainage channel. Fences proposed in drainage easements shall be approved on a case by case basis.
 - (8) Fences shall not be constructed over a public access easement. Fences proposed over private emergency access easements must be approved by the Fire Department to ensure adequate access for emergency vehicles and equipment at all times.
- (c) *Fence Design.* The following design standards apply to any new or replacements of any fence where the length of the replacement exceeds fifty percent (50%) of the length of the existing fence.
- (1) *Height.* The maximum fence height shall be eight (8) feet above average grade.
 - (2) *Finished Surface.* The fence's finished surface shall face outward from the property or as otherwise approved by the Director. Posts and support beams shall be inside the finished surface or designed to be an integral part of the finished surface.
 - (3) *Gates.* All fence segments abutting a thoroughfare, except for corner lots, shall provide one gate opening per lot to allow access to the area between the fence and the street pavement for maintenance and mowing. Fence segments abutting such areas which are maintained by a homeowners' association are exempt from this requirement, provided that the responsibility of the homeowners' association for maintaining this area is recorded with the City.
 - (4) *Drainage.* Fences shall not create any net impact to pre-construction stormwater flows.
- (d) *Special Fence Types*
- (1) *Razor Wire Fences.* Razor wire fences are prohibited.
 - (2) *Barbed Wire Fences.*
 - a. Barbed wire fences are prohibited in all residential zoning districts, except in the NP, AP, and RE zoning districts.

- b. Barbed wire may be permitted in nonresidential zoning districts but shall not be placed within five (5) feet of a public sidewalk or within five (5) feet of a street right-of-way where a public sidewalk does not exist.

(3) *Electric Fences.*

- a. Electric fences are prohibited, except in the NP, AP, and RE zoning districts.
- b. Electric fences may be permitted in NP, AP, and RE zoning districts, but shall not be placed within five (5) feet of a public sidewalk or within five (5) feet of a street right-of-way where a public sidewalk does not exist.
- c. For every two-hundred fifty (250) linear feet of electric fence, a warning sign indicating that the fence is electrified shall be installed facing the public right of way or adjacent property. These shall be classified as General Incidental Signs, but shall not contribute to the total maximum number of allowed General Incidental Signs on a property.
- d. Underground electric pet fences are allowed.

Division 9. Architectural Design

Sec. 109-078. Purpose

The purpose of this Division is to establish minimum standards for the appearance of development and corresponding site elements that are recognized as enhancing property values and that are in the interest of the general welfare of the City.

Sec. 109-079. Applicability

(a) *Generally.* This Division applies to:

- (1) All development within Bella Vista's corporate limits unless otherwise specified.
- (2) Additions over ten percent (10%) of the gross floor area of the building or more than two thousand five hundred (2,500) square feet, whichever is more; and
- (3) Residential development in certain instances as specified and provided in this Division.

(b) *Exemptions.* This Division exempts:

- (1) Single-family residential and duplex development unless otherwise specified;
- (2) Additions to existing structures that are under ten percent (10%) of the gross floor area of the building or two thousand four hundred ninety-nine (2,499) square feet, whichever is less; and
- (3) Previously approved developments which have been given a permit to begin building construction.

Sec. 109-080. Materials and Colors

(a) *Generally.*

- (1) Materials and colors applied to the façades of Nonresidential, Multi-family Residential, and Mixed-Use buildings shall:
 - a. Be compatible with the rustic character and the natural environment of Bella Vista;
 - b. Consist of natural materials and colors;
 - c. Ensure aesthetically pleasing and durable, high-quality development;
 - d. Create a human-scale built environment with visual interest at ground level; and
 - e. Create a built environment which is aesthetically cohesive while providing architectural variety and creativity of design.

(b) Recommended Materials.

- (1) Recommended materials for exterior façades of Nonresidential, Multi-family Residential, and Mixed-Use development include but are not limited to:
 - a. Stone
 - b. Concrete masonry
 - c. Clay masonry
 - d. Timber
 - e. Board-and-batten wood cladding
 - f. Tongue-and-groove wood cladding
 - g. Terracotta cladding
 - h. Fiber cement siding
 - i. Matte-finished aluminum panels
 - j. Tilt-up concrete panels
 - k. Glass
 - l. Wood shingles
 - m. Weathering steel
 - n. Copper

(2) Arrangement and Proportions.

- a. Materials with the greatest physical or visual weight shall be applied to the bottom of a building's façade
- b. Materials of an intermediate physical or visual weight shall be applied to the middle of a building's façade,
- c. Materials with the least physical or visual weight shall be applied to the top of a building's façade,
- d. Metal shall not comprise more than thirty percent (30%) of any façade's total area.

- e. Stucco shall not comprise any part of any façade.
 - f. Façades shall consist of at least two (2) different materials.
 - 1. One material shall be the primary material, comprising no less than fifty-one percent (51%) and no more than seventy percent (70%) of the total façade area.
 - 2. One material shall be the secondary material, comprising no less than thirty percent (30%) and no more than forty-nine percent (49%) of the total façade area.
 - 3. The use of tertiary or quaternary accent materials is encouraged.
- (c) Recommended Colors.
- (1) Recommended colors for exterior façades of Nonresidential, Multi-family Residential, and Mixed-Use development include but are not limited to:
 - a. The natural color of the material being used
 - b. Grey scale
 - c. Earth tones ranging from pale to dark brown
 - d. Earth tones ranging from pale to dark green
 - e. Earth tones ranging from pale to brick red
 - (2) Arrangement and Proportions.
 - a. Façades shall consist of at least two (2) different colors. The use of one color as the primary color, and other colors as subordinate colors, is encouraged.
 - b. Neon colors, highly saturated colors, and metallic colors should be avoided except as ornamental or accent colors, and shall not comprise more than five percent (5%) of any façade's total area.
 - c. Colors shall generally be arranged to emphasize the visual weight of the bottom of the façade, and appear visually lighter toward the top of the façade.

Sec. 109-081. Residential Standards

(a) Multi-Family Residential

(1) Building Articulation.

- a. Horizontal wall planes longer than forty (40) feet in length shall be segmented into smaller sections by a structural or ornamental minor facade offset (recess or projection) of a minimum four (4) feet deep and eight (8) feet wide.
- b. The height of those offsets is equal to the building's height at the location of the offset.

(2) Roof Treatment.

- a. Pitched and flat roofs are allowed for nonresidential uses. Multi-family residential shall utilize pitched roofs.
- b. A parapet wall is allowed if constructed to prevent flat roof visibility.

Figure 077.1: Pitched versus Parapet Roofs



- (3) **Windows.** Any glass with a visible light reflectance rating of twenty-five percent (25%) or greater is prohibited.
- (4) **Elements.** A multi-family development is required to provide at least two of the following elements:
 - a. At least one dormer is provided for each roof plane over one thousand (1,000) square feet in area that faces a street. The dormer must be appropriately scaled for the roof plane and shall not be wider than the windows on the building elevation;
 - b. All windows feature shutters, where the shutters provided must be operational or appear operational and must be in scale with the corresponding window;
 - c. All windows are emphasized through the use of molding around the windows, plant ledges, sills, shaped frames, awnings, or another similarly related architectural element;
 - d. Downspouts associated with gutters are internally incorporated into the building's construction rather than attached to the building after the construction of the facade is complete; or
 - e. Other similar architectural features as approved by the Director.
- (5) **Amenities.**

- a. A multi-family development shall provide the required amount of amenities prescribed in Table 081.1: Required Amenities for Multi-Family Development.

Table 081.1: Required Amenities for Multi-Family Development

Required Amenities for Multi-Family Development	
Number of Units	Required Amenities
1 – 25	1
26 – 50	2
51 – 100	3
101 – 200	4
200 +	5

- b. The amenities below may be used to fulfill the requirements of Table 081.1: Required Amenities for Multi-Family Development. Each amenity counts as one required amenity towards the requirements in Table 081.1: Required Amenities for Multi-Family Development. However, multiples of the same amenity do not count towards the requirements in Table 081.1: Required Amenities for Multi-Family Development. Additionally, to provide flexibility in development design, the Director may approve different amenities that agree with the purpose of this Division.
1. Swimming pool (minimum 1,000 square foot surface area) with cooling deck (minimum ten feet wide in all areas);
 2. Jacuzzi or hot tub area (minimum 50 square foot area);
 3. At least four barbeque grills or one grill per 100 units, whichever is greater, with shaded seating areas, all barbeque grills shall be:
 - a) Serviced with propane or other gas, and
 - b) Be built into a structure incorporated into an adjacent amenity (i.e., pool or seating area);
 4. Ramada(s), arbor(s), and/or trellis(es) covering at least 1,000 square feet of recreation space;
 5. Child play lot (minimum 3,000 square foot area) with equipment specifically designed to meet the youth age cohort (0 – 12 years old);
 6. A splash pad (water play amenity for children) that is a minimum of 1,000 square feet in area;
 7. A dog park that is at least 5,000 square feet in area that:
 - a) Is enclosed by a minimum five-foot tall fence;
 - b) Uses grass, wood chips, or a combination of the two as surface materials; and
 - c) Provides at least one dog waste station that includes a bag dispenser and waste receptacle installed along the perimeter of the enclosure for every 2,500 square feet of the associated dog park.

8. Regulation-size volleyball, basketball, tennis, or other similarly related playing court.
9. Golf putting green (minimum 1,000 square feet);
10. Fitness center/weight room (minimum 500 square feet);
11. Business center (minimum 500 square feet);
12. Media room (minimum 500 square feet).

(b) Residential Other than Multi-Family

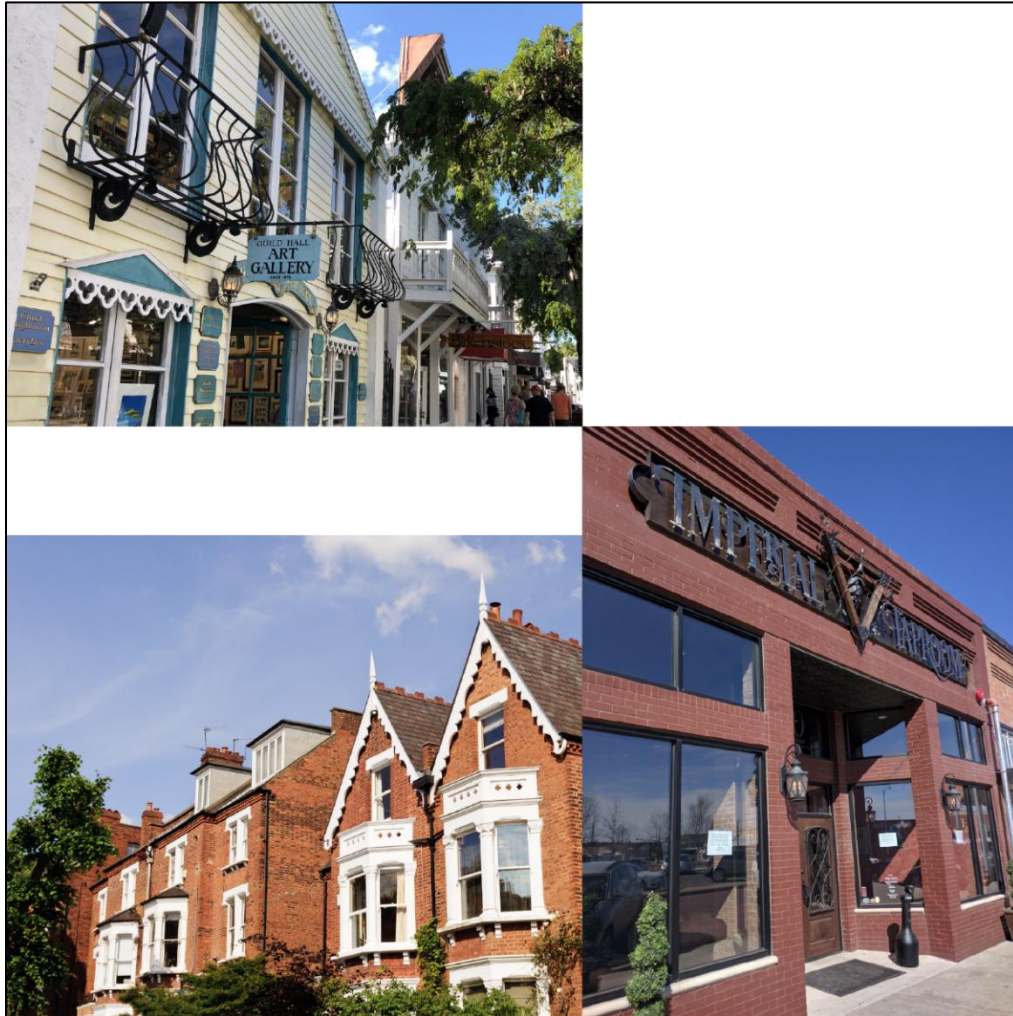
(1) *Building Articulation*. At least four facade articulation techniques are required on each dwelling to add variety and interest to a building. The following features are acceptable techniques of exterior articulation.

a. Two (2) of the following:

1. A base course or plinth course;
2. Banding, moldings, or stringcourses;
3. Quoins;
4. Oriels;
5. Cornices;
6. Arches;
7. Balconies;
8. Brackets;
9. Shutters;
10. Keystones;
11. Transoms;
12. Finials;
13. Dormers; or
14. Louvers as part of the exterior wall construction. (Quoins and banding shall wrap around the corners of the structure for at least two feet.)

- b. Horizontal banding continues the length of the wall that faces a street or other similar highly visible areas.
- c. Front porch of at least 50 square feet.
- d. Other techniques for building articulation can be substituted if approved by the Director.

Figure 077.2: Building Articulation Examples Including Balconies, Transoms, Finials and Oriels



(2) *Roof Treatment*. Pitched are allowed.

(3) Fenestration.

- a. Windowless exterior elevations that face a public right-of-way or other similar highly visible areas are prohibited.
- b. On multi-story dwellings, windows are required on each story facing a public right-of-way.

(4) *Garages*. On front entry garages, the face of a garage shall not:

- a. Extend more than ten (10) feet beyond the remainder of the front elevation of the primary living area of a dwelling; or
- b. Be over 60% of the total frontage width of a dwelling. Porches or columns are not considered part of the front elevation of the primary living area.

Sec. 109-082. Nonresidential Standards

(a) Building Articulation.

- (1) All buildings shall utilize facade offsets and appropriate fenestration to add variation and visual interest to an elevation and to break up long uninterrupted walls or elevations.
- (2) Elevations that are 50 feet or longer in horizontal length require at least two offsets (projection or recess) from the primary facade plane of at least 18 inches deep and 4 feet wide.
- (3) The height of those offsets is equal to the building's height at the location of the offset.

Figure 078.1: Building Articulation Example Including Façade Offsets and Roof Line Variation



(b) Roof Treatment.

- (1) Long uninterrupted roof lines and planes shall be broken into smaller segments through the use of scaled gables or dormers, changes in height, changes in roof form, type or planes that typically correspond to offsets in the building's facade, or other appropriate architectural elements.
- (2) Parapet roof lines shall feature a well-defined cornice treatment or another similar element to visually cap each building elevation.

(c) Windows.

- (1) The use of recessed windows, awnings, sills, drip caps, projecting trim casings or surrounds, projecting muntins or mullions, and other elements is required.
- (2) Any glass with a visible light reflectance rating of 25% or greater is prohibited.

- (d) *Elements*. All buildings or developments shall be required to provide at least two (2) of the following elements:

- (1) The primary entrance for all buildings shall feature a protected entry through the use of a recessed entry, porte-cochere, awning, canopy, or similar feature that serves the same purpose. The covering shall be at least three feet in depth when measured from the face of the adjoining facade.
- (2) All building elevations shall feature at least three distinct roof lines.
- (3) All primary and secondary building entrances, excluding emergency exits and service doors, feature a recessed entry, canopy, awning, or similar sheltering feature of at least 50 square feet.

Sec. 109-083. Mixed Use Standards

(a) Building Articulation.

- (1) All buildings shall utilize facade offsets and appropriate fenestration to add variation and visual interest to an elevation and to break up long uninterrupted walls or elevations.
- (2) Elevations 50 feet or longer in horizontal length require at least two offsets (projection or recess) from the primary facade plane of at least 18 inches deep and 4 feet wide.
- (3) The height of those offsets is equal to the building's height at the location of the offset.
- (4) Columns and piers shall be spaced no farther apart than the height of the column or pier.

(b) Roof Treatment.

- (1) Long uninterrupted roof lines and planes shall be broken into smaller segments through the use of scaled gables or dormers, changes in height, changes in roof form, type or planes that typically correspond to offsets in the building's facade, or other appropriate architectural elements.
- (2) Parapet roof lines shall feature a well-defined cornice treatment or another similar element to visually cap each building elevation.
- (3) Mansard roofs are prohibited.

(c) Windows.

- (1) The use of recessed windows, awnings, sills, drip caps, projecting trim casings or surrounds, projecting muntins or mullions, and other elements is required.
- (2) Any glass with a visible light reflectance rating of twenty-five percent (25%) or greater is prohibited.

(d) Ground Floor.

- (1) A mixed-use development's ground or first floor is reserved for nonresidential uses, such as retail, office, and restaurant uses.
- (2) The ground floor shall have a minimum ceiling height of 12 feet.

- (e) *Elements*. All buildings or developments shall be required to provide at least two (2) of the following elements:
- (1) The primary entrance for all buildings shall feature a protected entry through the use of a recessed entry, porte-cochere, awning, canopy, or similar feature that serves the same purpose. The covering shall be at least three feet in depth when measured from the face of the adjoining facade.
 - (2) All building elevations shall feature at least two facade offsets (recess or projection) of at least five feet in depth for every 50 feet of horizontal length.
 - (3) All building elevations shall feature at least three distinct roof lines.
 - (4) All primary and secondary building entrances, excluding emergency exits and service doors, feature a recessed entry, canopy, awning, or similar sheltering feature of at least 50 square feet.
 - (5) Other similar architectural features as approved by the Director.
- (f) *Amenities*.
- (1) A mixed-use development shall provide a minimum of two amenities.
 - (2) The amenities below may be used to fulfill the requirements. Each amenity counts as one required amenity towards the requirements; however, multiples of the same amenity do not count towards the requirements. Additionally, to provide flexibility in development design, the Director may approve different amenities that agree with the purpose of this Division.
 - a. Swimming pool (minimum 850 square foot surface area) with cooling deck (minimum ten feet wide in all areas);
 - b. Jacuzzi or hot tub area (minimum 50 square foot area);
 - c. At least two barbeque grills or one grill per 100 units, whichever is greater, with shaded seating areas, all barbeque grills shall be:
 1. Serviced with propane or other gas, and
 2. Be built into a structure incorporated into an adjacent amenity (i.e., pool or seating area)
 - d. Ramada(s), arbor(s), and/or trellis(es) covering at least 1,000 square feet of recreation space;
 - e. A dog park that is at least 5,000 square feet in area that:
 1. Is enclosed by a minimum five-foot tall fence;
 2. Uses grass, wood chips, or a combination of the two as surface materials; and
 3. Provides at least one dog waste station that includes a bag dispenser and waste receptacle installed along the perimeter of the enclosure for every 2,500 square feet of the associated dog park.

- f. Fitness center/weight room (minimum 500 square feet);
- g. Business center (minimum 500 square feet);
- h. Media room (minimum 500 square feet);
- i. Outdoor playing spaces such as sport courts;
- j. A minimum half-acre of open space area with appropriate furniture such as benches, swings, tables, where the public can participate in leisurely events and activities.

Division 10. Refuse Facilities

Sec. 109-084. Purpose

The purpose of this Division is to provide sufficient standards for the proper placement and screening for refuse facilities for the health and safety of the City of Bella Vista.

Sec. 109-085. Applicability

(a) *Generally*. This Division applies to:

- (1) All nonresidential development within Bella Vista's corporate limits.
- (2) Additions over 10% of the gross floor area of the building or more than 2,500 square feet, whichever is more; and
- (3) Residential development in certain instances as specified and provided in this Division.

(b) *Exemptions*. This Division exempts:

- (1) Single-family residential and duplex development unless otherwise specified;
- (2) Additions to existing structures that are under ten percent (10%) of the gross floor area of the building or two thousand four hundred ninety-nine (2,499) square feet, whichever is less; and
- (3) Previously approved developments which have been given a permit to begin building construction.

Sec. 109-086. Standards

(a) *Generally*. Refuse facilities shall comply with the standards below.

- (1) Refuse facilities require enclosures and shall meet the requirements established in Division 7. of this Article.
- (2) One refuse enclosure is required on every lot unless a double enclosure is provided on an adjacent lot and access is mutually agreed upon by the two lot owners.
- (3) All refuse enclosures shall be fully screened on all sides.
- (4) Refuse enclosure materials shall be masonry or concrete block and the same color as the exterior walls of the main structure.

- (5) A solid metal gate is required, and when open is not allowed to encroach into any fire lane.
- (6) No solid metal gate shall exceed eight (8) feet in height.
- (7) Refuse enclosures shall also be complemented by a living plant screen as established in Sec. 109-074.
- (8) Refuse facilities shall not be located in front of the main building unless no other option is available as determined by the Director.
- (b) Gates shall not be left open while unattended. *Design.* Refuse facilities shall comply with the design specifications below.
 - (1) A concrete approach loading pad shall be constructed in front of all refuse enclosures.
 - (2) The loading pad shall be at least ten (10) feet wide by thirty (30) feet deep, and have a minimum of six inches thickness of concrete at a standard of 3,500 PSI.
 - (3) Required enclosures shall have a minimum inside dimension of 12 feet by 12 feet with an enclosure gate opening of not less than 12 feet in width.
 - (4) Refuse enclosures shall have steel-framed grates with spring-loaded hinges and fasteners.
 - (5) Keeper latches shall be required to hold gates in the fully opened position while refuse containers are being serviced.
 - (6) Four-inch diameter pipe bollards shall be required inside each enclosure to protect the enclosure from truck operation.
 - (7) An unobstructed approach path of at least 40 feet long shall be required for a sanitation truck to access the refuse facility.
 - (8) A turnaround area shall be provided of sufficient length to allow the sanitation truck to exit without backing onto a public right-of-way.
- (c) *Rolling Carts.* Within the C-2 and C-3 Districts, City contractor-approved rolling carts may be used to meet this Division's requirements.

Sec. 109-087. Minor Modifications

- (a) The 40-foot straight backing requirement established in this Division may be reduced by 10 feet through the minor modification process as approved by the Director.
- (b) Any request seeking more than a 10-foot reduction requires a variance.

Division 11. Signs

Sec. 109-088. Purpose

The purpose of this Division is to regulate signs of all types (permanent and temporary) in a manner that:

- (a) Protects constitutional rights to free speech by providing ample opportunities for expression through signs, while avoiding content-based distinctions, and providing clear approval standards;
- (b) Protects public health and safety by:
 - (1) Minimizing visual traffic hazards, distractions, and obstructions for motorists, cyclists, and pedestrians, or signs causing confusion by virtue of visual similarity to traffic control signs;
 - (2) Reducing hazards caused by collapse, fire, collision, decay, or abandonment;
 - (3) Not obstructing firefighting or Police surveillance; and
 - (4) Encouraging the upgrading, updating, or removal of signs that are poorly maintained, or do not conform to this Division, and preventing signs that are potentially dangerous due to structural deficiencies and disrepair.
- (c) Enhances the appearance and economic value of the landscape by providing that signs:
 - (1) Do not interfere with scenic views;
 - (2) Do not create a nuisance to persons using the public rights-of-way;
 - (3) Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement; and
 - (4) Are not detrimental to land or property values.
- (d) Promotes the community's appearance, character, quality, and business climate by encouraging signs that are attractive and functional for their intended purpose, and that are in scale and harmony with the development site and building(s) and with surrounding areas;
- (e) Reduces and prevents visual clutter or potential deterioration of the community's appearance and attractiveness; and
- (f) Implements the goals and policies of the City's adopted planning policies by establishing uniform standards and procedures to regulate the size, type, number, design, placement, illumination, timeframe for display, and maintenance of signs.

Sec. 109-089. Applicability

- (a) Generally
 - (1) This Division applies everywhere within the City's corporate limits, except as specifically stated otherwise in this Division.
 - (2) This Division does not prohibit signs required by state or federal law and does not authorize signs that state or federal law prohibits.
 - (3) A person shall not erect, operate, display, or otherwise use any sign that this Division prohibits.

- (4) A person shall not erect, operate, display, or otherwise use any sign at a time, place, or manner that this Division prohibits.

(b) Message Neutrality

- (1) *Content Neutrality*. Despite any other provision of this Division, no sign is subject to any limitation based on the content of its message.

Sec. 109-090. Prohibited Signs

The following signs and related objects are prohibited from being installed or publicly displayed at any location within the City's corporate limits, except as otherwise specifically prescribed within this Division.

- (a) Billboards;
- (b) Single-support Pole Signs;
- (c) Fluctuating Illumination.
 - (1) Signs with the illusion of movement by means of a preprogrammed repetitious sequential switching of action in which illuminated elements of the sign are turned off or on to visually simulate the impression of motion characteristic of chasing, running, blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns;
 - (2) Illumination of attraction devices or signs that fluctuate in light intensity;
 - (3) Signs that operate or employ any motion picture projection;
- (d) *Damaged Signs*. Signs which have broken supports, are in disarray or fallen over, are not in good condition, or are overgrown with vegetation, are nonconforming to these regulations.
- (e) *Permanent Incidental Off-Premises Signs*. Signs for a particular development, use, or property that are located on a different lot or property.
- (f) Any sign not securely affixed to the ground or other permanent structure.
- (g) Roadside Markers;
- (h) Rotating or Revolving Signs;
- (i) *Strung Lights*. Lights strung across buildings or property, except those allowed under Sec. 109-091.
- (j) *Vehicle Signs*. Signs attached to or painted on vehicles including automobiles, trucks, boats, campers, and trailers, which are parked on or otherwise utilizing a public right-of-way, public property or on private property so as to be intended to be viewed from a vehicular right-of-way are prohibited. This definition is not to be construed to include those signs on a vehicle as may be attached to and within the normal unaltered lines of the vehicle of a licensed transit carrier, when and during that period of time said vehicle is regularly and customarily used to traverse the public highways during the normal course of business.

- (k) Fluttering, spinning, windblown or inflated devices including pennants, propeller discs, and balloons are prohibited.
- (l) *Banners*. Banners except for those allowed under Sec. 109-099.
- (m) *Other Signs*. All other signs that are not expressly allowed, with or without a permit.

Sec. 109-091. Exempt Signs

The following signs and related objects are generally allowed to be erected and publicly displayed at any location within the City's corporate limits, except as otherwise specifically prescribed within this Division. A City-issued sign permit is not required in order to erect and display any of the following signs and related objects unless specifically established in this Division. This Division shall not apply to:

- (a) Temporary signs during a period of construction.
 - (1) Signs necessary for meeting Occupational Safety and Health Administration requirements for construction sites for the health and safety of those working in or near the site.
 - (2) Signs necessary for directing vehicle and pedestrian traffic around thoroughfares under construction.
- (b) *Signs on Agricultural Lands*. Signs on agricultural lands of at least five (5) acres in size and registered with the U.S. Department of Agriculture's Farm Service Agency (FSA) shall meet the following requirements:
 - (1) A maximum of two signs per property location; and
 - (2) Each sign's area shall not exceed 32 square feet and must be maintained in good condition.
- (c) Flags.
- (d) Signs carried by hand.
- (e) *Historic or Memorial Site Signs*. Attached or freestanding signs at historic or memorial sites erected by a governmental agency or private, nonprofit historic preservation or education organization pursuant to a plan or program for the erection of such signs or markers applied on a national, state, or county wide basis are allowed. The plan or program must employ uniform standards of eligibility. Historical or memorial site signs are subject to the following regulations:
 - (1) Maximum Sign Area.
 - a. *Freestanding*: 18 square feet.
 - b. *Wall*: Six square feet.
 - (2) *Materials*. Each sign shall be made of metal, cast metal, cut masonry, brick, stone, painted wood, vinyl, or other similar weather-resistant, durable, permanent material.
 - (3) *Condition*. Historic or memorial site signs must be kept in good condition.

- (4) *Location*. A map showing the location of any and all historic markers must be filed with the City Clerk.
- (f) *Miscellaneous Signs*.
 - (1) *Customary Signs*. These signs are described as those which are commercially made, such as: building numbers, addresses, private parking signs, no trespassing signs or dangerous animal signs, and are no larger than three square feet in area per sign.
 - (2) *Unit, Building, or Suite Numbers*. These items are those posted on a structure or a post to indicate the number of a unit, building, or suite secondary to the property address. They must be clearly visible from the road so that an emergency response vehicle can readily identify the location of the building. Numbers shall be a minimum of four inches in height with a minimum stroke width of one-half inch and shall contrast with their background for increased visibility.
 - (3) *Location*. Numbers must be displayed on the side of the building facing the street on which the building is addressed. If the building is not visible from the street, the numbers must be displayed on a post facing the street on which the building is addressed or as otherwise determined per Sec. 103.51 The numbers should be located at least three to four feet from the ground so they are easily seen. The area surrounding this post must be kept neat and free of weeds, grass or vegetation so they do not cover up the numbers. If there is more than one address on a driveway, all addresses must be visible.
- (g) *Interior Signs*. Signs visible only from the interior of a structure, such as in a mall, where they are not visible from a public right-of-way or public space.
- (h) *Non-readable Signs*. Any sign not readable either from any public right-of-way or from any lot or parcel other than the parcel on which such signs are located or from an adjacent lot or parcel under common ownership with the lot or parcel on which the sign is located.
- (i) *Public Sign*. Any sign installed by a local, state, or federal government.
- (j) Signs within City and school stadiums.
- (k) *Traffic Control Signs*. Traffic control signs on private property such as "stop," "yield," and similar signs, the face of which meet Arkansas Department of Transportation standards, not exceeding eight square feet in size.
- (l) *Signs on Vending Machines, ATMs, or fuel pumps*.
 - (1) Signs on vending machines, automatic tellers, or gasoline pumps shall not exceed 32 square feet in area per side.
 - (2) The display shall be an integral part of the machine or pump.
- (m) *Window Signs*. Any sign, pictures, symbol or combination thereof that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window not exceeding 40 percent of the window area.

Sec. 109-092. Signs Allowed in the Public Right-of-Way

- (1) *In Public Right-of-Way*. No sign, including supports, frames, and embellishments, shall be located within a public right-of-way or attached, affixed, or painted on any utility pole, light standard, utility box or pedestal, tree, rock, or other natural object located within the public right-of-way or on public property, except as specifically permitted in Subsection (2) of this Section.
- (2) Exemptions.
 - a. Emergency Signs.
 1. Emergency warning signs erected by a government agency, utility company, or a contractor doing work in a public right-of-way.
 2. No permit is required.
 - b. Public Signs.
 1. Signs erected by the City, county, state, or federal government.
 2. No permit is required.
 - c. *Use of Structures within the Public Right-of-Way*. Placement of exempt temporary signs on overpass railings within the public right-of-way shall be allowed upon permitting procedures under Sec. 109-099.

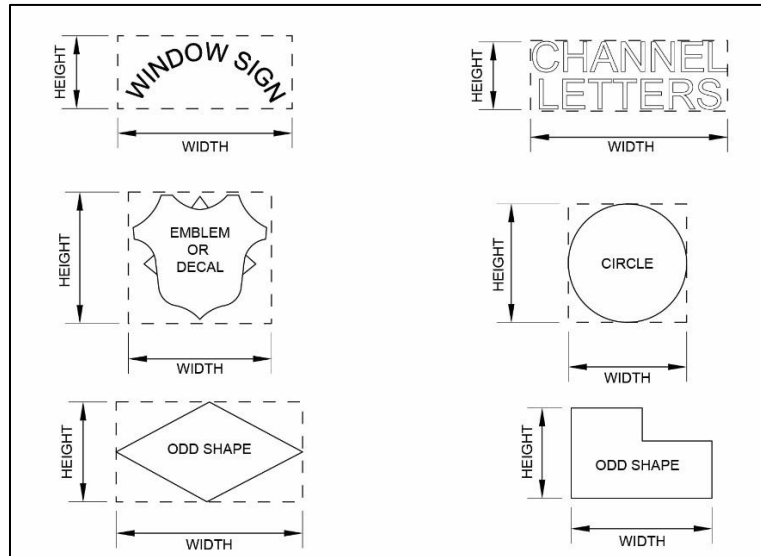
Sec. 109-093. Computations and Interpretations

- (a) *Sign Faces and Sign Application*. When a sign has multiple faces, the sign area shall be calculated as follows:
 - (1) *One-Sided Sign*. The sign area will be the area of the sign's only face.
 - (2) *Two-Sided Sign, Front and Back*. If each side of a two-sided sign is identical, the area of only one side shall be calculated and shall not exceed the maximum permitted sign area.
 - (3) *Signs Faces on Different Planes of an Architectural Sign Structure*
 - a. *Two sign faces where the interior angle between the two faces is 45 degrees or less*. If the interior angle between the two sign faces is 45 degrees or less, and the sign faces are identical, the area of only one side shall be calculated and shall not exceed the maximum permitted sign area.
 - b. *Two sign faces where the interior angle between the two faces is greater than 45 degrees*. The sign area is the sum of the individual sign faces. The combined sign area of the two faces shall not exceed the maximum permitted sign area.
 - c. Where more than two sign faces exist on a single architectural structure, the sign area is the sum of the individual sign faces. The combined sign area of the faces shall not exceed the maximum permitted sign area.
 - (4) All detached signs shall be measured together as though they were one sign to determine the total sign area, except that signs separated by more than 36 inches of air

space at every point between the signs, and not separated by being located on different planes of an architectural sign structure, shall be measured separately and added together to determine the total effective area.

- (5) *Irregular Shaped Signs.* The sign area is the smallest non-curvilinear area which could fully contain all portions of the sign from any viewing angle.

Figure 089.1: Irregular Shaped Sign Dimension Examples



- (b) *Manner of Measurement.* The measurement required for signs by this Division shall be made using the following procedures:

- (1) *Setback.* To apply the setback provisions of this Division for signs at any one point, the following measuring procedure shall be used:

- a. From the property line (A), measure a perpendicular line (B) inward to the setback distance as established in this Chapter. At this distance, a line (C) which runs parallel to the property line (A) and perpendicular to the measured line (B) defines the setback which no part of a sign structure can cross.

- (2) *Height.* The maximum height of a sign mounted on the ground shall be determined by the following method of measurement:

- a. *Finished Grade Measurement*

1. At the highest point of the sign, draw a horizontal line to the outer extremities of the sign.
2. At the center of the horizontal line, draw a vertical line to the finished grade level below.
3. The vertical line may not exceed the height allowed for the sign at that location.

Figure 089.2: Sign Height Measurement Examples



(3) Sign Area

- a. Sign area means the area enclosed by the smallest imaginary regular shape (e.g. parallelogram, triangle, circle, trapezoid) or combination of regular shapes that will encompass the extreme limits of the writing, representation, emblem, or other display, or combination thereof, together with any material or color forming an integral part of the display or used to differentiate the sign from the backdrop or structure against which it is placed.
- b. Sign area includes such features as decorative or ornamental elements or features, borders, trims, but not including the architectural enclosure or supporting structure which is used solely for support of the sign, such as poles, columns, cables, pylons, or architectural enclosures.

(c) *Sign Measurement Variables*. Signs may be allocated by (note: this is not an inclusive list):

- (1) Lot;
- (2) Storefront;
- (3) Entrance;
- (4) Grounded Canopy;
- (5) Window; or
- (6) Building.

Sec. 109-094. Sign Features

(a) *Generally*. Signs may incorporate the following features established below; however, these features shall only be allowed as established in Sec. 109-098. and Sec. 109-099.

(b) Illumination

(1) Generally

- a. A sign that is "illuminated" means any sign that incorporates illumination on or in the sign, or that directs illumination toward or over all or part of the sign, or that is created by the projection of illuminations onto a surface (such as a building wall).
- b. Permanent signs may be illuminated by static and continuous internal, external, and halo illumination configurations as indicated in the tables for each sign type in Sec. 109-098. and Sec. 109-099.
- c. Temporary signs shall not be illuminated.

(2) *Standards*. The standards below apply to all signs that are illuminated.

- a. Signs that are illuminated shall not operate at brightness levels of more than 0.5 foot-candles above ambient light conditions at the property line, as measured using a foot-candle meter. Illumination levels shall be measured in foot-candles with a meter sensor in a horizontal position at an approximate height of three feet above grade.
- b. Illumination shall not include animation, moving video, or flashing, scrolling, intermittent, moving lights, rotating beams, flashing beacon lights, or lights that consist of an image projected upon a stationary object.
- c. The illumination source for a sign or building shall be shielded from view from any point on the ground by either an opaque or translucent material.
- d. Illumination shall comply with all applicable provisions of the City's Electrical Code.
- e. Signs with illumination in or within 300 feet of a residential area shall be reduced to 50% of the maximum brightness level allowed by this Section between the hours of 6:00 p.m. and 6:00 a.m.
- f. Internally illuminated signs shall have an opaque background and translucent copy.

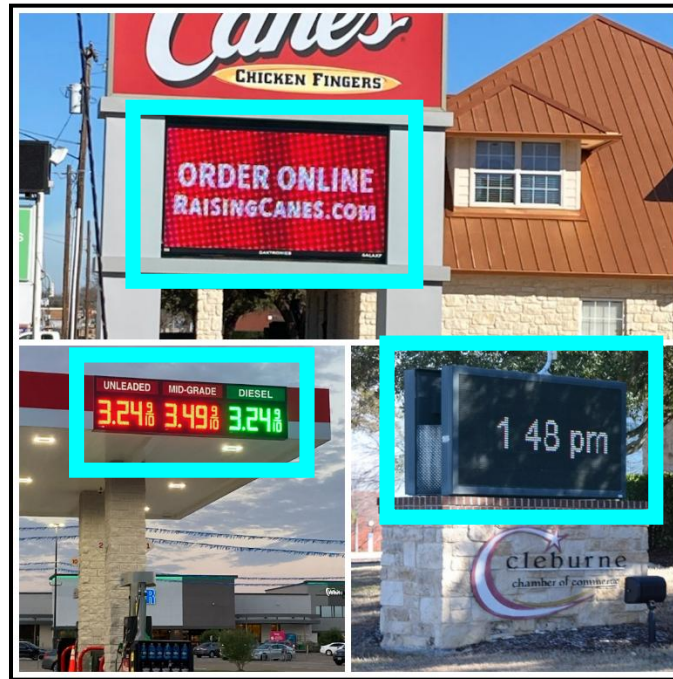
(c) Electronic Message Centers

(1) Generally

- a. A sign that incorporates an electronic message center (EMC) means a sign that displays a digital copy, including any illuminated sign on which the illumination is not kept stationary or constant in intensity and color when the sign is in use, including any light emitting diode (LED) or digital panel, and which varies in color or intensity (Figure 094.1: EMC Sign Examples shows examples of signs that incorporate EMCs).
- b. Permanent signs may incorporate electronic message centers as indicated in the tables for each sign type as provided in Sec. 109-098.

- c. Where allowed, each sign is limited to a percentage of the sign face area that may include an EMC.
- d. Temporary signs shall not incorporate EMCs.

Figure 094.1: EMC Sign Examples



(2) Standards

- a. Hold Time
 - 1. Each message on the sign must be displayed for at least fifteen (15) seconds duration.
 - 2. Message changes shall be completed instantaneously and shall be imperceptible. In no instance shall a message change use transition features (dissolving, fading, etc.).
- b. Electronic Copy
 - 1. Signs incorporating electronic message centers shall only contain static messages changed exclusively by instantaneous and non-animated transition, and shall not have movement or the appearance or optical illusion of movement during the static display period of any part of the sign.
 - 2. A static message shall not include any flashing or varying of light intensity, and the message shall not scroll.
- c. Brightness

1. The intensity of the light source for an EMC shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare.
 2. An EMC shall not operate at brightness levels of more than 0.5 foot-candles above ambient light conditions at the property line, as measured using a foot-candle meter. Illumination levels shall be measured in foot-candles with a meter sensor in a horizontal position at an approximate height of three feet above grade.
 3. Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed 0.5 foot-candles above ambient light and that the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the Director.
- d. *Light Sensing Device*. Each sign using an EMC must have a light-sensing device that will adjust the brightness as ambient light conditions change.
- e. *Technology*
1. The technology currently being deployed for EMCs is LED (light emitting diode), but there may be alternate, preferred, and superior technology available in the future.
 2. Any other technology that complies with the performance standards for EMCs, including the maximum brightness levels as stated above, is permitted.
- f. *Automatic Shutoff*. An EMC shall:
1. Have automatic dimmer software or solar sensors to control brightness for nighttime viewing and variations in daytime ambient light;
 2. Include systems and monitoring to either turn the display off, show "full black" on the display, or include a default mechanism that freezes the sign in one position if a malfunction occurs;
 3. Be designed so that a catastrophic power surge will cause the sign to go dark or to deploy the maximum brightness limitations; and
 4. Automatically adjust the intensity of its display according to natural ambient light conditions.
- g. *Resolution*
1. EMC faces shall have a pixel pitch of no more than 16 millimeters.
 - a) "Pixel pitch" means a measurement of the resolution of a digital display, in terms of the distance (generally in millimeters) between the center of a LED cluster (pixel) and the center of the next LED pixel.
 - b) A lower pixel pitch measurement indicates a higher display resolution.

2. This Subsection applies only to signs that are constructed, rebuilt, or replaced after the effective date of this Zoning Ordinance.

(3) Maintenance

- a. The sign owner shall provide the Director with the phone number and email address of a person who is available to be contacted at any time and who is able to turn off the EMC promptly after a malfunction occurs.
- b. The light modules on electronic message centers shall be repaired or replaced if they become broken, burned out, or substantially dimmed.

(d) Changeable Copy

- (1) *Generally*. Permanent signs may incorporate a changeable copy as indicated in the tables for each sign type in Sec. 109-098.
- (2) *Standards*. The standards below apply to signs incorporating changeable copies.
 - a. Where allowed, each sign is limited to a percentage of the sign face area that may be used for a changeable copy.
 - b. Changeable copies may be illuminated if the dimensions and standards allow illumination for the sign type in the district.

Sec. 109-095. Sign Types

(a) Purpose

- (1) This Division establishes the required standards for signs from the following sign categories and subcategories:
 - a. Permanent signs
 1. Detached signs;
 2. Attached signs; and
 3. Incidental signs.
 - b. Temporary signs
 - (2) This classification system provides flexibility for persons and businesses who display signs, avoids sign distinctions that depend on a sign's message, supports the communities' aesthetic goals, and avoids potential traffic hazards and clutter.
- (b) *Generally*. This Division establishes standards for individual sign types. Sections and subsections on each sign type address the following standards:
- (1) Images and/or graphics that illustrate the sign type;
 - (2) A table summarizing the applicable sign standards, including:
 - a. The sign type's definition;
 - b. If the sign type is allowed in the designated zoning districts;

- c. If a sign permit is required;
- d. The maximum number of signs of each type;
- e. Maximum sign dimensions, including:
 - 1. Sign area;
 - 2. Height;
 - 3. Location/setbacks; or
 - 4. Other requirements.
- f. If the sign features provided in Sec. 109-094. are allowed or required:
 - 1. Electronic message centers;
 - 2. Illumination features; and
 - 3. Changeable copies.

Sec. 109-096. Permanent Sign Type Permissions

- (a) Table 092.1 Permitted Permanent Signs lists each defined permanent sign type and indicates whether it is allowed, allowed with a permit, prohibited, only allowed for nonresidential uses, or only allowed for nonresidential uses with a permit in each zoning district. Specific standards such as the quantity or maximum area of each sign type are established in Sec. 109-098.

Table 092.1 Permitted Permanent Signs

Permitted Permanent Signs											
Key	✓=Allowed ✓P=Allowed with Permit ✕=Prohibited NR = Allowed for nonresidential uses only with a permit										
Zoning District → Sign Type ↓	NP	AP	RE	R-1	R-2	R-3	CR	C-1	C-2	C-3	IA
Monument Sign	✕	✕	NR	NR	NR	NR	✓P	✓P	✓P	✓P	✓P
Wall Sign	NR	NR	NR	NR	NR	NR	✓P	✓P	✓P	✓P	✓P
Awning Sign	✕	✕	NR	NR	NR	NR	✓P	✓P	✓P	✓P	✓P
Marquee Sign	✕	✕	✕	✕	✕	✕	✓P	✓P	✓P	✓P	✕
Projecting Sign	✕	✕	NR	NR	NR	NR	✓P	✓P	✓P	✓P	✕
Grounded Canopy Sign	✕	✕	✕	✕	✕	✕	✓P	✓P	✓P	✓P	✓P
General Incidental Sign	✓	✓	✓	✓	✓	✓	✓P	✓P	✓P	✓P	✓P
Speaker Boards	✕	✕	✕	✕	✕	NR	✓P	✓P	✓P	✓P	✕
Walk-up Boards	✕	✕	✕	✕	✕	NR	✓P	✓P	✓P	✓P	✕

Sec. 109-097. Maximum Cumulative Sign Area Per Lot Summary

All permanent signs, regardless of type, located on individual lots in zoning districts permitted under this Division are limited to maximum cumulative sign area requirements per lot as provided in

Table 097.1: Maximum Cumulative Sign Area per Lot Summary.

Table 097.1: Maximum Cumulative Sign Area per Lot Summary

Maximum Cumulative Sign Area per Lot Summary	
Zoning District	Maximum Cumulative Sign Area per Lot
NP AP	75 square feet*
RE R-1 R-2	100 square feet*
R-3	125 square feet*
CR C-1	250 square feet
C-2 C-3	500 square feet
IA	500 square feet
Notes	*= Only applies to instances where a nonresidential use exists within the prescribed zoning district

Sec. 109-098. Permanent Signs

- (a) *Detached Signs*. Detached signs are classified into one of the following sign types: monument signs and subdivision entry signs. Their associated regulations are established in this Subsection. A lot may have one detached sign, but not multiple unless specified elsewhere in this Subsection. \

(1) Monument Sign Standards

- a. *Generally*. Table 098.1: Monument Sign Standards establishes the applicable standards for monument signs.



Table 098.1: Monument Sign Standards

Monument Sign Standards						
Definition	A permanent, detached sign mounted to a solid base support at ground level with no open space between the bottom of the sign and the ground.					
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed with a permit for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply					
Zoning District → Requirement ↓	NP AP	RE R-1 R-2	R-3	CR C-1	C-2 C-3	IA
General						
Allowed?	✗	NR	NR	✓	✓	✓
Permit Required?	-	NR	NR	✓	✓	✓
Number per Lot (max.)	-	1	1	1	1	1
Dimensions						
Sign Area (max.)	-	25 sf	50 sf	50 sf	100 sf	100 sf
Sign Height (max.)	-	8 ft	10 ft	10 ft	25 ft	18 ft
Setbacks						
From Front Property Line (min.)	-	5 ft	5 ft	5 ft	10 ft	10 ft
From Adjacent Property Lines (min.)	-	10 ft	10 ft	10 ft	10 ft	10 ft
From Adjacent Residential Use (min.)	-	25 ft	50 ft	50 ft	50 ft	50 ft
Sign Features						
Changeable Copy (max. %)	-	25%	25%	50%	50%	50%
Electronic Message Center (max. %)	-	✗	✗	✗	50%	✗
Illumination	-	NR	NR	✓	✓	✓

- b. Number

1. This Subsection generally allows one (1) double-sided monument sign for each lot fronting a street for the sign districts shown in Table 098.1: Monument Sign Standards unless the lot fronts multiple streets, in which an additional monument sign is allowed for each street frontage.
 2. No monument sign is allowed on a lot without street frontage.
- c. Multi-Tenant Allowances
1. The maximum sign area for a monument sign on a lot with multiple tenants may be increased by 20%.
 2. No monument sign on a lot with multiple tenants with an increased maximum sign area allowance shall be located within 100 feet of another detached sign.
 3. No monument sign on a lot with multiple tenants with an increased maximum sign area allowance shall be located within 250 feet of a residential use.
- d. *Design and Installation.* A monument sign shall:
1. Have a defined, bordered, landscaped area at the base.
 2. Provide a required landscaped area that:
 - a) Is parallel to the face of the sign, and abuts and surrounds the base;
 - b) Equals two (2) square feet of landscaped area for every square foot of sign area;
 - c) Be kept neat, weed-free and in compliance with the original site plan; and
 - d) Contain living plant materials covering at least 50% of the defined landscaped area. Artificial plant materials are not authorized for use.
 3. For double-sided monument signs, the landscaped area shall be allocated around the sign, such that there is landscaping in front of both sign faces.



(2) Subdivision Entry Sign Standards

- a. *Generally.* Table 098.2: Subdivision Entry Sign Standards establishes the applicable standards for subdivision entry signs.

Table 098.2: Subdivision Entry Sign Standards

Subdivision Entry Sign Standards							
Definition	A permanent, detached monument sign located at the entry of a platted subdivision from a street.						
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed with a permit for nonresidential uses only sf = square feet ft = feet “-” = the standard does not apply						
Zoning District → Requirement ↓	NP AP	RE R-1	R-3	CR C-1	C-2 C-3	IA	

		R-2				
General						
Allowed?	×	✓	✓	✓	✓	✓
Permit Required?	-	✓	✓	-	-	-
Dimensions						
Sign Area (max.)	-	50 sf	75 sf	-	-	-
Sign Height (max.)	-	6 ft	8 ft	-	-	-
Setbacks						
From Adjacent Residential Use (min.)	-	25 ft	25 ft	-	-	-
Sign Features						
Changeable Copy (max. %)		×	×			
Electronic Message Center (max. %)	-	×	×	-	-	-
Illumination	-	✓	✓	-	-	-

b. *Number and Location.* Two (2) subdivision entry signs may be located at the intersection of a street or private driveway and an entry into a subdivision. The signs shall be configured as follows:

1. Two (2) signs with one (1) sign face each located on opposite sides of the street entry or private driveway;
2. One (1) sign with two (2) faces located within a landscaped area dividing two (2) one-way street entries or private driveways; or
3. One (1) sign located on one (1) side of the street entry or private driveway.

c. *Design and Installation.* A subdivision entry sign shall:

1. Be constructed with stone, brick, concrete, metal, routed wood planks or beams, or similar durable, weatherproof materials.
2. Have a defined, bordered, landscaped area at the base of the sign.
3. Provide a required landscaped area that:
 - a) Is parallel to the face of the sign;
 - b) Equals two (2) square feet of landscaped area for every square foot of sign area Is kept neat and weed-free; and
 - c) Contains living plant materials covering at least 50% of the defined landscaped area. Artificial plant materials are not authorized for use.
4. For double-sided subdivision entry signs, the landscaped area shall be allocated around the sign, such that there is landscaping in front of both sign faces.

- (b) *Attached Signs.* Attached signs are classified into one of the following sign types: wall signs, awning signs, marquee signs, roof signs, projecting signs, suspended signs, or grounded canopy signs. Their associated regulations are established in this Subsection. A building may have multiple attached signs unless specified elsewhere in this Subsection.

(1) Wall Sign Standards

- a. *Generally.* Table 098.3: Wall Sign Standards establishes the applicable standards for wall signs.



Table 098.3: Wall Sign Standards

Wall Sign Standards						
Definition	A permanent, attached sign painted on or affixed to the wall or surface of a building or display surface which is parallel to the supporting surface.					
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed with a permit for nonresidential uses only sf = square feet ft = feet “-” = the standard does not apply					
Zoning District → Requirement ↓	NP AP	RE R-1 R-2	R-3	CR C-1	C-2 C-3	IA
General						
Allowed?	NR	NR	NR	✓	✓	✓
Permit Required?	NR	NR	NR	✓	✓	✓
Dimensions						
Sign Area (max. % of wall)	10%	15%	15%	25%	25%	25%
Vertical Clearance (min.)	8 ft	8 ft	8 ft	8 ft	8 ft	8 ft
Sign Projection (max.)	1 ft	1 ft	1 ft	2 ft	2 ft	2 ft
Sign Features						
Changeable Copy (max. %)	✗	✗	✗	✗	✗	✗
Electronic Message Center (max. %)	✗	✗	✗	✗	✗	✗
Illumination	NR	NR	NR	✓	✓	✓

- b. *Number.* One wall sign per business or rental unit is allowed on a building or as otherwise approved by the Director; however, in no instance shall the cumulative wall sign allowance exceed the requirements in Table 097.1: Maximum Cumulative Sign Area per Lot Summary, unless specified otherwise in this Subsection.
- c. *Design and Installation.* A wall sign:
1. Shall affix against the wall of the building such that there is minimal or no space between the sign and the wall while enabling the plane of the sign face to remain perpendicular to the ground.
 2. Shall not cover more than 80 percent of the wall's width.



(2) Awning Sign Standards

- a. *Generally.* Table 098.4: Awning Sign Standards establishes the applicable standards for awning signs.

Table 098.4: Awning Sign Standards

Awning Sign Standards						
Definition	A permanent, attached sign painted, printed, attached, or otherwise applied to any facet of the covering or frame structure of an awning or attached structural canopy.					
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed with a permit for nonresidential uses only sf = square feet ft = feet “-” = the standard does not apply					
Zoning District → Requirement ↓	NP AP	RE R-1 R-2	R-3	CR C-1	C-2 C-3	IA
General						
Allowed?	✗	NR	NR	✓	✓	✓
Permit Required?	-	NR	NR	✓	✓	✓
Dimensions						
Sign Area (max. % of awning)	-	15%	15%	25%	25%	25%
Vertical Clearance (min.)	-	8 ft	8 ft	8 ft	8 ft	8 ft
Sign Projection (max.)	-	1 ft	1 ft	1 ft	1 ft	1 ft
Sign Features						
Changeable Copy (max. %)	-	✗	✗	✗	✗	✗
Electronic Message Center (max. %)	-	✗	✗	✗	✗	✗
Illumination	-	NR	NR	✓	✓	✓

- b. *Number.* One awning sign allowed per business or rental unit or as otherwise approved by the Director; however, in no instance shall the cumulative awning sign allowance exceed the requirements in Table 097.1: Maximum Cumulative Sign Area per Lot Summary unless specified otherwise in this Subsection.
- c. *Design and Installation.* An awning sign shall affix flush against the awning of the building, or be attached on top or underneath the awning of the building while allowing the plane of the face of the sign to remain perpendicular to the ground.

(3) Marquee Sign Standards

- a. *Generally.* Table 098.5: Marquee Sign Standards establishes the applicable standards for marquee signs.



Table 098.5: Marquee Sign Standards

Marquee Sign Standards						
Definition	A permanent, attached sign affixed to a marquee.					
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed with a permit for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply					
Zoning District → Requirement ↓	NP AP	RE R-1 R-2	R-3	CR C-1	C-2 C-3	IA
General						
Allowed?	✗	✗	✗	✓	✓	✗
Permit Required?	-	-	-	✓	✓	-
Number per Building (max.)	-	-	-	1	1	-
Dimensions						
Sign Area (max. % of wall)	-	-	-	25%	25%	-
Vertical Clearance (min.)	-	-	-	8 ft	8 ft	-
Sign Projection (max.)	-	-	-	6 ft	6 ft	-
Sign Features						
Changeable Copy (max. %)	-	-	-	50%	100%	-
Electronic Message Center (max. %)	-	-	-	50%	50%	-
Illumination	-	-	-	✓	✓	-

- b. *Design and Installation.* A marquee sign:

1. Shall be located above the primary public entrance(s) of a building.
2. May extend the full length of the building façade but shall not extend above the wall to which it is attached.
3. May project over a sidewalk but shall not project above a street.

(4) Projecting Sign Standards

- a. *Generally.* Table 098.6: Projecting Sign Standards establishes the applicable standards for projecting signs.



Table 098.6: Projecting Sign Standards

Projecting Sign Standards						
Definition	A permanent, attached sign type that is affixed to and projects a foot or more from the wall of a building and is generally perpendicular to the building façade.					
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed with a permit for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply					
Zoning District → Requirement ↓	NP AP	RE R-1 R-2	R-3	CR C-1	C-2 C-3	IA
General						
Allowed?	✗	NR	NR	✓	✓	✗
Permit Required?	-	NR	NR	✓	✓	-
Number per Storefront (max.)	-	1	1	1	1	-
Dimensions						
Sign Area (max.)	-	12 sf	16 sf	20 sf	40 sf	-
Vertical Clearance (min.)	-	8 ft	8 ft	8 ft	8 ft	-
Sign Projection (max.)	-	2 ft	2 ft	2 ft	4 ft	-
Sign Features						
Changeable Copy (max. %)	-	✗	✗	✗	✗	-
Electronic Message Center (max. %)	-	✗	✗	✗	✗	-
Illumination	-	✗	✓	✓	✓	-

- b. *Design and Installation.* A projecting sign:

1. Shall affix to the surface of the wall so that the face of the sign remains perpendicular to the ground.
2. Shall not extend above the top of the wall to which it is attached.

(5) Grounded Canopy Sign Standards

- a. *Generally.* Table 098.7: Grounded Canopy Sign Standards establishes the applicable standards for grounded canopy signs.



Table 098.7: Grounded Canopy Sign Standards

Grounded Canopy Sign Standards						
Definition	A permanent, attached sign that is affixed to a grounded canopy. A grounded canopy is a permanent structure that is structurally independent of a building affixed to the ground, that is of rigid construction, and over which a covering is attached that provides weather protection, identity, or decoration.					
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed with a permit for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply					
Zoning District → Requirement ↓	NP AP	RE R-1 R-2	R-3	CR C-1	C-2 C-3	IA
General						
Allowed?	✗	✗	✗	✓	✓	✓
Permit Required?	-	-	-	✓	✓	✓
Dimensions						
Sign Area (cumulative max. per grounded canopy)	-	-	-	50 sf	100 sf	100 sf
Sign Projection (max.)	-	-	-	1 ft	1 ft	1 ft
Sign Features						
Changeable Copy (max. %)	-	-	-	100%	100%	100%
Electronic Message Center (max. %)	-	-	-	50%	100%	100%
Illumination	-	-	-	✓	✓	✓

- b. *Number.* There is no limit to the number of grounded canopy signs allowed on a grounded canopy; however, in no instance shall the cumulative grounded canopy sign allowance exceed the requirements in Table 097.1: Maximum Cumulative Sign Area per Lot Summary, unless otherwise specified in this Subsection.
- c. *Design and Installation*
1. A grounded canopy sign shall be affixed flush against the surface of the face of the grounded canopy or as flush as possible while still allowing the plane of the face of the sign to remain perpendicular to the ground.
 2. The face of a grounded canopy sign cannot extend above the top surface of the face of the grounded canopy to which it is attached.

- (c) *Incidental Signs*. Incidental signs are classified into one of the following sign types: general incidental signs, speaker boards, or walk-up boards. Their associated regulations are established in this Subsection. A building or lot may have multiple incidental signs unless specified elsewhere in this Subsection.

(1) General Incidental Signs

- a. *Generally*. Table 098.8: General Incidental Sign Standards establishes the applicable standards for general incidental signs.

Table 098.8: General Incidental Sign Standards



General Incidental Sign Standards						
Definition	A small permanent sign other than a flag, speaker board, or walk-up board, that is detached or attached to a building that is in addition to the primary sign types for the property, such as detached signs and attached signs, and that has a height and scale that is clearly subordinate to the primary sign types allowed for the property. Examples of typical General Incidental Signs include house numbers, occupant directories, property or tenant identification names or numbers, wayfinding signs, directional signs, sidewalk signs, and signs warning the public against trespassing or danger from animals. The list of examples is not exhaustive and is provided to clarify the regulations and does not limit the content of General Incidental Signs. The City will not review the content of General Incidental Signs.					
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed with a permit for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply					
Zoning District → Requirement ↓	NP AP	RE R-1 R-2	R-3	CR C-1	C-2 C-3	IA
General						
Allowed?	✓	✓	✓	✓	✓	✓
Permit Required?	✗	✓	✓	✓	✓	✓
Dimensions						
Sign Area (max. per sign)	12 sf	12 sf	16 sf	24 sf	30 sf	30 sf
Sign Height (max.)	3 ft	3 ft	4 ft	4 ft	6 ft	6 ft
Setbacks						
From Front Property Line (min.)	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft
From Adjacent Property Lines (min.)	5 ft	5 ft	5 ft	10 ft	10 ft	10 ft
From Adjacent Residential Use (min.)	25 ft	25 ft	25 ft	25 ft	25 ft	25 ft
Sign Features						
Changeable Copy (max. %)	✗	✗	✗	✗	✗	✗
Electronic Message Center (max. %)	✗	✗	✗	✗	✗	✗
Illumination	✗	✗	✗	✓	✓	✓
Number per Lot (max.)	2	2	2	2 per frontage	2 per frontage	2 per frontage

- b. *Number*. The sum of the general incidental sign area on a lot shall not exceed those established in Table 097.1: Maximum Cumulative Sign Area per Lot Summary.

c. Design and Installation

1. An attached general incidental sign shall be affixed flush against the wall of the building in which it is located.
2. A detached general incidental sign shall have an enclosed base and be securely and firmly embedded in the ground.
3. General incidental signs constructed in conjunction with a detached sign shall be consistent with the building elements and materials of those established on the same lot and within the development.

(2) Speaker Boards

- a. *Generally.* Table 098.9: Speaker Board Standards establishes the applicable standards for speaker boards.

Table 098.9: Speaker Board Standards

Speaker Board Standards						
Definition	A professionally constructed and installed sign made of a durable, weather-resistant product such as metal or high-density plastic and may include a two-way speaker system for ordering from a vehicle in a drive-through lane provided the volume of the speaker does not exceed ambient noise conditions as measured at the property line.					
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed with a permit for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply					
Zoning District → Requirement ↓	NP AP	RE R-1 R-2	R-3	CR C-1	C-2 C-3	IA
General						
Allowed?	✗	✗	✗	✓	✓	✗
Permit Required?	-	-	-	✓	✓	-
Dimensions						
Sign Area (max.)	-	-	16 sf	24 sf	32 sf	-
Sign Height (max.)	-	-	6 ft	6 ft	8 ft	-
Setbacks						
From Front Property Line (min.)	-	-	50 ft	50 ft	50 ft	-
From Adjacent Property Lines (min.)	-	-	25 ft	25 ft	10 ft	-
From Adjacent Residential Use (min.)	-	-	100 ft	100 ft	100 ft	-
Sign Features						
Changeable Copy (max. %)	-	-	100%	100%	100%	-
Electronic Message Center (max. %)	-	-	✗	✗	100%	-
Illumination	-	-	NR	✓	✓	-

b. Number

- One speaker board allowed per lot or as otherwise approved by the Director.
The sum of the speaker board area on a lot shall not exceed those established in Table 097.1: Maximum Cumulative Sign Area per Lot Summary.

c. Design and Installation

- A speaker board shall provide no more than 3 feet and no less than 18 inches of horizontal separation from the curb or edge of the driveway the speaker board faces.
- Speaker boards shall provide a minimum landscaped area of 2 square feet per 1 square foot of sign area abutting the sign base.

(3) Walk-Up Boards

- a. *Generally.* Table 098.10: Walk-Up Board Standards establishes the applicable standards for walk-up boards.

Table 098.10: Walk-Up Board Standards

Walk-Up Board Standards						
Definition	A sign mounted near the sidewalk entrance to a building or affixed to a building wall where the sign is visible to pedestrian traffic.					
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed with a permit for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply					
Zoning District → Requirement ↓	NP AP	RE R-1 R-2	R-3	CR C-1	C-2 C-3	IA
General						
Allowed?	✗	✗	NR	✓	✓	✗
Permit Required?	-	-	✓	✓	✓	-
Number per Storefront (max.)	-	-	1	1	1	-
Dimensions						
Sign Area (max.)	-	-	12 sf	12 sf	12 sf	-
Sign Features						
Changeable Copy (max. %)	-	-	100%	✓	✓	-
Electronic Message Center (max. %)	-	-	✗	✗	✗	-
Illumination	-	-	NR	✓	✓	-

- b. *Design and Installation.* No walk-up board is allowed more than 3 feet from the public sidewalk adjacent to the side of the building to which it is affixed.

Sec. 109-099. Temporary Signs

Temporary signs and their associated regulations are established in this Section. A building or lot may have multiple temporary signs as allowed in this Section. A temporary sign shall not be used as a placeholder for detached and attached permanent signs unless specified elsewhere in this Section.

(a) Generally

- (1) *Permit Required.* Temporary signs must obtain a temporary sign permit, subject to the regulations of this Section.
- (2) *Time.* Temporary sign permits must be approved by the Director a minimum of three days prior to the intended display period.
- (3) *Materials.* Temporary signs shall be commercially made of a durable, non-destructible, weather-resistant material. Cloth, paper, cardboard and similar materials, unless laminated, are not allowed.
- (4) *Permit.* A temporary sign permit shall be issued by the Director upon review for compliance to the following standards.
- (5) *Standards.* Temporary signage is subject to the following:
 - a. *Maximum Number of Signs per Application.* One per business.
 - b. *Maximum Number of Applications per Year.* Four per business.
 - c. *Maximum Height.* Signs shall be limited to three feet in height.
 - d. *Maximum Area.* Signs are limited to five square feet.
 1. Temporary Banner Signs are limited to 32 square feet.
 - e. *Location.* Temporary signs must be located on private property within ten feet of the main entrance.
 1. Prohibited Locations.
 - a) Unless specifically allowed by the provisions of this Division, temporary signs shall not be located in the public right-of-way.
 - b) Temporary signs are prohibited on utility poles, street signs, or any permanent signs.
 - c) Signs cannot obstruct a driver's vision clearances at an intersection.
 - f. *Duration.* The maximum duration any temporary sign may be displayed shall be ninety (90) days.
- (6) *Conformance with other Regulations.* The temporary sign shall conform to the regulations for projecting signs, wall signs, or freestanding signs depending on the method of installation and support.

Division 12. Steep Slopes

Sec. 109-100. Purpose

The purposes of this Division are to:

- (a) Conserve the unique natural features and aesthetic qualities of Bella Vista's hillside or steeply sloped areas;
- (b) Encourage prudent land disturbance and development activities that maintain the natural, topographic character of steep slope areas;
- (c) Provide safe and convenient access to steep slope areas;
- (d) Minimize water runoff and soil erosion problems incurred in adjustment of the terrain to meet development needs;
- (e) Ensure that new development is compatible with the natural systems, the terrain, and the geologic character of steep slope areas;
- (f) Encourage innovative design solutions that account for steep slope constraints; and
- (g) Preserve wildlife habitat and wetland areas that provide wildlife migration corridors.

Sec. 109-101. Applicability

- (a) Generally
 - (1) This Division applies to all development and redevelopment in Bella Vista regardless of existing grade.
 - (2) The standards in this Division apply on a lot-by-lot basis to all development unless otherwise specified.
 - (3) No building or structure may be erected, reconstructed, or structurally altered on land where this Division applies. Land where this Division applies may not be subdivided, graded, or otherwise disturbed for development, subdivision, or any other purpose, unless such construction, subdivision, disturbance, or development complies with the provisions of this Division.
 - (4) On land where this Division applies, no building permits shall be issued and no grading, land disturbance, removal of vegetation, or construction activity shall occur on any lot or parcel until:
 - a. A site plan is approved;
 - b. A Grading Plan for the site is approved; and
 - c. The Final Plat is recorded.
 - (5) Development on slopes that have a grade greater than 45% is prohibited.

Sec. 109-102. Standards

- (a) *Generally.* The standards of this Section are required for any development on lots with steep slopes.
- (b) *Land Disturbance Levels.* Land disturbance may occur on steep slopes as provided in Table 102.1: Land Disturbance Levels.

Table 102.1: Land Disturbance Levels

Lot Slope Range	Maximum Land Disturbance (Non-residential Districts)
0% – 24.99%	100%
25% – 34.99%	95%
35% - 39.99%	85%
40% - 44.99%	75%
45%-49.99%	50%
50%-54.99%	25%
55% +	0%

- (c) *Lots.* The location of buildings and building footprints on each lot shall:
- (1) Preserve significant vegetation and features in preservation, conservation, or landscape easements or buffers;
 - (2) Allow variation in front and side yards along the street frontage where significant vegetation, geologic hazard concerns, or steep slopes over forty-five percent (45%) exist on the site; and
 - (3) Only use retaining walls where necessary as provided in this Division and Chapter 107.
- (d) *Access Management.* Streets and driveways must provide adequate vehicular access to each individual lot. Adequate access shall comply with the following standards to the maximum extent feasible:
- (1) Driveways shall follow the natural contour of the land and shall generally minimize the need for cut and/or fill for driveway construction. Cut and fill slopes shall be limited to four (4) feet in height and no more than two (2) tiers of four (4) feet in total height;
 - (2) Where retaining walls are used, there shall be a minimum horizontal separation of four (4) feet between each tier and the face of the retaining wall shall be screened by vegetation. However, a taller single wall of up to seven (7) feet may be approved when necessary to reduce vegetation removal;
 - (3) Individual driveways shall have a maximum slope of twenty percent (20%) and shared driveways shall have a maximum slope of fifteen percent (15%). When the driveway serves a required Fire Department access, the width shall be a minimum of twelve (12) feet and the maximum grade shall be twelve percent (12%);
 - (4) The amount of significant vegetation proposed to be removed shall be minimized;

- (5) Driveway locations shall facilitate emergency service response. On streets with less than twenty-eight (28) foot widths, driveways shall be offset to facilitate emergency response; and
- (6) The inclusion of shared driveways where possible to reduce grading, paving, and site disturbance.
- (e) *Utility Lines*. Utility lines shall be located to minimize the need for grading and for disturbance of significant vegetation and natural features.
- (f) *Retention of Significant Vegetation on Individual Lot*. On lots with significant existing vegetation the placement of the building shall use existing vegetation, particularly in the front yard and required landscape areas, to soften structural mass and maintain vegetation.
- (g) *Steep Slope Building Height*. On land where this Division applies, the maximum building height shall comply with the zoning district in which the proposed development is located; however, the maximum building height may be altered based upon consideration of site factors including visual analysis, topography, and proposed height relative to existing vegetation.
- (h) Building Setbacks
 - (1) From Ravines

All building construction shall be on land suitable for building, but in no case shall any structure or building foundation be located closer than twenty (20) feet to the ravine area.
 - (2) From Bluffs

All building construction shall be on table land, but in no case shall any structure or building foundation be located closer than twenty (20) feet to the bluff area.
- (i) Construction Activity
 - (1) Adjacent to Ravines

All construction activity (i.e., grading, excavating, filling, terracing, tree removal, stockpiling of excavated material) is prohibited within twenty (20) feet of the ravine area, except as may be necessary to provide site drainage improvements, as may be approved and/or required by the City Engineer.
 - (2) Adjacent to Bluffs

All construction activity (i.e., grading, excavating, filling, terracing, tree removal, stockpiling of excavated material) is prohibited within twenty (20) feet of the bluff edge, except as may be necessary to provide site drainage improvements, as may be approved and/or required by the City Engineer.
- (j) Site Landscaping

Upon completion of construction activities, minimal grading and clearing of existing vegetation may be allowed within the bluff or ravine area to install new vegetation and lawn landscaping. However, no such grading, clearing, or landscaping will be permitted within twenty (20) feet of the bluff edge.

(k) Channel Modification

Where the City Engineer finds that an unstable ravine or bluff slope exists or is likely, or where the configuration of the ravine channel has resulted in erosion or suggests the probability of future erosion; channel, or slope stabilization measures may be required by the City Engineer.

Division 13. Infill

Sec. 109-103. Purpose

The purpose of this Division is to accommodate and encourage compatible development in existing developed areas, while reinforcing the established character of those areas and mitigating adverse impacts on adjacent properties.

Sec. 109-104. Applicability

This Division applies to all infill development, as defined in this chapter, and redevelopment within Bella Vista's corporate limits unless otherwise specified.

Sec. 109-105. Standards

(a) Generally

- (1) Infill development shall share a similar height to surrounding buildings.
- (2) The infill development shall reflect the architectural styles on either side along the block face.
- (3) The relationship between height, width, material, and style of existing facades shall be respected.
- (4) The infill development shall have consistent setbacks with the buildings on its block face.

(b) Lot Size

- (1) Generally, infill development lots shall meet the required minimums of the zoning district in which it is located.
- (2) In certain instances, the required minimum lot size may be reduced by 25% if there are site constraints that will otherwise prevent the future development of the lot.

(c) Setbacks

- (1) The front setback for infill development shall be determined by assessing the as-built setbacks on the block face (see Figure 105.1: Infill Development Setback Range).

- (2) The infill development may be placed anywhere between the smallest and largest front setbacks on the block face (see Figure 105.1: Infill Development Setback Range).
- (3) All other setbacks shall meet the zoning district's dimensional standards unless specified otherwise.

Figure 105.1: Infill Development Setback Range



(d) Architectural Requirements

- (1) Architectural requirements apply for all nonresidential infill development.
- (2) Architectural requirements do not apply to single-family or two-family residential infill development.
- (3) All infill development shall use similar building materials as assessed by the as-built developments on the block face.
- (4) Color shades shall be used to facilitate blending the infill development into the block face. The color shades of building materials shall draw from the range of color shades that already exist on the block or in the adjacent neighborhood. If no specified range can be determined, then the infill development shall utilize earth tones.
- (5) The use of high-intensity colors, metallic colors, or fluorescent colors is shall comply with Division 9. Sec. 109-080. .

(e) *Building Height.* Infill development may build to a height greater than or equal to the shortest building on the block face, and less than or equal to the tallest building on the block face, provided the building height of the infill development conforms to the maximum building height established for the zoning district in which it is located.

(f) *Glare.* Building materials and windows shall not create excessive glare nor create a significant adverse impact on the adjacent property owners, neighborhood, or community in terms of vehicular and pedestrian safety and enjoyment of views.

Division 14. Performance Standards

Sec. 109-106. Purpose

The purpose of this Division is to establish regulations that protect the public from the potential negative effects of industrial and intense commercial development by regulating smoke and particulate matter, odorous matter, fire or explosive materials, toxic and noxious matter, vibration, open storage, and glare in the vicinity of those sites.

Sec. 109-107. Applicability

In all zoning districts, all permitted uses shall conform in operation, location, and construction to the performance standards established in this Division.

Sec. 109-108. Standards

- (a) No noise from any operation conducted on the premises, other than that emanating from vehicular traffic, either continuous or intermittent, shall be detectable at any boundary line of the district.
- (b) All industrial uses shall be carried on in such a manner so as not to be injurious or offensive by reasons of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious matter, odor, glare or heat, fire or explosive hazards.
- (c) No fuel or energy with the exception of electricity, natural and/or liquefied petroleum, and solar, may be used.
- (d) All buildings shall be furnished with all-weather, hard-surfaced sidewalks, and the grounds shall be planted and landscaped.
- (e) The manufacture, or the use, of any materials that produce explosive vapors or gases is prohibited.
- (f) No activities involving storage, utilization, or manufacture of materials or products that decompose by detonation shall be permitted.
- (g) Any operation that produces intense glare or heat shall be performed within a completely enclosed building, and exposed sources of light shall be screened so as not to be detectable beyond the lot lines.
- (h) No vibration shall be detectable beyond the lot lines of the lot on which the use is located.

Division 15. Animal Regulations

Sec. 109-109. Purpose

The purpose of this Division is to establish regulations pertaining to the keeping of animals regulating the density, amount, location, and type of animals on properties within certain districts to accommodate animals safely on-site, to meet the individual needs of rural or large-lot properties where animal keeping is a part of the daily life, and to protect adjacent properties from any adverse effects where animals are kept.

Sec. 109-110. Applicability

This Division applies to specific instances in certain zoning districts within Bella Vista's corporate limits unless otherwise specified.

Sec. 109-111. Standards

(a) Generally.

- (1) Animals and fowl, where permitted in a district, shall be kept only in accordance with City ordinances and codes.
- (2) Adequate measures shall be taken to prevent odor, dust, noise, or drainage from becoming a nuisance to uses on other properties. No incinerations of animal refuse shall be permitted on the premises.
- (3) The keeping of exotic or wild by nature animals are specifically prohibited, except by conditional use permit in the AP District.

(b) *Apiculture*. It shall be lawful for any person to keep, permit, or allow to keep honeybees within the corporate limits within permitted districts under the following terms and conditions:

- (1) *Principal Use*. The principal use of the property shall be a single-family dwelling. Beekeeping shall not be allowed in multi-family dwellings, including two-family dwellings.
- (2) *Number Permitted*. The number of bee colonies may be kept on a tract of land within Bella Vista, based upon the size or configuration of the lot on which the colonies are situated as provided in Table 111.1: Number of Bee Colonies Permitted.

Table 111.1: Number of Bee Colonies Permitted

Number of Bee Colonies Permitted	
Lot Size (Acres)	Number of Colonies
≤ 0.25	1
0.25 – 0.5	2
0.5 – 1	3
< 1	4

- a. Regardless of lot size, where all hives are situated at least 200 feet in any direction from all property lines on the lot on which they are situated, there shall be no limit to the number of colonies.
- (3) *Registration Required*. All honeybee colonies shall be registered with the Arkansas State Plant Board and maintain an active certificate of inspection from such board.
- (4) *Africanized Honeybees*. Africanized honeybees are prohibited.
- (5) *Fencing of Flyways*. In each instance in which any colony is situated within twenty-five (25) feet of a public or private property line of the lot upon which the colony is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid

- wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends ten feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary.
- (6) *Water*. Each beekeeper shall ensure a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, pet watering bowls, bird baths, or other water sources where they may cause human, bird, or domestic pet contact.
- (c) *Hobby Chickens*. It shall be lawful for any person to keep, permit, or allow hobby chickens within the corporate limits within permitted districts under the following terms and conditions:
- (1) The principal use of the property shall be a single-family dwelling. No hobby chickens shall be allowed in multi-family dwellings, including two-family dwellings.
 - (2) *Number Permitted*. No more than four (4) hens shall be allowed for each single-family dwelling.
 - (3) No roosters shall be allowed under the provisions of this Subsection.
 - (4) Outside slaughter of birds is prohibited.
 - (5) *Enclosure Placement and Area*.
 - a. All hens must be kept in a secured, fenced enclosure constructed with a minimum area of 100 square feet.
 - b. Hen enclosures shall be kept in side and rear yards.
 - c. Enclosures are prohibited in the front yard.
 - d. All hen enclosures shall be kept a minimum of twenty-five (25) feet away from neighboring dwellings, measured from the adjoining property line.
 - (6) Enclosures shall be kept in a neat and sanitary condition at all times and must be cleaned on a regular basis to prevent offensive odor.
 - (7) All food used for chickens shall be kept in a suitable container with a tight-fitting cover so as to be inaccessible to rodents.
 - (8) *Applicability*. The above regulations are not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets. Further, these regulations are not intended to preclude the lawful transportation of fowl through the corporate limits of the city. Neither shall these regulations apply to fowl kept in AP districts.
- (d) *Livestock*. The following provisions apply to livestock:
- (1) The keeping of livestock within Bella Vista's corporate limits shall be limited to the AP and RE Districts.
 - (2) The keeping of livestock in the RE District may be allowed pursuant to Table 026.1: Use Table.

- (3) All livestock shall be kept in pens or enclosures that shall be kept a minimum of one hundred fifty (150) feet away from any residence or business establishment; provided, however, that this restriction shall not apply to a residence or business of the livestock's owner.
- (4) All livestock pens or enclosures shall be maintained and kept in such condition as not to become unsanitary, offensive, or disagreeable to persons residing in the vicinity thereof, nor shall they be so maintained or kept to permit the breeding of flies or in any manner cause injury to the health or comfort of the public or any person working or residing in the vicinity of said pen or enclosure. Manure or refuse shall be promptly removed and disposed of after each cleaning.
- (5) Fencing for livestock pens or enclosure shall be subject to the limitations of Sec. 109-077. (d). Additionally, fencing shall be of an appropriate design and material for proper constraint of the livestock.
- (6) Pens and enclosures for livestock shall meet the following minimum dimensional requirements:
 - a. *Horses, Cows, Swine, and other Large Livestock.* Enclosures for horses, cows, swine, and other large livestock shall be a minimum of one acre in area for the first such animal. Each additional two animals shall require an additional one acre in area.
 - b. *Sheep, Goats, and other Small Livestock.* Enclosures for sheep, goats, and other small livestock shall be a minimum of one-half acre in area for the first such animal. Each additional two animals shall require an additional one-half acre.

Division 16. Wastewater, Stormwater, and Grading

Sec. 109-112. Wastewater/Sewer Facilities

- (a) *General Provisions.* If no public sanitary sewer system is available, the developer is responsible for providing a wastewater collection system capable of serving each lot within a subdivision.
 - (1) The developer must provide a preliminary utility plan (which can be submitted simultaneously with the preliminary plat) to the City Engineer. This plan will then be delivered to the appropriate utility providers.
 - (2) Each wastewater service connection may only serve one building; no sharing or common use of service connections is allowed by multiple buildings.
 - (3) The wastewater system must be designed by a professional engineer licensed in the State of Arkansas.
- (b) Construction and Installation standards for private wastewater collection systems.
 - (1) The preliminary utility plan must illustrate the location and size of the wastewater utility mains. Pipe stub-outs shall be located in manholes to facilitate the future extension of wastewater lines.

- (2) The Board of Directors of Village Wastewater Company (VWWC) has adopted the following standardized set of installation requirements for private wastewater collection systems.
- (3) The Village Wastewater Company is not responsible for damage that is a result of noncompliance with these requirements.
 - a. The requirements shown below must be followed without exception to get the system approved and connected to the sewer system. A certificate of occupancy will not be issued until the final setup/inspection has been completed by VWWC.

1. General Installation

- a) All conduit and plumbing connections in and out of the tank will be left exposed for inspection by the VWWC staff. Inspection will be completed within 1 working day following notification.
 - 1) *Inlet Pipe*. Inlet pipes shall be installed using a 5" hole saw with a 4" Adapt-a-Flex water-tight connector. (#3 on diagram)
 - 2) *Outlet Pipe*. Outlet pipes shall have a stainless-steel pipe extending from the tank to the 2" PVC discharge line. This connection shall be a pressure connection (no Fernco or hose fittings), and the stainless shall be supported by undisturbed soil or packed under with bricks/blocks.
 - 3) *Electrical Conduit* – Electrical conduit shall be sealed with silicone to prevent moisture and ground water from entering the J-box inside the tank.
- b) All tank lids shall be installed 2" – 6" above the final grade of the lawn or landscape.
- c) The tank lid shall be below the elevation of the lowest floor having plumbing fixtures or floor drains.
- d) All tanks shall not be placed under a deck or in an area that will have heavy traffic.

2. Typical Grinder Installation

- a) Requirements of the General Contractor
 - 1) The tank lid shall be installed 2" – 6" above the final grade of the lawn or the surrounding landscape.
 - 2) The tank lid shall be below the elevation of the lowest floor of the house.
 - 3) No extensions or risers shall be installed with the tank, as this creates a hazard for future maintenance to the lift station.
 - 4) The tank shall not be obstructed in any way by shrubs, bushes, decorative rock, or any other fixture that would inhibit maintenance to the lift station.

- 5) The tank shall be placed within sight of the electrical panel providing power to the tank.
 - 6) The tank shall not be in a location that is not under a deck or in an area that will have heavy traffic.
 - 7) The Village Wastewater Company shall set the tank float before water is allowed to flow into the tank.
- b) Requirements of the Electrician.
- 1) Nema 4 J-Box Connection (#1 on diagram) – All electrical connections shall be made by Village Wastewater personnel inside this J-Box.
 - 2) Electrical Inlet (#4 on diagram) shall have a watertight connection to the conduit from the house mounted panel. This will be left exposed for inspection.
 - 3) Electrical feed into the wall-mounted panel shall be a minimum of a 220VAC, single phase, 20-amp circuit, AWG 12/3 with ground minimum feed wire. An electrical disconnect shall be provided at the pump station area (clearly visible from the tank) for maintenance purposes.
 - 4) Use of stranded wire conductors between the control panel and the pump is recommended.
 - 5) 2HP / 220V Grinder Pump requirements
 - 6) Two (2) conductors + ground, AWG 12 minimum, are required for pumps.
 - 7) Two (2) conductors, AWG 14 minimum, are required for alarm lights.
 - 8) No neutral is required from panel to J-box.
- c) Requirements for Plumbers
- 1) All piping connections at the tank shall be left exposed for inspection.
 - 2) Stainless steel discharge pipe supplied with tank (#2 on diagram) installed outside the tank wall shall be of sufficient length to rest on undisturbed soil. This pipe shall rest on undisturbed soil or packed under with bricks/blocks.
 - 3) 4" Adapt-a-Flex Hub water-tight connector supplied with the lift station shall be installed in the inlet and silicone sealed both inside and outside to prevent infiltration, which causes overload to the collection system.
 - 4) No FERNCO or PVC drain type fittings on pressure lines shall be allowed.
 - 5) Staff from VWWC will set floats before water is allowed to flow into the tank.

Fig. 109-112.1. Electrical Box Installation Diagram

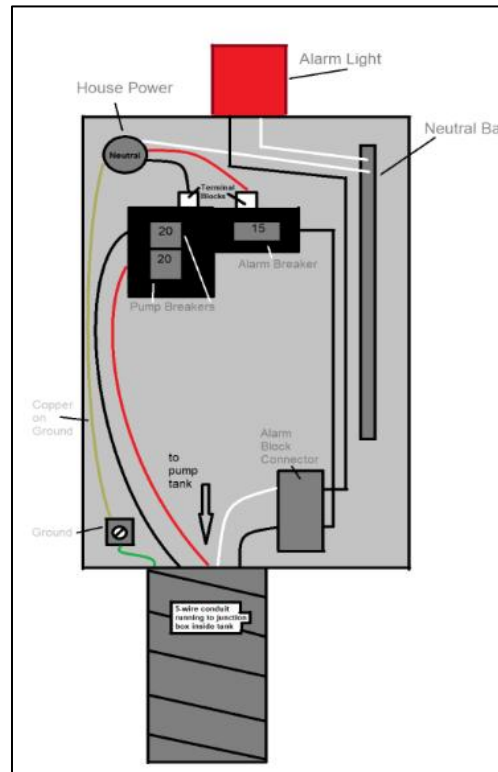
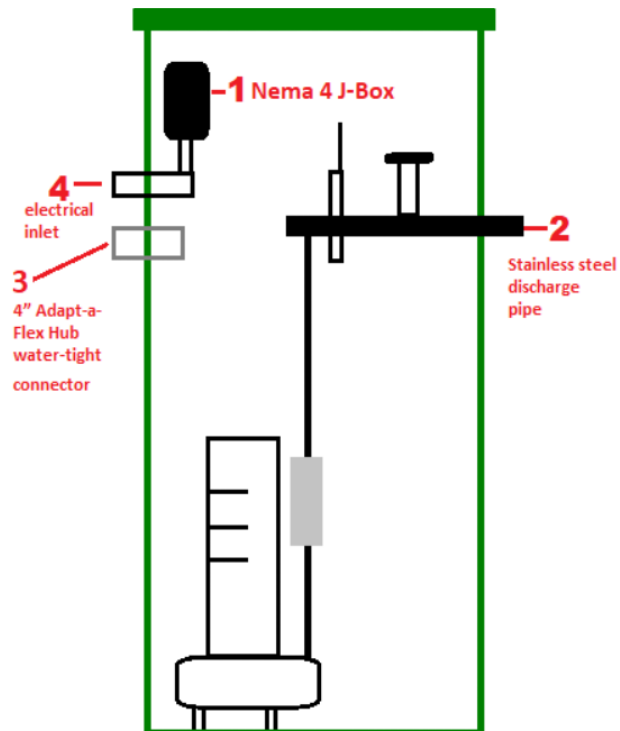


Fig. 109-112.2. Grinder Installation Diagram



3. Pumping Station Information

- a) Due to the improper installation of many of the single-family grinder pump stations, the information included will be the guide for installation used by every contractor/installer. Each of the approved lift stations are slightly different in the wiring needs and materials supplied. Installation of the inlet and discharge piping and electrical connections have been a problem in the past. Future installations will not be approved until inspection confirms proper plumbing and electrical practices have been followed. A certificate of occupancy will be denied until the inspection has been passed.
 - b) Village Wastewater Company will inspect the installation prior to putting the unit into operation. A VWWC technician will adjust the float system in the tank to proper operating conditions. Please do not turn on the pumping system until final inspection has been completed. Manufacturers will not guarantee the pump if it has been improperly installed.
 - c) Any change from the pre-approved grinder installation must be approved by Village Wastewater Company prior to installation.
4. Abandoned Septic Tanks. Per Arkansas State Law Section 11.5, septic tanks no longer in use must be pumped out by a licensed septic tank cleaner, collapsed, and filled with clean material at the time of abandonment.

Sec. 109-113. Stormwater Drainage and Management

(a) Purpose and Intent

The purpose of this article is to protect, maintain, and enhance the health, safety, and welfare of the public by:

- (1) Preventing increases in the magnitude and frequency of stormwater runoff to prevent increases in flood flows and associated hazards and costs;
- (2) Controlling soil erosion and sedimentation to minimize soil deposition in streams, lakes, and other receiving water bodies and storm drainage system; and
- (3) Requiring surface and stormwater management practices that comply with the provisions of this article.

(b) Adoption of Drainage Criteria Manual

The City hereby adopts by reference the Drainage Criteria Manual prepared for the City, and as may be amended from time to time. All technical procedures and design standards contained therein shall have the same force and effect as if printed word for word in this article.

Sec. 109-114. Grading, Erosion Control, and Stormwater Pollution Prevention

(a) Purpose and Intent

It is the City's intent to safeguard the health, safety, and welfare of its citizens by implementing standards and procedures for the physical alteration of land. It is not the

City's intent to supersede federal or state regulations such as, but not limited to, the Occupational Health and Safety Act. Further, it is not the City's intent to prevent the reasonable use of property.

The general purpose of this article is to control land alteration activities, alone or in combination, which cause landslides, flooding, degradation of water quality, erosion, and sedimentation in storm sewer systems and water storage basins. It is also the intent of this article that through the implementation of the guidelines and regulations contained herein, the existing scenic character and quality of the neighborhood and the City as a whole will not be diminished.

Specifically, the goals of these regulations are:

- (1) To prohibit the indiscriminate clearing of property;
 - (2) To prevent excessive grading, clearing, filling, cutting, or similar activities;
 - (3) To reduce flooding, erosion, and sediment damage within the City;
 - (4) To prevent the pollution of streams, ponds, or other watercourses;
 - (5) To minimize the danger of flood and property loss due to unstable slopes;
 - (6) To preserve natural vegetation and conceal hillside scars; and
 - (7) To establish reasonable standards and procedures for land alteration activities.
- (b) Adoption of Stormwater Pollution Prevention, Grading, and Erosion Control Best Practices Manual
- (1) The City hereby adopts by reference the "Stormwater Pollution Prevention, Grading, and Erosion Control Best Practices Manual", prepared by the Stormwater Compliance Group of the Northwest Arkansas Regional Planning Commission, and as may be amended from time to time. All technical procedures and design standards contained therein shall have the same force and effect as if printed word for word in this article.
- (c) General Requirements
- (1) Protection
- Persons engaged in land clearing or alteration activities regulated by this article shall take measures to protect public and private properties from damage by such activities. A property owner who is clearing their land shall be exempt from these requirements as long as the property remains undeveloped and no construction activities occur on the property.
- (2) Site Conditions
- Developments shall generally conform to the natural contours of the land, natural drainageways, and other existing site conditions.
- (3) Adjacent Properties
- All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such development. More

specifically, new development may not unreasonably impede water runoff from higher properties nor may it unreasonably channel water onto lower properties.

(4) Restoration

Land shall be revegetated and restored as close as practically possible to its original condition to minimize runoff and erosion.

(d) Utility Construction Activities

- (1) Utility agencies shall be required to obtain a permit from the Planning and Development Department for all routine underground electric, water, sewer, natural gas, telephone, or cable facilities. Utility agencies shall be responsible for compliance with the requirements of this article.
- (2) Utility agencies shall develop and implement BMPs to prevent the discharge of pollutants on any site of utility construction within the City. In addition, the City may adopt and impose more stringent BMPs on all utility construction and line-clearing activity.
- (3) Utility agencies shall implement BMPs to prevent the release of sediment from all utility work sites, including the clearing of vegetation under the power lines. Disturbed areas shall be minimized, disturbed soil shall be managed, and construction site entrances shall be managed to prevent sediment tracking. All sediment tracked onto public streets shall be removed immediately.
- (4) Any disturbance of BMPs on a construction site resulting from utility construction shall be repaired immediately by the utility company in compliance with the stormwater pollution prevention plan.

(e) Land Alteration and Preservation Requirements

(1) Grading Plan Evaluation

Grading plans shall be evaluated by the Planning and Development Department for conformance requirements of this article.

(2) Requirements Varied

- a. If site conditions create need to vary from these requirements for the health, safety, and welfare of Bella Vistans, the Planning and Development Department may vary the following standards to the extent described:
 1. Finish grade may be increased from the maximum of 33% to a maximum of 35%
 2. Maximum length of a cut or fill slope may be increased from the maximum of 100 feet to a maximum of 115 feet
 3. The vertical height of cuts accompanied by revegetation plans and other demonstrated control of drainage, erosion, and slope stability may be increased from the maximum of ten feet to a maximum of twelve feet

(3) Cut or Fill Slopes

a. Finish Grade

Cut or fill slopes shall have a finish grade no steeper than 33 percent (three horizontal to one vertical).

b. Maximum Length

The maximum length of any cut or fill slope without a terrace shall be 100 feet as measured along the ground. The terrace shall be at least six feet wide.

c. Existing Topography

Cut or fill slopes shall be constructed to eliminate sharp angles of intersection with the existing terrain and shall be rounded and contoured to blend with the existing topography.

d. Setback Requirements

The following setback requirements shall be reviewed by the Planning and Development Department for purposes of assessing safety, stability, and drainage problems:

1. Setback from Top or Toe of Cut or Fill

Buildings shall be set back from the top or toe of a cut or fill in accordance with the Arkansas Fire Prevention Code.

2. Setbacks from Property Lines

Cut and fill slopes shall be set back from property lines a minimum of five feet. Property lines may be filled over or cut if a grading plan for the cut or fill is submitted jointly by the owners of both properties.

3. Setbacks from Utility Lines

Cut and fill slopes shall be set back from existing and proposed utility lines a minimum of two feet. Where no utilities are present in an easement, or where utilities are planned to be relocated, and where such action is approved by all utilities, then easements may fall within a cut or fill section.

4. Setbacks from a septic system leach field

A 5-foot setback shall be required from a septic system leach field.

5. Public Rights-of-Way

Cut and fill slopes adjacent to public rights-of-way shall be located outside of the public rights-of-way, excluding driveways or access roads. Altering the land within the public right-of-way is strictly prohibited unless specifically approved by the City Engineer.

e. Administratively Waived

Setbacks may be modified administratively by the Planning and Development Director if geotechnical and/or structural information is provided that, in the opinion of the Director, justifies the modification.

f. Additional Information Required

The Planning and Development Department may require further geotechnical and/or structural information to show that setbacks greater than those given are not needed to protect property, utilities, or the integrity of property lines.

(4) Cuts

a. Vertical Height

1. Cuts shall be limited to ten feet in vertical height unless information demonstrating slope stability, erosion control, and drainage control is provided together with a revegetation plan.
2. For nonsolid rock cuts, terraces shall be required for cuts greater than ten feet in height. Terracing shall be at a maximum ratio of one foot of horizontal terrace for every one foot of vertical surface.

b. Maximum Vertical Cut

In solid rock, as determined by geotechnical and engineering data approved by the Planning and Development Department, the maximum vertical cut shall be 30 feet.

c. Fill Material

In no case shall a cut be allowed primarily for the purpose of obtaining fill material to a different site, unless the exporting site is located within an extraction district.

(5) Fills

a. Rocks within Fill Material

All imported fill shall be free of rocks greater than 12 inches in diameter and any detrimental organic material or refuse debris.

b. Compaction

Fill shall be placed and compacted to minimize sliding or erosion of soil. Fill compaction shall equal the compaction of undisturbed, adjacent soil, except fills covered by the Arkansas Fire Prevention Code or other structural fills. The Planning and Development Department may require soil tests during compaction work or upon its completion at the expense of the permit holder.

c. Grade

Fill shall not be placed on an existing slope with a grade steeper than 15 percent (6.67 horizontal to one vertical) unless keyed into steps in the existing grade and thoroughly stabilized by mechanical compaction.

d. Terraces

Terraces shall be required for fills greater than ten feet in height. Terracing shall be at a maximum ratio of one foot of horizontal terrace for every one foot of vertical surface.

(6) Driveways

- a. *Maximum Grade.* Driveways shall have a maximum grade of 14 percent.

- b. *Administrative Modification.* The City Engineer, or their designee, may grant minor modifications from the 14 percent maximum if they find that there is an undue hardship on the land that otherwise would not allow an access drive to the lot for circumstances described herein. Financial cost shall not be deemed undue hardship.
 - 1. For downhill or depressed driveways, the driveway grade may be waived administratively by the City Engineering by up to three percent (a total maximum grade of 17 percent).
 - 2. For uphill or elevated driveways, the driveway grade may be waived administratively by the City Engineering by up to six percent (a total maximum grade of 20 percent).
 - c. *Minor Modifications.* Any request that exceeds the item limitations set forth in subsection b, above, shall require a minor modification approved by the Director as provided in Article V. Division 5. Sec. 109-143.
 - d. *Calculating Driveway Grade.* For the intended purpose of this subsection, the driveway grade requirements above shall be enforced and measured along the centerline of the driveway for the first 20 feet from the edge of the street and for the last 20 feet from the garage or carport. At no point along the centerline shall the grade exceed the limitations described above.
- (7) Modified/Waived. For development sites served by sanitary sewer, the existing natural vegetation and tree canopy shall be preserved as outlined in the table below. An applicant shall not be required to plant trees in order to reach the minimum percent canopy requirement on land where less than the minimum exists prior to development.

Table 16-1. Natural Vegetation and Tree Canopy Preservation Requirements

Zoning Designation	Minimum Percentage of Preservation Required
Estate and Low-Density Residential	25% of lot
Moderate-Density and Mixed Residential	20% of lot
Commercial Recreation	20% of lot
Neighborhood Commercial and Local Commercial	25% of lot
Mixed Commercial	15% of lot
Industrial Activity	10% of lot
Nature Preservation	80% of lot
Agricultural Preservation	15% of lot

- a. Administrative Modification

The required minimum percentage of preservation may be modified administratively by the Director by up to 5% if the Director finds that there is an undue hardship on the land that otherwise would not allow development. Financial cost shall not be deemed an undue hardship.

(f) Erosion and Sedimentation Control Requirements

(1) Erosion and Sedimentation Control Required

If exempt under Section 107-24. (a)(2), a grading and erosion control permit is not required. However, exempt as well as non-exempt activities shall be subject to the following minimal erosion and sedimentation control measures. The City may adopt and impose requirements identifying best management practices for any activity, operation, or facility, which may cause a discharge of pollutants to a storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.

(2) Minimal Erosion and Sedimentation Control Requirements.

a. Natural Vegetation

The potential for soil loss shall be minimized by retaining natural vegetation wherever possible or as required.

b. Permanent Improvements

Permanent improvements such as streets, storm sewers, curb and gutters, and other features for control of runoff shall be scheduled coincidental to removing vegetative cover from the area so that large areas are not left exposed beyond the capacity of temporary control measures.

c. Waste Disposal

Solid waste, industrial waste, yard waste and any other pollutants or waste on any construction site shall be controlled through the use of best management practices. Waste or recycling containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Uncontained waste that may blow, wash, or otherwise be released from the site is prohibited.

d. Top Soil

Top soil shall be stockpiled and protected for later use in areas requiring landscaping. If top soil or other soil is to be stockpiled for more than 30 days, a temporary cover of annual rye or other suitable grass shall be planted.

e. Excavation Material

Excavation material shall not be deposited in or so near streams and other stormwater drainage systems that it may be washed downstream by high water or

runoff. All excavation material shall be stabilized immediately with appropriate erosion control measures.

f. Concrete

Ready-mixed concrete, or any materials released from the cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete, shall be contained on construction sites for proper disposal. Release of these materials is prohibited.

g. Stabilization

All graded and otherwise disturbed areas shall be stabilized within ten days after the grading or disturbance. Stabilization methods such as waddles, filter fabric, ditch checks, diversion ditches, brush barriers, sediment basins, matting, mulches, grasses, and groundcover shall be used.

h. Revegetation

Revegetation shall be required to meet the following performance standards:

1. Topsoil Required

A minimum of four inches of topsoil shall be required to be either existing or installed in areas to be revegetated. Any application of topsoil and seeding under the drip line of a tree should be minimized to three inches so as not to damage the tree's root system.

2. Zero to Ten Percent Grade

Revegetation shall be a minimum of seeding and mulching. Said seeding shall provide complete and uniform coverage that minimizes erosion and runoff in no more than two growing seasons.

3. Ten Percent to 15 Percent Grade

Revegetation shall be a minimum of hydroseeding with mulch and fertilizer, staked sod, and/or groundcover. Said planting shall provide complete and uniform coverage in no more than two growing seasons.

4. 15 Percent to 20 Percent Grade

The slope shall be covered with landscape fabric and planted with groundcover as set forth in subsection (2).

5. More than 20 Percent Grade

Any finish grade over 20 percent shall be stabilized with retaining walls, cribbing, terraces, landscape fabric, vegetation, or riprap. If riprap is used, the slope's stability and erodibility must be equivalent to or better than its predevelopment state.

i. Plants, Water

Plant materials shall be watered, irrigated, and tended. Where irrigation or regular watering is not available, only native or acclimated plant species shall be used. If the soil cannot properly sustain vegetation, it must be appropriately amended. If revegetation is not firmly established and healthy after one year, the Planning and Development Department shall require that it be redone in part or in total.

j. Permanent Erosion Control

The developer shall incorporate permanent erosion control features at the earliest practical time. Temporary erosion control measures will be used to correct conditions that develop during construction that were unforeseen during the design stage, that are needed prior to installation of permanent erosion control features, or that are needed temporarily to control erosion that develops during normal construction projects, but are not associated with permanent control features on the project.

k. Streams

No intermittent, perennial, or permanent stream, including a 25-foot perimeter buffer strip measured from the top of the bank, shall be graded, developed, channeled, or physically altered, except for:

1. Channelization or Alteration with Floodplain Development Permit

Within the municipal limits of the City, streams may be channeled or altered if a floodplain development permit is issued under the flood damage prevention code.

2. Allowed Buffer Intrusions

The following activities may be allowed within the required 25-foot perimeter buffer strip, upon development or plat approval by the Planning Commission or administrative approval of the Planning and Development Department for projects not requiring Planning Commission approval. Such allowed intrusions shall maintain the integrity of the perimeter buffer.

- a) Vegetation management and stream bank stabilization activities;
- b) Access points for fishing, wildlife viewing, and trail overlook areas;
- c) Utility crossings and corridors that are fully vegetated;
- d) Trails and trail crossings, either paved or unpaved, for recreational hiking or biking;
- e) Stormwater drainage system discharge points; and
- f) Road crossings.

l. Fording Streams

Fording of streams with construction equipment or other activities that destabilize stream banks shall not be permitted.

m. Removal of Materials from Public Streets

Any debris, soil, or mud from development sites reaching a public street shall be immediately removed.

n. Completion

Upon completion of permitted construction activity on any site, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of this article, in the course of maintenance, reconstruction, or any other construction activity on the site.

(g) Stormwater Pollution Prevention

(1) Construction Sites Requiring an Approved ADEQ Permit

This section applies to all construction sites where construction on a site will disturb soil or remove vegetation on five or more acres of land during the life of the construction project.

a. The following are required to be posted on the project site:

1. An approved NOI (notice of intent) received from ADEQ for the project shall be provided and posted on the job site. This should be posted at the entrance of the job site, available 24/7. This can be a photocopy of the original;
2. An approved SWPPP shall be provided and posted at the same location as NOI;
3. A copy of engineering plans for grading and erosion control, conforming to the requirements of this article, shall be posted at the same location as NOI;
4. The inspection reports for the job site shall be posted at the same location as NOI; and
5. A rain gauge shall be installed.

b. An approved NOT (notice of termination) for the project shall be provided to the City official after the said project has been completed to standards.

(2) Construction Sites Requiring an Approved SWPPP

This section applies to all construction sites where construction on a site will disturb soil or remove vegetation during the life of the construction project. An approved stormwater pollution prevention plan (SWPPP) for the project must be provided and implemented by the construction site owner as follows:

- a. The area disturbed shall be assumed to include the entire property area unless all applicable plans specifically exclude certain areas from disturbance.
- b. For sites subject to plan review by Planning and Development Department, the plan will not be released for construction until an approved SWPPP has been obtained.
- c. A review of the SWPPP submitted for the site will be completed and notification will be given of either an approval of the SWPPP or a request for revisions will be made.

Construction activity, including any soil disturbance or removal of vegetation, shall not commence on the site until the approval and implementation of the SWPPP.

- d. The owner/developer bears the responsibility for implementation of the SWPPP and notification of all contractors and utility agencies on the site.
- e. The following are required to be posted at the job site:
 1. An approved SWPPP shall be provided and posted at the entrance to the job site;
 2. A copy of engineering plans for grading and erosion control, conforming to the requirements of this article;
 3. The inspection reports for the job site shall be posted at the same SWPPP; and
 4. A rain gauge shall be installed.

(3) Stormwater Pollution Prevention Plan (SWPPP) Requirements

a. General Requirements

The minimum requirements shall be:

1. Name and address of the owner of the property where construction activity is proposed, of the land developer, and of the applicant;
2. The existing and proposed topography of the site taken at a contour interval sufficiently detailed to define the topography over the entire site;
3. Contour intervals sufficient to show on- and off-site drainage;
4. The site's property limits shown in true location with respect to the plan's topographic information;
5. The proposed grading and land disturbance as required under section 107-381;
6. Erosion and sediment control plan in conformance with the requirements of Article I. Section 107-22. (f) as well as other BMPs that will be utilized;
7. Specifications for a sequence of construction operations shall be contained on the grading and erosion and sediment plan describing the relationship between the implementation and maintenance of sediment controls, including permanent and temporary stabilization and the various stages or phases of earth disturbance and construction. The specifications for the sequence of constructions shall, at a minimum, include the following activities:
 - a) Clearing and grubbing for those areas necessary for installation of perimeter controls;
 - b) Installation of sediment basins and traps;
 - c) Construction of perimeter controls;
 - d) Remaining clearing and grubbing;

- e) Road grading;
- f) Grading for the remainder of the site;
- g) Utility installation and whether storm drains will be used or blocked until the completion of the project;
- h) Final grading, landscaping, or stabilization;
- i) Operation and maintenance, and inspection of practices; and
- j) Removal of temporary controls.
- k) Must meet state requirements to prevent sediment from leaving the project during rain occurrences. This should include temporary measures such as silt fencing, construction entrance, concrete washout, etc. and permanent methods such as detention pond, sediment forebays, and final site stabilization.

b. Allowable Changes

Changes to the sequence of construction operations may be modified by the person conducting land disturbing activity or their representatives and do not constitute a violation unless measures to control stormwater runoff and sediments are not utilized.

c. Approval of Stormwater Pollution Prevention Plan

1. If the stormwater pollution prevention plan is designed by and carries the seal and dated signature of a design professional, it shall be given approval pending plan review.
2. If the stormwater pollution prevention plan is prepared by someone other than a design professional, the City shall review the plan and, after review, notify the landowner/developer of approval or denial within ten days after receipt of the stormwater pollution prevention plan.
3. If the stormwater pollution prevention plan carries the seal and/or signature of a design professional, it shall include placement of the following statement: "The undersigned certifies this plan has been designed in accordance with federal NPDES guidelines and approved erosion, sediment, and stormwater ordinances, programs, regulation, standards and criteria of the City."

d. Preparation of Stormwater Pollution Prevention Plans

1. The stormwater pollution prevention plan shall be prepared under the direction of a qualified person.
2. The stormwater pollution prevention plan shall provide a 24-hour contact name, address, and telephone number for purposes of correspondence and enforcement.

3. The stormwater pollution prevention plan shall identify existing natural resources such as streams, forest cover, and other established vegetative cover.
 4. The stormwater pollution prevention plan shall specify and provide detail for all BMPs necessary to meet the requirements of this article.
 5. The stormwater pollution prevention plan shall specify when each BMP will be installed, and for how long it will be maintained within the construction sequence.
 6. The stormwater pollution prevention plan shall delineate all anticipated disturbed areas and specify the vegetative cover that must be established in those areas to achieve final stabilization.
- e. Implementation of Stormwater Pollution Prevention Plans
1. BMPs shall be installed and maintained by qualified persons.
 2. The owner/developer or their representative shall inspect all BMPs every 14 days and within 24 hours after a rainfall of one-half inch or more as measured at the site or generally reported in the Bella Vista area.
 3. Based on inspections performed by the owner/developer/or their representative or by the Planning and Development Department, modifications to the stormwater pollution prevention plan will be necessary if, at any time, the specified BMPs do not meet the objectives of this article. In this case, the owner/developer or authorized representative shall meet with Planning and Development Department personnel to determine the appropriate modifications. All modifications shall be completed within seven days of the referenced inspection.

Division 17. Stormwater Management Permits

Sec. 109-115. Grading and Erosion Control Permits

(a) Permit Required

No grading, filling, excavation, or land alteration of any kind shall take place without first obtaining:

- (1) A grading and erosion control permit pursuant to these regulations, except as exempted in these regulations;
 - (2) An Arkansas Department of Environmental Quality (ADEQ) stormwater construction permit and incorporated Stormwater Pollution Prevention Plan (SWPPP), if required by state law; and
 - (3) A SWPPP, approved by the Planning and Development Department, for projects not covered under an ADEQ permit.
- (4) The grading plans shall consist of:

- a. Site plan. Site plan at a scale no smaller than one-inch equals 50 feet, with a preference of one-inch equals 20 feet, showing property lines; vicinity map; name of owner, developer and adjacent property owners.
- b. Existing and proposed grades. Existing grades shall be shown with dashed line contours and proposed grades with solid line contours. Grading plans shall be required to show both the proposed grade and the undisturbed area. Contour intervals shall be a maximum of two feet and shall extend a minimum of 50 feet beyond the property line. Spot elevations shall be indicated.
- c. Designation of grade. Areas with zero-to-ten percent, ten-to-15 percent, 15-to-20 percent and more than 20 percent grade shall each be identified in a distinguishing manner.
- d. Identify land to be disturbed and preserved. Land areas to be disturbed and preserved shall be clearly identified.
- e. Design professional endorsement. Seal and dated signature of a registered engineer, architect, or landscape architect certifying that the plan complies with this article. The design professional endorsement shall not be required for proposals as described in section 107-378(a)(3)a.
- f. Cuts and fills. All cuts and fills, including height and slope, shall be clearly shown on the plan.
- g. Streets and rights-of-way. Location and names of all existing or platted streets or rights-of-way within or adjacent to the tract and the location of all utilities and easements within or adjacent to the property shall all be indicated.
- h. Lot, building, etc., identification. The proposed location of lots, buildings, streets, parking lots and parks, playgrounds or green space shall be indicated. Also to be indicated are any existing or proposed buildings within 50 feet of the site.
- i. Soil type. Soil types shall be identified according to the unified soil classification system.
- j. Natural features. Location of natural features such as drainageways, ponds, rock outcroppings, and tree cover.
- k. Use of maps. Appropriate and applicable information from the Federal Emergency Management Agency flood maps and federal and state protected wetland maps.
- l. Streets and drainageways. Profiles and cross sections for proposed streets and drainageways.
- m. Acreage; zoning. Total acreage and zoning classification.
- n. Surface water. Provisions for collecting and discharging surface water.
- o. Underground utilities. Profiles and cross sections of streets, drainage systems, and underground utilities, if they are necessary to clarify the grading plan in terms of

potential erosion or runoff, or if the grading on site has the potential of disturbing the utility line.

- p. Treatment of slopes and benches. The method of treatment for all slopes and benches shall be indicated.
- (5) Preliminary grading plan. The preliminary grading plan shall include all the above items except subsections (a)(5), (7), (11), (13), and (14) of this section. In addition to the above items, the City may require a cross section through the property showing existing and proposed grades as part of the preliminary submission.
- (6) Additional information. The following additional required information may be required by the Planning and Development Department and be reported in text rather than shown on the grading plan:
 - a. Time schedule. A time schedule indicating the anticipated starting and completion dates of the development sequence and time of exposure of each area prior to stabilization measures.
 - b. Description of fill material; compaction. Description of quantity (in cubic yards), source, and composition of imported fill material and compaction specifications. Also, note the quantity (in cubic yards) and destination of excavation materials to be removed from the site.
 - c. Dust. Where excessive dust may become a problem, a plan for spraying water on heavily traveled dirt areas shall be addressed.
 - d. Soils engineering study. The City Engineer may require a soils engineering study, or soil loss calculations if site conditions so warrant.
- (b) Exceptions Where No Permit is Required

Grading and erosion control permits are not required for the following:

 - (1) Excavations below finished grade for basements, footings, swimming pools, hot tubs, septic systems, retaining walls, and like structures authorized by a valid building permit.
 - (2) Cemetery Graves
 - (3) Refuse disposal sites controlled by other regulations.
 - (4) Utility construction is exempt from obtaining permits for regular maintenance and installation activities but is responsible for the requirements of Division 16. Sec. 109-114. (d) Utility Construction Activities.
- (c) Design Professional Endorsement
 - (1) For Single-Family Residences or Duplexes

Grading and erosion control plans as well as stormwater pollution prevention plans submitted for a permit shall not require the endorsement of a design professional, so long as fill is not being proposed or placed on the downhill slope, and the structure's

foundation is being integrated into the natural grade. Proposals involving placement of a foundation or slab over fill shall include a grading and erosion control plan that has been prepared and enforced by a registered engineer in the State of Arkansas.

(2) For Projects Other Than Single-Family Residences or Duplexes

- a. Grading and erosion control permits shall not be issued unless the site development plans are stamped and sealed by an architect, landscape architect, or professional engineer registered in the State of Arkansas.
- b. For projects that involve the dedication of street and drainage improvement assets to the City, a grading and erosion control permit shall not be issued unless the grading plan is stamped and sealed by a professional engineer registered in the State of Arkansas.

(d) Permit Procedures

(1) Application

The applicant shall submit a completed application form and a site development plan conforming to the requirements of these regulations to the Planning and Development Department.

(2) Review and Approval

Once all required information is submitted, the application will be reviewed by the City Engineer for compliance with the requirements of all applicable regulations including the City's Grading, Erosion Control, and Stormwater Pollution Prevention ordinance. If the application is approved and payment is rendered for the permit and inspection fees, per the adopted planning fee schedule approved by City Council, the permit will be issued.

(3) Compliance

All site development plans shall be installed in compliance with the provisions of these regulations and with the information shown on the approved site development plans and application permit.

(4) For Single-Family Residence or Duplex

Applications for a building permit must be received within 180 days of a grading and erosion control permit being issued or else the grading permit expires and must be brought back as close as possible to the natural vegetative state.

(5) For Projects Other Than Single-Family Residences or Duplexes

a. Preliminary Grading Plan

A preliminary grading plan shall be submitted at the time of preliminary plat submission for subdivisions or site plan submission for development, whichever is applicable.

b. Final Grading Plan

No subdivision may be finalized, nor any development site plan approved, before a final grading plan has been submitted to the Planning and Development Department and approved.

(e) Permit Posted

A copy of the grading and erosion control permit and approved grading plan shall be posted at or near the street right-of-way line and shall be clearly visible from the street.

(f) Stockpiling Materials

One-time approval may be obtained by public or private entities for the stockpiling of fill material, rock, sand, gravel, aggregate, or clay at particular locations, subject to the requirements of Section 109 of this Code.

(g) Approval

Approval of site development plans is contingent on meeting all the requirements of this Code in addition to any set of requirements that need to be approved by the Planning Commission, if applicable.

(h) Inspection and Enforcement

(1) Prior to Issuance of a Building Permit

A pre-construction inspection of erosion control and tree preservation measures must be conducted prior to the issuance of a building permit.

(2) Prior to Issuance of a Certificate of Occupancy

- a. All revegetation, grading and erosion control plan improvements, and stabilization of the exposed soil shall be in place before a certificate of occupancy shall be issued.
- b. When a property owner has finished building construction but has yet to install plant material, the owner may request a temporary certificate of occupancy. In evaluating whether or not to grant a temporary certificate of occupancy, the Building Official, in coordination with the Director, shall consider weather conditions and temporary stabilization measures.

(3) Periodic Inspections

Periodic inspections during the life of a project to ensure compliance with permitted activities and conformance with the intent of this article shall be conducted.

(i) Owner, Developer Responsibility

(1) Responsibility

The property owner and/or developer of a site of construction activity shall be responsible for compliance with the requirements of this article as well as State and Federal regulations.

- (2) The property owner and/or developer shall be responsible both for their employees and for all contractors and subcontractors from the onset of development until the property is fully stabilized.
- (3) If property is transferred anytime between the onset of development and the time it is fully stabilized, all responsibility and liability for meeting the terms of this article shall be likewise transferred to the new property owner.

(j) Minor Modifications

- (1) Finish grades shall be allowed no more than a one-half-foot tolerance from the grading plan.
- (2) The Director may authorize in writing minor modifications so long as they do not alter the direction of runoff and must otherwise comply with the intent of this article.
- (3) When applicable, substantial changes in the development must be brought before the Planning Commission for its approval. Determination of the gravity of the alterations will lie with the Director.

Sec. 109-116. Stormwater Drainage and Management Permit

(a) Applicability

The provisions of this article shall apply to all land within the City limits. These regulations shall also apply to any land annexed into the corporate limits after the adoption of these regulations.

(b) Permit Required

(1) Prior to Construction or Alteration

No person may subdivide and develop, change to a more intensive land use, construct or reconstruct a building or structure, change the size of a structure, or conduct grading, clearing, or filling activities without first obtaining a stormwater drainage and management permit (herein referred to as a drainage permit) from the Planning and Development Department, except as provided in this Chapter.

(2) Permit Application

Any application for a drainage permit shall be submitted according to this section and shall be submitted concurrently with the application for a grading and erosion control permit.

(3) Exceptions where No Drainage Permit is Required

Although a specific drainage permit is not required for the particular circumstances, this exception does not exempt the owner/developer/builder from complying with the grading, erosion control, and pollution prevention standards of Article XIII of this chapter. Drainage permits are not required for the following:

a. Residential

Single-family residences or duplexes are hereby exempt from the requirements of this article.

b. Existing Commercial/Industrial

Existing commercial or industrial buildings or structures where structural additions will increase the total square footage of the building or structures by less than 500 square feet.

c. Maintenance

Maintenance or clearing activity that does not change or affect the quality, rate, volume, or location of flows on the site or runoff from the site.

d. Agriculture

Agricultural pursuits for which a soil conservation plan has been approved by the local soil and water conservation district.

e. Emergency

Action taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms, or other hazards.

(c) Permitting Procedures

(1) General

All plans and technical reports submitted for review under this article shall be stamped by a registered professional engineer or licensed landscape architect licensed to practice in the State of Arkansas.

(2) Conceptual Review

A conceptual stormwater drainage and management plan review with Planning, Building, and Code Enforcement staff is encouraged before initiation of other permitting that may be required under this or other City codes.

(3) Preliminary Submittal

Preliminary plans and technical reports required herein shall be submitted at the same time as development, preliminary plat, replat, lot split, or building permit plans are submitted. If needed, a review meeting will be scheduled by the Planning, Building, and Code Enforcement Department with a representative of the developer, including the design professional, to review the concepts presented in the plans and technical reports. The purpose of the meeting is to jointly agree to an overall stormwater concept for the proposed development and to review criteria and design parameters that shall apply to the final design of the project.

(4) Final Submittal

Following the preliminary plans and technical reports, final plans and technical reports shall be prepared for each phase of the proposed project. The final plan shall constitute

a refinement of the concepts approved in the preliminary plans with preparation and submittal of detailed information as required in the Drainage Criteria Manual.

(d) Submittals

(1) Application

A stormwater drainage and management application shall be submitted to the Planning and Development Department using appropriate forms provided by the City. Such applications shall contain sufficient information and plans to allow the department to determine whether the project complies with the requirements of this article.

Minimally, the application package shall include the following:

- a. Applicant information, including the name, address, email, and telephone number of the owner and developer;
- b. Proof of ownership of the property to be permitted; and
- c. Legal description of the property and its location with reference to landmarks such as major water bodies.

(2) Plans

In addition to the plan requirements Article VI. External Appendices of Chapter 107 and Chapter 1 of the Drainage Criteria Manual, plan and report submittals shall include the following:

a. Aerial photograph

Aerial photograph of the project vicinity, covering the project area and the total lands that contribute runoff.

b. Topographic map

Topographic map of the project showing the location and elevation of benchmarks, including at least one benchmark for each control structure.

c. Soils and Vegetation Map

Soils and vegetation map displaying the most recent U.S. Soil Conservation Service information and encompassing both the project area and the drainage area that contributes runoff.

d. Existing and Proposed Improvements

Plans detailing existing and proposed building and pavement locations, proposed grading and drainage improvements conforming to Article XIII of this chapter, as well as supplemental details showing drainage release structures and stormwater conveyance systems.

e. Erosion Control Drawings

Plans conforming to Article VI. External Appendices of Chapter 107 identifying the type, location, and schedule for implementing erosion and sediment control measures, including appropriate provisions for maintenance and disposition of temporary measures.

f. Technical Report

A technical report, prepared by a registered professional engineer or licensed landscape architect, licensed to practice in the State of Arkansas, describing the assumptions, calculations, and procedures used for determining compliance with the Drainage Criteria Manual.

(e) Performance Criteria

Except as otherwise provided in this article, a development must be designed, constructed, operated, and maintained to comply with the following criteria:

(1) Flood Damage Prevention Code

Provisions of the development for floodplain management shall be consistent with the flood damage prevention code.

(2) Grading, Erosion, and Pollution Prevention

Developments must adhere to the provisions of Article VI. External Appendices of Chapter 107 for land disturbance and pollution prevention criteria.

(3) Peak Discharge

The post-development peak rate of surface discharge must not exceed the existing peak rate of surface discharge for the one-year, two-year, five-year, ten-year, 25-year, 50-year, and 100-year, and 24-hour storms.

(4) Direct Discharge

Direct discharge of a pipe into streams and/or floodways is not allowed. A stilling basin or other structure that will collect sediment, trash, etc. and that will reduce the likelihood of erosion into the receiving stream due to discharge from the pipe shall be installed at pipe discharges into streams and/or floodways.

(5) Erosion and Channel Stability

All stormwater management systems shall be evaluated on their ability to prevent erosion and sedimentation into receiving waters and adverse impacts on the site's natural systems. The design professional shall consider the on-site and downstream effects of the peak discharges and shall design both the permanent and construction phases of the system in a manner that will not increase flooding, channel instability, or erosion downstream when considered in aggregate with other developed properties and downstream drainage capacities.

(6) Drainage into Wetlands and Floodways

Areas defined as wetlands and floodways by the appropriate Federal agencies shall be protected from adverse changes in runoff quantity and quality from associated land development.

(7) Drainage Criteria Manual

The technical procedures and design standards contained in the Drainage Criteria Manual, prepared for the City and adopted by this article, shall be used for guidance to determine compliance with the performance criteria established by this section.

(f) Maintenance

(1) Systems within the public right-of-way. Stormwater management systems located within the public right-of-way shall be maintained by the City.

(2) Systems on Privately Held Land

a. The owner of the property on which stormwater systems and structures have been installed shall agree to maintain them in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices. Such agreement shall be provided prior to the issuance of a certificate of occupancy.

b. Post-Construction Compliance

Upon completion of permitted construction activity on any site subject to the requirements of this article, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of this article during maintenance, reconstruction, or any other construction activity on the site.

c. Easement Required

All stormwater drainage and management systems on private land shall be placed entirely within a drainage easement encompassing all components of the system. Such easement will provide for a right-of-entry for inspection purposes. Such inspection will be conducted at reasonable times and in a reasonable manner.

Sec. 109-117. Low-Impact Development (LID)

(a) Generally

Low Impact Development is a design approach that integrates specialized landscape features into the urban environment. Runoff is directed into these features where it can soak into the ground. This approach mimics the stormwater benefits of the natural environment. Specialized swales, planters, and rain gardens provide beauty while also slowing runoff and removing pollutants. Plants and microbes that live in healthy soil use pollutants as nutrients, removing them from runoff.

The use of LID techniques is encouraged throughout Bella Vista, and the intent of this Chapter and other applicable development regulations is to promote their utilization in new development and redevelopment. The City Engineer shall have authority to review and approve the integration of such techniques.

(b) Low Impact Development (LID) Options

(1) Bioswales

Bioswales are vegetated channel that transports, store, and allow infiltration of water. This is typically designed and implemented as a landscape feature. Bioswales are not grassed but are planted with a variety of plant species that can withstand occasional water inundation for short periods of time. Additionally, the soil under a bioswale has been amended to promote the infiltration of the stormwater runoff.

(2) Grassed Swales

Grassed swales are designed conveyance devices used to transport water over the surface of the ground to a point of disposal that may be a catch basin, ditch, or water body that will filter, infiltrate, evaporate, and clean the water of total suspended solids, solid waste, and other pollutants. Swales are often appropriate along property lines, public streets, and around buildings.

(3) Permeable Pavers, Grass Paving

Pavers allow water seepage through the joints and through the graded gravel base on which they are placed. This allows for the infiltration of rainwater, thereby reducing the runoff leaving a site. When used in connection with street tree plantings, they allow for more air circulation around tree roots and can easily be removed in order to trim tree roots and regrade for a walkable surface.

(4) Rain Gardens

Rain gardens are small shallow depressions planted with a variety of native or ornamental plants that can treat small amounts of runoff to improve water quality. Rain gardens are generally small collections of water-loving plants planted on a low-site area that naturally collects rainfall.

(5) Bioretention

Using a combination of plants and layers of soil, sand, and mulch to manage stormwater on-site.

(6) Green Roofs

Covered roofs with plants instead of shingles which reduce pollutants and slow down runoff.

Sec. 109-118. Usable Open Space

(a) Multi-Family Dwellings

(1) Area Requirements

- a. Each development with multi-family dwellings shall dedicate ten (10) percent of the area not occupied by structures to usable open space.
- b. The open space shall have a maximum slope not exceeding ten (10) percent.
- c. The open space shall have a minimum dimension of not less than thirty (30) feet.
- d. Of the required open space, five (5) percent or five thousand (5,000) square feet, whichever is greater, shall be grouped in one location.
 1. Floodplain used for open space may receive full credit for that portion that is maintained in its natural state.
 2. Floodplain that is reclaimed and used for open space shall receive a fifty (50) percent credit toward open space.

3. Required landscape buffers will not count toward open space.

- e. At the time of Preliminary Plat approval, the Planning Commission may give full or partial credit for open areas that exceed the maximum slope, which are otherwise unusable, or that are less than the required size specified in **d** above. These areas must be determined to protect and enhance the City's environmental quality (areas of floodplain or extreme topography, trees and natural landscape, viewsheds, and bodies of water) and aesthetic quality (incorporation of desirable designs reflecting the community vision established in the Comprehensive Plan).
- f. A table showing square footage of each use and/or area is required with submittal of the Preliminary and Final Plats. The required table shall include required and provided open space and indicate credit for each use or area.
- g. The open space shall be shown on the Preliminary and Final Plats.

(2) Landscaping

- a. All required landscaping must be located within the required open space, exclusive of required perimeter or parking landscaped areas.
 - 1. The approved Landscape Plan must include the quantity and the size of the trees in the open space.

(b) Nonresidential Development

(1) Dedicated Amount Requirement

- a. All nonresidential development (excluding property within the Industrial Activity District) shall provide at least five (5) percent of the net lot area as usable open space. The required open space may be consolidated within the overall development with Director approval.
- b. The open space shall be shown on the Preliminary and Final Plats.
- c. The following shall not count toward the open space requirement:
 - 1. Property within the rear yard,
 - 2. Vehicular paving,
 - 3. Required parking lot tree islands,
 - 4. Building footprint,
 - 5. Utility yards, or
 - 6. Required landscape buffers.

(2) Surface Requirements

Surface shall be one of the following materials, or a combination thereof:

- a. Grass,
- b. Quality permeable materials, such as decomposed granite or marble, or

- c. Brick pavers.

(3) Detention or Retention Ponds

- a. A detention or retention pond may count toward the requirement if it meets the following:
 - 1. Located between the building and the street,
 - 2. Viewable from public space,
 - 3. Any slope of the pond area does not exceed thirty-three (33) percent, and
 - 4. Accessible by patrons.
- b. Detention or retention ponds must include the following amenities to be considered toward the usable open space requirement:
 - 1. Seating area, public art, or fountain, and
 - 2. One shade tree of at least 2.5 inches caliper diameter at breast height or landscape planter that is at least sixteen (16) square feet for every two hundred (200) square feet of open space, and be located within or adjacent to the open space.

Sec. 109-119. Private Restrictions

(a) Applicability

When a subdivision contains either common open space or other improvements that are not intended to be dedicated to the City or other entity for public use, a homeowners' or property owners' association shall be created, and the duties and responsibilities shall be established in a declaration consistent with state and other appropriate laws, must be submitted to the City, and made a part of the final plat documents.

(b) Protective Covenants

Protective covenants are legal documents that ensure each homeowner's basic protective rights regarding the integrity of the subdivision. These covenants shall include language making the association responsible for:

- (1) The maintenance and operation of all common property;
- (2) The enforcement of all other covenants;
- (3) The administration of architectural controls (optional); and
- (4) Certain specified maintenance of exterior improvements of individual properties.

ARTICLE V. PROCEDURES

Division 1. General Procedures

Sec. 109-120. Purpose

The purposes of this Article are to:

- (a) Establish the appropriate workflows associated with each land development process;
- (b) Ensure that processes comply with Arkansas state law;
- (c) Assign the appropriate approval authority, and completeness measures to ensure that the processes are efficient and fair to applicants; and
- (d) For discretionary or legislative decisions, provide notice and an opportunity to be heard by persons affected by the application.

Sec. 109-121. Applicability

This Article establishes rules and procedures for specific land use decisions under the jurisdiction of the City Council, Planning Commission, Board of Zoning Adjustment, Director, and City Staff (where applicable).

Sec. 109-122. Procedural Components

This Article sets up rules for procedures, such as notices and public hearings. It then describes the process for specific land use decisions. The procedures have a common workflow and description per Table 122.1: Procedural Components.

Table 122.1: Procedural Components

Procedural Components	
Component	Description
Applicability	This is the type of development or situation that is subject to the process.
Initiation	This is how the applicant begins the process, including which department or official receives the application.
Completeness	This is how the City determines that the application has sufficient information to be processed.
Notice and Hearings	This describes the type of notice, how it is provided, and the conditions of any applicable required public hearings.
Decision	This states who approves the application and the type of proceeding that leads to the decision.
Standards	These are any standards that apply to the application. All applications are subject to the regulations of this Zoning Ordinance.
Subsequent Applications	If an application is denied, some processes have a waiting period before that type of application can be resubmitted for the property.

Appeals	This provides a way to review an application that is denied or that has conditions that the applicant disagrees with.
Scope of Approval	This indicates what activity the application authorizes. For example, some approvals send the applicant to the next step in the overall process, while others authorize construction or use.
Recordation	This states how the formal approval decision is maintained.

Sec. 109-123. Authority Summary

Table 123.1: Authority Table summarizes the major review procedures for land use applications and development activity in the City’s corporate limits and who acts on those applications.

Table 123.1: Authority Table

Authority Table							
Procedural Group	Application Type	PAC	Notice	Approval Authority			
				DR	PC	CC	BA
Zoning Procedures	Zoning Ordinance Text Amendment	✓	✓	R	R	D	
	Rezoning (Non-PZD)	✓	✓	R	R	D	
	Planned Zoning (PZD) District Rezoning	✓	✓	R	R	D	
	Zoning District Boundary Interpretation	●		D		A	
Use Procedures	Conditional Use Permit	✓		R	D	A	
	Temporary Use Permit ¹	●	✗	D		A	
Development Procedures	Site Plan	✓		D		A	
	Sign Permit	●	✗	D		A	
	Fence Permit	●	✗	D		A	
	Building Permit	●	✗	D		A	
Relief Procedures	Minor Modifications	✓	✗	D			
	Variances	✓	✓	R			D
	Appeals to City Council	●	✓	R		D	
	Appeal of Staff Determination	✓	✓	R		D	
Key	✗ = Not Required ✓ = Required ● = Optional R = Review and Recommend D = Decision (a decision includes the review of the application) A = Appeal Decision PAC = Pre-Application Conference DR = Director PC = Planning Commission CC = City Council BA = Board of Zoning Adjustment ¹ = the approval authority varies depending on temporary use type (see Sec. 109-138.						

Sec. 109-124. Pre-Application

- (a) *Applicability.* These requirements apply to any application requiring a pre-application meeting or if the applicant elects to request a pre-application meeting with the City.
- (b) *Initiation.* Before filing an application subject to this Division, the applicant may request a meeting with the Development Review Team concerning the plans and data as specified in this Chapter.

- (c) *Scheduling.* Any applicants wishing to discuss a development proposal with the Development Review Team shall advise the Director at least seven (7) calendar days prior to the meeting.
- (d) Pre-Application Conference (PAC)
 - (1) The Pre-Application Conference shall include the following:
 - a. A discussion of the general project consistency with this Chapter and the Comprehensive Plan;
 - b. A discussion of technical studies, plans, and other information deemed relevant to the specific application request; and
 - c. Discussion of the anticipated level of citizen interest.
 - (2) The applicant shall provide a brief overview of the project, including proposed location, uses, densities, project layout, and design features.
 - (3) The Director will provide information and comments at the Pre-Application Conference but will not take formal action on the application. In addition to the provision of verbal information, the Director may provide a Pre-Application Meeting checklist.
 - (4) The applicant's and Development Review Team's comments are for informational purposes and are not binding on either the City or the applicant.
- (e) Documentation
 - (1) During the meeting, the Director may review and complete an informational checklist based on the scope of the application.
 - (2) The Director will record in writing and provide the applicant with any pertinent information concerning the project scope, as described by the applicant, as well as verbal guidance provided by City staff.

Sec. 109-125. Submitting Applications

- (a) General Requirements
 - (1) Applications filed under this Chapter must include the information required in any applicable checklist.
 - (2) The City Council shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, appeals, and other matters pertaining to this Chapter, by resolution. The schedule of fees shall be posted in the City Administrative Office and may be altered or amended only by the City Council.
 - (3) An applicant shall pay the fee designated by the City Council at the time of application submittal.
 - (4) Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.
- (b) Completeness

- (1) The Director will not process incomplete applications.
- (2) An application is not complete until all required items are submitted (see the application's checklist).
- (3) When applications are submitted, the Director will review them for completeness.

The Director shall notify the applicant electronically or in writing as to whether the request for permit meets the regulatory requirements of a complete application.
- (4) The time period to process an application does not commence until the Director determines that the application is properly submitted, and the applicant has corrected any deficiencies in the application.
- (5) The review for application completeness is solely to determine whether the information required for submission with the application is sufficient to allow further processing.
- (6) The Director will determine whether the application is complete and will transmit the determination to the applicant. If the Director determines that the application is not complete, the Director will specify those parts of the application that are incomplete and will indicate how they can be made complete, including a list and description of the information needed to complete the application. The Director or the approval authority is not obligated to further review the application until the required information is corrected.
- (7) The Director or the approval authority may provide submittal deadlines as reflected in the City's Development Calendar for materials required in support of any application provided for in any checklist. Compliance with the City's Development Calendar or any other submittal deadlines is required to have the application placed on an agenda to be heard by the approval authority.
- (8) If the Director or the approval authority determines that the application is complete and appropriately notifies the applicant, the Director shall provide for further application review as required by Arkansas state law.

Sec. 109-126. Noticing

- (a) Generally.
 - (1) This Zoning Ordinance, in conjunction with those regulations set by Arkansas State law, establishes various requirements for public notice.
 - (2) Noticing shall meet the minimum requirements established in Arkansas State law, including, but not limited to those regulations provided in [A.C.A. § 14-55-206](#), [A.C.A. § 14-55-207](#), [A.C.A. § 14-55-208](#), and [A.C.A. § 14-56-422](#).
 - (3) In calculating the time period for public notification, the day of publishing, posting, or mailing shall be counted toward the total number of days required pursuant to this Section. The day of the hearing shall not be counted toward this total.

- (4) The degree of accuracy required for the information contained in these public notices shall be that of substantial compliance with the provisions of the applicable sections. Substantial compliance for these public notices shall be determined by the Director.
- (5) In the event the applicant does not provide notice as required per this Section, the requested application shall not be considered until all notification requirements are met.

(b) Public Notification Requirements.

- (1) *Zoning Ordinance Amendments*. Changes in the Zoning Ordinance initiated by the Planning Commission shall be considered comprehensive changes affecting the entire city, and no individual notifications shall be made. A map indicating the proposed changes shall be available in the Mayor's office or at a convenient location designated by the Mayor for interested citizens and property owners.
- (2) *Published Notice*. The Director shall publish a notice of public hearing in a newspaper of general circulation in the City, at least one time, 15 days prior to the hearing. This public notice shall include:
 - a. The application type being sought;
 - b. The location, including parcel number and address (if no address is available, a description which is clear to the average lay person will suffice);
 - c. The time, date, and place of the public hearing;
 - d. The property owner's and/or developer's name; and
 - e. City contact information where the public may provide comments on the application.
- (3) *Posted Notice*.
 - a. The Director shall post a sign on the property for which the application is being sought at least seven days prior to the date of the public hearing. Additional signs may be required to be posted when multiple street frontages occur on the subject parcel(s).
 - b. The sign shall be in plain view of and easily readable from a public or private street.
 - c. Such sign shall be clearly visible, unobstructed to the passing general public, and posted on or near the existing front property line.
- (4) *Written Notice or Petition*.
 - a. The applicant shall be required to notify, by either certified mail (with return receipts) or by petition, all property owners within 200 feet of the boundary of the applicable subject property. Such notifications must occur no less than 15 days prior to the established date of the public hearing. The applicant shall obtain a certified list of adjacent property owners from a qualified source.
 - b. The written notice or petition shall contain all of the following information:

1. The application type being sought by the applicant;
 2. The location, including parcel number and address (if no address is available, a description which is clear to the average lay person will suffice);
 3. The time, date, place, and location of the public hearing;
 4. The property owner's and/or developer's name; and
 5. City contact information where the public may provide comments on the application. A map showing the location of the subject property as well as the general vicinity.
- c. When a petition is used instead of certified mail for notifying adjoining owners, it shall also include:
1. Each adjoining property owner's name and address shall be pre-printed on the petition;
 2. Each signature should be placed on a line next to the respective address; and
 3. Each signature should be followed by the date the signature was attached to the petition; and
 4. If multiple individuals are listed as adjacent owners, all owners should be listed separately on the petition, but only one signature for the respective address is required.
- d. The postmarked certified receipts and/or petitions shall be submitted to the Director pursuant to the City Development Calendar along with:
1. A map showing the location of the subject property as well as the owners within two hundred (200) feet of the property; and
 2. A letter from the applicant certifying that the map shows a complete list of those property owners.

Sec. 109-127. Staff Review

- (a) *Review by Other Departments and Agencies.* The staff may forward copies of the application to various local, state, and/or federal agencies and departments for their review and comment. The Director may ask the reviewers to respond in writing or attend an application review meeting with the staff.
- (b) *Staff Review.* City staff shall review the application and supporting information. This may occur in a meeting with the applicant and representatives of other departments or agencies, as described in Subsection (a). After reviewing the information, staff shall prepare a report summarizing it for the approval authorities and provide a recommendation for action and any proposed conditions. The applicant or other interested parties may obtain a copy of the staff report from the department before the hearing at which the application is scheduled to be heard.

- (c) *Staff Report*. If an individual section of this Article delegates to City staff the authority to approve, approve with conditions, or deny/disapprove an application, the staff report may include a written decision to that effect.

Sec. 109-128. Decision-Making and Public Hearings

- (a) *Purpose*. The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application, and to rebut evidence presented by others.
- (b) *Rules of Procedure*. The City Council, Planning Commission, and Board of Zoning Adjustment may adopt rules of procedure for public hearings.
- (c) *Action*. Approval authorities shall hold regularly scheduled public hearings to receive and review public input on items required by this Article. Decisions and recommendations shall be rendered in a timely manner, based on the specific requirements of this Chapter and the following:
 - (1) Conformance with these regulations, the Comprehensive Plan, and other adopted plans, design guidelines, and policies;
 - (2) Recommendations of staff and approval authorities providing recommendations to the final approval authority;
 - (3) Input of reviewing agencies and departments;
 - (4) Public comment and testimony received at the hearing; and
 - (5) Effects of the proposal on the neighborhood, area, and community-at-large.
- (d) *Authority to Condition Development Approvals*
 - (1) After reviewing an application, other pertinent information or documents, and any evidence made part of the public record, approval authorities may impose conditions to ensure compliance with applicable standards established in this Chapter. Conditions may not be imposed for approval of a non-PZD rezoning application.
 - (2) The Director shall include a copy of the conditions with the record of the decision.
 - (3) The applicant shall be notified of any conditions imposed on the application.

Sec. 109-129. Tabling

- (a) *Purpose*. This Section allows for the tabling of applications as needed to collect additional information, or to engage in further review.
- (b) *Applicant Request*. An applicant may request to table any application in writing for a future meeting date.
- (c) *Director Request*. The Director may request to table any application for further review and consideration. In that case, the Director shall provide notice and explanation to the applicant in writing before the meeting at which the application is scheduled for hearing.

Sec. 109-130. Application Withdrawal

- (a) *Generally*. An application may be withdrawn
- (b) *Fees*. Withdrawal of an application results in the forfeiture of fees.

Sec. 109-131. Scope of Approval

- (a) *Generally*. The approval authority may take any action on the application that is consistent with the notice given, including approval, conditional approval, or denial/disapproval of the application.
- (b) Amendments
 - (1) The approval authority may allow amendments to the application if the effect of the amendment is to reduce the density or intensity of the original application, reduce the impact of the development, or reduce the amount of land involved from that indicated in the notices of the hearing.
 - (2) The approval authority may not permit a greater amount of development, a more intensive use, a larger area of land than indicated in the original application, or a greater variance than was indicated in the notice.

Sec. 109-132. Appeals

- (a) *Generally*
 - (1) Certain decisions may be appealed to a specific approval authority as established by Arkansas State law.
 - (2) An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certifies to the approval authority that, by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property. In such a case, proceedings shall not be stayed other than by a restraining order which may be granted by the approval authority or a court of record on application, and notice to the person from whom the appeal was taken.

Division 2. Zoning Procedures

Sec. 109-133. Zoning Ordinance Text Amendment

- (a) *Applicability.* This Section applies to any action of the City Council to amend or change the regulations of this Zoning Ordinance. This includes the regulations or restrictions, contained within this Zoning Ordinance or a change to the Zoning Map initiated by the City Council.
- (b) *Initiation.* A text amendment may be initiated by:
 - (1) City Council;
 - (2) The Planning Commission; or
 - (3) The City staff.
- (c) *Notice and Hearing(s).*
 - (1) Noticing shall comply with applicable Arkansas State law.
 - (2) Decision.
 - (3) *Director Review.* The Director shall review the text amendment and shall provide a recommendation to the Planning Commission to:
 - a. Approve the text amendment;
 - b. Deny the text amendment; or
 - c. Approve the text amendment with modifications.
 - (4) *Planning Commission Recommendation.* The Planning Commission shall conduct a public hearing on the text amendment. The Planning Commission shall submit its recommendation to the City Council:
 - a. To approve the text amendment;
 - b. To deny the text amendment; or
 - c. To approve the text amendment with modifications.
 - (5) *City Council Decision.* The City Council shall consider the text amendment at a public hearing after a recommendation has been provided by the Planning Commission.
- (d) *Standards.* A text amendment is a legislative decision subject to the City Council's discretion. The City Council may approve text amendment if it:
 - (1) Is consistent with the comprehensive plan; and
 - (2) Promotes public health, safety and general welfare.
- (e) *Scope of Approval.* The approval of a text amendment does not authorize the development of land. A text amendment allows property owners to apply for permits or actions consistent with its standards and requirements.

- (f) *Recordation.* The Zoning Ordinance's text amendment shall be adopted, codified, and published as part of the City's Code of Ordinances by the City Clerk.

Sec. 109-134. Rezoning (Non-PZD)

(a) *Applicability.* This Section applies to the change in the zoning classification of individual properties excluding rezonings to a Planned Zoning District (PZD).

(b) *Initiation.* A rezoning may be initiated by:

- (1) City Council;
- (2) The Planning Commission;
- (3) City Staff; or
- (4) Request by the owner or agent of the subject property.

(c) *Completeness.*

- (1) Generally, see Sec. 109-125. (b).
- (2) In addition to the requirements of Sec. 109-125. (b), the applicant shall provide the following information:
 - a. The location, including parcel number and address (if no address is available, a description which is clear to the average lay person will suffice);
 - b. Both the current and requested zoning classification for the property; and
 - c. A statement explaining why the proposed changes will not conflict with the surrounding land uses.

(d) *Notice and Hearing(s)*

Notice and hearings shall be conducted in accordance with applicable Arkansas state law.

(e) *Decision*

- (1) *Director Review.* The Director shall review the rezoning and shall provide a recommendation to the Planning Commission to:
 - a. Approve the rezoning;
 - b. Deny the rezoning; or
 - c. Approve the rezoning with modifications.
- (2) *Planning Commission Recommendation.* The Planning Commission shall conduct a public hearing on the rezoning. The Planning Commission shall submit its recommendation to the City Council to:
 - a. Approve the rezoning;
 - b. Deny the rezoning; or
 - c. Approve the rezoning with modifications.
- (3) *City Council Decision.* The City Council shall take action on the rezoning application after a recommendation has been provided by the Planning Commission. The approval of a rezoning application shall be by passing of an ordinance by the City Council.

- (f) *Standards.* In its review of an application for rezoning, the City Council shall consider the following standards. No single factor is controlling. Instead, each is weighed in relation to the other standards.
- (1) *Consistency.* The City Council does not redetermine the City's policy of comprehensive zoning. The City's zoning map shall not be altered for the special benefit of the landowner when the change will cause substantial detriment to the surrounding lands or serve no substantial public purpose.
 - (2) *Adverse Impacts on Neighboring Lands.* The City Council shall consider the nature and degree of an adverse impact upon neighboring lands. Lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive. Further, the City Council finds and determines that vast acreages of single-use zoning produce uniformity with adverse consequences such as traffic congestion, air pollution, and social alienation. Accordingly, rezonings that promote mixed uses subject to a high degree of design control are not necessarily deemed to be inconsistent with neighboring lands and shall be considered.
 - (3) *Suitability as Presently Zoned.* The City Council shall consider the suitability or unsuitability of the tract for its use as presently zoned. This factor, like the others, must often be weighed in relation to the other standards, and instances can exist in which the use for which land is zoned may be rezoned upon proof of a real public need or substantially changed conditions in the neighborhood.
 - (4) *Health, Safety, and Welfare.* The rezoning must bear a substantial relationship to the public health, safety, morals, or general welfare, or protect and preserve historic and cultural places and areas. The rezoning may be justified, however, if a substantial public need exists, and this is so even if the private owner of the tract will also benefit.
 - (5) *Public Policy.* A strong public policy in favor of rezoning may be considered. Examples include a need for affordable housing, economic development, recreational activity, or mixed-use development, which functionally relates to the surrounding neighborhoods.
 - (6) *Size of Tract.* The City Council shall consider the size, shape, and characteristics of the tract in relation to the affected neighboring lands. Proof that a small tract is unsuitable for use as zoned or that there have been substantial changes in the immediate area may justify a rezoning.
 - (7) *Other Factors.* The City Council may consider any other factors relevant to a rezoning application under state law.
- (g) *Subsequent Applications*
- (1) If the Planning Commission finds that a rezoning is inconsistent with the Comprehensive Plan, the application shall not be considered until a recommendation regarding a Comprehensive Plan amendment for the proposed rezoning is forwarded to the City Council, either prior to or concurrently with the proposed rezoning request. Additionally, the Planning Commission or City Council may prepare a work program and

- make studies, including the preparation of maps, to support its decisions regarding a rezoning request.
- (2) The applicant shall not submit a rezoning application for the same zoning district request on the same property for at least one year. However, a rezoning application for the same property in a different zoning classification may be submitted without limitation.
 - (3) The above waiting period begins with the date of the City Council's denial of the prior application.
- (h) *Scope of Approval.* The approval of a rezoning does not authorize the development of land. A rezoning allows the applicant to apply for a building permit or site plan, in the case of uses permitted as of right, or a conditional use permit, in the case of uses designated as special uses within the applicable zoning district.
- (i) *Recordation.* The original record of the rezoning shall be kept and maintained in the City Clerk's Office. The applicant shall keep a copy of the rezoning decision.

Sec. 109-135. Planned Zoning (PZD) District Rezoning

- (a) *Applicability.* This Section applies to the change in the zoning classification of individual properties to a Planned Zoning District (PZD).
- (b) *Initiation.* A rezoning may be initiated by:
 - (1) City Council;
 - (2) The Planning Commission;
 - (3) City staff; or
 - (4) Request by the owner or agent of the property to be changed.
- (c) *Completeness.*
 - (1) Generally, see Sec. 109-125. (b). and Article II. Division 3. Sec. 109-022. (b)
 - a. In addition to the requirements of Sec. 109-125. (b) and Article II. Division 3. Sec. 109-022. (b), the applicant shall provide:
 - 1. The location, including parcel number and address (if no address is available, a description which is clear to the average lay person will suffice);
 - 2. A statement explaining why the proposed changes will not conflict with surrounding land uses, and
 - 3. A Concept Plan as described in (d):
- (d) *Concept Plan.* The Concept Plan shall depict in a to-scale digital or hand-drawn drawing:
 - (1) The location and dimensions of all required easements and dedications to the public right-of-way for infrastructure, utilities, and streets;
 - (2) The circulation patterns for vehicular and non-vehicular traffic;
 - (3) The location and dimensions of required open space;
 - (4) The location of all land uses permitted within the PZD; and
 - (5) The location and building footprint of all buildings and structures.
- (e) *Prohibited Modifications.* The Planned Zoning District (PZD) shall not allow the following zoning and development standards to be modified:
 - (1) Sign requirements;
 - (2) Improvements standards of Chapter 107. Exception: Street design standards may be modified with incorporation of low impact development standards in the Drainage Manual, subject to Staff concurrence;
 - (3) Supplemental design standards contained in the Subdivision Code;
 - (4) Access management standards of the Subdivision Code;
 - (5) Retaining wall standards of the Subdivision Code;

- (6) Grading, erosion control, and stormwater pollution prevention standards of the Subdivision Code; and
- (7) Stormwater drainage and management regulations from the Subdivision Code.
- (f) Notice and Hearing(s).

Notice and hearings shall be conducted in accordance with applicable Arkansas state law.
- (g) Decision.
 - (1) *DRT Review*. Upon receipt of a complete PZD rezoning application, the Development Review Team (DRT) shall correspond with the applicant as needed to provide comments and request revisions to any of the required elements of the application and to the Concept Plan. The DRT shall then submit its recommendation to the Planning Commission to:
 - a. Approve the rezoning;
 - b. Deny the rezoning; or
 - c. Approve the rezoning with conditions.
 - (2) *Planning Commission Recommendation*. The Planning Commission shall conduct a public hearing on the rezoning. The Planning Commission shall submit its recommendation to the City Council:
 - a. To approve the rezoning;
 - b. To deny the rezoning; or
 - c. To approve the rezoning with conditions.
 - (3) *City Council Decision*. The City Council shall consider the rezoning at a public hearing after a recommendation has been provided by the Planning Commission. After the hearing is closed, the City Council shall act and by ordinance:
 - a. Approve the rezoning;
 - b. Deny the rezoning; or
 - c. Approve the rezoning with conditions.
- (h) *Standards*.
 - (1) In its review of an application for rezoning to a Planned Zoning District (PZD), the City Council shall consider the standards provided in Sec. 109-134. (f), as well as the following standards in this Subsection.
 - (2) Property may be rezoned to a Planned Zoning District (PZD) subject to a recommendation from the Planning Commission and affirmative vote of the City Council. The Planning Commission and City Council may approve a proposed PZD subject to the following review criteria if the PZD:
 - a. Does not have a negative effect upon the future development of the area;

- b. Provides for compatibility with the surrounding land uses;
 - c. Provides for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community;
 - d. Provides for more usable and suitably located open space, recreation areas, and other common facilities that would not otherwise be required under conventional land development regulations;
 - e. Maximizes enhancement or minimally disrupts existing natural features and amenities; and
 - f. Utilizes site characteristics such as geographic location, topography, size or shape to achieve the purpose and intent of this Section.
- (3) The Planning Commission or City Council may impose conditions, restrictions, or more stringent standards when reviewing a planned zoning district so as to minimize or reduce any injurious effects to the public's health, safety, and welfare.
- (i) Subsequent Applications
 - (1) The applicant shall not submit a rezoning application for the same zoning district request on the same property for at least one year. However, a rezoning application for the same property in a different zoning classification may be submitted without limitation.
 - (2) The above waiting period begins with the date of the City Council's denial of the prior application.
- (j) *Scope of Approval.*
 - (1) *Generally.* The approval of a rezoning does not authorize the development of land. A rezoning allows the applicant to apply for a building permit or site plan, in the case of uses permitted as of right, or a conditional use permit, in the case of uses designated as special uses within the applicable zoning district.
 - (2) *Reversion.* In the event that the zoning and development standards described in the Planned Zoning District's zoning description, master development plan, and architectural elevations are not fully implemented within three (3) years, the parcel for which the PZD was proposed shall revert to its re-proposal zoning district. Such reversionary language shall be contained in the ordinance establishing the Planned Zoning District (PZD).
- (k) *Recordation.* If the Planned Zoning District (PZD) involves changes to the existing zoning district boundaries, the form of the ordinance shall contain a narrative description of the land to be reclassified or reference to an accompanying plat or plan of such land showing the new zoning districts and indicating their boundaries. The Director shall refer to the attested ordinance as a record of the current zoning status until the zoning map is changed accordingly. The original record of the rezoning shall be kept and maintained in the City Administrative Office. The applicant shall keep a copy of the rezoning decision.

- (l) *Site Plan*. After a PZD rezoning has been approved or approved with modifications by the City Council, the applicant shall prepare a site plan in accordance with Sec. 109-139. , and shall follow the procedures for PZD site plans established in Division 4. Sec. 109-139. (j).

Sec. 109-136. Zoning District Boundary Interpretation

Where, due to scale, lack of detail, or illegibility of the zoning map, there is uncertainty, contradiction, or conflict as to the location of any zoning district boundary as shown on the zoning district map, the Director shall make an interpretation of the map upon request of any person. Any person in disagreement with the interpretation may appeal that interpretation to the Board of Zoning Adjustment. When interpreting the zoning map or deciding any appeal, the following standards apply:

- (a) Zoning district boundary lines are intended to follow lot lines, or be parallel to or perpendicular to, or along the centerlines of alleys, streets, rights-of-way, or watercourses, unless such boundary lines are fixed by dimensions shown on the zoning map.
- (b) Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
- (c) Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
- (d) In un-subdivided property, the district boundary lines on the maps accompanying and made part of this Chapter shall be determined by use of the scale contained on such map.
- (e) Where a zoning district boundary is indicated as approximately following the City's corporate limits, the boundary shall be determined as such.
- (f) If, after all of the previously stated rules have been applied, uncertainty shall exist as to the exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of zoning ordinances and amendments in the City as well as other relevant facts. The Board of Zoning Adjustment, upon motion, shall interpret and determine the location of those boundaries based on the above-mentioned guidelines.

Division 3. Use Procedures

Sec. 109-137. Conditional Use Permit

- (a) *Applicability.* This Section applies to any application for approval of a use designated as a conditional use in Table 026.1: Use Table.
- (b) *Initiation.* A conditional use permit may be initiated by the owner, the agent of the owner, or the applicant of the subject property.
- (c) *Completeness.*

- (1) Generally

- a. Generally, see Sec. 109-125. (b).
- b. In addition to the requirements of Sec. 109-125. (b), the applicant shall provide the following information:
 - 1. The location, including parcel number and address (if no address is available, a description which is clear to the average lay person will suffice);
 - 2. A general statement as to the intent of the use;
 - 3. The location, size, and use of buildings, signs, land and improvements;
 - 4. The location, size and arrangement of parking space, loading space, driveways and street access;
 - 5. Proposed screening and landscaping along with a topography map;
 - 6. Drainage and run-off and its effects on each neighboring property;
 - 7. The use of adjoining property;
 - 8. A scale indicator, north arrow and vicinity map; and
 - 9. Any additional information needed by the Planning Commission because of conditions peculiar to that development.

- (2) *Communications Tower Applications.* A conditional use permit application for a communications tower shall include the following:

- a. An application for wireless communication facilities as required under the Subdivision Code;
- b. The application shall be accompanied by a Federal Aviation Administration determination of no hazard to air navigation;
- c. Plans as required in Sec. 109-137. (c)(1);
- d. The site plan shall contain information showing the property boundaries, existing land use, surrounding land uses and zoning, access road location and surface material, existing structures on the site, existing residential dwelling units located within a distance equal to the height of the proposed tower, proposed structures, and topography;

- e. The proposed structures must contain information regarding any tower guy wire anchors and other apparatus needed for support; and
 - f. Plans must also indicate proposed landscaping, fencing, parking areas, location of any signage, and specifications on proposed lighting of the facility.
- (d) Notice and Hearing(s).
 - (1) Noticing shall comply with Sec. 109-126. and Arkansas State law, as applicable.
 - (2) A public hearing is required and shall comply with Sec. 109-126.
- (e) Decision.
 - (1) *Director Review.* The Director shall review the conditional use permit and shall provide a recommendation to the Planning Commission to:
 - a. Approve the conditional use permit;
 - b. Deny the conditional use permit; or
 - c. Approve the conditional use permit with conditions.
 - (2) *Planning Commission Decision.* The Planning Commission shall consider the conditional use permit at a public hearing after a recommendation has been provided by the Director. After the hearing is closed, the Planning Commission shall:
 - a. Approve the conditional use permit;
 - b. Deny the conditional use permit; or
 - c. Approve the conditional use permit with conditions.
- (f) *Standards.*
 - (1) *Generally.* The Planning Commission shall approve a conditional use permit only if the applicant demonstrates that:
 - a. The proposed conditional use shall comply with all regulations of the applicable zoning district, the provisions of Article II. , any applicable use regulations of Article III. Article III. , and any applicable development standards of Article IV. of this Zoning Ordinance.
 - b. The proposed conditional use shall conform to the character of the neighborhood within the same zoning district in which it is located. The proposal, as submitted or modified, shall have no more adverse effects on health, safety, or comfort of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than any other use generally permitted in the same district. In making this determination, the Planning Commission shall consider the location, arrangement, type, and height of buildings or structures, the type and extent of parking, landscaping, screening, signage, and open space on the site, and whether the proposed use is consistent with any policy of the Comprehensive Plan.
 - c. Adequate utilities shall be provided.

- d. Adequate measures shall be taken to provide ingress and egress designed to minimize traffic hazards and to minimize traffic congestion on public roads.
 - e. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.
 - f. The proposed use shall not injure the use and enjoyment of the property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair the property values within the neighborhood.
 - g. The proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
 - h. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger public health, safety, morals, comfort, or general welfare.
 - i. The public interest and welfare supporting the proposed conditional use authorization shall be sufficient to outweigh the individual interests that are adversely affected by the establishment of the proposed use.
 - j. The proposed conditional use is not used to circumvent the intent of this Chapter or [Chapter 107](#).
- (g) Subsequent Applications.
- (1) This Subsection applies if:
 - a. The applicant withdraws an application after notice of hearing is published, or
 - b. The Planning Commission denies a conditional use permit application.
 - (2) If the above requirements apply, the applicant shall not submit a conditional use permit application for the same conditional use permit request on the same property for at least six (6) months.
 - (3) The above waiting period begins with either the date of withdrawal of the prior application before the Planning Commission or the date of the Planning Commission's denial of the prior application.
- (h) *Appeals*. A conditional use permit decision by the Planning Commission may be appealed to the City Council as follows in Sec. 109-145.
- (i) Scope of Approval.
- (1) *Generally*.
 - a. The approval of a conditional use permit does not authorize the development of land. A conditional use permit allows the applicant to apply for a building permit.
 - b. An approved conditional use permit is transferrable so long as the new primary use and any accessory uses of the property are permitted within the existing conditional use permit.

- (2) *Changes to the Conditional Use Permit.* Changes to an approved conditional use permit shall follow the procedures of this Section.
- (3) *Violations.* Any conditional use permit is in violation of this Zoning Ordinance and shall be suspended or revoked if:
 - a. A court having jurisdiction or a jury finds the holder of the conditional use permit guilty of a violation, or if a holder of a conditional use permit pleads guilty of violating
 - b. Any requirement, term, or condition of the conditional use permit, or has not conformed, at any time, with any or all of the requirements, terms, or conditions as set out in the conditional use permit as approved by the Planning Commission.
 - c. The activity authorized by the conditional use permit commences prior to the institution of all conditions imposed by the conditional use permit.
 - d. The use for which the conditional use permit was authorized does not commence within six (6) months of the effective date of the conditional use permit. The Director may grant an extension of up to six (6) months for good cause shown, upon petition of the conditional use permit holder.
 - e. The use for which the conditional use permit is authorized is discontinued for six (6) consecutive months.
- (4) *Notification.* If the use discontinues or fails to commence as stipulated in this Zoning Ordinance, the Director will issue a written notification to the property owner. Ten (10) days after issuance of this notice, the Director shall issue the permit holder written notification of the conditional use permit's official revocation and removal from the Zoning Map.
- (j) *Recordation.* The original record of the conditional use permit shall be kept and maintained in the City Administrative Office. The applicant shall keep a copy of the conditional use permit decision.

Sec. 109-138. Temporary Use Permit

- (a) *Applicability.* This Section applies to any application for approval of a use designated as a temporary use. Temporary uses are categorized into three types in Sec. 109-039. : Type A, Type B, and Type C.
- (b) *Initiation.* A temporary use permit may be initiated at the request of:
 - (1) City Council; or
 - (2) The owner or agent of the subject property.
- (c) *Completeness.*
 - (1) Generally, see Sec. 109-125. (b).
 - (2) In addition to the requirements of Sec. 109-125. (b), the applicant shall provide the following information demonstrating:
 - a. The location, including parcel number and address (if no address is available, a description which is clear to the average lay person will suffice);
 - b. The duration of the proposed use;
 - c. That the proposed use complies with the regulations of the zoning district in which it is located;
 - d. That the proposed use complies with any relevant use-specific regulations; and
 - e. That the proposed use complies with the adverse impact regulations established in Sec. 109-039.
- (d) *Notice and Hearing(s).*
 - (1) *Generally.* Any required noticing and public hearing(s) shall comply with Division 1. Sec. 109-126. and Arkansas State law, as applicable.
 - (2) *Type A Temporary Uses.* Noticing and public hearing requirements do not apply to Temporary A uses.
 - (3) *Type B Temporary Uses.* Noticing and public hearing requirements do not apply to Temporary B uses; however, the temporary use shall be placed on the Planning Commission's agenda as a consent item.
 - (4) *Type C Temporary Uses.* Noticing and public hearing requirements apply to Temporary C uses and shall comply with the requirements of Article V. Division 3. Sec. 109-138. (d)(1) above.
- (e) *Decision.*
 - (1) *Type A Temporary Uses*
 - a. *Director Review and Decision.* The Development Review Team shall review the temporary use permit, and the Director shall act to:
 - 1. Approve the temporary use permit;

2. Deny the temporary use permit; or
3. Approve the temporary use permit with conditions.

(2) Type B Temporary Uses

- a. *Director Review.* The Development Review Team shall review the temporary use permit, and the Director shall provide a recommendation to the Planning Commission to:
 1. Approve the temporary use permit;
 2. Deny the temporary use permit; or
 3. Approve the temporary use permit with conditions.
- b. *Planning Commission Decision.* The Planning Commission shall consider the temporary use permit after a recommendation has been provided by the Director. The Planning Commission shall act to:
 1. Approve the temporary use permit;
 2. Deny the temporary use permit; or
 3. Approve the temporary use permit with conditions.

(3) Type C Temporary Uses

- a. *Director Review.* The Development Review Team shall review the temporary use permit, and the Director shall provide a recommendation to the Planning Commission to:
 1. Approve the temporary use permit;
 2. Deny the temporary use permit; or
 3. Approve the temporary use permit with conditions.
 - b. *Planning Commission Decision.* The Planning Commission shall consider the temporary use permit at a public hearing after a recommendation has been provided by the Director. After the hearing is closed, the Planning Commission shall act to:
 1. Approve the temporary use permit;
 2. Deny the temporary use permit; or
 3. Approve the temporary use permit with conditions.
- (f) *Standards.* A temporary use permit shall be approved only if the applicant demonstrates that:
- (1) The temporary use shall be so designated, located, and operated so that the public health, safety, and welfare will be protected.
 - (2) The temporary use shall be compatible with other area properties located nearby.

- (3) The temporary use shall comply with all applicable requirements and standards of this Chapter, including the standards for temporary uses provided in Table 039.1: Temporary Use Type Standards.
 - (4) The temporary use shall be in conformance with all applicable provisions stated in this Chapter for the zoning district in which the use is to be located.
- (g) Subsequent Applications
 - (1) If a temporary use permit is denied, the applicant shall not submit a temporary use permit application for the same temporary use permit request on the same property for at least thirty (30) days.
 - (2) The above waiting period begins on the date of the denied decision of the prior application.
- (h) *Appeals*. A temporary use permit decision may be appealed to the appropriate approval authority as provided in Sec. 109-145.
- (i) *Scope of Approval*. The approval of a temporary use permit does not authorize the development of land. A temporary use permit allows the applicant to apply for a building permit, or any other issuance of permits needed for the use to be constructed or become operational.
- (j) *Recordation*. The original record of the temporary use permit shall be kept and maintained in the City Administrative Office. The applicant shall keep a copy of the temporary use permit decision.

Division 4. Development Procedures

Sec. 109-139. Site Plan

(a) Applicability

- (1) *Generally.* Site plan approval is required for all instances that meet the following thresholds:
 - a. New construction or expansion of an existing building or structure that increases the existing floor area by 10% or that adds 2,500 square feet of floor area.
 - b. New construction or expansion of parking lots that increase the existing impervious area by 10% or that add 2,500 sf of impervious coverage.
 - c. New construction within an approved PZD.
- (2) *Deviations Prohibited.* A site plan shall not authorize deviation from any applicable development standards normally required by the existing underlying zoning, including, but not limited to, signs, landscaping, parking, or dimensional requirements, unless requesting a minor modification.
- (3) *Exceptions.* Single-family Dwellings and Two-family Dwellings are exempt from the requirements of this Section unless part of an approved PZD.

- (b) *Initiation.* The applicant shall submit a site plan application to the Director. In addition to the information required by Sec. 109-125. , the Director may require additional information if needed to address the proposed development's impacts.

(c) Completeness.

- (1) Generally, see Sec. 109-125. (b).
- (2) In addition to the requirements of Sec. 109-125. (b), and where applicable, the applicant shall provide the following plans and information with a site plan application:
 - a. Plans
 1. Parking Plan
 - a) A parking plan must be consistent with the Comprehensive Plan.
 - b) A parking plan must be prepared by a qualified professional with demonstrated experience in transportation planning, traffic engineering, or a comparable field.
 - c) A parking plan must determine:
 - 1) The anticipated travel demand for the project.
 - 2) How the anticipated travel demand for the project will be met on-site or off-site, including:
 - 3) The number of on-street vehicle parking spaces, off-street vehicle parking spaces, or shared vehicle parking arrangements.

- 4) The number of bicycle parking spaces.
 - 5) Accommodations for pedestrians, cyclists, motorists, transit riders, and the mobility-impaired.
 - 6) Any potential carpooling or vanpooling programs or benefits.
 - 7) Any support for car-share and bike-share services and facilities.
 - 8) Any development improvements that will help encourage transportation alternatives.
- d) An approved parking plan must provide performance standards that:
- 1) Include performance objectives to effectively manage parking that account for the opportunities and constraints of the site and the nature of the development.
 - 2) Meet the anticipated transportation demand without placing an unreasonable burden on public infrastructure, such as transit and on-street parking facilities, and the surrounding neighborhood.
2. Landscape Plan
- a) A landscape plan is required to address three requirements:
- 1) Street frontage buffer as required in Sec. 109-063. (a);
 - 2) Interior parking lot landscaping as required in Sec. 109-063. (b); and,
 - 3) Perimeter landscaping as required in Sec. 109-063. (c).
- b) The following information is required on a landscape plan and shall be completed, stamped, and signed by a licensed landscape architect or certified arborist for the Director to review the plan for compliance with this Chapter:
- 1) *Existing Vegetation*. The location, general type, and quality of existing vegetation, including specimen trees.
 - 2) *Preservation*. The existing vegetation to be saved.
 - 3) *Protection*. The methods and details for protecting existing vegetation during construction and the approved sediment control plan.
 - 4) *Proposed Plants*. The locations and labels for all proposed plants.
 - 5) *Landscape Details*. The plant lists with the botanical and common names, quantity, spacing and size of all proposed landscape improvements such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas.
 - 6) *Installation Details*. The planting and installation details as necessary to ensure conformance with all required standards.

- 7) *Intersection Visibility Triangle*. The intersection visibility triangle shall be indicated on the plan with a dimensioned shaded area.
 - 8) *Irrigation*. The plan shall indicate the type of irrigation to be used, in accordance with Sec. 109-064. (d). All proposed hose bib locations shall be shown.
 - 9) *One-year Guarantee*. The plan shall note that all landscape vegetation material must be guaranteed for a period of one year from the issuance of a certificate of occupancy.
3. *Lighting Plan*. The following information is required on a lighting plan and shall be completed, stamped, and signed by a qualified design professional with demonstrated experience in lighting, such as a licensed architect, landscape architect, engineer, or city planner, for the Director to review the plan for compliance with this Chapter:
- a) The location, type, and height of the luminary, including both building and ground mounted fixtures;
 - b) A description of the luminary, including lamps, poles or other supports, and shielding devices, which may be provided as catalogue illustrations from the manufacturer;
 - c) Photometric data, such as that furnished by the manufacturer; and
 - d) Any additional information that may be required by the Director.
4. *Façade Plan*. The following information is required on a façade plan and shall be completed, stamped, and signed by a licensed architect for the Director to review the plan for compliance with this Chapter:
- a) Digitally or electronically produced plans;
 - b) Front, rear, and side elevations for each type of building and structure proposed;
 - c) Exterior/façade building materials list; and
 - d) Any architectural features or elements proposed on the building or structure including, but not limited to:
 - 1) Windows;
 - 2) Shutters;
 - 3) Balconies;
 - 4) Roof type;
 - 5) Doors;
 - 6) Awnings/canopies;
 - 7) Porches; and

- 8) Any other architectural design items which may be required in Division 9. of Article IV. of this Zoning Ordinance.
5. *Steep Slopes Plan*. The following information is required on a steep slopes plan and shall be completed, stamped, and signed by a licensed engineer for the Director to review the plan for compliance with this Chapter:
- a) *Slope Analysis*
 - 1) Identification of slope ranges for parcels to assess the potential number of sites and preservation areas.
 - 2) Slope analysis shall consider the character and intensity of the development, the ability to provide and maintain infrastructure, and the feasibility of efficient and maneuverable emergency services access.
 - 3) Slope analysis shall be provided in the following increments as established in Table 102.1: Land Disturbance Levels, and use a contour interval of two (2) feet.
 - b) *Vegetation and Wildlife Analysis*. Grasslands, shrubs, and tree cover are major components of steep slope areas, and as such, shall show the physical location of vegetation and the following items:
 - 1) Identify the predominant vegetation in native ecosystems:
 - i. Trees between four (4) inches and twelve (12) inches or greater caliper size, depending on density of trees onsite; and
 - ii. Native grass, ground cover, and shrub massing.
 - 2) Interface of development and native wildlife habitat and migration corridors.
 - c) *Geological Analysis*. The geological conditions of the site shall be assessed as required by [Chapter 107](#) and the Director.
 - d) *Land Suitability Study Map*. A map with the various components of the Steep Slopes Plan overlaid to show a composite of opportunities and constraints, along with a written analysis of the existing site features and constraints and how the development of the site will occur, accounting for both the opportunities and constraints. The analysis shall also include mitigation for the site's physical constraints and hazards.
- b. *Other Requirements*. The site plan shall include other provisions, details, locations, materials, and any other necessary specifications of any proposed or required:
1. Screening;
 2. Fencing;
 3. Performance standards;
 4. Signs;

5. Dimensional regulations (setbacks, intersection visibility triangles, building height, green space, etc.);
 6. Loading areas and facilities; and
 7. Other standards required as provided in Article IV. of this Zoning Ordinance.
- (d) *Notice and Hearing(s)*. Not applicable except for PZD site plans as provided in Article V. Division 4. Sec. 109-139. (j).
- (e) Decision.
- (1) *Director Review and Decision*. The Development Review Team shall review the site plan and the Director shall act to:
 - a. Approve the site plan,
 - b. Deny the site plan,
 - c. Approve the site plan with conditions, or
 - d. Refer the site plan to the Planning Commission for its review and final action.
 - (2) *Authorization to Impose Conditions*.
 - a. *Generally*. The Director may impose conditions necessary to ensure the proposed use is consistent with the Comprehensive Plan, conforms with this Chapter, is appropriate to its location and compatible with neighboring uses, and does not cause undue traffic congestion or significant deterioration of the environment.
 - b. *Conditions Supplementary*. All requirements imposed by a site plan are in addition to and supplement this Chapter's requirements.
 - c. *Authorized Conditions*. Authorized conditions include, but are not limited to:
 1. *Site Plan Features*. Limitations or requirements regarding the area, setbacks, open space, landscaping, buffering, lighting, fencing, signage, off-street parking, and similar site plan features of the proposal.
 2. *Operations*. Limitations or requirements regarding the proposed use's operating characteristics, duration, or any similar feature of the proposed use.
 3. *Duration*. If the Director or Planning Commission limits the duration of a site plan, a six (6) month grace period, starting from the final approval date, is afforded to the applicant in addition to the time period stipulated in the site plan conditions.
- (f) *Standards*. A site plan shall comply with the following standards:
- (1) *Generally*. The site of the proposed use or any associated improvements is not in violation of any local, state, or federal law (other than a zoning violation).
 - a. The use and site plan for the proposed use conforms, at a minimum, with all applicable provisions of this Chapter for the existing underlying zoning designation, including but not limited to:

1. *Development Standards.* All parking and loading, landscaping, signage, lighting, improvement, architectural design, and dimensional standards.
 2. *Zoning District Standards.* The purpose of the zoning district in which the proposed use is to be located and any standards applicable to the particular proposed use.
- b. Site plans are only authorized for the proposed use.
- (2) *Suitability.* The characteristics of the proposed site are suitable for the proposed use considering the size, shape, location, topography, and location of improvements and natural features.
 - (3) *Timeliness.* The proposed use and/or development is timely, considering the adequacy of transportation systems, public facilities, and services, existing or planned for the area affected by the proposed use.
 - (4) *Compatibility with the Surrounding Area.* The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed as allowable by the underlying zoning district.
 - (5) *Comprehensive Plan.* The proposed use satisfies any applicable goals and policies of the Comprehensive Plan that apply to the proposed use.
 - (6) *Use Appropriate and Compatible.* The use is appropriate to its proposed location and compatible with the character of neighboring uses, or enhances the mixture of complementary uses and activities in the immediate vicinity.
 - (7) *Traffic.* The use shall not cause undue traffic congestion, dangerous traffic conditions, or incompatible service delivery, parking, or loading problems. Necessary mitigating measures shall be proposed by the applicant.
 - (8) *Nuisance.* The operating characteristics of the use do not create a nuisance and the impacts of the use on surrounding properties are minimized with respect to noise, odors, vibrations, glare, and any other similar conditions.
 - (9) *Environment.* The use shall not cause significant deterioration to water resources, wetlands, wildlife habitat, scenic characteristics, or other natural features. As applicable, the proposed use shall mitigate its adverse impacts on the environment.
- (g) *Subsequent Applications.* Not applicable.
- (h) Scope of Approval
- (1) *Generally.* After the site plan is approved, the Director may issue a building permit or certificate of occupancy consistent with any conditions of site plan approval.
 - (2) Changes to Site Plan.
 - a. *Generally.* Any change to an approved site plan, other than those changes that qualify as insubstantial pursuant to Division 3. Sec. 109-138. (h)(2)b, require amendment of the existing site plan. Amendment of an approved site plan may only

be authorized by the Director pursuant to the procedures established in Division 3. Sec. 109-138. (e), and subject to appeal or referral to the Planning Commission as provided in Division 3. Sec. 109-138. Article I. Division 1. Sec. 109-289. (a).

b. Insubstantial Changes to Approved Site Plan.

1. The Director may approve insubstantial changes to a previously approved site plan without notice or public hearing. An insubstantial change is one that becomes necessary during the use's actual implementation, which could not be reasonably anticipated during its review, and that does not significantly change the original approval granted.
2. An insubstantial change includes:
 - a) Minor building revisions/expansions that do not increase the height of a building and are less than an aggregate total of 1,000 square feet;
 - b) Minor changes in the number of parking spaces (adding, removing, or relocating 20 parking spaces or less), provided that minimum parking requirements are met;
 - c) Locational adjustments to refuse facilities;
 - d) Minor revisions to approved elevations; and
 - e) Substitution of similar materials on an approved landscape plan.
3. An amendment to any of the following site plan requirements is not considered insubstantial, thus triggering a new site plan application:
 - a) *Use*. Those activities allowed on site by the site plan.
 - b) *Operational Characteristics*. The gross limitations or requirements regarding the proposed use's operating characteristics.
 - c) *Site Plan Features/Improvements*. The gross limitations or requirements regarding the area, setbacks, open spaces, landscaping, buffering, lighting, fencing, signage, or the off-street parking of the proposal.
 - d) *Duration*. Requirements governing the duration of the permit.
 - e) *Permit Holder*. Requirements regarding the person or entity to whom the permit is issued.

(3) Revocation.

- a. *Criteria*. An approved site plan is considered in violation of this Zoning Ordinance and shall be revoked if found that the use violates any of the following conditions:
 1. The use established on site does not conform, at any time, with any or all approved permit condition(s) and or any local, state, or federal law.
 2. The activity authorized by the site plan commences prior to the institution of all conditions imposed by the site plan.

3. Discontinuance of the approved use for at least six (6) consecutive months.
4. The approved use does not commence within six (6) months of the final approval date.
- b. *Revocation Procedures.* If the Director's inspection reveals noncompliance with this Zoning Ordinance, site plan revocation procedures shall commence as follows:
 1. The Director shall, upon discovery of site plan noncompliance, issue a written warning, granting a grace period of at least ten (10) working days. During this time, the use may be brought into compliance with the current approved site plan for that location.
 2. If noncompliance persists after the conclusion of the warning grace period, the Director shall issue a written citation.
 3. If the citation results in a guilty verdict, the site plan is considered revoked.
 4. The Director shall issue the permit holder written notification of the site plan's official revocation.
 5. In the event of discontinuance or failure to commence as stipulated above, the Director shall issue written notification to the applicant. Ten (10) days after issuance of the Director's notification of discontinuance or failure to commence, the Director shall then issue the permit holder written notification of the site plan's official revocation.
- (i) *Recordation.* The original record of the site plan shall be kept and maintained in the City Administrative Office. The applicant shall keep a copy of the site plan decision.
- (j) *PZD Site Plans.*
 - (1) *Criteria.* PZD site plans as required in Division 2. Sec. 109-135. (l) shall be evaluated according to all criteria applicable to site plans as established in Sec. 109-139. , and according to the following considerations:
 - a. All buildings and structures shall adhere to a common architectural theme or style, making use of a consistent and cohesive palette of materials, colors, and geometries;
 - b. Rear- and side-loading residential garages are encouraged where garages are provided;
 - c. All buildings shall provide human-scale features, especially at street level;
 - d. A variety of building heights and varied roofline articulation shall be provided; and
 - e. The cumulative aesthetic of the architectural design of the development shall accord to the established intent of the PZD.
 - (2) *Decision.* PZD site plans as required in Sec.109-123 shall be reviewed as any other site plan by the Development Review Team, but after its review and correspondence with

- the applicant, the Development Review Team shall submit a recommendation to the Planning Commission:
- a. To approve the site plan;
 - b. To deny the site plan; or
 - c. To approve the site plan with modifications.
- (3) The Planning Commission shall consider the site plan at a public hearing after a recommendation has been provided by the Development Review Team. After the hearing is closed, the Planning Commission shall act to:
- a. Approve the site plan;
 - b. Deny the site plan; or
 - c. Approve the site plan with modifications.

Sec. 109-140. Sign Permit

- (a) *Applicability.* A person shall not construct, alter, or relocate any sign within the corporate limits of the City without first obtaining a permit, unless otherwise specified.
- (b) *Initiation.* A sign permit may be initiated by the owner or applicant of the subject property. Each sign permit requires a separate application.
- (c) *Completeness.*
 - (1) Generally, see Sec. 109-125. (b).
 - (2) In addition to the requirements of Sec. 109-125. (b), the applicant shall provide the following information:
 - a. *Sign Drawings.* A scaled drawing of the sign including the sign's:
 - 1. Dimensions (sign height, width, depth, area, etc.);
 - 2. Design;
 - 3. Color;
 - 4. Materials;
 - 5. Lighting features and specifications; and
 - 6. Support structures (sign base, poles, etc.) used to affix the sign to a building or the ground, including the design and dimensions of those structures.
 - b. *Site Plan and Landscaping.*
 - 1. A scaled site plan showing the sign's location on the property or building including street rights-of-way and property lines. For attached signs, the building wall/face shall be dimensioned.
 - 2. A scaled plan of the required landscaped area(s) with the type, quantity, and spacing of plant materials to be included as a part of the sign or sign base.
 - c. *Materials List.* The list of materials used to construct the sign.
 - d. *Additional Requirements.* Any additional information necessary as determined by the Director.
- (d) *Notice and Hearing(s).* Not applicable.
- (e) *Decision.* The Director shall:
 - (1) Approve the sign permit;
 - (2) Deny the sign permit; or
 - (3) Approve the sign permit with conditions.
- (f) *Standards.* A sign permit shall be issued if the proposed sign complies with all applicable provisions of this Chapter, any electrical and Arkansas Fire Prevention Code requirements,

and any conditions or stipulations of any applicable rezoning, conditional use permit, site plan, or development plan.

(g) *Subsequent Applications*. Not applicable.

(h) *Appeals*. A sign permit decision by the Director may be appealed to the City Council as allowed in Article I.

(i) *Scope of Approval*

(1) *Generally*. The Director may issue a sign permit if there is an approved site plan.

(2) *Expiration*.

- a. A sign permit becomes void if installation does not commence within thirty (30) days from the date of permit approval.
- b. If work authorized by the permit is suspended or abandoned for thirty (30) days from the date the work commences, a permit extension may be applied for or a new permit is required to complete the installation work, even if no changes are made to the original sign permit.
- c. The Director may grant one 30-day sign permit extension if the applicant requests a sign permit extension. A sign permit extension requires repayment of the original sign permit application.

(3) *Installation and Inspection*.

- a. *Generally*. Inspections of erected signs are required and it is the applicant's responsibility to:
 1. Give notice to the Director when an installation is ready for inspection;
 2. Ensure all work is ready for inspection before the inspection is requested; and
 3. Provide ready access to the premises where the requested inspection is to occur.
- b. *Minor Alterations*. Any alteration in sign location resulting from unexpected conditions on site must be approved by the Director.
- c. *Certificate of Completion*.
 1. All signs shall be issued a certificate of completion upon a final inspection by the Director confirming that all approved plans have been followed and any conditions of the permit have been completed.
 2. If the sign does not pass inspection, the Director shall prepare an inspection report detailing the deficiencies.

(4) *Revocation*. The Director may revoke a sign permit if:

- a. It is issued in error; or
- b. The sign or sign supporting structure is installed contrary to the approved plans or in violation of this Zoning Ordinance.

- (5) *Repairs and Maintenance.* The repair, routine maintenance, or repainting of an existing sign deemed conforming or allowed to continue as a nonconforming sign does not require a sign permit.
- (j) *Recordation.* The original record of the sign permit shall be kept and maintained in the City Administrative Office. The applicant shall keep a copy of the sign permit decision. Valid sign permits may be assigned to a successor of the applicant, provided the sign is in conformance with current ordinances.

Sec. 109-141. Fence Permit

(a) Applicability.

- (1) A person shall not construct, alter, or relocate any fence within the corporate limits of the City without first obtaining a permit, unless otherwise specified.
- (2) A fence permit is applicable to those instances where screening or fencing, as provided in Division 7. and Division 8. of Article IV. is required.
- (3) A fence permit shall be obtained prior to beginning construction and replacement of all applicable fences, except those shown on an approved preliminary plat or site plan.

(b) *Initiation*. A fence permit may be initiated by the applicant of the subject property. Each fence permit requires a separate application.

(c) Completeness

- (1) Generally, see Sec. 109-125. (b).
- (2) In addition to the requirements of Sec. 109-125. (b), the applicant shall provide the following information:
 - a. The location of all property lines;
 - b. The location of all existing and proposed structures and features (pools, spas, sheds, etc.);
 - c. The location of existing fencing that is to remain in place on or adjacent to the property;
 - d. The portions of existing fence that will be replaced;
 - e. The location of new fencing; and
 - f. A note indicating the height of the proposed fence and the type of fence construction (i.e., wood privacy, wrought iron, brick, etc.).

(d) *Notice and Hearing(s)*. Not applicable.

(e) *Decision*. The Director shall:

- (1) Approve the fence permit;
- (2) Deny the fence permit; or
- (3) Approve the fence permit with conditions.

(f) *Standards*. A fence permit shall be issued if the proposed fence complies with all applicable provisions of this Chapter, any electrical and Arkansas Fire Prevention Code requirements, and any conditions or stipulations of any applicable rezoning, conditional use permit, site plan, or development plan.

(g) Subsequent Applications. Not applicable.

(h) Scope of Approval

- (1) *Generally*. The Director may issue a fence permit if there is an approved site plan.
- (2) Expiration.
 - a. A fence permit becomes void if installation does not commence within one hundred eighty (180) days from the date of permit approval.
 - b. If work authorized by the permit is suspended or abandoned for one hundred eighty (180) days from the date the work commences, a permit extension may be applied for, or a new permit is required to complete the installation work, even if no changes are made to the original fence permit.
 - c. The Director may grant one 30-day fence permit extension if the applicant requests a fence permit extension. A fence permit extension requires repayment of the original fence permit application.
- (3) Installation and Inspection.
 - a. *Generally*. Inspections for erected fences are required, and it is the applicant's responsibility to:
 1. Give notice to the Director when an installation is ready for inspection;
 2. Ensure all work is ready for inspection before the inspection is requested; and
 3. Provide ready access to the premises where the requested inspection is to occur.
 - b. *Minor Alterations*. Any alteration in fence location or height resulting from unexpected conditions on site must be approved by the Director.
 - c. *Certificate of Completion*.
 1. All fences shall be issued a certificate of completion upon a final inspection by the Director confirming that all approved plans have been followed and any conditions of the permit have been completed.
 2. If the fence does not pass inspection, the Director shall prepare an inspection report detailing the deficiencies.
- (4) *Revocation*. The Director may revoke a fence permit if:
 - a. It is issued in error; or
 - b. The fence is installed contrary to the approved plans or in violation of this Zoning Ordinance.
- (5) *Repairs and Maintenance*. The repair, routine maintenance, or repainting of an existing fence deemed conforming does not require a fence permit.
- (i) *Recordation*. The original record of the fence permit shall be kept and maintained in the City Administrative Office. The applicant shall keep a copy of the fence permit decision. Valid fence permits may be assigned to a successor of the applicant, provided the fence is in conformance with current ordinances.

Sec. 109-142. Building Permit

- (a) *Applicability.* Any structure or building that is to be erected or structurally altered requires an approved building permit.
- (b) *Initiation.* The applicant may submit a building permit application once all required plans and permits (site plan, conditional use permit, rezoning, etc.) are approved.
- (c) *Completeness.*
 - (1) Generally, see Sec. 109-125. (b).
 - (2) In addition to the requirements of Sec. 109-125. (b), the applicant shall provide the following information:
 - a. Any approved specific zoning conditions as provided in Sec. 109-134. and Sec. 109-135. ;
 - b. A site plan as prepared and approved in Sec. 109-139. ;
 - c. Any applicable conditional use permits as prepared and approved in Sec. 109-137. ;
 - d. Any applicable sign permits as prepared and approved in Sec. 109-140. ;
 - e. Any applicable fence permits as prepared and approved in Sec. 109-141. ;
 - f. Any applicable development relief as provided in this Article;
 - g. An approved plat of the subject property, or a survey, prepared by a licensed engineer or registered surveyor, of the boundaries of the lot on which the improvement is proposed to be located; and
 - h. Any additional information relating to proposed improvements needed to determine compliance with this Zoning Ordinance, including but not limited to:
 - 1. Topography;
 - 2. Utility location;
 - 3. Grading;
 - 4. Erosion and sediment control;
 - 5. Drainage;
 - 6. Easements;
 - 7. Sewage disposal; and
 - 8. Proof of water availability.
- (d) *Notice and Hearing(s).* Not applicable.
- (e) *Decision.* The Director shall:
 - (1) Approve the building permit;
 - (2) Deny the building permit; or

(3) Approve the building permit with conditions.

(f) *Standards.* The Director may issue a building permit only if it is in compliance with this Section, the requirements of this Zoning Ordinance, and any applicable standards of Chapter 103 - Buildings and Building Regulations.

(g) *Subsequent Applications.* Not applicable.

(h) *Scope of Approval.*

(1) Expiration.

- a. A building permit becomes void if installation does not commence within one (1) year from the date of permit approval.
- b. If work authorized by the permit is suspended or abandoned for one (1) year from the date the work commences, a permit extension may be applied for, or a new permit is required to complete the installation work, even if no changes are made to the original building permit.
- c. The Director may grant one six-month building permit extension if the applicant requests a building permit extension. A building permit extension requires repayment of the original building permit application.

(2) Installation and Inspection.

- a. *Generally.* Inspections for the development are required, and it is the applicant's responsibility to:
 1. Give notice to the Director when an installation is ready for inspection;
 2. Ensure all work is ready for inspection before the inspection is requested; and
 3. Provide ready access to the premises where the requested inspection is to occur.
- b. *Minor Alterations.* Any alterations resulting from unexpected conditions on site must be approved by the Director.
- c. *Certificate of Completion.*
 1. All development shall be issued a certificate of completion upon a final inspection by the Director confirming that all approved plans have been followed and any conditions of the building permit have been completed.
 2. If the development does not pass inspection, the Director shall prepare an inspection report detailing the deficiencies.

(3) *Revocation.* The Director may revoke a building permit if:

- a. It is issued in error; or
- b. The installed items are contrary to the approved building permit or in violation of this Zoning Ordinance.

- (4) *Repairs and Maintenance.* The repair, routine maintenance, or repainting of an existing building or development deemed conforming does not require a building permit.
- (i) *Recordation.* The original record of the building permit shall be kept and maintained in the Building Division of the Fire Department. The applicant and the Planning and Development Department shall keep a copy of the building permit decision.

Division 5. Relief Procedures

Sec. 109-143. Minor Modifications

(a) Applicability

- (1) This Section establishes a provision for minor modification requests associated with the review and approval of a development, including improvements to existing structures or site features, as required in Article IV. of this Zoning Ordinance.
- (2) The purpose of minor modification is to ensure that:
 - a. A proposed development complies with the purpose and intent of this Chapter;
 - b. A proposed project meets requirements that are appropriate for lots or sites and site-specific development challenges by applying a flexible approval procedure. A development may be interpreted to include redevelopment of lots or sites with existing improvements and encumbrances that may pose unique challenges to complying with the requirements of this Chapter; and
 - c. To allow for different standards that are in agreement with the City's Comprehensive Plan and that produce a substantially equivalent effect as the requirements of this Chapter.
- (3) The Director may grant minor modifications from the requirements of this Chapter in compliance with the following standards:
 - a. The height of a building may be increased up to ten percent (10%).
 - b. In residential zoning districts, front setbacks may be reduced so long as a minimum of twenty (20) feet is maintained between the right-of-way and the closest point of the structure to provide for adequate vehicular parking.
 - c. Landscaped street frontage buffer widths may be reduced by ten percent (10%).
 - d. One (1) shade tree may be substituted by a cluster of three (3) ornamental trees.
 - e. Lighting fixture heights may be increased by ten (10) feet.
 - f. The 40-foot straight backing requirement for refuse facilities may be reduced by ten (10) feet.
 - g. The size of a permanent sign may be increased up to ten percent (10%).
 - h. The sign height of a detached sign may be increased by up to ten percent (10%).
 - i. Site plans may be modified according to the following standards:
 1. The Director may approve minor modifications to the terms of a site plan approval. "Minor modifications" are those that are necessary due to technical considerations discovered after the decision on the site plan, and which do not substantively change the character of the development approval. Minor modifications include but are not limited to:

- a) An increase in building square footage not exceeding five percent (5%);
 - b) Substitution of landscape materials if the proposed materials are of a similar shape, size, and type;
 - c) Location of trees; and
 - d) Changes to building materials, access management, connectivity, and parking facility design, driveways as governed by Sec. 109-113, grading and erosion control permits, screening, building location, or similar elements of site or building design that would improve the site or are needed because of circumstances not foreseen at the time of site plan approval.
2. Minor modifications must be authorized in writing.
 3. Minor modifications are subject to appeal to the City Council. On appeal, no further action will be taken to process the application, and/or issued permits are stayed pending the City Council's determination.
 4. Any modification that exceeds the conditions of a minor modification, and which the Director determines is not a minor modification, shall be considered a major modification.
 5. Major modifications shall be approved in accordance with the procedures established for original consideration of the application.
- (4) Any requests for modifications that exceed the limitations established in this Subsection require a variance request as provided in Sec. 109-144.
- (b) *Initiation*. A minor modification request, as specifically cited within this Chapter, may be submitted for review and approval along with the Site Plan for a project, or along with the project's initial application (as applicable for the project).
- (c) *Completeness*. See Sec. 109-125. (b).
- (d) *Notice and Hearing(s)*. Not applicable.
- (e) *Decision*. The Director shall review the minor modification request and shall act to:
- (1) Approve the minor modification request;
 - (2) Approve the minor modification request with conditions;
 - (3) Modify the minor modification request; or
 - (4) Deny the minor modification request.
- (f) *Standards*.
- (1) *Generally*. The Director may approve or modify the minor modification request, in whole or in part, with or without conditions, after finding:
 - a. Special circumstances apply to the property, such as size, shape, topography, location, or surroundings;

- b. The minor modification will not be detrimental to the public health, safety, or welcome or be injurious to other property or improvements in the vicinity and in the zoning district in which the property is location;
 - c. The minor modification will not be incompatible with existing or permitted uses on adjacent properties, in terms of adjusted building height, setbacks, landscaping, screening, or parking features;
 - d. The minor modification does not exceed the standards provided in this Section or allow a use or activity not otherwise authorized by the regulations governing the subject property;
 - e. The minor modification conforms with the intent and purpose of this Chapter; and
 - f. The minor modification does not, in any way, alter the applicant's obligation to comply with other applicable statutes, ordinances, laws, or regulations.
- (2) *Responsibility of Proof.* The applicant shall have the responsibility of demonstrating that the proposal meets the applicable review criteria.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Scope of Approval.*
- (1) *Generally.* After a minor modification is approved, the Director may apply the approval to a pending site plan review. Once a minor modification is granted and the site plan is approved, the Director may issue a building permit or certificate of occupancy consistent with any conditions of the approved minor modification and site plan.
 - (2) *Expiration.* A minor modification must be exercised within one hundred twenty (120) days from the approval date, or the minor modification becomes void.
 - (3) *Revocation.* The Director may revoke a minor modification if:
 - a. The applicant has not substantially exercised the rights granted by the minor modification;
 - b. The minor modification was obtained by misrepresentation or fraud;
 - c. The applicant ceases or suspends work on the improvements authorized pursuant to the minor modifications for six or more consecutive months;
 - d. The improvement authorized pursuant to the minor modification violates any applicable statute, ordinance, law, or regulation;
 - e. The improvement permitted by the minor modification is detrimental to the public health, safety, or welfare, or constitutes a nuisance.
- (i) *Recordation.* The original record of the minor modification shall be kept and maintained in the City Administrative Office. The applicant shall keep a copy of the minor modification decision.

Sec. 109-144. Variances

- (a) *Applicability.* The Board of Zoning Adjustment may authorize, in specific cases due to hardship, a variance from the terms of this Zoning Ordinance.
- (b) *Initiation.* A variance request may be initiated by the applicant of the subject property and shall be submitted to the Director.
- (c) *Completeness.*
 - (1) Generally, see Sec. 109-125. (b).
 - (2) In addition to the requirements of Sec. 109-125. (b), the applicant shall provide the following information:
 - a. A scale drawing showing the requested variance along with all relevant information, including the exceptional condition or situation of the property that causes the exceptional practical difficulty or undue hardship for which relief is being sought;
 - b. The interpretation of the Zoning Ordinance that is claimed;
 - c. The use for which the variance is sought; and
 - d. The details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted.
- (d) *Notice and Hearing(s).*
 - (1) Noticing shall comply with Sec. 109-126. and Arkansas State law, as applicable.
 - (2) A public hearing is required and shall comply with Sec. 109-126.
- (e) *Decision.*
 - (1) The Board of Zoning Adjustment shall conduct a public hearing on the variance and shall render its decision after the hearing is closed.
 - (2) The Board of Zoning Adjustment may, in whole or in part:
 - a. Approve the variance; or
 - b. Deny the variance; or
 - c. Approve the variance with modifications and conditions of approval.
 - (3) A favorable majority vote of the Board of Zoning Adjustment is required to grant a variance.
- (f) *Standards.*
 - (1) *Generally.* The Board of Zoning Adjustment shall not approve a variance unless it finds that:
 - a. Strict enforcement of the Zoning Ordinance would cause undue hardship due to circumstances unique to the individual property under consideration;

- b. The unique circumstances of the subject property do not result from the applicant's actions; and
 - c. The applicant demonstrates that the granting of the variance will be in keeping with the spirit and intent of the Zoning Ordinance.
- (2) *Nonconformities*. Nonconforming use of neighboring lands, structures, or buildings in the same district, nor permitted or nonconforming uses in other districts shall be considered grounds for the issuance of a variance.
- (3) *Conditions*. In granting any variance, the Board of Zoning Adjustment may prescribe additional appropriate conditions and safeguards that it deems necessary or desirable.
- (4) *Violations*. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Ordinance.
- (5) *Uses*. Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use that is not permissible under the terms of this Section in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Ordinance in said district.
- (g) *Subsequent Applications*. If the variance request is denied, the applicant shall not submit a variance request of similarity on the same property for at least twelve (12) months from the denial date.
- (h) *Appeals*. An aggrieved party with standing may seek judicial review at the applicable circuit court.
- (i) *Scope of Approval*.
 - (1) After a final decision on the variance is rendered, the applicant and any party in interest may file any further permits or applications, undertake construction, or establish a use consistent with that decision.
 - (2) An applicant must start or establish the uses of lands, structures, or buildings within 365 days from the variance's approval date or the variance becomes void.
- (j) *Recordation*. The original record of the variance request shall be kept and maintained in the City Administrative Office. The applicant shall keep a copy of the variance decision.

Sec. 109-145. Appeals to City Council

(a) *Applicability.* Decisions made by the Director or by the Planning Commission may be appealed to the City Council.

(b) *Initiation.*

In order to make an appeal, the aggrieved party shall file a notice of appeal with the City Clerk in accordance with applicable Arkansas state law.

(c) *Completeness.*

(1) Generally, see Sec. 109-125. (b).

(2) In addition to the requirements of Sec. 109-125. (b), the applicant shall provide the following information:

- a. Summary of any reasons provided by the Planning Commission concerning the decision made in the case;
- b. Reasons the applicant of the appeal contends that the Planning Commission erred in its decision;
- c. Reasons the applicant of the appeal believes that the public health, safety, welfare, and morals would be better served if the Planning Commission's action were reversed; and
- d. Any new and pertinent information bearing on the case which may not have been available or 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.

(d) *Notice and Hearing(s).*

(1) Noticing shall comply with Sec. 109-126. and Arkansas State law, as applicable.

(2) A public hearing is required and shall comply with Sec. 109-126.

(e) *Decision*

(1) *City Council Decision.* The City Council shall review the appeal request and shall act to:

- a. Affirm the Planning Commission's decision;
- b. Reverse the Planning Commission's decision; or
- c. Remand the appeal request to the Planning Commission for further study and recertification.

(f) *Standards*

(1) The applicant bears the burden of proof to demonstrate to the City Council that the items provided in Sec. 109-145. (c)(2) have led to an error in judgment by the Planning Commission.

- (2) The City Council shall consider the evidence submitted by the applicant, the report and decision of the Planning Commission, and where the property is located within the City's corporate limits, any recommendations from City staff, and the following, as applicable:
 - a. Consistency with the Comprehensive Plan,
 - b. Adverse impacts on neighboring properties, and
 - c. Health, safety, and welfare of the City.
- (3) If new information is placed before the City Council that, in the opinion of the City Council, would affect the Planning Commission's decision, the City Council may refer the case back to the Planning Commission for further study, including the new information, and recertification.
- (g) *Subsequent Applications*. Not applicable.
- (h) *Appeals*. An aggrieved party with standing may seek judicial review at the applicable circuit court.
- (i) *Scope of Approval*. After a final decision on appeal is rendered, the applicant and any party in interest may file any further permits or applications, undertake construction, or establish a use consistent with that decision.
- (j) *Recordation*. The original record of the appeal shall be kept and maintained in the City Administrative Office. The applicant shall keep a copy of the appeal decision.

ARTICLE VI. NONCONFORMITIES

Division 1. Introduction

Sec. 109-146. Purpose

This Article governs uses, buildings, structures, lots, and other situations that came into existence legally prior to the effective date of this Zoning Ordinance or the effective date of future amendments to this Zoning Ordinance, but do not comply with or conform to one or more requirements of this Zoning Ordinance. All such situations are collectively referred to as “nonconformities”.

Sec. 109-147. General Policy

While existing legal nonconformities may continue, this Article is designed to curtail substantial investment in nonconformities to bring about their eventual improvement or elimination to preserve the integrity of this Zoning Ordinance and the character of Bella Vista. Any existing legal nonconformity or site condition that becomes nonconforming because of any subsequent rezoning or amendment to this text of this Zoning Ordinance may be continued or maintained only pursuant to this Article. Also, this Article intends to reduce vacancies, promote appropriate redevelopment and re-use of existing structures and lots, and establish requirements.

Sec. 109-148. Applicability

- (a) This Article applies to any nonconformity. A “nonconformity” means any of the following on the effective date:
 - (1) Nonconforming use (Sec. 109-150.);
 - (2) Nonconforming structure (Sec. 109-151.);
 - (3) Nonconforming lot (Sec. 109-152.);
 - (4) Nonconforming sign (Sec. 109-153.); or
 - (5) Nonconforming sites and site improvements (Sec. 109-154.).
- (b) For the purpose of this Article, the “effective date” means the effective date of this Zoning Ordinance or any amendment to this Zoning Ordinance that creates a nonconformity.

Sec. 109-149. Generally

- (a) *Continuation of Nonconformities.* Except as provided below, the lawful use of a building or structure existing at the time of the adoption of this Zoning Ordinance may continue, even if the existing use, building, or structure does not conform to the provisions of this Zoning Ordinance for the district where it is located.
- (b) *Removal of Building or Structure.* If a nonconforming use, building, or structure is removed from a lot, the nonconformity terminates. Any use, building, or structure established or

constructed after that time shall comply with the provisions of this Zoning Ordinance in effect at that time.

(c) Replacing Damaged Buildings or Structures.

- (1) In the case of partial destruction of a nonconforming building or structure not exceeding seventy-five percent (75%) of its reasonable value, reconstruction will be permitted by size and function, and cannot be expanded.
- (2) A nonconforming building or structure or group of nonconforming buildings or structures that is destroyed by fire, flood, explosion, earthquake, war, or riot may be reconstructed or replaced subject to this Article and erected as before if:
 - a. The application for a permit is submitted within twelve (12) months of the disaster;
 - b. Construction begins within thirty-six (36) months of the disaster;
 - c. The restored or reconstructed building or structure does not exceed the square footage of the area as it existed before the disaster; and
 - d. The building or structure meets the Bella Vista Building Code.

(d) *Applications*. The City will not process applications if there is a nonconformity, unless:

- (1) The application brings the property into conformity with this Zoning Ordinance; or
- (2) The application is otherwise permitted by this Zoning Ordinance.

Division 2. Nonconformity-Specific Regulations

Sec. 109-150. Nonconforming Uses

- (a) *Applicability*. This Section applies to any “nonconforming use,” defined as a use that legally occupies a building or land on the effective date and that:
 - (1) Is no longer permitted in the applicable zoning district; or
 - (2) Would require a conditional use permit in the applicable zoning district.
- (b) *Generally*. No existing building, structure, or premises devoted to a use not permitted by this Zoning Ordinance shall be enlarged or structurally altered unless required by law or court order, except as provided below.
- (c) *Discontinuance of Use*.
 - (1) A building, structure, lot, or parcel where a nonconforming use is discontinued for at least one year, regardless of the intent of the owner or occupant of the premises, may not be occupied by a nonconforming use after that time.
 - (2) Where no enclosed structure is involved, discontinuance of a nonconforming use for a period of six (6) months shall constitute abandonment, and shall not be used in a nonconforming manner.
 - (3) Where periods of use are dictated by growing season or livestock rotation, this does not constitute abandonment, as long as the use is resumed within a 12-month period.

(d) Change in Nonconforming Uses.

- (1) A nonconforming use may change to a conforming use. After a nonconforming use changes to a conforming use, it may not change back to a nonconforming use.
- (2) A nonconforming use conducted in a structure may change to another use within the same definition if it is not relocated or expanded.
- (3) A nonconforming use not conducted in a structure, or one in which a structure is incidental to the use of the land, shall not change to any other nonconforming use.
- (4) A nonconforming use of any classification shall not be added where there is already an existing nonconforming use.

(e) *Expansion or Enlargement of Nonconforming Uses.* A nonconforming use may be extended only within the premises on which the nonconforming use was located on the effective date. “Premises” means the building where the use occurs and the accessory buildings, appurtenances, driveways, parking, and loading spaces.

Sec. 109-151. Nonconforming Structures

(a) *Applicability.* This Section applies to any “nonconforming structure.” A “nonconforming structure” means a building or structure that:

- (1) Lawfully exists on the effective date of this Zoning Ordinance or any amendment to this Zoning Ordinance that would cause the building or structure not to comply with this Zoning Ordinance; and
- (2) Does not conform to all of the regulations of the zoning district in which it is located.

(b) *Continuance of Nonconforming Structures.* Except as provided below, any nonconforming structure may be occupied and operated if maintained in a state of good repair.

(c) Expansion.

- (1) A nonconforming structure on a lot may expand one time by as much as twenty-five (25%) of the building’s square footage if:
 - a. The expansion does not encroach into required setbacks;
 - b. Paved parking, sidewalks, and landscaping, as required by this Zoning Ordinance, are provided; and
 - c. The nonconforming building or structure is screened and buffered from adjacent uses and zones as determined by Article IV. of this Zoning Ordinance.
- (2) The expansion is allowed only if the Director finds during the DRT Building Permit Procedure that the proposed expansion does not create a new nonconformity, and is otherwise compliant with all provisions of this Zoning Ordinance.

Sec. 109-152. Nonconforming Lots

- (a) *Applicability.* This Section applies to any nonconforming lot. A “nonconforming lot” is a lot of record that, on the effective date of this Zoning Ordinance or any ordinance that establishes a minimum or maximum lot area, frontage, or lot width, is:
 - (1) Not in compliance with the minimum or maximum lot area, frontage, or lot width;
 - (2) Lawfully existing and of record; and
 - (3) Held in separate and different ownership from any lot immediately adjoining and having continuous frontage.
- (b) *New Construction.* In all districts, a nonconforming lot may be used as the building site for any use permitted in that district. No newly created or platted lot shall result in a nonconforming lot.

Sec. 109-153. Nonconforming Sign

- (a) *Applicability.* Permanent signs that were allowed before the effective date are allowed to remain and may be maintained and repaired as necessary. Signs that this Zoning Ordinance prohibits shall be modified to conform, replaced with a conforming sign, or removed according to the following:
 - (1) If the lot on which the nonconforming sign is located requires any approval or permit that is subject to the site plan process;
 - (2) If there is a change in business ownership, tenant, name, or type of business;
 - (3) If any maintenance, repair, or alteration exceeds fifty percent (50%) of the current value of the sign as of the date of alteration or repair; or
 - (4) If the use of the lot on which the sign is located has been discontinued for ninety (90) days or longer.
- (b) *Exceptions.*
 - (1) *Nonconforming Subdivision Entry Signs.* A nonconforming subdivision entry sign that was first installed or erected before the effective date may continue to be maintained in the current configuration unless the sign requires any maintenance, repair, or alteration that exceeds fifty (50%) of the current value of the sign as of the date of alteration or repair.
 - (2) *Signs with Nonconforming Electronic Message Centers.* A sign with an electronic message center that does not conform with the area limitations or technological standards of this Zoning Ordinance that was first installed or erected before the effective date, may continue to be maintained, repaired, altered, or replaced so long as the modifications do not enlarge the area of the electronic message center or make it more nonconforming under the standards of this Zoning Ordinance.

Sec. 109-154. Nonconforming Sites and Site Improvements

- (a) *Applicability.* This Section applies to any nonconforming site improvements.

- (1) A "Nonconforming Site Improvement" is a situation that occurs when, on the effective date:
 - a. An existing site plan feature on a lot (including but not limited to parking areas, storm drainage facilities, sidewalks, and landscaping) no longer conforms to the applicable regulations of this Zoning Ordinance; or
 - b. The lot does not include site plan improvement features required by this Zoning Ordinance for any existing use, building or structure on the lot.
 - (2) This Section does not apply to one-time repairs and renovations of less than 10% of the structural value of a structure or site improvements.
- (b) *Generally.* On lots with nonconforming site improvements, additions to, or exterior repairs or alterations of any building, structure or site improvement that increases the square footage by greater than 2,500 square feet or 25% (whichever is greater) are not allowed, unless:
- (1) The nonconforming site improvements are brought into complete conformity with the regulations applicable to the use, building, structure, or zoning district, or
 - (2) The activity is authorized by a site plan approved by the Planning Commission.
- (c) *Standards.* When an addition to, or repairs or alterations to, any structure or site improvement is proposed on a lot with a nonconforming site improvement, the Planning Commission may approve a site plan allowing the addition, repairs, or renovation if:
- (1) The nonconforming site improvement(s) is the only nonconformity pertaining to the property; and
 - (2) Compliance with the site improvement requirements applicable to the zoning district in which the property is located is not reasonably possible. Mere financial hardship does not constitute grounds for finding that compliance with the site improvement requirements are not reasonably possible; and
 - (3) The property can be developed as proposed without any significant adverse impact on surrounding properties or the public health or safety; and
 - (4) If needed, the owner commits to other site design measures to reduce negative impacts associated with the nonconformity or to accomplish the purpose of the required site improvement.

ARTICLE VII. ENFORCEMENT

Division 1. Introduction

Sec. 109-155. Generally

- (a) This Article establishes procedures the City uses to ensure compliance with the provisions of this Chapter and obtain corrections for violations. It also institutes the remedies and penalties that apply to Zoning Ordinance violations.
- (b) For any violation encompassed by this Article, the Planning and Development Department may issue a citation in District Court stating the alleged violation, the date of the violation, and the section of the Zoning Ordinance violated. Each day during which any violation of this Article occurs or continues is a separate offense and upon conviction is punishable as provided in this Article.

Sec. 109-156. Violations

Any of the following violates this Zoning Ordinance and is subject to the remedies and penalties provided for in this Article.

- (a) *Buildings or Structures.* To erect, construct, reconstruct, alter, repair, convert, or maintain a building or structure in a manner inconsistent with the requirements of this Zoning Ordinance or a condition of approval.
- (b) *Use of Land.* To use any land or premises in a manner inconsistent with the requirements of this Zoning Ordinance or a condition of approval.
- (c) *Establish a Use or Structure Without Permit or Approval.* To establish or place any use or structure upon land that is subject to this Zoning Ordinance without all of the approvals required by this Zoning Ordinance.
- (d) *Development Without Permit or Approval.* To engage in any development, construction, remodeling, or other activity of any nature upon land that is subject to this Zoning Ordinance without all of the approvals required by this Zoning Ordinance.
- (e) *Development, Use, or Sign Inconsistent with Permit.* To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required to engage in those activities.
- (f) *Development, Use, or Sign Inconsistent with Conditions of Approval.* To violate, by act or omission, any term, condition, or qualification placed by an approval authority upon any permit or other form of authorization.
- (g) *Development, Use, or Sign Inconsistent with this Zoning Ordinance.* To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure, or sign, or to engage in the development of any land in violation of any regulations of this Zoning Ordinance.

- (h) *Making Lots or Setbacks Nonconforming*. To reduce or diminish any lot area so that the lot size, setbacks, or open spaces are smaller than prescribed by this Zoning Ordinance.
- (i) *Increasing Intensity or Density of Use*. To increase the intensity or density of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Zoning Ordinance.
- (j) *Removing or Defacing Required Notice*. To remove, deface, obscure, or otherwise interfere with any notice required by this Zoning Ordinance.
- (k) *Failure to Remove Signs*. To fail to remove any sign installed, created, erected, or maintained in violation of this Zoning Ordinance or for which the sign permit has expired.
- (l) *Failure to Remove Fences*. To fail to remove any fence installed, created, erected, or maintained in violation of this Zoning Ordinance, or for which the fence permit has expired.
- (m) *Miscellaneous*. Any other action, or failure to act, that does not comply with a requirement of this Zoning Ordinance or a lawful condition of approval.

Sec. 109-157. Responsible Persons

- (a) Any person who violates this Zoning Ordinance is subject to the remedies and penalties expressed in this Article.
- (b) If a person causing a violation is a renter, lessor, or contractor, the Director may notify the owner and the renter, lessor, or contractor of the violation. The owner shall ensure that the renter, lessor, and/or contractor are aware of the violation and that the owner is ultimately responsible for ensuring that the violations are corrected.

Sec. 109-158. Enforcement Responsibility

The Director holds primary responsibility for enforcing all provisions of this Zoning Ordinance. Other City officials, designated by the Mayor, share responsibility for enforcing provisions of this Zoning Ordinance.

Sec. 109-159. Enforcement Procedures

- (a) *Remedies and Enforcement Powers*. The City has the following remedies and enforcement powers.
- (b) *Generally*. If Sec. 109-156. applies, the City may institute any appropriate action or proceedings:
 - (1) To prevent any unlawful erection, maintenance, or use;
 - (2) To restrain, correct, or abate the violation;
 - (3) To prevent the occupancy of a building, structure, or land; or
 - (4) To prevent any illegal act, conduct, business, or use in or about the premises.
- (c) Notice of Violation.

- (1) When any building or use is erected, constructed, built, reconstructed, altered, or maintained in violation of this Zoning Ordinance, the property owner, other responsible party, property owner, lessee, management, or tenant shall be served with a written notice that states the violation and requires compliance with this Zoning Ordinance no more than ten (10) days from service.
 - (2) The notice may be served in person or by depositing the same as certified in the United States Postal Service addressed to the property owner at the owner's address (i.e., as shown on the most current tax roll of the City), or the tenant (i.e., as shown on the utility billing records of the City). If the City mails the notice to the property owner and the U.S. Postal Office returns it as "refused" or "unclaimed" the validity of the notice is not affected, and the notice is considered delivered.
- (d) **Withhold Permit.**
- (1) The City may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements after determining there is an uncorrected violation of a Zoning Ordinance provision or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question.
 - (2) The City may deny or withhold all permits, certificates, or other forms of authorization on any land, structure, or improvements owned or being developed by a person who owns, developed, or otherwise caused an uncorrected violation of a Zoning Ordinance provision or a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City. This provision applies regardless of whether the property for which the permit or other approval is sought is the property in violation.
- (e) *Permits Approved with Conditions.* Instead of withholding or denying a permit or other authorization, the City may grant authorization subject to a corrected violation condition.
- (f) *Revoke Permits.* Any development permit or other form of authorization required in this Zoning Ordinance may be revoked, including revocation of a building permit or certificate of occupancy.
- (g) *Stop Work.* With or without revoking permits, the City may stop work on any building or structure on any land on which there is an uncorrected violation of Zoning Ordinance provision or of a permit or other form of authorization issued, in accordance with its power to stop work.
- (h) *Injunctive Relief.* The City may seek an injunction or other equitable relief in court to stop any violation of this Zoning Ordinance or of a permit, certificate, or other form of authorization granted.
- (i) *Abatement.* The City may seek a court order in the nature of mandamus, abatement, , or other action or proceeding to abate or remove a violation or otherwise restore the premises in question to the condition in which they existed prior to the violation.

- (j) *Civil Action and Administrative Adjudication*. The City may enforce the provisions of this Zoning Ordinance through civil action.
- (k) *Withhold Public Services*
 - (1) The City may withhold any public services until all rules, regulations, and requirements of this Zoning Ordinance and the Subdivision Regulations have been met.
 - (2) Unless a plan, permit, plat, or replat is approved in the manner and by the authorities provided for in this Zoning Ordinance, it is unlawful within the area covered by the plan, permit, plat, or replat for any officials representing the City to serve or connect that land to any public utility owned, controlled, or distributed by the City for the use of the owners or purchasers of the plat or plan.
- (l) *Other Remedies*. The City may have other remedies provided by law for Zoning Ordinance violations.
- (m) *Other Powers*. In addition to the enforcement powers specified in this Article, the City may exercise any and all enforcement powers granted by law.
- (n) *Continuation*. Nothing in this Zoning Ordinance prohibits the continuation of previous enforcement actions undertaken by the City under previous and valid ordinances and laws.

Division 2. Remedies and Penalties

Sec. 109-160. Cumulative Remedies

The remedies and enforcement powers established in this Article are cumulative, and the City may exercise them in any order or combination at any time.

Sec. 109-161. Penalties

Any person or corporation who violates any of the Zoning Ordinance provisions or fails to comply with any of the requirements, or who builds or alters any building or use in violation of any detailed statement or plan submitted and approved, is guilty of a misdemeanor punishable as provided in Subsections a through c below.

- (a) The owner or owners or tenant of any building or premises or part, where anything in violation of this Zoning Ordinance exists, and any architect, builder, contractor, agent, person, or corporation employed in connection and who may have assisted in the commission of any Zoning Ordinance violation are guilty of a separate offense punishable under this Section.
- (b) A person who violates any provision of this Zoning Ordinance by performing a prohibited act or by failing to perform an act required is guilty of a misdemeanor. Each day on which a violation exists or continues to exist is a separate offense.
- (c) If the definition of an offense under this Division does not prescribe a culpable mental state, then a culpable mental state is not required. This offense is punishable by a \$500 maximum fine. Although not required, if a culpable mental state is alleged in the charge of

the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, this offense is punishable by a \$1,000 maximum fine.

ARTICLE VIII. ADMINISTRATION

Division 1. Introduction

Sec. 109-162. Generally

This Article introduces and establishes decision-making bodies (approval authorities), describes their composition, and summarizes their authority. Administrative and decision-making bodies and personnel are classified into two categories, as established in Division 2. and Division 3. of this Article.

Division 2. Quasi-Legislative Bodies and Personnel

Sec. 109-163. City Council

The City Council serves as a decision-making body responsible to the Mayor and the City's residents. The City Council is established in [Chapter 2](#) of the City Code of Ordinances and shall follow those regulations, as applicable.

Sec. 109-164. Planning Commission

- (a) The Planning Commission serves as a recommendation and decision-making body responsible to the Mayor and the City's residents. The Planning Commission is established in [Sec. 101-3](#) of the City Code of Ordinances and shall follow those regulations, as applicable.
- (b) The Planning Commission also serves as the Board of Zoning Adjustment and shall follow the regulations, powers, and duties provided in Sec. 109-165. .

Sec. 109-165. Board of Zoning Adjustment

- (a) Generally
 - (1) Pursuant to the authority provided in [A.C.A. § 14-56-416](#), the Planning Commission as a whole serves as the Board of Zoning Adjustment.
 - (b) *Powers and Duties.* The Board of Zoning Adjustment shall have all powers and duties prescribed by Arkansas State law and by this Article, which are more particularly described as follows:
 - (1) *Appeal of Interpretation.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Director, who has enforcement powers in the enforcement of this Chapter. The Board of Zoning Adjustment may affirm or reverse, in whole or in part, the Director's decision.
 - (2) *Variances.* To hear and decide requests for variances from the literal provisions of this Chapter in instances where strict enforcement of this Chapter would cause undue hardship due to circumstances unique to the individual property under consideration,

and to grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of this Chapter.

- (3) *Determination of Zoning District Boundaries.* In addition to the powers and duties specified above, the Board of Zoning Adjustment, shall also have the powers and duties to hold public hearings and to interpret zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground are at variance with those shown on the zoning district map.

Division 3. Administrative Bodies and Personnel

Sec. 109-166. Planning and Development Department

The Planning and Development Department serves as an administrative and staff decision-making body responsible to the Mayor, City Council, Planning Commission, and Board of Zoning Adjustment. The Planning and Development Department and the Director have authority for processing proposals to change the text and map of this Zoning Ordinance and for processing plans, applications, special permits, and certificates.

Sec. 109-167. Director

The Director has the following duties and responsibilities:

- (a) To advise the Mayor on any matter affecting the physical development of the City.
- (b) To formulate and recommend to the Mayor a comprehensive plan and modifications.
- (c) To review and make recommendations regarding proposed City Council action implementing the Comprehensive Plan.
- (d) To participate in capital improvement program preparations and revisions.
- (e) To advise the Planning Commission in the exercise of its responsibilities and to provide necessary staff assistance.
- (f) To keep the official zoning map current and the copies, by entering any changes that the City Council may order by amendments to the Zoning Ordinance and Map.
- (g) To serve as the chair of the Development Review Team.
- (h) To investigate complaints about violations of this Zoning Ordinance.
- (i) To provide written notification to the person responsible for zoning violation(s), ordering the necessary action to correct violations, and order:
 - (1) Discontinuance of illegal uses of land, buildings, or structures.
 - (2) Removal of illegal buildings or structures or illegal additions or structural additions.
 - (3) Discontinuance of any illegal work.
- (j) To provide any other action authorized by this Zoning Ordinance to ensure compliance with or to prevent violation(s).

Sec. 109-168. Development Review Team

- (a) *Purpose.* The purpose of the Development Review Team is to assist an applicant prior to the submittal of an application, to coordinate the technical aspects of development, and to advise the Mayor concerning planning and development issues.
- (b) *Organization.*
 - (1) The Development Review Team is composed of the following departments, members, or their representatives:
 - a. The Planning and Development Department
 - b. The Fire and EMS Department
 - (2) The Director is the chair of the Development Review Team and shall be responsible for coordinating pre-application conferences, handling application submittals, and levying decisions on administrative-approval applications.
- (c) *Additional Assistance.* The Development Review Team may request the assistance of other staff members and agency representatives.

ARTICLE IX. DEFINITIONS

Division 1. Introduction

Sec. 109-169. General Interpretation Meanings

(a) *Usage and Interpretation Rules.* For the purposes of this Zoning Ordinance, certain terms or words are interpreted or defined as follows:

- (1) Words and terms defined in this Zoning Ordinance have the specific meanings assigned unless the context clearly indicates another meaning.
- (2) The words “must,” “will,” “shall,” and “may not” are mandatory.
- (3) The word “may” is permissive, not mandatory or required.
- (4) When used with numbers, “up to x,” “not more than x,” and “a maximum of x,” all include “x.”
- (5) Words used in the present tense include the future tense.
- (6) The singular includes the plural.
- (7) The word “person” includes a corporation, trust, individual, group of individuals, and any other similar entities.
- (8) The words “used” and “occupied” also include “intended use or arranged to be used or occupied.”
- (9) All references in these Subdivision Regulations are to be interpreted as referring to the most up-to-date version and citation for those regulations, unless otherwise expressly indicated.
- (10) A reference to an elected or appointed official of the City includes a designee of that official.
- (11) The particular shall control the general.
- (12) The text of this Zoning Ordinance shall control in cases where the text differs in meaning or implication from any chart, graph, illustration, or table.
- (13) The terms “building” and “structure” are synonymous and include any part thereof.
- (14) The terms “lot”, “parcel”, and “tract” may be used interchangeably.
- (15) The term “City” means the areas of jurisdiction of the City of Bella Vista, Arkansas.
- (16) All public officials, bodies, and agencies to which reference is made are those of the City of Bella Vista, Arkansas, unless specified otherwise.
- (17) The term “permitted/allowed” or “permitted/allowed by right” means permitted without meeting the requirements for a conditional use permit or site plan.
- (18) When the calculation of a number for a required standard results in a fraction, that fraction is rounded up to the nearest whole number.

Sec. 109-170. Words and Terms Not Expressly Defined

Words and terms not expressly defined in this Zoning Ordinance are to be construed according to the normally accepted meaning of those words or terms in the practice of planning and engineering, as defined by The American Planning Association Planner's Dictionary. Where no definition appears in this Zoning Ordinance nor in the Planner's Dictionary, words and terms shall be construed according to their normally and customarily accepted meaning.

Division 2. Defined Terms

Sec. 109-171. General Definitions

(a) A Terms

Abrogate

To formally repeal or annul a law, regulation, or agreement, often within the context of superseding existing zoning or building regulations.

Access Route

A continuous, uninterrupted vehicular travel way that begins as a departure from a collector (including sub-collectors), minor arterial, or major arterial, as defined in the master street plan, and extends to the nearest point of each lot occupied by a residential unit or residential units, or, in the case of a single lot multifamily development, to the paved point nearest to each building housing residential units. These access routes must be in the form of dedicated street rights-of-way, except for access routes within single-lot multifamily developments, which may take the form of private drives upon the one lot. Required access routes shall not overlap.

Aggrieved Party

A person, body, or group of people who has been affected by an act made by an approval authority.

Alteration

Any change, addition, or modification to the structural parts or configuration of an existing building, including interior or exterior modifications.

Amenity

Specific items for multi-family or mixed-use development that provide opportunities for residents or the public to participate in on-site leisure or recreational activities.

Annul

To declare invalid or void, often referring to the official cancellation or invalidation of a permit, agreement, or ordinance.

Applicant

The person(s) who legally owns the subject property, or any person(s) showing written verification that they are acting for, and with the knowledge and consent of, the person(s) who legally owns the subject property. This term may be referred to interchangeably as the “property owner” or “developer”.

Application

A written request to the City for development approval required by this Zoning Ordinance.

Approval Authority

The person or body responsible for reviewing and acting on a development application. An approval authority may also be referred to as a decision-making body.

Arch

A curved structural element that spans an opening and supports the weight above it, commonly used in building design and architecture.

Attached Sign

The permanent sign subcategory that includes all of those sign types that are affixed to a building or structure, including wall signs, roof signs, suspended signs, grounded canopy signs, awning signs, marquee signs, and projecting signs.

Awning Sign

A permanent, attached sign painted, printed, attached, or otherwise applied to any facet of the covering or frame structure of an awning or attached structural canopy.

(b) B Terms

Balcony

An elevated platform projecting from the wall of a building and enclosed by a railing, balustrade, or parapet.

Base Course

The lowest or bottom layer of a structure, often referring to the foundation layer of a pavement or building that provides stability and support.

Board of Zoning Adjustment

The City of Bella Vista’s appointed Board of Zoning Adjustment.

Bracket

A projecting element, often decorative, used to support a weight or load, such as an overhanging roof, balcony, or shelf.

Buffer Strip

A designated area of land that separates and provides a visual and physical barrier between different land uses, such as residential and commercial areas, to reduce the impact of noise, glare, and other potential nuisances.

Building

Any structure built for the support, shelter, or enclosure of persons, chattels, or moveable property of any kind. When such structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards required side yards and side setbacks.

Building Footprint

The area of ground covered by a building as measured along its outer perimeter, excluding any projections such as balconies, canopies, or eaves.

Building Height

The vertical distance as measured through the highest point in the structure from the grade or foundation of the ground floor..

(c) C Terms

Certified Arborist

A licensed International Society of Arboriculture (ISA) arborist registered in the State of Arkansas.

Changeable Copy

A sign feature that accommodates a sign's message change.

City

The City of Bella Vista, Arkansas, unless expressly stated otherwise.

City Administrative Office

The office/building(s) of the City of Bella Vista, Arkansas where elected officials and City staff conduct City operations.

City Clerk

The appointed Clerk of the City of Bella Vista, Arkansas.

City Council

The duly elected governing body of the City of Bella Vista, Arkansas.

City Development Calendar

The posted schedule that outlines important dates and deadlines related to City planning, zoning, and development activities and approvals.

City Engineer

A licensed professional engineer, or firm of licensed professional consulting engineers, that has been specifically employed by the City to assist in engineering-related matters.

Completeness

The part of the application submittal process where an application has met all of the required submittal items for formal review by a City staff.

Comprehensive Plan

The long-range planning and development policy of the City of Bella Vista, as adopted by the City Council, including Bella Vista Comp Plan 2040 and all amended or future iterations thereof.

Construction

The process of constructing a new building or structure, including the assembly and installation of its components and systems.

Content Neutrality

A principle in sign regulation that requires regulations to be applied uniformly without regard to the content of the sign's message.

Corner Side Yard

A yard abutting a street on a corner lot perpendicular to where the primary building entrance is to be located.

Cornice

The uppermost member of a classical entablature, consisting typically of a cymatium, corona, and bed molding.

Corporate Limits

The defined boundaries of the City of Bella Vista within which its jurisdiction and regulatory authority apply.

Covenants

Legally binding agreements or restrictions placed on property, often found in deeds, that dictate certain uses, improvements, or prohibitions to maintain consistency and standards within a development.

(d) D Terms

DBH

The abbreviation for diameter at breast height that measures the caliper of a tree.

Deciduous Tree

Any plant with an elongated, bark-covered trunk supporting branches and leaves whose foliage changes color and falls from the tree, and subsequently regrows, throughout the year.

Density

The intensity of development in a given area, expressed as the number of dwelling units per acre or the floor area ration (FAR), indicating the concentration of buildings or population.

Detached Sign

The permanent sign subcategory that includes all of those sign types that are freestanding on a lot or area, including monument signs, pole signs, and subdivision entry signs.

Developer

See “applicant”.

Development Review Team

The designated persons and entities within the City who are responsible for reviewing development applications and providing recommendations to the Planning Commission.

Director

A person hired or appointed to supervise or oversee the City’s Planning and Development Department, and to exercise the authority of the Director. This includes the Director’s designee.

Dormer

An opening in a sloping roof, the framing of which projects out to form a vertical wall suitable for windows or other openings.

(e) E Terms

Easements

Legal rights granted to use a portion of another’s property for a specific purpose, such as utilities, access, or drainage, without owning it.

Electronic Message Center (EMC)

A sign that displays a digital copy, including any illuminated sign on which the illumination is not kept stationary or constant in intensity and color when the sign is in use, including any light emitting diode (LED) or digital panel, and which varies in color or intensity. Electronic message centers are also referred to as digital signs, dynamic signs, or changeable electronic variable message signs (CEVMS).

Encroachment

The overlapping of a boundary or setback by a physical item such as an awning, canopy, porch, etc.

Evergreen Tree

Any plant with an elongated, bark-covered trunk supporting branches and leaves whose foliage remains green and functional throughout the year.

(f) F Terms

FAA

The acronym for the U.S. government agency which regulates civil aviation.

Façade

The exterior of a building.

Façade Plan

An independent plan that is a part of the site plan process that shows a site's proposed building façades/elevations, including window and door details.

Family

See "household".

FCC

The acronym for the U.S. government agency that regulates communications by radio, television, wire, satellite, and cable.

Federal

The association of anything pertaining to the Government of the United States of America.

Fence

A permanent barrier that is not a screen but offers privacy between uses.

Fenestration

The design, proportioning, and disposition of windows and other exterior openings of a building.

Financial Guarantee

An instrument warranting the initial placement and construction of required improvements or subsequent maintenance of those improvements, taking the form of a cash deposit or cashier's check, irrevocable letter of credit, or bond issued by a surety company authorized to do business in the State of Arkansas.

Fire Marshal

The hired or appointed fire inspector(s) of the City of Bella Vista, as well as officers of the Benton County Fire Marshal's Office, and the State of Arkansas Division of Emergency Management's State Fire Marshal's Office.

Floodplain

The land adjoining the channel of a river, stream, or watercourse that has been or may be covered by floodwater. Any land covered by the water of a 100-year frequency storm is considered in the floodplain and must comply with the subdivision regulations and other relevant regulations of the City.

Floodway

An area regulated by federal, state, or local requirements to provide for discharge for the base flow, so that the cumulative increase in water surface elevation is no more than a designated amount within the 100-year floodplain. A river, channel, or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Normally, the floodway will include the stream channel and that portion of the adjacent land areas required to pass the base flood (100-year flood) discharge without cumulatively increasing the water surface elevation at any point more than one foot above that of the pre-floodway condition, including those designated on the flood insurance rate map.

Footcandle

One lumen per square foot. Unit of illuminance. It is the luminous flux per unit area in the Imperial system. One footcandle equals approximately 10 (10.76) lux.

Frontage

The length of a property line of any one premise abutting and parallel to a public street, private way, or court from which access is permitted.

Front Yard

A yard across the full width of the lot, extending from the front line of the primary building to the front property line.

(g) G Terms

Gable

The triangular portion of a building's end wall that extends from the eaves to the peak of the roof, often containing windows and contributing to architectural style.

Gate

An opening in a fence/wall that allows access to and from the property/area in which it is located.

General Incidental Sign

A small permanent sign other than a flag, speaker board, or walk-up board, that is detached or attached to a building that is in addition to the primary sign types for the property, such as detached signs and attached signs, and that has a height and scale that is clearly subordinate to the primary sign types allowed for the property.

Glare

The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility; blinding light. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

Grade

The top surface elevation of yards, lawns, walks, drives, or other improved surface after completion of construction or grading operation.

Green Space

Areas that are devoid of hard or impervious surfaces such as building, driveways, and sidewalks. The term "green space" includes yards, lawns, landscaping beds, and other natural vegetation but excludes areas utilized for stormwater detention or retention.

Grounded Canopy

A permanent structure that is structurally independent of a building affixed to the ground, that is of rigid construction, and over which a covering is attached that provides weather protection, identity, or decoration.

Grounded Canopy Sign

A permanent, attached sign that is affixed to a grounded canopy.

(h) H Terms

Household

One or more persons occupying a dwelling unit on a long-term basis, typically for more than thirty (30) consecutive days.

(i) I Terms

Improvement

Any betterment of existing conditions of land such as, but not limited to, streets, curbs, gutters, sidewalks, trails, pavement, pedestrian ways, water mains, storm sewers, signs, monuments, landscaping, streetlights, fire hydrants, or other actions resulting in permanent changes in the condition of the land.

Incidental Sign

Signs that are normally incidental, ancillary, or secondary to the allowed use of a property.

Inclement Weather

Adverse, dangerous, or problematic weather conditions, such as heavy rain, snow, sleet, hail, strong wind, earthquakes, or extreme temperatures, resulting in significant or catastrophic damage.

Infill Development

The development or redevelopment of a vacant, underutilized, or previously developed lot that is served by existing public infrastructure, including roads, water, and sewer.

IESNA

The acronym for the Illuminating Engineering Society of North America (IESNA).

Initiation

The formal commencement of a process or procedure within the context of zoning and land use, such as the submission of an application for development, rezoning, or a variance request, marking the starting point for official review and consideration by the Development Review Team.

Insubstantial Change

A site plan approval change that becomes necessary during the use's construction or actual implementation, which could not be reasonably anticipated during its review, and that does not significantly change the original approval granted.

Intersection Visibility Triangle

The triangular-shaped area at the intersection of two streets that must be kept clear to ensure visibility at the intersection.

Interior Landscaping

Any landscaping or landscaped area within a site, exclusive of required perimeter landscaping.

Interior Parking Lot Landscaping

On-site planting areas within and adjacent to parking areas.

(j) J Terms (Reserved)

(k) K Terms

Kelvin

A unit of measurement for temperature used in lighting to describe the color temperature of a light source, indicating whether the light appears more yellow, or warm, or more blue, or cool.

Keystone

The central, often decorative, wedge-shaped stone or element at the apex of an arch that locks the other stones into position.

(l) L Terms

Landscaped Area

The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including, but not limited to, grass, trees, shrubs, vines, ground cover, and other organic plant materials, or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

Landscape Plan

An independent plan that is a part of the site plan process that shows a site's required or proposed landscaping.

LED

The acronym for light-emitting diode.

Licensed Architect

A qualified architect registered in the State of Arkansas who possesses specific credentials/designations such as AIA, NCARB, and the like.

Licensed Engineer

A qualified engineer registered in the State of Arkansas who possesses specific credentials/designations such as PE, ASCE, ITE, and the like.

Licensed Landscape Architect

A qualified landscape architect registered in the State of Arkansas who possesses specific credentials/designations such as ASLA, NCARB, CLARB, and the like.

Lighting Plan

An independent plan that is a part of the site plan process that shows a site's required or proposed outdoor site lighting.

Light Trespass

Light falling where it is not wanted or needed, typically across property boundaries.

Livestock

Animals that are kept or raised for use or pleasure, especially farm animals. The term "livestock" does not include wild animals or exotic animals. The term "livestock" includes, but is not limited to:

- The species *Equus caballus* (domestic horse);
- The species *Equus asinus* (asses/donkeys);
- The species *Bos Taurus* (cattle);
- The subspecies *Ovis ammon aries* (sheep);
- The species *Capra hircus* (goats);
- The subspecies *Sus scrofa domestica* (swine);
- Domesticated races of the species *Gallus* or *Meleagris gallopavo* (poultry);
- Domesticated races of the species *Oryctolagus cuniculus* (rabbits); and
- All captive-bred members of the families *Anatidae* (ducks) and *Columbidae* (doves and pigeons).

Loading Space/Area/Zone

The off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.

Lot

A parcel of land, legally defined in a recorded deed or a recorded plat, fronting on a public dedicated right-of-way or other approved private drive. The lot shall not be divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of use or structure. A lot shall establish

one building site and comply with all subdivision rules and regulations of the City. This term may be interchangeable with the terms parcel or tract.

Lot Area

The total land area contained within the property lines of a properly subdivided lot.

Lot Coverage

The percentage of lot area occupied by impermeable surfaces, including footprints of principal and accessory structures, as well as paved or otherwise improved surfaces such as driveways and patios.

Lot Depth

The average horizontal distance between the front and rear lot lines.

Lot Line

See “property line”.

Lot of Record

A parcel of land that is a lot in a subdivision recorded on the records of the Benton County circuit clerk's office, or that is described by a metes and bounds description which has been so recorded prior to the subdivision regulations in effect, or lots exempt from those regulations.

Lot Width

The average horizontal distance between the side lot lines of a lot measured at right angles to the depth or the same distance measured at the front building line.

Louver

A window blind or shutter with horizontal slats angled to let in light and air, but keep out the rain, direct sunshine, and noise.

Lumens

A unit of measurement for the total amount of visible light emitted by a source, used to quantify the brightness of a light fixture.

Luminaire

A complete lighting unit consisting of a light source, along with components designed to distribute light, position and protect the light source, and connect it to a power supply.

(m) M Terms

Maintenance

The upkeep, care, repair, conservation, and/or preservation of the physical structures, facilities, and other improvements relating to the continued appearance, safety, health, and general condition of a property.

Major Revisions

Any revision(s) that exceeds the conditions of a minor revision, and which the Director determines is not a minor revision. A major revision constitutes a new application submittal.

Mansard Roof

A four-sided roof with a double slope on each side, with the lower slope being steeper than the upper, or any fixture extending from the roofline or above, down the wall of a building such that it opaquely covers half or more of the underlying façade of the building.

Marquee Sign

A permanent, attached sign affixed to a marquee.

Metal

Any material primarily composed of one or more metallic elements or alloys thereof, including ferrous metals, non-ferrous metals, and metal-composite materials, and including but not limited to aluminum, brass, bronze, copper, gold, iron, silver, steel, tin, titanium, tungsten, and zinc.

Minor Modification

Adjustments to the specific standards of the zoning ordinance granted during the review and approval process for a development, including improvements to existing structures or site features. These modifications ensure compliance with the ordinance's purpose and intent, accommodate site-specific development challenges, and allow for flexibility in applying standards in a manner consistent with the City's Comprehensive Plan, while achieving substantially equivalent outcomes to the original requirements.

Minor Revisions

Those revisions that are necessary in light of technical considerations discovered after the decision on the development application, and which do not substantively change the character of the development approval.

Mixed-use Development

A development intended to provide a harmonious and complementary mixture of residential and nonresidential uses within one building or one area with cohesive access and design features.

Molding

A decorative strip of wood used for architectural purposes.

Monument Sign

A permanent, detached sign mounted to a solid base support at ground level with no open space between the bottom of the sign and the ground.

Motor Vehicle

All forms of motor vehicles including, buses, trucks, trailers and any other constructed or manufactured device utilized for carrying and moving property or persons along public rights-of-way.

Moveable Sleeping Quarters

Any portable unit designed for temporary accommodation, including recreational vehicles, travel trailers, campers, and similar transportable structures, which are equipped with sleeping facilities and may be equipped with cooking and sanitation facilities.

Mullion

A vertical or horizontal element that divides adjacent window units or panes, providing structural support and contributing to the window's design.

Multi-family Development

A development intended to provide higher-density residential structures.

Muntin

A strip or bar that separates and holds individual panes of glass within a window sash, contributing to the window's pattern and design.

(n) N Terms

Nonconformities

The collective term for all nonconforming situations.

Nonconforming Lot

A lot that does not conform to the regulations of this zoning ordinance, but that was lawfully established under the regulations in force at the time the lot was established and which has been in regular operation and occupancy since that time.

Nonconforming Sign

Any such display, device, or structure which does not conform to the regulations of this ordinance, but that was lawfully installed or constructed under the regulations in force at the time of its establishment, and which has been incidental to a structure or use which has been in regular operation and occupancy since that time.

Nonconforming Site Improvement

A site plan improvement, such as landscaping, parking, setbacks, or others, that does not conform to the regulations of this zoning ordinance, but that was lawfully established under the regulations in force at the time the site plan was approved and which has been in regular operation and occupancy since that time.

Nonconforming Structure

A building or structure, or portion thereof, that does not conform to the regulations of this zoning ordinance, but that was lawfully constructed under the regulations in force at the time of construction.

Nonconforming Use

A use that does not conform to the use regulations of this zoning ordinance, but that was lawfully established under the regulations in force at the time the use was established and which has been in regular operation and occupancy since that time.

Nonresidential Development

A development intended to provide primarily commercial, industrial, agricultural, or civic uses and structures.

Nonresidential Zoning District

Any of the zoning districts established as nonresidential zoning districts in Article II. , 0 of this Chapter, including Commercial Recreation, Neighborhood Commercial, Local Commercial, and Industrial Activity, as well as the Planned Zoning District. The intent of these districts is to accommodate nonresidential development.

Nuisance

An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

(o) O Terms

Offset

A specified projection or recession that runs vertically along the entirety of a building wall.

Opaque

Any material that is not transparent.

Oriel

A bay window projecting from an upper story of a building, supported from below by corbels or brackets.

(p) P Terms

Parapet

A low wall or barrier at the edge of a roof, balcony, or terrace, providing safety, privacy, and often contributing to the building's aesthetic.

Parking Plan

An independent plan that is a part of the site plan process that shows a site's required or proposed parking.

Perimeter Landscaping/Perimeter Landscaped Area

A peripheral planting strip along rear and side lot lines that separates uses.

Permanent Sign

The sign category that includes all detached, attached, and incidental signs which are to be erected and maintained for an unspecified time.

Person

An individual, company, joint stock company, firm, proprietorship, business, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, co-partnership, association, and any other legal entity or their legal representatives, agents or assigns. Notwithstanding any other provision of the Chapter, each and every Chapter provision – including but not limited to every prohibition, requirement, and penalty – applies to both natural persons and corporations, partnerships, and all other legal entities or organizations.

Planning Commission

The City of Bella Vista's appointed Planning Commission.

Planting Islands

Landscaped areas within parking lots or paved surfaces designed to break up large expanses of pavement, provide greenery, and aid in stormwater management.

Plinth Course

The bottom course or layer of a building's foundation, often projecting outward slightly and providing a base for the structure above.

Pole Sign

A permanent, detached sign in which the sign face is mounted on one (1) or more poles/pillars and the base of the sign face is situated above the ground, leaving an open space between sign face and the ground.

Porte-cochere

A covered entrance or gateway through which vehicles can pass, typically leading to a courtyard or building entrance, offering protection from the elements.

Pre-Application Conference (PAC)

An informational meeting in which an applicant and members of the Development Review Team may discuss the characteristics of a proposed development, its alignment with established and adopted City policies, plans, and regulations, and procedures to continue the development application process.

Projecting Sign

A permanent, attached sign type that is affixed to and projects a foot or more from the wall of a building and is generally perpendicular to the building façade.

Property Line

The line(s) of recorded lot that bounds and delineates one lot from another or a lot from a public or private street right-of-way or easement.

Property Owner

See “applicant”.

(q) Q Terms

Qualified Design Professional

Any licensed professional in the field of engineering, planning, architecture, geography, landscape architecture, or similar field.

Quoin

An external solid angle of a wall, or one of the stones forming such an angle, usually differentiated from the adjoining surfaces by material, texture, color, size, or projection.

(r) R Terms

Rear Yard

A yard across the full width of the lot, extending from the rear line of the primary building or of any accessory structures to the rear property line.

Registered Surveyor

A qualified surveyor registered in the State of Arkansas.

Residential Development

A development intended to provide primarily residential uses and structures.

Reconstruction

The process of rebuilding or restoring a building or structure to its original or improved condition after it has been damaged or demolished.

Refuse Facility

A facility or container used for, but not limited to, receiving garbage designed and intended to be lifted by forks or other device mounted on a vehicle and the contents emptied into that part of the vehicle designed to receive the same. An enclosure may be associated with the refuse container. An enclosure is an outdoor structure that encloses a dumpster or trash receptacle.

Relocation

The process of moving a building or structure from one location to another, including the necessary preparatory and reassembly work.

Residential Zoning District

Any of the zoning districts established as residential zoning districts in Article II. , Division 2. of this Chapter, including Nature Preservation, Agricultural Preservation, Residential Estate, Low Density Residential, Moderate Density Residential, and Mixed Residential. The intent of these districts is to accommodate residential development.

Rezoning

An amendment to the Official Zoning Map to effect a zoning district change on a property.

Right-of-Way (ROW)

A strip of land, generally linear, occupied or intended to be occupied by a system that conveys people, traffic, fluids, utilities, or energy from one point to another. Rights-of-way may include streets and roads, crosswalks, bicycle paths, recreational trails, railroads or fixed guideway transit, electric transmission lines, gas pipelines, water mains, or sewer mains.

Roof

The external upper covering of a building, including the frame for supporting the roofing.

Roof Sign

A permanent, attached sign lower than the roof peak of the building to which it is attached.

(s) S Terms

Screen

A barrier of permanent material of sufficient height and density so that the objects being screened are not visible from any point on the lot line when viewed from the ground level.

Setback

A line which defines an open, unobstructed area that is required to be provided between a property line and any buildings, structures, or certain other improvements to a property.

Shade Tree

A tree planted or preserved for the primary purpose of providing shade and reducing solar heat gain, typically located near buildings or throughout outdoor spaces to increase comfort, improve energy efficiency, and enhance the aesthetic quality of the area.

Shutter

A hinged cover or panel, typically made of wood or other materials, that can be closed over a window for security, privacy, and protection from the elements.

Side Yard

A yard between the primary building and the adjacent side property line, and extending entirely from the front yard to the rear yard.

Sign

A visual display of an object or device that includes elements such as colors, lights, motion, symbols, images, icons, letters, numerals, figures, characters, or combines any of those elements, that is intended to communicate, advertise, identify, announce, direct, inform, or attract attention and that is visible from a public right-of-way. The term "sign" includes a structure used to support or display a sign.

Sign Area

The measurement where all portions of a sign are contained.

Sign Face

The area of the sign where the contents are displayed.

Sign Height

The vertical distance measured from the highest point of a sign to the ground or lowest grade beneath the sign.

Sign Permit

A permit authorizing the erection or maintenance of a sign pursuant to this Zoning Ordinance.

Sign Structure

Any combination of materials to form a construction for the purpose of attaching, fixing, or otherwise supporting a sign, whether installed on, above, or below the surface of the lot, a building, or any other solid surface.

Single-support Pole Sign

A detached sign or group of signs mounted on a single vertical support, typically a pole, column, or similar structure, where the entire sign or sign panel is elevated above ground level.

Site Plan

A detailed, scaled drawing of all surface improvements, structures, uses, and utilities proposed for development.

Speaker Board

A professionally constructed and installed sign made of a durable, weather-resistant product such as metal or high-density plastic and may include a two-way speaker system for ordering from a vehicle in a drive-through lane provided the volume of the speaker does not exceed ambient noise conditions as measured at the property line.

Stadium Lighting

High-intensity artificial lighting designed to illuminate large outdoor or indoor sports venues, ensuring adequate visibility for participants and spectators during events, typically mounted on tall poles or structures to provide uniform light distribution over the playing area.

Steep Slope

Those instances where at least twenty-five percent (25%) of a lot's total lot area contains slopes that have a grade of eight percent (8%) or greater.

Steep Slopes Plan

An independent plan that is a part of the site plan process where the development of steep slopes is involved that shows a site's steep slopes and proposed area of disturbance.

Story

A 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 no floor above it, then the space between the floor and the ceiling next above it.

Street

Any public or private thoroughfare which affords the principal means of access to abutting property. Public thoroughfares are typically strips of land dedicated by plat, deed, or other legal record of a defined width whose limits are referred to as right-of-way lines.

Street Frontage Buffer

A landscaped or planting area parallel to a public street right-of-way.

Subdivision Entry Sign

A permanent, detached specific monument sign located at the entry of a platted subdivision from a street.

Suspended Sign

A permanent, attached sign which is attached to the underside of a horizontal plane or arm and is supported by the horizontal plane.

(t) T Terms

Temporary Sign

Any such display, device, or structure which is installed for a specified and impermanent duration.

Temporary Use

A use granted on a discretionary, conditional, and temporary basis which authorizes a land use in a zoning district in which that use is not normally permitted.

Tenant

A distinct user that occupies a portion of a building, lot, or development, regardless of the legal arrangement allowing occupancy between the owner of the building, lot, or development and the user.

Type A Screen

An opaque screen structure which intends to exclude all visual contact between uses and to create a strong impression of spatial separation.

Type B Screen

A semi-opaque screen structure which intends to partially block visual contact between uses and to create a strong impression of the separation of spaces.

Type C Screen

A broken screen structure which intends to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces.

(u) U Terms (Reserved)

(v) V Terms

Variance

An adjustment in application of the specific standards of this Zoning Ordinance to a particular property which, because of special conditions or circumstances peculiar to the property, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other properties in the same vicinity and zoning district.

Violation

The failure of a lot, structure, or development to be fully compliant with this Zoning Ordinance, the City's Code of Ordinances, state laws, and federal laws.

(w) W Terms

Walk-Up Board

A sign mounted near the sidewalk entrance to a building or affixed to a building wall where the sign is visible to pedestrian traffic.

Wall Sign

A permanent, attached sign painted on or affixed to the wall or surface of a building or display surface which is parallel to the supporting surface.

Water Body

Any significant accumulation of water including, but not limited to, lakes, reservoirs, ponds, rivers, and streams.

Water's Edge

For stationary bodies of water, such as lakes, pond, and reservoirs, the ordinary high water mark for the body of water. For moving bodies of water, such as rivers and streams, the water's edge is defined by top of the watercourse's embankment.

Window Sign

A sign affixed to or displayed within the windows of a building while also allowing visibility into and out of the interior space.

(x) X Terms (Reserved)

(y) Y Terms

Yard

An actual (as opposed to required) open, unoccupied space that exists on a lot between a building and a lot line.

(z) Z Terms

Zoning District Boundary

The line which separates different zoning districts.

Zoning District

A portion of the territory of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of the City's zoning ordinance as amended.

Zoning Map

The official map of the City of Bella Vista upon which the boundaries of the various zoning districts are drawn, and which is an integral part of the Zoning Ordinance, which may also be cited as the "Official Zoning Map".

Zoning Ordinance

The City of Bella Vista's zoning regulations as codified in Chapter 109 of its Code of Ordinances, as amended, as well as ordinances not codified in Chapter 109 that zone or rezone particular tracts of property.

Sec. 109-172. Land Use Definitions

(a) Residential Use Definitions

Assisted Living

Any building or buildings, section or distinct part of a building, boarding home, home for the aged or other residential facility whether operated for profit or not that undertakes through its ownership or management to provide assisted living services for a period exceeding twenty-four (24) hours to more than three (3) adult residents of the facility who are not relatives of the owner or administrator. Assisted living facility means facilities in which assisted living services are provided either directly or through contractual arrangements or in which contracting in the name of residents is facilitated.

Cottage Court

A group of small, detached residences arranged around a shared court visible from the street. Dwelling unit entrances are from the shared court.

Educational Housing

A residence occupied by five or more unrelated persons in which occupants are accommodated in rooms not defined as dwelling units. Common cooking and cleaning facilities may be provided, as may units and facilities for guests and supervisory personnel. These residences are exclusively available to members of organizations such as fraternities, sororities, and universities and their guests or faculty. Examples include but are not limited to university dormitories, fraternity houses, and sorority houses.

Emergency and Rehabilitative Housing

A facility providing a protective sanctuary for persons under threat from themselves or others to their health, safety, wellbeing, or life. Common uses include crisis intervention homes for victims of abuse, boarding houses, and facilities for drug rehabilitation patients.

Manufactured Home

A detached single-family dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. This code means the standard for construction, design and performance of a manufactured home as set forth in the Code of Federal Regulations, Title 24, Parts 3280, 3282, 3283, and 42 USC 5401 et seq., as mandated in the United States of America and as administered by the United States Department of Housing and Urban Development.

Mixed-Use Building

An establishment in which a single building contains two or more different uses such as but not limited to residential, office, retail, restaurant, public, hotel, or entertainment uses. A mixed-use building has nonresidential uses located on the ground floor with residential uses located above.

Mobile Home

A movable or portable structure built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, which is larger than 320 square feet, and designed to be used as a year-round residential dwelling unit. A mobile home also means any vehicle which was not built to a mandatory building code and which contains no state or federal seals.

Modular Home

A factory-built structure produced in accordance with state or local construction codes and standards, and designed to be used as a dwelling unit with a foundation when connected to the required utilities.

Multi-Family Dwelling

A residence designed for or occupied by four or more households with separate housekeeping and cooking facilities for each.

Single-Family Dwelling

A detached residence primarily designed for or occupied by one household only.

Townhome

Three or more attached residences, each occupied by one household and separated by vertical side walls extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.

Triplex

A detached residence containing three dwelling units, designed for occupancy by not more than three households living independently of each other.

Two-Family Dwelling

A detached residence in which one dwelling unit is located on a single lot and is attached by a common vertical wall to only one other adjacent dwelling unit on the same lot.

(b) Commercial Use Definitions

Alternative Financial Institution

An establishment which provides customers with lending services tethered to collateral property provided by the customer, or which provides lending services without affiliation to a bank in a storefront setting.

Animal Boarding

A facility licensed to house dogs, cats, or other household pets and/or where grooming, breeding, boarding or training or selling of animals is conducted as business. This includes pet resorts/hotels, pet adoption centers, dog training centers, animal rescue shelters and sanctuaries.

Auto Sales

An establishment that provides for the sale or rental of new or used automobiles, vans, trailers, motorcycles, motor homes, trucks, or recreational vehicles including recreational watercraft. These may include incidental service facilities or vehicle washing facilities. Typical examples include automobile and ATV dealerships, auto malls, and car rental agencies.

Bed and Breakfast

An owner-occupied property, other than a hotel or multiple-family dwelling, which offers lodging for paying guests and may serve meals to these guests. Such a property contains one or more guest bedrooms and where facilities for food preparation are not provided in the individual guest bedrooms.

Campground

Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than 14 consecutive days during any one-month period.

Clinic

A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors. Examples include but are not limited to doctor's offices, dentist's offices, orthodontist's offices, urgent care clinics, and clinics incidental to pharmacies and similar retail uses.

Commercial Stables

The buildings, pens, and pasture areas used for the boarding and feeding of horses, llamas, or other equines and camelids. This use includes instruction in riding, jumping, and showing or the riding of boarded animals for hire, and may include incidental uses necessary to the housing and sustainment of boarded animals.

Day Care

Any facility which provides care, training, education, or supervision for any unrelated minor child, whether or not the facility is operated for profit and whether or not the facility makes a charge for the services offered by it. This excludes special schools or classes operated solely for religious instruction, facilities operated in connection with a church, shopping center, business, or establishment where children are cared for during short periods of time while parents or persons in charge of the children are attending church services, shopping, or engaging in other activities during the periods, any educational facility, whether private or public, which operates solely for educational purposes in grades one (1) or above and does not provide any custodial care, kindergartens operated as a part of the public schools of this state, any situation, arrangement, or agreement by which one (1) or more persons care for fewer than six (6) children from more than one (1) family at the same time, any educational facility, whether public or private, which operates a kindergarten program in conjunction with grades one (1) and above and provides short-term custodial care before or following classes for those students.

Gaming Facilities

Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities may include the accessory sale of liquor and food, pursuant to regulations of the city and/or the state.

Heavy Auto Repair

An establishment that offers mechanical and body work on motor vehicles including straightening of body parts, body repairs, battery rebuilding, painting, welding, short term storage of automobiles not in operating condition, outdoor similar work on motor vehicles that may involve noise, glare, fumes, smoke, or similar impacts.

Hospital

Any facility used for the purpose of providing short-term inpatient diagnostic care and treatment, including general medical care, surgical care, obstetrical care and specialized services or specialized treatment.

Hotel

A building or group of buildings containing sleeping rooms which may be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation. This does not including an auto or trailer court or camp, hospital, asylum, orphanage or building where persons are housed under restraint.

Indoor Entertainment and Amusement Venue

A place where entertainment activities occur completely within an enclosed structure for a fee, including but not limited to theaters, bowling alleys, arcades, skating rinks, escape rooms, pool halls, video and pinball parlors.

Large Equipment and Materials Storage and Sales

Establishments engaged in the storage, display, and sale of agricultural and construction materials, including but not limited to feed, fertilizers, grain, paint, lumber, and masonry; or those engaged in the storage, display, and sale or rental of large agricultural and construction equipment and implements including but not limited to trucks, tractors, threshers, backhoes, cranes, and forklifts.

Light Auto Repair

An establishment offering minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, oil, spark plug, and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses, brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air conditioning systems, and other similar minor services for light load vehicles.

Outdoor Entertainment and Amusement Venue

A place where entertainment activities occur outdoors for a fee, including but not limited to miniature golf, batting cages, water slides, driving ranges, theme parks, and go-cart tracks.

Outdoor, Mobile, or Temporary Vending

Any publicly or privately owned vending stand, vending trailer, mobile food vehicle, or any other device designed for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise. This includes parks or other areas or facilities designed to host multiple vendors simultaneously.

Personal Services

Shops and establishments primarily engaged in providing services generally involving the care of the person or such person's apparel, or rendering services to business establishments such as laundry or dry-cleaning retail outlets, portrait/photographic studios, beauty or barber shops, hair and nail salons, tanning services, massage spas, tailors, taxidermists, dressmakers, shoe repair, picture framing shops, gunsmiths, locksmiths, vacuum repair shops, electronics repair shops and similar establishments.

Professional and Trade Office

An office for professionals, such as lawyers, architects, financiers, engineers, artists, musicians, designers, teachers, accountants, bankers, tradespeople such as electricians and plumbers, and others who, through training, are qualified to perform services of a professional nature and where no storage or sale of merchandise directly to customers on the premises exists, except as accessory to the professional services. Professional and Trade Office uses are not Artisan Industry. Examples include banks, corporate offices, law

offices, architectural firms, insurance companies and other executive, management or administrative offices for businesses and corporations, as well as offices and incidental equipment and materials storage of tradespeople.

Research Services

Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.

Restaurant

An establishment where food and drink are prepared, sold to customers, and may be consumed on the premises.

Retail Store

A use that sells or otherwise provides wearing apparel, fashion accessories, furniture, household appliances and similar consumer goods, large and small, functional and decorative, for use, entertainment, comfort or aesthetics. Typical uses include grocery stores, clothing stores, department stores, appliance stores, TV and electronics stores, bike shops, book stores, costume rental stores, stationery stores, art galleries, hobby shops, furniture stores, pet stores and pet supply stores, shoe stores, antique shops, secondhand stores, record stores, toy stores, sporting goods stores, variety stores, video stores, musical instrument stores, medical supplies, office supplies and office furnishing stores and wig shops. This use does not include medical marijuana dispensaries.

Short-term Rental

A residential dwelling unit, portion of a dwelling unit, or bedroom within a dwelling unit, leased or rented to guests for a period of less than 30 consecutive days.

Sport Shooting Range

An area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

Studio

A facility that provides for audio or video production, recording or broadcasting for public or private reception.

Tavern or Bar

An establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to taverns, nightclubs, cocktail lounges and cabarets.

Recreational Vehicle Park

Land or property which is used or intended to be used or rented for temporary occupancy by one or more travel trailers or movable sleeping quarters of any kind.

Veterinary Services

An establishment providing veterinary care to animals. Typical uses include pet clinics, dog and cat hospitals, and hospitals for cows, horses, and livestock.

(c) Civic Use Definitions

Cemetery

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

Business or Trade School

An establishment offering vocational education or technical skills training intended to provide students with specific job-related knowledge and abilities. Typical uses include institutions offering curricula and certifications in information technology, healthcare, electrical repair, plumbing, culinary arts, and cosmetology.

College or University

Institutions of higher learning that offer courses of general or specialized study and are authorized to grant academic degrees. The college or university use subcategory includes classrooms and instructional spaces, as well as on-campus residence halls, fraternity and sorority houses, administrative buildings, auditoriums and other on-campus uses and facilities that provide customary accessory and support functions for college or university uses.

Detention Facilities

A publicly or privately operated facility providing housing and care for individuals legally confined.

Educational Facilities

Any public or private educational facility offering instruction at the elementary, middle, and/or high school level aligned with state and federal curricular requirements.

Funeral Services

An establishment used primarily for human funeral services, which may or may not include facilities on the premises for embalming and, performing of autopsies or other surgical procedures. Examples include funeral homes, mortuaries, crematoriums, or columbaria. Cemeteries may be on-site as an accessory use.

Government Services

Facilities which accommodate operational needs of local, state, and federal government agencies and elected bodies. Typical uses include government offices, courthouses, and city council chambers.

Library

A public or private facility designated for the collection, storage, and retrieval of literary, musical, artistic, or reference materials, such as books, manuscripts, recordings, and electronic data.

Museum

A public or private institution dedicated to the collection, preservation, study, and exhibition of artifacts, works of art, scientific specimens, or other objects of historical, cultural, scientific, or educational interest. Museums often contain incidental commercial uses such as retail and restaurants.

Natural Resource Preservation Area

Undeveloped land left in a natural state for specific use as visual open space or environmental purposes. Typical uses include wildlife or nature preserves, arboretums, flood management projects and reservoirs.

Private Parks and Recreational Facilities

Private golfing facilities, lakes, and parks and any associated restaurant or other commercial uses and facilities for maintenance of these properties.

Public Assembly

Facilities owned and operated by a public agency, charitable nonprofit or private organization, accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, convention facilities, fairgrounds, incidental sales, and exhibition facilities.

Public Parks and Recreational Facilities

Public parks, playgrounds, and open spaces, including facilities for organized sports and activities.

Religious Land Use

A structure, group of structures, or area intended for regular gatherings of people to attend, participate in or conduct religious services and other related activities and associated accessory uses. Associated accessory uses may include religious instruction classrooms, church offices, counseling programs, private school, youth programs, parking, child and adult day care facilities, summer camps, recreational facilities, caretaker's quarters, food bank, thrift shop, sale of religious items, and cemeteries.

Safety Services

Facilities necessary to the operations of emergency services including the Fire Department, Police Department, and emergency medical services.

Sporting Venue

An open-air or enclosed structure with tiers of seats rising around the playing surface, intended to be used primarily for the viewing of scholastic, collegiate, or professional

athletic events. A Sporting Venue may also be used for entertainment and other public gathering purposes, such as conventions, circuses, rodeos, or concerts.

(d) Agricultural Use Definitions

Animal Production

The raising of animals or production of animal products, such as eggs or dairy products, on an agricultural or commercial basis. Sites may also be used for crop production, or allow grazing of natural vegetation as the major feed source. This use also includes the raising of animals for recreational or educational use. Typical uses include grazing, ranching, free range dairy farming, and poultry farming.

Confined Animal Feeding Operation

A facility which meets one or more of the United States Environmental Protection Agency's Regulatory Definitions of Large CAFOs, Medium CAFOs, and Small CAFOs, or which meets any higher standard established by the State of Arkansas.

Crop Production

The raising and harvesting of crops on an agricultural or commercial basis. Typical uses include grain farms, fruit and vegetable farms, and orchards.

Horticulture

The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. Typical uses include wholesale plant nurseries and greenhouses.

Livestock Sales

The use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sales barns.

(e) Industrial Use Definitions

Artisan Industry

Establishments primarily engaged in the on-site production of goods by hand manufacturing at low volumes as well as the incidental direct sale of these goods to consumers on the premises. Typical uses include ceramic studios, painting and sculpting studios, custom jewelry shops, and candle-making studios. Any adverse effects such as noise, odor, or glare must be safely contained within the establishment to qualify as Artisan Industry.

Heavy Industry

Establishments engaged in the production, manufacturing, finishing, and/or packaging of products from raw, recycled, or other primary materials, and any incidental storage of materials and finished goods, as well as the distribution of finished products and goods for sale off the premises. Any establishment processing materials which could be highly flammable, explosive, radioactive, or otherwise hazardous shall also be considered Heavy

Industry. Typical uses include but are not limited to permanent construction batch plants, abattoirs, petroleum refineries, metal smelting facilities, foundries, petroleum-based electricity generation facilities, sawmills, explosives manufacturing facilities, and waste treatment facilities. These establishments are characterized by incurring or having the potential to incur major external environmental effects across property lines and may include unscreened or unenclosed outdoor storage.

Light Industry

Establishments engaged in the manufacture or processing of finished products from previously-prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. Typical uses include but are not limited to commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops, and publishing houses. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage.

Personal Storage Facility

Storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use of such areas as workshops, hobby shops, manufacturing, or commercial activity.

Resource Extraction

A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding site grading for a specific construction project or preparation of a site for subsequent development. Typical uses are quarries, borrow pits, sand and gravel operations, mining, logging, and removal of dirt for off-site use.

Warehousing

Facilities characterized by extensive warehousing, frequent heavy trucking activity, or open or enclosed storage of industrial materials and equipment, which are not involved in manufacturing or production.

(f) Miscellaneous Use Definitions

Alternative Energy Production

The use of a site for the production of energy-utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, geothermal energy installations, wind-generators, and water-powered mills or generating facilities.

Communications Tower

A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

Landfill

A depository for solid wastes, which may or may not putrefy, except hazardous and toxic waste as defined by the US Environmental Protection Agency, or waste thus defined by agencies of the State of Arkansas.

Medical Marijuana Cultivation Facilities

An entity which is licensed under by the Medical Marijuana Commission and subject to the State of Arkansas' Alcoholic Beverage Control Division who administers and enforces the Arkansas Medical Marijuana Amendment; and cultivates, prepares, manufactures, processes, packages, sells, and delivers usable marijuana to a dispensary.

Medical Marijuana Dispensaries

An entity that has been licensed by the Medical Marijuana Commission pursuant to the requirements of the Arkansas Alcoholic Beverage Control Division.

Utility Facilities

Facilities, infrastructure, and related appurtenances used for the generation, transmission, distribution, collection, or treatment of public or private utility services. This includes, but is not limited to, water supply and treatment plants, sewage collection and treatment systems, stormwater infrastructure, electric power substations and lines, natural gas pipelines and compressor stations, telecommunications equipment and relay stations other than those described by the *Communications Tower* use, and similar infrastructure necessary for the provision of essential utility services, whether operated by a public entity, private utility, or franchised provider. Utility Facilities do not include customer service offices, general administrative offices, or utility-scale energy generation facilities unless otherwise specified.

(g) Accessory Use Definitions

Accessory Dwelling Unit

An additional dwelling unit located on the same lot with and is incidental to, a principal single-family or two-family dwelling. An accessory dwelling unit may be attached or detached and must include separate cooking and sanitary facilities, with its own means of ingress and egress. Examples include garage apartments, casitas, and in-law suites.

Accessory Alternative Energy Production

The accessory use of a site for the production of energy-utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include roof-mounted solar panels, micro wind-generators, and micro-hydroelectric facilities.

Accessory Building

A building customarily incidental to the main building or use and located on the same lot with the main building.

Automatic Teller Machine

An automated device that performs banking or financial functions at a location remote from the controlling financial institution.

Carport

A permanent roofed structure permanently open on at least two sides, designed for or occupied by private passenger vehicles.

Dock or Pier

A structure that provides moorage, launching, storage, and fueling for storing, maintaining and operating personal recreational watercraft.

Drive-in Facility

An accessory portion of a main building that is designed to accommodate a patron's automobile. It is intended that the patron will consume a product or receive a service in the automobile.

Drive-through Facility

A building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service.

EV Charging Station

A designated facility housing the necessary equipment that supplies power for electric vehicles for public or private use. This use may charge a fee for those using the charging station.

Fuel Pumps

Stand-alone fuel dispensers that have one or more nozzles or sets of nozzles, which in turn are separately connected to a distinct system that records the fuel pumped by a single vehicle and the corresponding payment owed for that fuel.

Home Occupation

An occupation or business activity which results in a product or service and is conducted entirely within a dwelling unit and is subordinate to the residential use of the dwelling unit.

Marina

Facilities that provide moorage, launching, storage, fueling, supplies and services (other than repair) commonly associated with storing, maintaining and operating recreational and commercial watercraft.

Outdoor Dining

An accessory dining space exterior to a building, whether enclosed or unenclosed, which is reserved for customers at a restaurant. Examples include restaurant patios and restaurant balconies.

Outdoor Display

The outside arrangement of goods, materials, products, or other equipment on a lot for consumer sales.

Outdoor Storage

The outside keeping of goods, materials, products, containers, or other equipment on a lot related to a non-storage primary use.

Private Stable

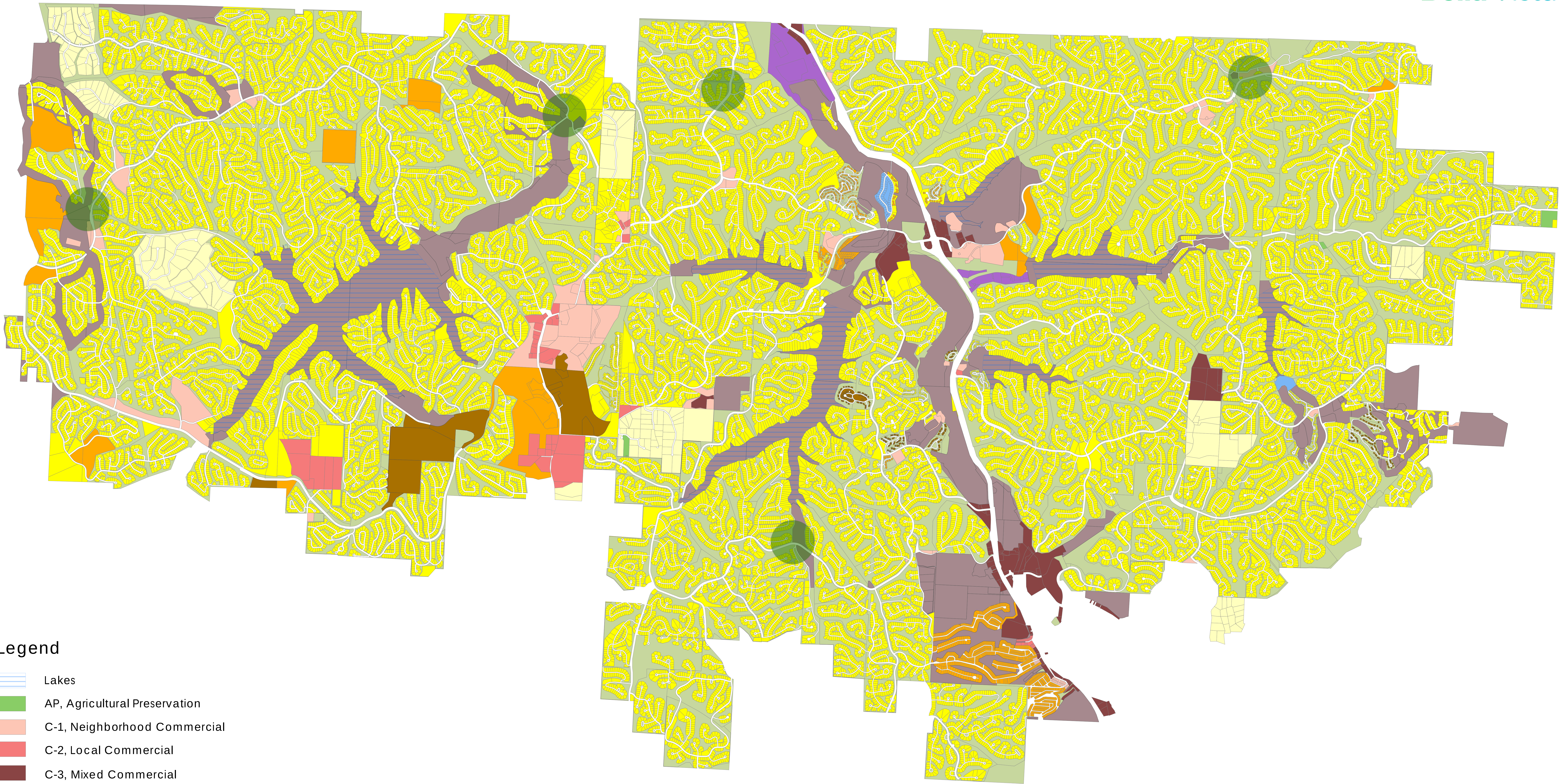
A facility designed to house horses, camels, or other equines or camelids. This use does not include instruction in riding, jumping, and showing or the riding of boarded animals for hire, but may include incidental uses necessary to the housing and sustainment of boarded animals.

Personal Recreational Facilities

A facility on private property for the use of the property owner, including family and guests, such as a swimming pool, tennis court, basketball court, mini-golf course, or other such facilities.

Temporary Batch Plant

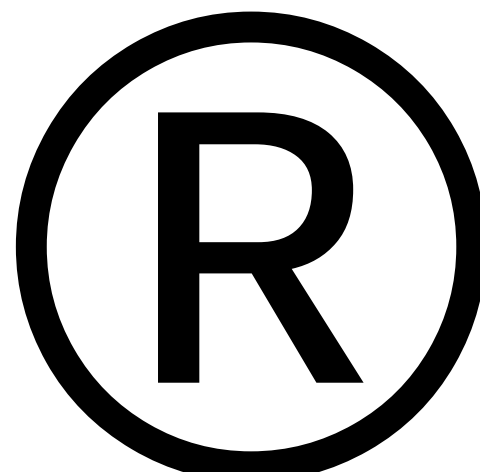
A temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects. This use serves a single, localized construction project during active construction, and does not produce cement, concrete, asphalt, or other paving materials for distribution to other sites or construction projects. This use is deactivated and removed immediately upon completion of material production required for the project with which it is affiliated.



Legend

- Lakes
- AP, Agricultural Preservation
- C-1, Neighborhood Commercial
- C-2, Local Commercial
- C-3, Mixed Commercial
- CR, Commercial Recreation
- IA, Industrial Activity
- NP, Nature Preservation
- PZD, Planned Zoning District
- R-1, Low Density Residential
- R-2, Moderate Density Residential
- R-3, Mixed Residential
- RE, Residential Estate
- Trailside Stop Overlay

0 0.5 1 2 Miles



1 inch = 1,400 feet

Chapter 107: Subdivisions

Bella Vista Code of Ordinances



This page intentionally left blank for double-sided printing.

Chapter 107: Subdivisions

June 26, 2025

Article I. General Provisions	1
Division 1. Introduction	1
Division 2. Legal Provisions	2
Article II. Subdivision Design Standards.....	6
Division 1. Introduction	6
Division 2. Standards	7
Article III. Performance Guarantees and Maintenance	29
Division 1. Generally	29
Division 2. Security for Improvements.....	32
Article IV. Procedures.....	36
Division 1. General Procedures	36
Division 2. Subdivision Types.....	42
Article V. Administration.....	76
Division 1. Introduction	76
Division 2. Quasi-Legislative Bodies and Personnel.....	76
Division 3. Administrative Bodies and Personnel	76
Article VI. Definitions.....	78
Division 1. Introduction	78
Division 2. Defined Terms.....	78
Article VII. External Appendices	94

ARTICLE I. GENERAL PROVISIONS

Division 1. Introduction

Sec. 107-001. Title

These regulations shall officially be known, cited, and referred to as the "Subdivision and Other Development Regulations" of the City of Bella Vista, Arkansas," hereinafter referred to as "these regulations" or "Subdivision Regulations."

Sec. 107-002. Purpose

- (a) These regulations are formulated to promote safety, public health, and the general welfare of the citizens within the City limits.
- (b) Implement Bella Vista's adopted Comprehensive Plan and other long-range planning policies.
- (c) The purpose of these regulations is to provide for harmonious development and coordination of streets and other public utility improvements within subdivisions with existing or planned improvements or other features of the City's adopted plans.
- (d) These regulations and standards for the subdivision and improvement of land for urban use are designed to make provision for adequate air, open space, drainage, transportation, public utilities, and other needs, and to ensure the development and maintenance of a healthy, attractive, and efficient community that provides for the conservation and protection of its human and natural resources.
- (e) These regulations are intended to set forth the procedures, requirements, and minimum standards governing the subdivision of land within the territorial jurisdiction of the City as indicated on the City limits map and should be administered in a manner:
 - (1) To assist in the orderly, efficient, and coordinated land development in accordance with its adopted plans and codes.
 - (2) To promote the health, safety, and general welfare of the residents of the City.
 - (3) To ensure conformance of subdivision plans with public improvement plans for the City and its environs.
 - (4) To protect and conserve the value of buildings and improvements and to minimize adverse impacts on adjoining or nearby properties.
 - (5) To establish a beneficial relationship between the uses of land and buildings and the municipal street system.
 - (6) To require proper location and design of streets and building setbacks, to minimize traffic congestion, and to make adequate provision for pedestrian traffic circulation.
 - (7) To establish reasonable standards of design and procedures for subdivision and re-subdivision to further the orderly development and use of land and to ensure proper legal descriptions and monumentation of subdivided lands.

- (8) To encourage the wise use and management of natural resources and to provide adequate and safe recreational areas of natural beauty and topography within the community.
- (9) To provide for adequate provisions for transportation, water, drainage, and other public requirements.
- (10) To provide for proper ingress and egress to properties and neighborhoods.
- (11) To assist orderly, efficient, and integrated development.
- (12) To promote sound development through the utilization of good design principles.
- (13) To facilitate the further re-subdivision of large tracts into smaller parcels or replatting existing subdivisions.
- (14) To secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance both by developers and the Planning Commission.

Division 2. Legal Provisions

Sec. 107-003. Authority

- (a) These regulations govern the subdividing and developing of land within the corporate limits, herein referred to as "the City limits," defining the territorial jurisdiction of the City and are adopted in accordance with the provisions of the Arkansas Code Annotated (A.C.A.) § 14-56-401—14-56-426.
- (b) By authority of the ordinance establishing the Planning Commission, adopted pursuant to the powers and jurisdictions vested through applicable state statutes, the Planning Commission does hereby exercise the power and authority to review, approve, and disapprove plats for the subdivision of land within the City limits jurisdiction that shows lots, blocks, or sites with or without new streets.
- (c) By the same authority, the Planning Commission does hereby exercise the power and authority to pass and approve the development of platted subdivisions of land already recorded in the office of the County Circuit Clerk, if such plats are already platted and undeveloped, with no improvements.
- (d) The plat shall be considered to be entirely or partially undeveloped if:
 - (1) Such plat has been recorded with the County Circuit Clerk's office after the effective date of these regulations without prior approval by the Planning Commission;
 - (2) Such plat has been approved by the Planning Commission, where the approval has been granted:
 - a. More than three years prior to the granting of a building permit on the partially or entirely undeveloped land; and

- b. The Zoning Ordinance, either dimensional standards or use, for the district in which the subdivision is located, has been changed subsequent to the original final approval.

Sec. 107-004. Applicability

- (a) These regulations shall be applicable to all lands within the City and its City limits. The City limits include those areas depicted on the City limits planning area map, copies of which are on file with the City Clerk and the County Circuit Clerk, all as provided in A.C.A. Title 14, Ch. 56, Subchapter. 4 (A.C.A. § 14-56-401 et seq.).
- (b) Included as part of this regulation by reference is the map titled "City Limits Map," which delineates the City limits boundary. Within the City limits, the City shall plan and apply subdivision regulations. The map includes the corporate City limits and the area outside the City limits within the territorial jurisdiction. The planning boundary was reviewed and approved by the Northwest Arkansas Regional Planning Commission, adopted by the City Planning Commission, ratified by the City Council and filed for record with the County Circuit Clerk's office.
- (c) It is the policy of the City to consider the subdivision of land and the subsequent development of subdivided plats as subject to the control of the City pursuant to the comprehensive plan, primarily the land use plan and master street plan of the City, for orderly planning and efficient development of the City and the City limits. These regulations and development standards shall apply to the following forms of land subdivision and development:
 - (1) Subdivision
The division of land into two or more tracts, lots, sites, or parcels;
 - (2) Property Line Adjustments
A transfer or adjustment of a property line which does not create a separate, new lot. A property line adjustment may or may not require dedication of right-of-way or utility easements;
 - (3) Developments
All development, other than single-family and two-family; or
 - (4) Dedications
The dedication of any street or alley right-of-way, utility easement, drainage easement, or access easement through any tract of land, regardless of the area involved.
- (d) Exemptions
 - (1) Street Widening
These regulations and development standards shall not apply to the public acquisition by purchase or dedication of parcels of land for the widening or opening of streets or other improvements.
 - (2) Horizontal Property Regime

These regulations and development standards shall not apply to any horizontal property regime, also referred to as a condominium of property, within any lot for which the same documentation as required by state statute to be filed with the county for the establishment of that horizontal property regime shall have been filed with the City and where all buildings within that lot shall have been built to meet the fire separation requirements of the City between units, as defined in the Horizontal Property Act of the State of Arkansas (A.C.A. § 18-13-101 et seq.).

Sec. 107-005. Administration

- (a) These rules and regulations shall be administered by the Planning Commission and the Planning and Development Director, or their designee. The Commission may, from time to time, recommend instructions and operating procedures to be followed in the administration of these regulations to the end that the public may be better informed and that approval of plats be expedited.
- (b) In addition to the requirements established herein, all subdivision plats shall comply with all current and future laws, including, but not limited to, the master street plan, and the zoning ordinance, building and housing codes, and any other regulations adopted by the City Council, and any regulations or special requirements of the State Health Department, State Highway and Transportation Department, or other appropriate state agencies.
- (c) In the case of any difference of meaning or implication between the text of this Code and any caption, number, illustration, or table, the text shall control unless otherwise specifically noted herein.
- (d) The Planning and Development Director is responsible for interpreting the regulations. This staff member may also be referred to as the "Director." Any reference to the Director shall also include their designee.
- (e) The City Engineer is responsible for providing technical expertise related to this Chapter and the development of land and infrastructure. Any reference to the City Engineer shall also include their designee.

Sec. 107-006. Relationship to Other State, Federal, and Local Provisions

- (a) All ordinances or parts of ordinances inconsistent or in conflict with these regulations for the City are hereby repealed and amended to comply herewith by virtue of the ordinance, from which this article is derived, adopting this regulation.
- (b) It is not intended by these regulations to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations, or permits previously adopted or issued pursuant to the law; however, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

Sec. 107-007. Severability

- (a) Any clause or provision of these regulations declared invalid or unconstitutional by the court shall not affect the validity of the regulation as a whole or any other part of the Code thereof. If any court of competent jurisdiction declares invalid the application of any provision of these regulations to a particular subdivision of land, such judgment shall not

affect the application of such provisions to any other subdivision of land not specifically included in such judgment.

- (b) In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements and shall be liberally construed in the favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Arkansas Code Annotated.

ARTICLE II. SUBDIVISION DESIGN STANDARDS

Division 1. Introduction

Sec. 107-008. Generally

(a) Purpose

The purpose of this portion of these regulations is to specify the basic and minimum requirements for lots, blocks, streets, and other physical elements in new subdivisions. It also provides a guide for the Planning and Development Director, the Planning Commission, and the applicant in the review and preparation of subdivision plats.

(b) Conformance to the City Plans

- (1) The design of each subdivision shall be prepared in accordance with the principles established by the City's plans for land use, traffic, circulation, community facilities, and public utility services, and in accordance with the following general design standards.
- (2) To ensure the various purposes of the subdivision regulations are adhered to, all subdivisions hereinafter established shall conform to the City's Comprehensive Plan, the master street plan, and the official City limits map of the City, and any subsequent regulations, ordinances, or amendments, or modifications adopted by the City.
- (3) The location of major thoroughfares and streets, location of parks, playgrounds, schools, and other public sites, and appropriate land uses shall be designed to conform to minimum zoning and building regulations for the area in which the proposed subdivision is located.

(c) Suitability of Land

Land subject to flooding or topographically unsuitable for residential occupancy and that the Planning Commission considers unsuitable for subdividing shall not be platted for any use that may increase the danger to health, life, property, or aggravate erosion or flood hazard.

(d) Provision of Land for Public Purposes

- (1) Where proposed community or public facilities are located in whole or in part in a proposed subdivision, the City shall require that land for those public facilities be reserved as a condition of preliminary plat approval.
- (2) Such reservations shall be referred to the appropriate public board, commission, or body having jurisdiction or financial responsibility to permit the opportunity to acquire said sites either through purchase, taking an option, or the filing of condemnation proceedings under the power of eminent domain. If the contract to acquire the subject public site is not closed within twelve (12) months following the date of approval of the preliminary plat, the subdivision process shall continue without regard for the proposed community or public facilities.

(e) Access

A publicly dedicated street shall serve every subdivision. Every lot or parcel shall have access to a publicly dedicated street, alley, or easement, and meet the dimensional requirements in Article II of Chapter 109: Zoning and Development.

(f) Fitness for Development

- (1) Based on topographic maps, soil surveys, and any special studies made by or for the City or information provided by the developer, the Planning Commission may require that steep grades, unstable soil, and floodplains be set aside and not subdivided until corrections are made to protect life, health, and property.
- (2) Due to the extreme topographic conditions encountered in many areas of the City and its City limits, the Planning Commission shall judge each proposed development on its own conditions and shall be flexible in allowing deviations from the requirements of this article.
- (3) Other possible deviations are discussed in various other sections of this article.

Division 2. Standards

Sec. 107-009. Survey Standards

(a) General Requirements

- (1) This article is provided to establish minimum standards for surveying work performed for the development of subdivisions within the jurisdiction of the Planning Commission.
- (2) This article shall apply to all developments requiring the submittal of a preliminary or final plat to the Planning Commission or the Director for review and approval.
- (3) All boundary surveys performed for the purpose of subdividing properties within the jurisdiction of the City shall conform to the Arkansas Minimum Standards for Property Boundary Surveys and Plats published by the State of Arkansas Commissioner of State Lands, except where the standards contained within this article exceed those established by the state.

(b) Horizontal Control Standards

The horizontal datum for all survey work performed shall be the Arkansas State Plane Coordinate System, or its successors.

(c) Vertical Control Standards

The vertical datum for all survey work performed shall be the National Geodetic Vertical Datum, 1988 adjustment (NGVD88).

(d) Monuments, Markers, and Survey Criteria

(1) Monuments Required

Prior to the offering of the plat of any subdivision for record, the land surveyor shall establish, or confirm the prior establishment of permanent monuments at each and every controlling corner on the boundary of land being subdivided, and shall be seen at the following locations:

- a. At every corner and angle point of every lot, block, or parcel of land created.
- b. At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line of any street, railroad, or other way.
- c. At every point of curve, point of tangency, point of reversed curve, or point of compounded curve on each and every right-of-way line established.

(2) Exceptions

In such cases where the placement of a required monument at its proper location is impractical, it shall be permissible to set a reference monument close by that point; and if such reference monument is set prior to the recording of the plat and its location properly shown, it shall have the same status as other monuments of record; where any point requiring monumentation has been previously monumented, the correctness of the existing monument shall be confirmed by the land surveyor, if used, and if so confirmed, shall likewise be considered a monument of record when properly shown and described on the plat recorded.

(3) Type of Monuments

The type of permanent monument to be placed shall be selected from the following types. The surveyor shall select a type providing the degree of permanency consistent with that of the adjacent terrain and physical features.

- a. Iron pipe not less than one-half-inch inside diameter and/or solid or coated steel rods not less than three-eighths-inch in diameter and not less than 24 inches in length. These monuments shall be solid, free from movement, and below the normal frost line. Other metal markers shall be no less than 24 inches in depth unless encased in concrete with its precise position marked by a point or cross. These monuments shall be placed so as to be solid and free from movement and below the normal frost level.
- b. Concrete monuments consisting of reinforced concrete at least four inches in width or diameter and not less than twenty-four (24) inches in depth with its precise position marked on a metal cap, by a formed cross or metal rod.
- c. Brass disk not less than two inches in diameter, countersunk and well cemented in a hole drilled into either solid rock or concrete, with its precise position marked by a point or cross.

(4) Reference to Direction and Basis of Bearing

Reference to direction shall be established by one of the following methods: state plane coordinate north, a recorded bearing of an established and well-fixed line, or use of modern devices for the determination of true north that have been proven equal or superior to the previously stated methods. The final plat shall carry on its face a note explaining the basis of bearing.

(5) Error of Closure

The accuracy of the fieldwork thus performed shall be substantiated by the computations of a closed traverse. The relative error of closure permissible shall be no greater than one foot in ten thousand (10,000) feet.

(6) Positional Tolerances

Block or lot corners must relate to one another within specified tolerances. Such tolerances shall be designated under the following classification:

a. Class I

Small areas wherein dense monument controls exist, as in a downtown commercial area. Lots 50 by 100 feet.

b. Class II

Longest side under 250 feet.

c. Class III

Longest side is from 250 feet to 1,320 feet. No side under 100 feet.

d. Class IV

All sides 1,000 feet or larger and those having a periphery of 5,280 feet or more.

e. The positional tolerances for these classes will be:

Class	Tolerance
I	0.10 foot
II	0.25 foot
III	0.50 foot
IV	1.00 foot

Table 107-9.1: Positional Tolerance

Sec. 107-010. General Improvement Standards and Guidelines

(a) General Provisions

Every developer regardless of the size of the development, shall be required to install at their own expense or to have installed by the appropriate public utility, all of the improvements stipulated by the City and included in this article, provided the subdivision is located within the boundary indicated on the official City limits map filed in the County Circuit Clerk's office and the City Clerk's office, the required improvements listed in the following sections. Developers can pay a fee in lieu of construction for street improvements and sidewalks.

(b) Construction Standards

- (1) All improvements shall conform to the standards established by this chapter that are in effect at the time of the preapplication conference.
- (2) The City Engineer may be designated by the Mayor and shall be authorized to enforce rules, regulations, standards, specifications, and other documents as necessary to

establish minimum criteria for the construction of streets and utilities to be constructed within the City limits.

(c) Authority of Designated City Engineer

The City Engineer, designated by the Mayor, shall have the authority to inspect any and all improvements to ensure that they are in conformance with all plans, specifications, and any written agreements that have been approved by the Planning Commission. The Engineer has the authority to require the removal or replacement, at the expense of the developer, of any phase of the work that is not in accordance with the requirements of the plans approved in accordance with this chapter.

(d) Conformance to Applicable Rules and Regulations

In addition to the requirements established herein, all subdivision plats shall comply with the laws, rules, and regulations of the City and the state. City zoning (within the City limits), fire, building, housing, floodplain, and all other codes and laws must be followed. The master street plan, the guidelines and general provisions of the land use plan, elements of the comprehensive plan, and all other plans of the City, as adopted, must be adhered to. The applicant must follow any special requirements of the regulations and rules of the Arkansas Health Department and appropriate state agencies. The applicant must adhere to the regulations of the state highway department if the subdivision lots contained therein abut a state highway or have a connecting street thereto. An applicant's plat approval may be withheld if a subdivision is not in conformity with the purposes of this chapter.

(e) Construction Plans and Specifications

(1) Generally

- a. Prior to the construction of any streets and utilities, the developer shall furnish complete sets of plans and specifications for such construction digitally via a PDF or another format approved by the City for technical review. These documents shall be transmitted in writing, and a set of plans shall also be provided digitally in AutoCAD (DWG) format and Microsoft Word, tied to the Arkansas State Plane NAD Coordinate System. These plans and specifications will be reviewed for conformity with this chapter and the City standards. The plans and specifications shall be approved in writing prior to any construction. The City shall be notified prior to the beginning of construction so that the work may be inspected.
- b. Upon completion of construction, the developer shall arrange a final inspection of all streets and utilities. This inspection may be attended by the developer, their engineer, the contractor, and the City engineer or their designee. If the engineer designated by the City determines that the streets and utilities are complete and in accordance with the approved plans and specifications, the engineer shall inform the City in writing and copy the developer. The developer shall then transmit in writing to the City a notice of completion, the required bonds, and the record drawings.
- c. Upon completion of all required construction and prior to the City's acceptance, the developer shall furnish the City with a complete set of digital drawings, using the

same approved format as drawings and documents submitted previously, of all improvements. Said drawings shall depict all conditions and installations, noting any changes made during construction and shall be marked "Record Drawings," and shall be signed by the engineer who prepared the plans and supervised the construction. In addition, the developer shall submit to the City three black line prints of the project.

- d. After the work has been inspected and the developer has been advised that the streets and utilities conform to approved plans, the developer shall give a formal notice of completion to the City. This notice shall be in writing and shall be accompanied by digital record drawings, payment, performance bonds, and all fees that are due per the adopted planning fee schedule approved by the City Council.
- e. After approval of final plat by the Planning Commission, the final plat, as approved by the Planning Commission, shall be submitted to the City Council for final approval. Such Council approval shall constitute formal acceptance of any dedication shown on the plat.
- f. No street, which shall hereafter be dedicated to public use by the proprietor of grounds in the City, shall be deemed a public street, or deemed to be under the care or control of the City Council, unless the dedication shall be accepted and confirmed by an ordinance especially passed for that purpose.

(2) Plans

a. General

The plans shall be securely bound and shall consist of a title sheet and such plan-profile and detail sheets as are required to meet the requirements of this chapter and to properly define the proposed work. The title sheet shall show the name of the subdivision, the property owner's name, the engineer, date, and an index of drawings. Each plan-profile will generally be drawn to a horizontal scale of no greater than one inch to fifty (50) feet, and a vertical scale of one inch to five feet.

b. Plan-Profile Sheets for Storm Sewer

The plans shall show all information necessary to locate and construct the proposed work and shall show the locations of all manholes, inlets, and other appurtenances of the system. The profile shall show the existing natural ground at the storm sewer centerline and the proposed grade at the centerline if such grade will not be the same as the existing grade. The size, grade, and material of the proposed pipes and the flow lines of all manholes, inlets, and other appurtenances shall be shown. Both the flow line and the inside top of the pipes shall be shown in the profile. These plans shall be accompanied by the engineer's calculations when requested by the City.

c. Driveway Culvert Plan

For developments wherein storm sewers do not serve drainage along the street right-of-way, a plan designating the culvert size for each lot or entrance drive shall be prepared by the developer's engineer.

(3) Specifications

The specifications shall be securely bound and shall consist of the following minimum information: General conditions of agreement, special conditions of agreement, and all applicable technical specifications. The special conditions shall contain provisions for time of completion, performance, and payment bonds, and other pertinent requirements as set forth by the Planning Commission or the Director.

(f) Street Name Markers

Street name signs shall be placed on diagonally opposite corners of each street intersection in conformance with the specifications adopted by the City. Street name markers shall be installed by the City at the developer's expense. Design of the markers and signs shall conform to the City's standards.

(g) Pedestrian Accommodations

These accommodations include sidewalks, trails, or other reasonable alternatives for connectivity.

(1) Pedestrian accommodations are required for all subdivisions, replats, and developments submitted to the City for formal review within the City limits.

(2) General Requirements

- a. All pedestrian accommodations shall be handicapped accessible to public streets at street corners and at designated mid-block public service drives and alleyways. Sidewalks shall meet the latest Americans with Disability Act standards.
- b. Pedestrian accommodations shall link adjoining lots to provide a continuous "ribbon" of pedestrian access across the proposed development. The pedestrian accommodations shall connect to existing sidewalks or trails, if any, that terminate at the property boundary of the development.

(3) The requirement for pedestrian accommodations shall be finalized and agreed to by the City and applicant during the review and approval of the preliminary plat or development.

(4) The City shall be responsible for the maintenance of all sidewalks and trails constructed within dedicated public right-of-way.

(5) If, during the construction of a building or any other improvements upon a lot or by any other actions, the sidewalk or trail is damaged, the party responsible for the damage shall repair the sidewalk or trail to the satisfaction of the City.

(6) Where Required

- a. Sidewalks shall be required in all developments so as to provide a continuous "ribbon" of pedestrian access from the right-of-way to the primary pedestrian entrance of the development.
- b. Commercial Properties.

1. For all new commercial developments or redevelopment of commercial property, sidewalks shall be required along all streets abutting the property. Striping shall be required at street/pedestrian intersections.
 2. Internal sidewalks connecting the entrances of the building to the public sidewalks and trails shall be provided, as required by the applicable building code.
 3. *Exceptions.* Where sidewalks and/or trails are not present on adjacent properties, the applicant may pay a fee in lieu of sidewalks, as described in Article II. Division 2. Sec. 107-010(g)(6)d below, to provide pedestrian accommodations in the future. The Planning Commission shall approve a waiver to use a fee-in-lieu of sidewalks, as described in Article IV. Division 2. Sec. 107-046.
- c. *Residential Properties.* For all new residential developments, pedestrian accommodations, in the form of public sidewalks or connections to public trails, shall be required along all streets abutting the property, when appropriate, to complete the existing pedestrian system. The Director shall determine whether pedestrian accommodations are required and to what extent.
- d. *Fee In Lieu of Sidewalks.* Where sidewalks or trails are required, but would be impractical due to topography, natural features, such as drainage areas, or other unique site conditions, the applicant may, with the approval of the City Engineer or Director, pay a fee in lieu of sidewalks.
1. To calculate the fee in lieu amount, the applicant's design engineer shall create an appropriate cost estimate for constructing the sidewalk to comply with the standards of this Chapter and all other standards governing the design and construction of sidewalks in Bella Vista.
 2. The City Engineer or Director shall review the estimate for accuracy and appropriateness.
 3. The applicant shall provide a fee equal to 125% of the cost estimate to the City. Fees shall be utilized for costs and expenses incurred for the construction of appropriate pedestrian facilities within the City that are within a one-half (1/2) radius of the applicant's property to improve the pedestrian connectivity system.
 - a) The applicant may approve, in writing to the City, and the City may choose to accept, the use of their funds for pedestrian infrastructure projects outside of the one-half (1/2) mile radius.
 4. The City shall use the accepted fees to construct the improvements within 7 years from the date the fees were paid.
 5. As used in this subsection, the fees are deemed accepted when the City receives the required funds.

(7) Construction Standards for Acceptable Pedestrian Accommodations

If sidewalks or trails are to be constructed as part of a development, the following standards shall apply:

a. Sidewalks

1. Size

Sidewalks shall be a minimum of five feet wide and four inches thick, with the cross section approved by the City Engineer. Deviations from these dimensional standards may be approved if specified in an adopted sidewalk, trail, or other mobility or transportation master plan.

2. Grades; Establishment of Property Lines

All sidewalks, street curbing and guttering, and driveway approaches shall be constructed in grades as established by the Director. It shall be the responsibility of the owner to establish property lines by a competent survey at the owner's expense.

3. Sidewalk Distances from the Curb

The sidewalk shall be installed in the dedicated public right-of-way. The edge closest to the street shall generally be a minimum of five and a half (5.5) feet from the back of the curbline unless specifically approved otherwise by the City Engineer or their designee.

4. Cement-Concrete Requirements

All sidewalks shall be constructed of a Portland cement concrete mixture which will produce a concrete of a compressive strength of three thousand (3,000) pounds per square inch after twenty-eight (28) days set under standard laboratory methods.

5. Sidewalk Grade Continuous through Driveways

Driveways shall be constructed to conform to the slope and grade required to accommodate the sidewalk.

6. Sidewalk Elevation

The sidewalk elevation shall be two percent above the top of the curb, sloping two percent towards the curb (one-fourth inch in each foot). This elevation shall be continuous through the driveway approach.

7. Driveway Approach

The area remaining between the sidewalk and the flowline of the gutter, called the approach to the driveway, shall slope up to the elevation of the sidewalk.

8. Joint Material

Wood shall not be acceptable in sidewalks for expansion joints. The joint material shall be the same as approved for AHTD sidewalk construction (AASHTO M 213).

9. Expansion Joint

Full depth expansion joints of four inches shall be provided at intervals not greater than fifty (50) feet. One-quarter-inch depth weakened plane joints, or saw-cut joints, shall be placed in sidewalks at regular intervals not greater than five feet apart.

10. Edges

All sidewalks shall have one-half inch rolled edges.

11. Removal-Replacement

Removal and replacement of broken sidewalks require vertical saw-cuts on both ends of the sidewalk being replaced.

b. Shared Use Paved Trails

1. Shared Use Paved Trails shall be at least ten feet wide. The surface shall be at least two inches thick and built on four inches of Class 7 base.
2. Concrete Surfaces shall be a minimum of four inches thick. Sub-base shall be cleared and grubbed of all vegetative material and compacted to 90 percent proctor.
3. All construction shall be within the subdivision property and at least five (5) feet from the edge of any subdivision property line.
4. Trails shall be built to conveniently connect to recreational, civic, green space, or public areas.
5. The cross slope of the trail shall be two percent maximum and one percent minimum. The running slope of the trail shall be five percent for a continuous slope, five percent for a maximum distance of thirty (30) feet. There shall also be a 5' landing requirement at the top and bottom for the cross slope of the trail.
6. The sight distance on the trail shall be not less than fifty (50) feet. Adequate trail markings and signage shall be visible and clearly visible with bright colors.
7. Roadway or street crossing shall be at grade and shall be as close as possible to an intersection. Striping shall be required at all minor and major roadways or street crossings.
8. Shared Use Paved Trails shall meet the criteria of the current adopted Razorback Greenway Operations Manual.
9. Sufficient drainage devices shall be provided along the trail layout to prevent flooding. Proposed trails within the floodplain must be reviewed and approved on a case-by-case basis.

c. Design Waiver

A waiver from these construction standards may be granted for the following, but not limited to, topographical difficulties, tree preservation, and aesthetics. The Planning Commission may approve these waivers. Field changes, for location only,

may be granted upon agreement of the Director if special situations justify such waivers. Special conditions may be required in order to grant the waiver. A fee in lieu of construction can also be given as an option to the developer. City staff will make the recommendation, or the developer can request it. The Planning Commission will make the final approval if the fee in lieu of construction shall be allowed for the proposed improvements.

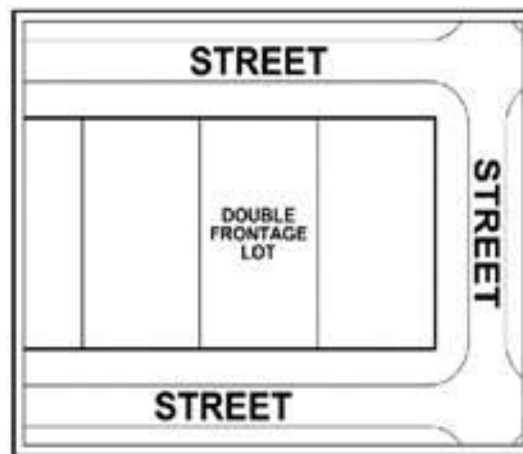
(h) Street Lighting

The developer shall comply with any street lighting policy in effect by the City.

Sec. 107-011. Lots

- (a) Every lot shall abut a public street, alley, or access easement. The shape of residential lots shall conform to the design of the subdivision. The Planning Commission shall judge subdivision lot shapes based on the type of development and the use for which the lot is intended.
- (b) Except as provided herein, the minimum lot dimensions shall conform to the requirements of Chapter 109 of this Code for the zoning districts within which the subdivision is located.
- (c) Double frontage lots.

Figure 107.12 – 1: Double Frontage Lots



- (1) Lots other than corner lots fronting on two streets shall not be platted except under special circumstances where a Waiver Request will be required and it must be approved by the Planning Commission, in which case, the building setback from each street shall be equal to that for front setbacks in the zoning district.
- (2) Double-frontage and reverse-frontage lots should be avoided except where they are needed to provide for the separation of residential developments and traffic arteries or to overcome specific topographic or site constraints.
- (3) Where double-frontage exists, a planting screen easement of at least five feet wide shall be provided along the portion of the lot abutting the traffic artery that is not being used for right-of-way access. In this circumstance, there shall be no right of access across the planting screen easement.

- (4) At the discretion of the Planning Commission, the developer may substitute for an easement and a planting screen, a permanent ornamental fence, or wall of the height and architectural character, which will be appropriate and appropriately screened. Should the ornamental wall or fence be used, there shall still be a restriction upon the right of access and such restriction shall clearly be so designated on the plat.
- (5) Every lot must slope to a street, drainage easement, or common property.

Sec. 107-012. Blocks

- (a) The length, width, and shape of blocks shall be determined with regard to the following:
 - (1) Provision of adequate building sites suitable for the special needs of the type of use proposed.
 - (2) Zoning requirements as they relate to lot sizes and dimensions.
 - (3) Limitations and opportunities caused by topography. The Planning Commission is authorized to allow longer block lengths if topography, sensitive natural resources, or other physical constraints make shorter block lengths undesirable or not viable.
- (b) Residential subdivision blocks of more than six hundred (600) feet in length and non-residential blocks of more than one thousand, five hundred (1,500) feet in length shall be prohibited. Blocks of more than one thousand (1,000) feet in length may require a public crosswalk within a dedicated easement of not less than fifteen (15) feet in width, including a paved crosswalk not less than five feet in width to provide pedestrian circulation. The Planning Commission is authorized to require the provision of emergency vehicle access routes (ambulance, fire trucks, etc.), pedestrian connections (easements), crosswalks, and other pedestrian access features that provide safe and adequate vehicle access and pedestrian connections to schools, playgrounds, transportation, and other community facilities in the area.
- (c) Blocks intended for business and industrial uses should be of a width suitable for the intended purpose, with due allowance for off-street parking and loading facilities.
- (d) Residential blocks shall be wide enough to provide two tiers of lots of minimum depth, except where fronting on freeways, expressways, and major thoroughfares or prevented by topographic constraints, in which case the Planning Commission may approve a single tier of lots of minimum depth.

Sec. 107-013. Streets

- (a) The location and width of all streets, thoroughfares, and roads throughout the City Limits shall conform to the master street plan. The arrangement, character, extent, width, grade, and location of all streets shall be designed in accordance with the following provisions:
 - (1) Streets shall be related appropriately to the existing topography so as to produce buildable lots and streets of reasonable gradient. Street grades and alignment shall conform reasonably to the original topography. In steep areas, through streets should generally follow contour lines rather than cross them.

- (2) The proposed street layout should be appropriate for the type of development proposed and integrated with the street system in the adjoining subdivisions. The layout shall also conform to existing and proposed land uses for the area.
- (3) The designers of residential streets are encouraged to lay them out to permit efficient drainage and utility systems, and to require the minimum length of pavement necessary to provide convenient and safe access to property. All methods must meet all relevant City regulations and must be approved by the City Engineer or their designee. If City staff determines that a residential street is being designed in such a way as to encourage high-speed and/or cut-through traffic, it may require changes in the design and platting of that street or the use of traffic calming techniques so as to slow traffic and discourage cut-through traffic. The applicant can appeal any such required change to the Planning Commission.
- (4) Proposed through streets shall be extended to the boundary lines of the tract to be subdivided unless the Planning Commission has determined that such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing and adjoining parcels.
- (5) Cul-De-Sac Streets
 - a. Cul-de-sac streets tend to reduce the number of connections and choices available for people traveling by automobile and increase congestion on other streets. Where cul-de-sac streets are utilized, pedestrian accommodations to allow linkages with like abutting properties and the street system shall be required. Construction standards for the pedestrian accommodations shall be as required in other sections of this article. For instance, pathways could be provided linking the backs of lots fronting on the termination of cul-de-sacs and providing access to sidewalks along through streets.
 - b. Cul-de-sac streets or courts designed to have one end permanently closed or streets or street loops with a single access shall have a distance no greater than 650 feet from the point of access to the nearest point of the furthest lot, with the distance measured along the shortest route within the street right-of-way.
 1. Exceptions

A cul-de-sac street may be up to one thousand, one hundred, and twenty (1,120) feet in length if it has a right-of-way of not less than sixty (60) feet in width, a paved width from back of curb to back of curb of not less than forty (40) feet, and it meets all other requirements for a cul-de-sac. A residential cul-de-sac street may be up to one thousand, one hundred, and twenty (1,120) feet in length if it has a right-of-way of not less than fifty (50) feet in width, a paved width from back of curb to back of curb of not less than twenty-seven (27) feet, all lots provide no less than ninety (90) feet of width at the building setback line per dwelling unit and it meets all other requirements for a cul-de-sac. Any cul-de-sac more than seven hundred and fifty (750) feet must have Planning Commission and Fire Marshal approval.

- c. Where a street does not extend to the boundary of a subdivision and its continuation is not necessary for access to adjoining property, its terminus shall be no closer than fifty (50) feet to such boundary.
- d. A turnaround of a one hundred and twenty (120) foot hammerhead or ninety-six (96) foot diameter cul-de-sac shall be provided at the end of all permanent dead-end streets exceeding one hundred and fifty (150) feet in length.
- e. In the case of temporary dead-end streets, less than one hundred and fifty (150) feet in length, which are stub streets designed to provide future connections with unsubdivided adjacent areas, the Planning Commission may require a temporary easement for a turnaround of the type discussed above. No building permit may be issued for lots with sole frontage on a stub out or at the end of a stub out.

(6) Intersections and Alignment

- a. Street intersections shall be laid out as nearly at right angles as possible. The centerline of no more than two streets shall intersect at any one point. No intersection shall be at an angle of less than seventy-five (75) degrees, and where collector and arterial streets intersect other collector or arterial streets, the curb radii at the intersection shall not be less than thirty-five (35) feet. Where residential streets intersect with other residential, collector or arterial streets, the curb radii at the intersection shall not be less than twenty-five (25) feet.
- b. Local street centerline offsets of less than one hundred and twenty-five (125) feet shall be avoided. Proposed new intersections along one side of an existing street shall, wherever practical, coincide with any existing intersection on the opposite side of the street. In proximity to intersections of collector streets and above in the functional classification system and master street plan, centerline offsets of less than two hundred and fifty (250) feet shall be avoided.
- c. Additional street paving and right-of-way in the form of turning lanes and acceleration lanes shall, upon consultation with the City Engineer, be required along arterial streets at intersections with other arterial or collector streets.
- d. Property line corners at street intersections shall be rounded with a radius of at least twenty-five (25) feet.
- e. Street intersections shall be located to avoid creating hazardous driving conditions.

Table 2-1. Street Classifications and Requirements

Street Classification	Travel Lane Width	Volume per Day	Minimum Right-of-Way Width	Minimum Pavement Width
Unclassified	10'	1,000 or less	40'	20'
Sub-Collector	10'	1,000-5,000	50'	20'

Street Classification	Travel Lane Width	Volume per Day	Minimum Right-of-Way Width	Minimum Pavement Width
Collector	11'	5,000-10,000	60'	22'
Minor Arterial	12'	5,000 or more	80'	48'
Major Arterial	12'	10,000 or more	100'	48'

Figure 13-1. Unclassified Street Cross Section

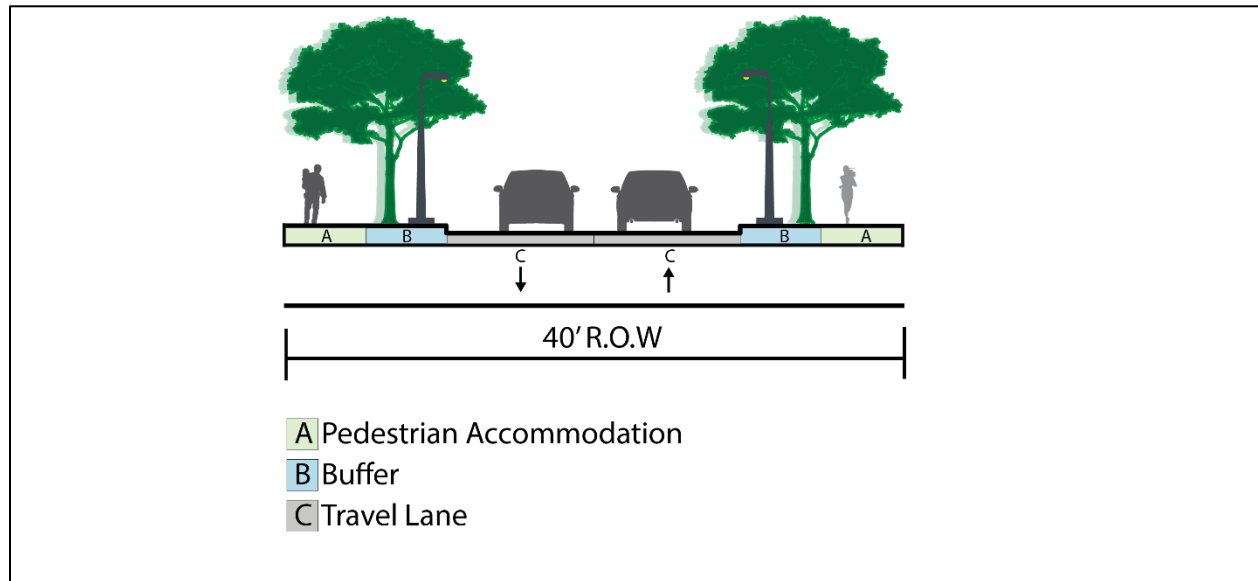


Figure 13-2. Sub-Collector Street Cross Section

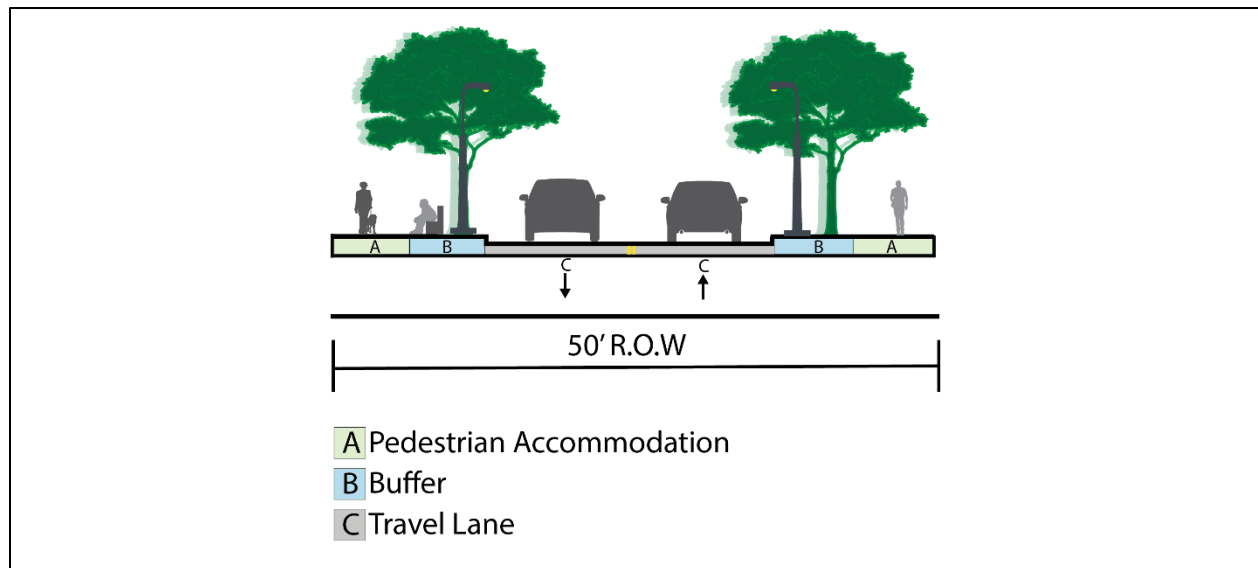


Figure 13-3. Collector Street Cross Section

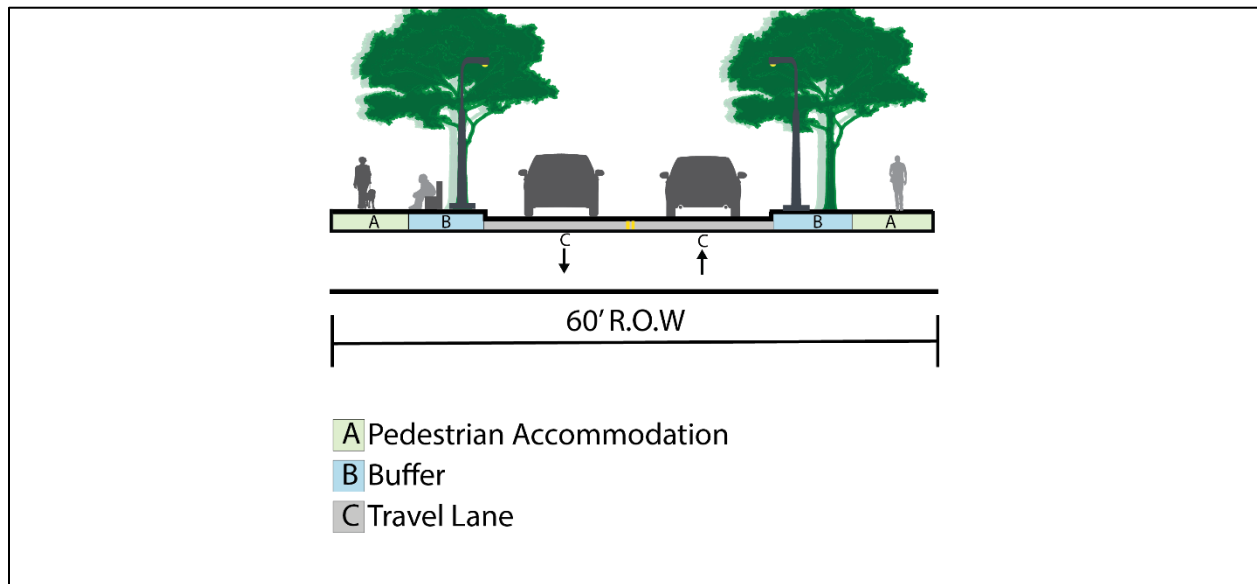


Figure 13-4. Minor Arterial Street Cross Section

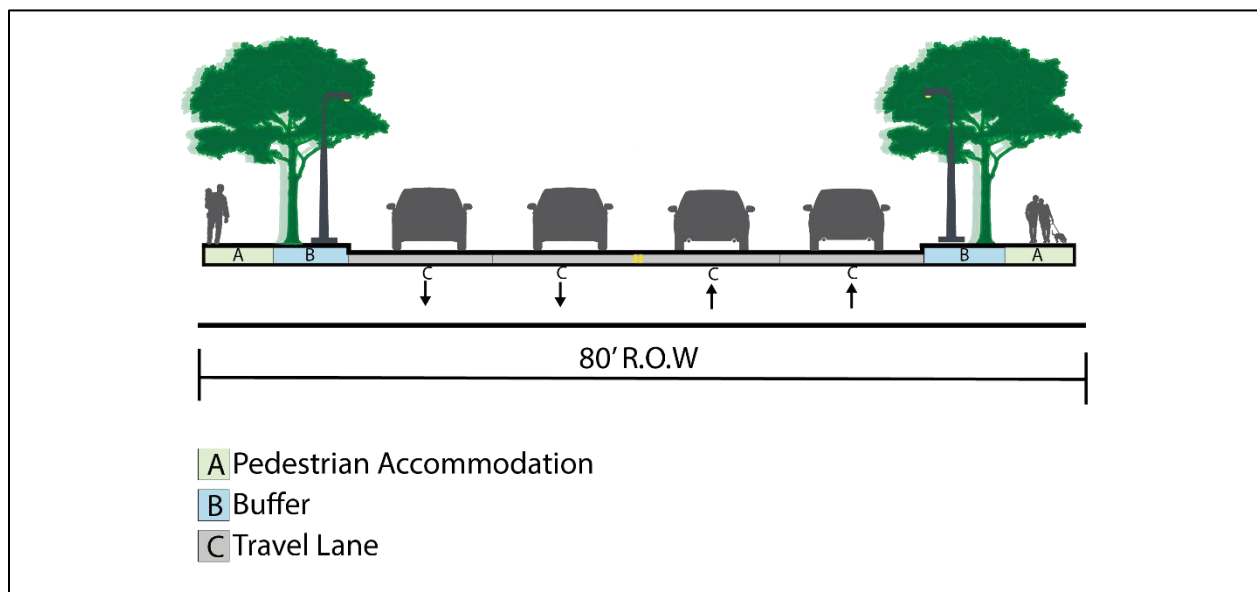
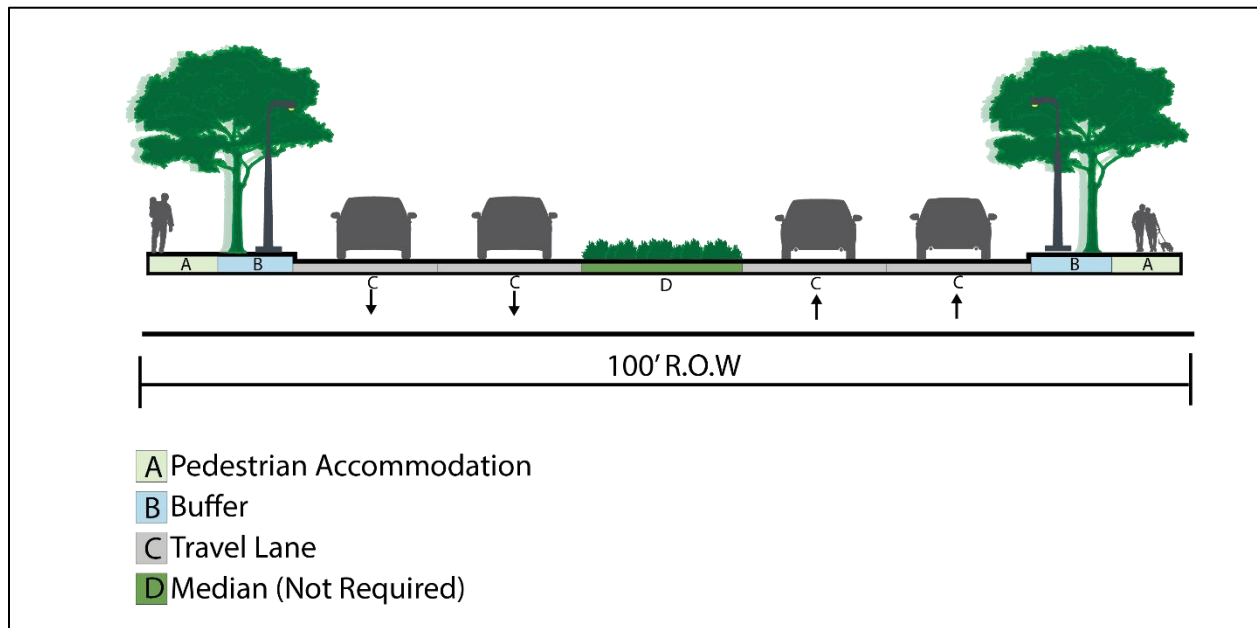


Figure 13-5. Major Arterial Street Cross Section



(b) Minimum Thickness for Asphalt Paved Streets.

All asphalt-paved streets must meet the following requirements for minimum thickness for street construction:

Table 2-2. Minimum Pavement Thicknesses for City Streets

Street Classification	Asphalt Surface Course	Asphalt Binder Course	Crushed Stone Base
Residential	1"	2"	7"
Sub-Collector	1.5"	2.5"	10"
Collector	1.5"	2.5"	10"
Minor arterial	2"	2.5"	10"
Major arterial	Recommendation of the City Engineer Director or their designee		

(c) Notification

The City Engineer shall be notified within twenty-four (24) hours prior to placement of any fill material, installation of storm drainage pipe or drainage structures, concrete curb and gutter, or placement of crushed stone or asphalt. The subgrade shall be approved by the City Engineer prior to the placement of curb and gutter or crushed stone.

(d) Earthwork Equipment

Earthwork equipment shall include an appropriately sized vibratory sheepfoot compactor and motor patrol.

(e) Grading and Subgrade Preparation

- (1) The streets shall be shaped and graded in accordance with the approved street plans.
- (2) Street widths shall be as specified in Table 2-1. Street Classifications and Requirements.
- (3) The base section shall be compacted to one foot outside of the pavement or curb (from back of curb to back of curb).
- (4) Soft, yielding sections of subgrade shall be removed and replaced in six-inch maximum lift thicknesses with each lift compacted with a sheep's foot roller (compaction with track equipment or other equipment not specifically designed for earthwork compaction is not suitable) to ninety-five (95) percent standard proctor densities.
- (5) Fill material shall be approved by the City Engineer prior to use in street fills (no topsoil or organic material shall be included in the fill material). The moisture content of the fill material shall be plus or minus three percent of optimum.
- (6) All earthwork, including the subgrade one (1) foot outside of the curb or pavement shall conform to the requirements of Sections 210 and 212 of Arkansas State Highway Department's Standard Specifications for Highway Construction.
- (7) Prior to placement of the crushed stone base course, the subgrade must field demonstrate that it is firm and unyielding to the passage of equipment (loaded tri-axle dump truck) over the subgrade. The subgrade shall be approved by the City Engineer before curb and gutter and crushed stone are placed.

(f) Asphalt Street Standards

- (1) The base shall consist of a crushed stone base course conforming to the requirements of a Class 7 aggregate base course as specified in Section 303 of the Arkansas State Highway and Transportation Department's Standard Specifications for Highway Construction. The base course shall be prepared in accordance with Section 304 of the Arkansas State Highway and Transportation Department's Standard Specifications for Highway Construction.
 - a. The surface course shall consist of asphaltic concrete hot mix conforming to the requirements of Section 407 of the Arkansas State Highway and Transportation Department's Standard Specifications for Highway Construction.

(g) Concrete Street Standards

- (1) Subgrade is to be compacted in keeping with the Arkansas Highway Department Standard Specification, Section 302. Concrete pavement is to be constructed according to Section 501 Portland Cement Pavement Specifications.
- (2) Concrete is to be three thousand (3,000) pounds psi compressive strength placed on a thoroughly compacted and graded subgrade.
- (3) Concrete is to be placed in separate lanes with a maximum width of fifteen (15) feet. Transverse joints shall be two-inch-wide felt strips, one-sixteenth inch to one-quarter inch thick, at fifteen (15) foot intervals for contraction joints.

- (4) The placed surface grade shall have a minimum thickness of eight inches of concrete. Reinforcing tie bars shall be in general conformance with the Portland Cement Association and AASHTO recommendations.

(h) Curbs and Gutters

- (1) Curbs and gutters are required for all streets unless otherwise specified.
- (2) The curb and gutters shall be concrete, twenty-four (24) inches in width with a six-inch upright curb or four-inch-high roll curb as detailed on the approved plans. Driveways along streets with this curb shall be constructed so that the curb height is reduced to one and a half (1.5) inches across the driveway as per detail approved by the City Engineer.
- (3) Expansion joints, one-half inch premolded material, shall be placed on each side of drainage structures, at the ends of the radius at intersections and cul-de-sacs and at maximum one hundred (100) foot spacing throughout the length of the curb and gutter.
- (4) Expansion joints, one-half inch premolded material, shall be provided in the sidewalk where abutting driveways, concrete curb and gutter, or other rigid items and at one hundred (100) foot maximum spacing throughout the length of the sidewalk.
- (5) Material and construction shall conform to the requirements of Section 634 of the Arkansas State Highway and Transportation Department's Standard Specifications for Highway Construction.

(i) Alleys

Alleys shall be concrete or asphalt paved and conform to street standards. The paving shall be formed in such a manner as to carry water longitudinally to the street or storm drainage system.

(j) Street Edging

Street edging is required for all streets.

(1) Where Required

Streets will be edged in the following manner:

- a. In single-family and two-family developments. Streets shall be edged with one of the following: curb and gutter, monolithic concrete strip, or asphaltic shoulders.
- b. In multi-family, commercial, and industrial developments. Streets shall be edged with curb and gutter.

(2) Construction Requirements

Where utilized, street edging shall conform to the following standards:

a. Curb and Gutter

Curb and gutter shall be concrete, twenty-four (24) inches in width with a six (6) inch upright curb or a four (4) inch high roll curb as detailed on the approved plans. Driveways along streets with this curb shall be constructed so that the curb height

is reduced to one and a half (1.5) inches across the driveway as per detail approved by the City Engineer. Expansion joints, one-half inch premolded material, shall be placed on each side of drainage structures, at the ends of the radius at intersections and cul-de-sacs, and at a maximum one hundred (100) foot spacing throughout the length of the curb and gutter. Expansion joints, one-half inch premolded material, shall be provided in the sidewalk where abutting driveways, concrete curb and gutter, or other rigid items, and at one hundred (100) foot maximum spacing throughout the length of the sidewalk. Materials and construction shall conform to the current requirements of the Arkansas State Highway and Transportation Department's Standard Specifications for Highway Construction.

b. Monolithic Concrete Strip

Monolithic concrete strips are durable and are done in a single concrete pour. A monolithic concrete strip shall be twelve (12) inches in width and twelve (12) inches in depth. The concrete strip shall conform to the roadway cross slope and longitudinal slope. Driveways along streets with this curb shall be constructed so that the curb height is increased to one and a half (1.5) inches across the driveway as per detail approved by the City Engineer. Expansion joints, one-half inch premolded material, shall be placed on each side of drainage structures, at the ends of the radius at intersections and cul-de-sacs, and at a maximum of one hundred (100) feet spacing throughout the length of the curb and gutter. Expansion joints, one-half inch premolded material, shall be provided in the sidewalk where abutting driveways, concrete curb and gutter, or other rigid items, and at one hundred (100) foot maximum spacing throughout the length of the sidewalk. Materials and construction shall conform to the current requirements of the Arkansas State Highway and Transportation Department's Standard Specifications for Highway Construction.

c. Asphaltic Shoulder

Asphaltic shoulders provide a safe area for vehicles to pull over to in an event of an emergency or if a driver has a vehicle issue. They also provide lateral support to the roadway, help with water runoff, and protect the road surface. Concrete street construction shall not utilize asphaltic shoulders and must utilize other street edging options. Asphaltic shoulders shall be twelve (12) inches in width and shall conform to Table 2-2. Minimum Pavement Thicknesses for City Streets. Asphaltic shoulders shall be designated with a thermoplastic paving strip to designate the edge of the driving surface from the shoulder. Materials and construction shall conform to the current requirements of the Arkansas State Highway and Transportation Department's "Standard Specifications for Highway Construction."

(k) Storm Drainage Pipe

All storm drainage pipe shall comply with the Bella Vista Drainage Criteria Manual unless specifically approved otherwise by the City Engineer or Planning & Development Director.

(l) Debris Removal

All mud and soil shall be removed from the crushed stone base and concrete curb and gutter prior to placement of the crushed stone course. Curb and gutter shall also be backfilled prior to placing the crushed stone base course.

Sec. 107-014. Alleys

- (a) Alleys are permitted within the City limits.
- (b) Alleys may be required at the rear of all lots used for nonresidential purposes where access for service and emergency vehicles is not otherwise adequately provided. Alleys may be permitted in residential areas.
- (c) All alleys shall be contained in an access easement of adequate width to contain the paved surface of the alley. Alleys shall not be conveyed within publicly dedicated rights-of-way.
- (d) All alleys must be paved and must be at least twenty-five (25) feet in width.
- (e) Stormwater flows in alleys must be conveyed to provide safe ingress and egress.
- (f) Intersections and sharp changes in alignment shall be avoided, and dead-end alleys shall be avoided.
- (g) No parking shall be allowed in alleys, except temporary loading zones as required under the zoning regulations.

Sec. 107-015. Easements and Utilities

(a) Easements

- (1) Where easements are necessary, all easements shall be a minimum of seven and a half (7.5) feet in width, running parallel to a property line.
- (2) Adequate drainage easements shall be provided where a subdivision or development is traversed by a watercourse, drainageway, channel, or stream. Such easements shall conform substantially to the line of the watercourse and shall be adequate for the intended purposes.
- (3) Easements shall be provided, as determined by utility providers, to adequately serve a subdivision or development with necessary utility services.
- (4) The easement width shall conform to the requirements as dictated by the Director for the intended purposes.
- (5) No building or structure may be erected over or within an easement. Fences, landscaping, and shrubbery may be allowed within an easement when they do not impede the purpose of the easement and access to enclosed areas is provided.
- (6) Major utility, drainage, and other easements traversing the urban area shall be considered an opportunity for an open space linkage and an extension of the open space system for adjoining developing subdivisions. Where possible, pedestrian accommodations should link other open space corridors from these easements.

(b) Utilities

- (1) Coordination

The developer shall coordinate with the City, a government utility, or a private utility for the design, supply, and installation standards and requirements of all utilities serving subdivisions within the planning jurisdiction of the City.

(2) Specifications

All utility construction shall comply with all applicable codes of the City or the private utility having jurisdiction in the area of development, whichever is more stringent.

(3) Placement Underground

In new developments, all utility wires, lines, and cables in said developments utilized by electric and/or telecommunications companies shall be placed underground.

Overhead wires, supporting structures, and associated structures of a temporary nature that provide temporary service are exempt from this requirement. Up to two (2) power poles near the exterior boundary of a development shall be allowed to provide connections for underground service.

Sec. 107-016. Water Facilities

- (a) All subdivisions shall be provided with water supply and water distribution systems approved by and meeting the requirements of the State Department of Health. Specifications shall, at a minimum, comply with the requirements of the Arkansas Fire Prevention Code.
- (b) The developer is responsible for providing a water supply and distribution system to meet the water use and fire protection needs of a subdivision and every lot in that subdivision.
- (c) No street cuts for utility connections will be allowed after the street has been paved.
- (d) The water system, provided by the developer, shall be capable of supplying water to each lot within the subdivision. That water system shall include appurtenances at each lot, including a service line, meter vault with lid, and a meter. The water system must be designed by a professional engineer licensed in the State of Arkansas. The engineer must confirm that the minimum requirements are met at each lot in the proposed subdivision and add all new water lines into the existing Bella Vista water model.
- (e) A water line from which fire protection is provided shall have a minimum nominal inside diameter of eight (8) inches. Larger lines and specific materials may be required depending on demand, size of the service area, and the City's future plans.
- (f) Fire hydrants shall be required in all subdivisions that use a water distribution system. The design, location, and number of fire hydrants shall be in accordance with the City's Fire Code and the Arkansas Fire Prevention Code or any subsequent amendments thereto.

Sec. 107-017. Private Water Supply, Septic Tanks, and Absorption Systems

- (a) Where a public water supply is not available, or a public sanitary sewer is not accessible, a certificate or letter granting local approval from the Arkansas Department of Health (ADH) shall be presented showing the results of soil morphology or percolation tests for septic tanks and a statement as to the ability of soil to absorb water. The statement must set out that septic tanks meet the requirements of the ADH. The letter shall also state the ADH's

recommendation as to the approximate recommended depth of wells, if known. If unknown, the developer shall sink a test well to enable the State Health Officer to evaluate the adequacy of the individual well water supply. The statement must set out that the well meets the requirements of the ADH. If the well is semi-public, please refer to the Arkansas Department of Health Engineering Section for the guidelines and certain requirements; if the well is private, refer to the Arkansas Department of Agriculture's Water Well Construction Commission.

- (b) Whenever an on-site septic tank and an absorption system or water supply is to be provided, the developer shall require, as a condition in the covenants of the subdivision, that those facilities shall be installed by the builders of the improvements in accordance with regulations and in compliance with the standards of the ADH. The property owner shall obtain "A Permit for Construction" from ADH before construction can begin. After construction is completed by a licensed installer, an inspection shall be scheduled with the ADH or with the local municipality's health/building department. Once the system passes the inspection, ADH will issue A Permit for Operation.
- (c) In the event that a private well system is to be employed, the developer shall place the following note on the final plat and shall state the following in the covenants of the subdivision: "Each developed lot shall connect to an approved public water system within twelve (12) months of availability and each lot shall share construction expense for connection as prescribed by the City Council."
- (d) Improvements shall be as close to grade as possible. Backfill/Bedding needs to be regulated with a minimum install depth of at least twenty-four (24) inches. However, thirty (30) inches is preferred. All portions of the septic system must be located at least 100 feet from domestic wells. They must also be three hundred (300) feet from the high water mark of a water supply intake. Onsite wastewater systems must be designed, constructed, and installed in accordance with the Arkansas Department of Health's rules and regulations pertaining to onsite wastewater systems.
- (e) Where a public sanitary sewer system is unavailable, an alternate method of sewage disposal may be used when in compliance with the standards of the Arkansas Department of Health and these regulations. However, the developer shall insert on the final plat and within the covenants for the subdivision the following: "Each developed lot shall connect to an approved central sewer system within eighteen (18) months of availability to the lot and each lot shall share in the construction costs for connection as prescribed by the City Council."

ARTICLE III. PERFORMANCE GUARANTEES AND MAINTENANCE

Division 1. Generally

Sec. 107-018. Purpose

The regulations of this article establish standards governing the timely provision of necessary infrastructure to development within the jurisdiction of the City of Bella Vista. These standards are intended to:

- (a) Provide for the protection of public health, safety, and welfare;
- (b) Promote the orderly growth and development of the City; and
- (c) Ensure the timely and coordinated provision of required transportation improvements, utilities, and other facilities and services to new subdivisions and developments.

Sec. 107-019. Infrastructure and Public Improvements

- (a) Developers are responsible for the construction and installation of the following infrastructure and public improvements, in accordance with these regulations.
 - (1) Survey monuments;
 - (2) Any other on- or off-site infrastructure or public improvements required by the Development Code.
 - (3) Streets
 - a. All curb and gutter and street drainage slopes completed and backfilled.
 - b. Final layer of asphalt in place.
 - c. Street signs paid for.
 - d. Pedestrian accommodations constructed.
 - e. Road right-of-way restoration is substantially complete.
 - f. Correction of the final layer of pavement to the required thickness and density.
 - g. Correction of low or ponding areas in the street.
 - h. Correction of unacceptable curb sections.
 - i. Correction of damaged pedestrian accommodation sections.
 - j. Approval of final record street drawings.
 - (4) Sewer
 - a. All sewer lines constructed to grade.
 - b. Mandrel and pressure tests complete.
 - c. All manholes are complete to the required elevations and vacuum tested.
 - d. Sewer services marked.

- e. Lift station site functionally complete, with the exception of electricity.
- f. Tracer wires were installed on force mains and tested.
- g. Lift station alarm completed and monitorable.
- h. Draft final record drawings.
- i. Cosmetic work.
- j. Final record drawings.

(5) Water

- a. All water lines in place, pressure tested, and bacterially tested safe.
- b. All hydrants and valves in place, accessible, and operational (facing street).
- c. Meter tiles and setters in place.
- d. Tracer wires installed and tested.
- e. Draft of record drawings.
- f. Passing test results for all backflow devices provided.
- g. All backflow prevention devices are installed properly and functional.
- h. Painting hydrants with proper coding for fire flow rates.
- i. Hydrant markers installed.
- j. Adjusting meter tiles to grade.
- k. Adjusting meter setters.
- l. Adjusting valve stacks.
- m. Pouring concrete valve operator pads.
- n. Final record drawings.

(6) Electrical conduit

- a. Conduit in place at proper depth and clear of obstructions.
- b. Conduit termination points in the proper location per design layout, marked and protected.
- c. Transformer and junction box locations at or near final grade.

(7) Drainage

- a. Drainage swales are in place, sodded or concrete-lined, and properly dedicated with erosion control measures in place.
- b. Detention/retention facilities to grade and draining properly.
- c. Outlet structures, pilot channels, headwalls, flumes, and other appurtenances in place and constructed to approved plans and specifications.

- d. Any needed off-site improvements or easements in place.
 - e. Sodding of detention/retention ponds completed and established.
 - f. Fencing of any detention/retention ponds is in place.
 - g. Aeration facilities for retention ponds in place.
 - h. All drainage inlets, outlets, and conduits are in the proper location and constructed to approved plans and specifications.
 - i. Final layer of drainage paving in place as required by approved plan, including parking lots.
 - j. Cosmetic work (finish grout, clean out boxes, pipes, and other appurtenances).
- (b) If a developer files a final plat for only a portion of the subdivision for which a preliminary plat was approved, the improvements required to be constructed, installed, and maintained in accordance with that final plat are those improvements that the Planning Commission deems necessary to serve the lots shown on the proposed final plat.
- (c) All improvements must be designed and installed to provide for a logically interconnected system of infrastructure and to create continuity of improvements for the development of adjacent properties.
- (d) During the course of installation and construction of required infrastructure and improvements, the City Engineer must make periodic inspections of the work to ensure that all improvements comply with all City requirements.
- (e) Upon completion of installation and construction of all required improvements, the development may seek acceptance of public improvements by the City by submitting the required number of record plans. In addition, the developer must provide a statement signed by a registered professional engineer that all required improvements have been installed and constructed in accordance with the submitted as-built plans.
- (f) In the event that the developer can not construct and install improvements, such as sidewalks or trails and they do not receive a waiver from the Planning Commission, a fee in lieu of construction option can be available, if approved by the Planning Commission.
- Article II. Division 2. Sec. 107-010(g)(7)c).

Sec. 107-020. Perpetual Maintenance of Common Areas and Improvements

- (a) The developer is responsible for maintaining all required infrastructure and public improvements until final acceptance of such improvements by the City or until responsibility for maintenance is transferred by legal agreement, which must be recorded, to a property owner's association (POA).
- (b) When a subdivision contains either common open space or other improvements that are not intended to be dedicated to the City or other entity for public use, a homeowners' or property owners' association shall be created. The duties and responsibilities shall be established via deed restrictions or covenants, which must be submitted to the City and made a part of the final plat documents. The deed restrictions or covenants must be

recorded with the County Clerk's Office before any lots can be sold. After 75% of the lots are sold, the POA power shall transfer to the residents of the development. The developer transition shall require the election of POA board members who should be homeowners within the development. The developer shall transfer the POA's bank accounts to the board and community members. All deeds or titles to community facilities or common areas shall be transferred to the homeowners' association.

(1) The association instrument must address at least the following:

- a. Specific identification of what is owned and by whom;
 - b. Establish a system of interlocking relationships binding each owner to all other owners for maintaining and preserving what is owned and common usage;
 - c. Create an organizational tool to manage those elements shared in common and to enforce standards; and
 - d. Provide for the management and funding of the association.
- (c) The City must review the proposed instruments to ensure that the POA has clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from residents and property owners to cover their proportionate share of the costs associated with the maintenance of the common areas and facilities.

Division 2. Security for Improvements

Sec. 107-021. Form and Security Amount

(a) Assurance of Performance

When the owner/developer requests final plat approval under the requirements contained in Article IV. Division 2. Sec. 107-040(b)(2), the owner/developer shall enter into an agreement with the City to guarantee installation or ensure the completion of improvements. The City may accept the subdivision and issue a certificate of final plat approval, subject to all requirements of the chapter, and upon providing one of the following guarantee requirements or financial instruments:

(1) Performance Bond

- a. A performance bond may be posted to the City for completion of the improvements.
- b. Such performance bond shall specify the time for completion of the improvements and installations and shall be in the amount determined by the engineer-of-record and agreed upon by the City Engineer and shall be one hundred fifty percent (150%) of the amount estimated to complete the improvements and installations for the developer in compliance with these rules and regulations.
- c. Such performance bond shall be issued by a surety company authorized to do business in the State of Arkansas and shall remain in force for a period of one year or until improvements and installations are complete.

- d. For improvement completion that takes over one year, an extension must be approved by the Planning Commission if found reasonable.
- e. If the extension is not approved, the bond amount, in full, will be payable to the City at the end of the year. The performance bond shall not be renewed without the approval of the Planning Commission.

(2) Irrevocable Letter of Credit

The developer may provide an irrevocable letter of credit to the City pursuant to the following conditions:

- a. The letter of credit will be for an amount of one hundred and fifty (150) percent of the amount estimated to complete the improvements as determined by the engineer-of-record and agreed by the City Engineer.
- b. The letter of credit will be irrevocable and will list the City as the sole beneficiary.
- c. The letter of credit will be in a form approved by the City Attorney.
- d. The City, as the sole beneficiary, shall be entitled to payment upon making a demand for payment under the terms of the letter of credit in the event the developer is in default. Further, the City shall be entitled to use all of the money secured by the letter of credit to ensure the cost of completion of the work in the subdivision.
- e. The developer will not be entitled to any excess monies until the work in the subdivision has been completed.
- f. The terms of the letter of credit shall be limited to a time specified, not to exceed one year, unless an extension is granted by the Planning Commission. If the extension is not approved for longer than one year, then the amount of the letter of credit shall be payable in full to the City.
- g. The letter of credit extension shall provide all costs incurred by the project and related inflation costs.

Sec. 107-022. Release of Security

(a) Certificate of Completion

To request a release of a guarantee, the owner/developer's engineer-of-record shall submit a certification of completion to the Director that the development is complete and functional.

(b) Final Inspection

The Director or their designee shall conduct a final inspection of the remaining guaranteed items. The final inspection must be approved prior to releasing the guarantee.

(c) Guarantee Released

In the event the guarantee is released, the City shall reimburse the owner/developer the amount of the cashier's check.

Sec. 107-023. Vacation of Security

The City Council may waive all or a portion of the security requirements of this section if it finds that the public health, safety, and general welfare will not be harmed by such a waiver. The City Council shall take into consideration the extent of public improvements to be installed and the likelihood that such improvements will be installed by the developer within the 12-month period, the impact that may result if such improvements are not timely installed, and the hardship to the developer if the security requirements are imposed.

Sec. 107-024. Maintenance Guarantees and Security

No less than one year's maintenance by the developer shall be ensured prior to the filing of a plat. One of the following methods, dependent upon the method utilized, in Sec. 107-021(a) Assurance of Performance must be followed:

(a) Certificate of Completion of Improvements

If a certificate of completion of improvements is submitted prior to the filing of the final plat, a maintenance bond or letter of credit must also be submitted to the City prior to the filing of the final plat. The maintenance bond, cash deposit, or letter of credit must meet the following conditions:

- (1) The maintenance guarantee must be in the amount of twenty-five percent (25%) of the value of the donated assets. The value of the donated assets shall be as estimated by the engineer-of-record and agreed upon by the Director or their designee.
- (2) It must be irrevocable and shall list the City as the sole beneficiary.
- (3) It must be in a form approved by the City Attorney.
- (4) It must run for no less than one year.
- (5) At the end of one year, if the improvements have not been adequately maintained, as determined by the Director, the City shall be entitled to guarantee, upon making a demand for the funds, under the terms of the maintenance bond, cash deposit or letter of credit. The City shall be entitled to use all of the money secured by the maintenance bond, cash deposit, or letter of credit to ensure the proper maintenance of the improvement.
- (6) The developer shall not be entitled to any excess monies until the maintenance of the improvements in the subdivision has been satisfactorily completed.

(b) Guarantee Released

At the end of the maintenance period, the City shall return the remaining funds to the owner/developer.

(c) Performance Bond

- (1) If a performance bond is posted to ensure completion of the improvements, that performance bond must also include provisions that automatically convert it to a maintenance bond upon completion of the improvements or on the date the performance bond lapses, whichever comes first.

- (d) Such maintenance bond shall meet all the conditions in the certificate of completion of improvements listed in **(a)** above.
 - (1) Irrevocable Letter of Credit
 - (2) If an irrevocable performance letter of credit is posted to ensure completion of the improvements, that letter of credit shall include provisions that automatically convert to an irrevocable maintenance letter of credit upon completion of the improvements or on the date the performance letter of credit lapses, whichever comes first.
 - (3) Such a maintenance letter of credit shall meet all conditions in the certificate of completion of improvements, Article III. Division 2. Sec. 107-024(a).
 - (4) When the Director has received notification that one of the heretofore described mechanisms ensuring completion of the improvements has been executed, the Planning Commission may certify final plat approval.
- (e) If the subdivision contains common open space and other improvements that are not intended to be dedicated to the City or other entity for public use, a homeowners' or property owners' association and related protective covenants shall be created, as required in Article III. Division 1. Sec. 107-020

ARTICLE IV. PROCEDURES

Division 1. General Procedures

Sec. 107-025. Purpose

- (a) The purposes of this Division are to:
- (b) Establish the appropriate workflows associated with each subdivision process.
- (c) Assign decision-making authority, completeness review, and deadlines to ensure that the processes are efficient and fair to the applicant,
- (d) Outline applicable relief procedures, and
- (e) Ensure that the processes comply with state law.

Sec. 107-026. Amendment

- (a) An amendment to the text of these Subdivision Regulations may be initiated by the City Council, the Planning Commission, or the Planning & Development Director. On any proposed amendments to these regulations, the Planning Commission shall hold a public hearing for which advance notice in a local newspaper of general distribution has been published, in accordance with State Statute. Following such hearing, the City Council may adopt the amendments as recommended by the Planning Commission or as determined by a majority vote of the City Council.

Sec. 107-027. Procedural Component

This article sets up rules for procedures and describes the process for specific subdivision decisions. The procedures have a common workflow and description per Table 107.27.1: Procedural Components.

Table 107-27.1: Procedural Components

Procedural Components	
Component	Description
Applicability	This is the type of development or situation that is subject to the process.
Initiation	This is how the applicant begins the process, including which department or official receives the application.
Completeness	This is how the City determines that the application has sufficient information to be processed.
Notice and Hearings	This describes the type of notice, how it is provided, and the conditions of any applicable required public hearings.
Decision	This states who approves the application and the type of proceeding that leads to the decision.
Standards	These are standards that apply to the application. All applications are subject to the regulations of this Zoning Ordinance.

Procedural Components	
Subsequent Applications	If an application is denied, some processes have a waiting period before that type of application can be resubmitted for the property.
Appeals	This provides a way to review an application that is denied or that has conditions that the applicant disagrees with.
Scope of Approval	This indicates what activity the application authorizes. For example, some approvals send the applicant to the next step in the overall process, while others authorize construction or use.
Recordation	This states how the formal approval decision is maintained.

Sec. 107-028. Authority Summary

Table 107-39.1: Authority Table summarizes the major review procedures for subdivision applications in the City's corporate limits and who acts on those applications. The Director, Planning Commission, and City Council shall generally be considered the “Approval Authority” throughout this Article, unless otherwise noted.

Table 107.39.1: Authority Table

Authority Table				
Application Type	PAC	Approval Authority		
		DR	PC	CC
Subdivision Regulations Text Amendment	•	R	R	D
Preliminary Plat	•	R	D	A
Final Plat	•	R	R	D
Minor Plat	•	D	A	
Property Line Adjustment	•	D	A	
Correction Plat	•	D	A	
Vacation of Plat	•	R	R	D
Vacation of Streets and Alley Rights-of-way	•	R	R	D
Vacation of Easements	•	R	R	D
Waivers	X	R	D	
Appeals	X			D
X = Not Required ✓ = Required • = Optional R = Review and Recommend D = Decision (a decision includes the review of the application) A = Appeal Decision PAC = Pre-Application Conference DR = Director PC = Planning Commission CC = City Council				

Sec. 107-029. Pre-Application

- (a) *Applicability.* These requirements apply when an applicant elects to request a pre-application with the City.

- (b) *Initiation*. Before filing an application subject to this Article, the applicant may request a meeting with the Development Review Team concerning a subdivision application described in this Article.
- (c) *Scheduling*. Any applicants wishing to discuss a development proposal with the Development Review Team shall advise the Director at least seven (7) calendar days prior to the meeting.
- (d) Pre-Application Conference (PAC)
 - (1) The Pre-Application Conference shall include the following:
 - a. A discussion of the general project consistency with this Chapter and the Comprehensive Plan;
 - b. A discussion of technical studies, plans, and other information deemed relevant to the specific application request; and
 - c. Discussion of the anticipated level of citizen interest.
 - (2) The applicant shall provide a brief overview of the project, including proposed location, uses, densities, project layout, and design features.
 - (3) The Director will provide information and comments at the Pre-Application Conference but will not take formal action on the application. In addition to the provision of verbal information, the Director may provide a Pre-Application Meeting checklist.
 - (4) The applicant's and Development Review Team's comments are for informational purposes and are not binding on either the City or the applicant.
- (e) Documentation
 - (1) During the meeting, the Director may review and complete an informational checklist based on the scope of the application.
 - (2) The Director will record in writing and provide the applicant with any pertinent information concerning the project scope, as described by the applicant, as well as verbal guidance provided by City staff.

Sec. 107-030. Submitting Applications

- (a) Restriction of Development Before Subdivision of Land.
- (b) No developer that proposes to create a subdivision within the City limits shall proceed with any land clearing, tree removal, or construction work on the proposed subdivision before obtaining Planning Commission approval and shall not convey title to any lot(s) before obtaining from the Planning Commission a certificate of final plat approval and the acceptance and filing of said plat with the County Circuit Clerk. No developer shall receive a Certificate of Occupancy if needed until the final plat is accepted and filed with the County Circuit Clerk.
- (c) General Requirements

- (1) Applications filed under this Chapter must include the information required in any applicable checklist.
 - (2) The City Council shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, appeals and other matters pertaining to this Chapter, by resolution. The schedule of fees shall be posted in the City Administrative Office and may be altered or amended only by the City Council.
 - (3) An applicant shall pay the fee designated by the City Council at the time of application submittal.
 - (4) Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.
- (d) Completeness
- (1) The Director will not process incomplete applications.
 - (2) An application is not complete until all required items are submitted (see the application's checklist).
 - (3) When applications are submitted, the Director will review them for completeness.
 - (4) The time period to process an application does not commence until the Director determines that the application is properly submitted, and the applicant has corrected any deficiencies in the application.
 - (5) The review for application completeness is solely to determine whether the information required for submission with the application is sufficient to allow further processing.
 - (6) The Director will determine whether the application is complete and will transmit the determination to the applicant. If the Director determines that the application is not complete, the Director will specify those parts of the application that are incomplete and will indicate how they can be made complete, including a list and description of the information needed to complete the application. The Director or the approval authority is not obligated to further review the application until the required information is corrected.
 - (7) The Director or the approval authority may provide submittal deadlines as reflected in the City's Development Calendar for materials required in support of any application provided for in any checklist. Compliance with the City's Development Calendar or any other submittal deadlines and review processes is required to have the application placed on an agenda to be heard by the approval authority.

Sec. 107-031. Noticing

- (a) Generally speaking, the subdivision process does not require formal notices to adjacent property owners and the broader community.

Sec. 107-032. Technical Review

- (a) *Staff Review.* The Director shall be the initial reviewing body for subdivision applications. Upon determination of the application completeness in accordance with Article IV. Division

1. Sec. 107-030(d), above, the Director shall then review the plat application for conformance with this Chapter and applicable City and State standards.
- (b) *Review by Other City Departments and Agencies.* The Director may forward the application for review by other staff members, utility agencies, departments of the State of Arkansas, or other technical advisors throughout the course of the Director's review.
- (c) *Staff Report.* Following the review by staff members, the Director shall make a report regarding the subdivision application to be submitted to the Planning Commission, as applicable, and shall recommend:
 - (1) Approval of the subdivision application;
 - (2) Approval of the subdivision application with conditions; or
 - (3) Denial of the subdivision application.
- (d) *Notice of Revisions.*
 - (1) The Director shall provide the completed staff report to the applicant. If the Director's report contains a recommendation of denial of the application or approval of the application with conditions, the Director will be responsible for attaching a Notice of Revision with the staff report to the applicant. The notice shall include:
 - a. Any supplemental documentation or standards regarding the reasoning for the denial or approval with conditions recommendation; and
 - b. The date the applicant must resubmit revised plans (revision deadline) to be placed on the agenda for the next Planning Commission, as applicable, or to be acted upon by the Director, if the application is subject to administrative decision.
 - (2) *Resubmittal Following Revisions.*
 - a. Prior to the revision deadline (see above), the applicant shall provide the Director a revised copy of the plat and/or any revisions required to supporting documents, based on the Director's recommendations and comments.
 - b. The Director shall then review the application materials for compliance with the staff report and recommendations, and shall create an updated report, if necessary.
 - c. Failure to submit a revised application or address staff comments by the stated revision deadline shall be grounds for the Director to deny the application.
 - (3) When consideration by the Planning Commission and/or City Council is applicable (refer to Table 107-39.1: Authority Table), the Director shall set a date for the Planning Commission review of the application and shall notify the applicant in writing of the scheduled meeting date.

Sec. 107-033. Decision-Making

- (a) *Purpose.* The purpose of the formal review by the approval authority, as applicable, is to ensure that the subdivision application conforms with the minimum standards of the Comprehensive Plan, this Article, design standards and guidelines, and policies.
- (b) *Rules of Procedure.* The City Council and Planning Commission may adopt rules of procedure to be followed during regular meetings to review and consider subdivision applications. The Director may adopt rules of procedure for the Department to consider applicable decisions of subdivision applications.
- (c) *Action.* The City Council and Planning Commission shall hold regular meetings to receive and review subdivision applications required by the Article. The Director shall receive and review applications during normal business hours of the Department. Decisions and recommendations shall be made in a timely manner, based on the specific requirements of this Chapter and the following:
 - (1) Conformance with these regulations, the Comprehensive Plan, and other adopted plans, design standards and guidelines, and policies;
 - (2) Recommendations of staff and the Planning Commission, providing recommendations to the City Council, as applicable;
 - (3) Input of reviewing agencies and departments; and
 - (4) Effect of the proposal on the neighborhood, area, and the community-at-large.
- (d) *Authority of Conditional Approvals of Subdivision Applications.*
 - (1) After application review, other pertinent information or documents, and any evidence made part of the public record, the approval by the Director, Planning Commission, and City Council may impose conditions that are necessary to ensure compliance with applicable standards expressed in this Chapter, and design standards, guidelines, or policies of the City.
 - (2) The Director shall include a copy of the conditions with the record of decision.
 - (3) The applicant shall be notified of any conditions imposed on the application.

Sec. 107-034. Tabling

- (a) *Purpose.* This Section allows for the tabling of applications as needed to collect additional information or to engage in further review.
- (b) *Applicant Request.* An applicant may request to table any application in writing for a future meeting date.
- (c) *Director Request.* The Director may request to table any application for further review and consideration. In that case, the Director shall provide notice and explanation to the applicant in writing before the meeting at which the application is scheduled for hearing. Notice of the tabling will be given at the beginning of the scheduled meeting.

Sec. 107-035. Application Withdrawal

- (a) *Generally*. An application may be withdrawn at any time prior to formal consideration by the Director, Planning Commission, or City Council. This should be done by the applicant at the earliest possible time.
 - (1) If a public hearing is required (text amendment to the Subdivision Regulations or Appeal), the applicant may request a withdrawal from the Director at any time prior to the opening of the hearing. Once the public hearing is opened, the approval authority shall decide whether to approve the request and may instead act on the application.
- (b) *Fees*. Withdrawal of an application after the determination of completeness results in the forfeiture of fees.

Sec. 107-036. Scope of Approval

- (a) *Generally*. The approval authority may take any action on the application that is consistent with the Chapter, including approval, conditional approval, or denial.
- (b) *Amendments*
 - (1) The approval authority may allow amendments to the application if the effect of the amendment is to reduce the density or intensity of the original application, reduce the impact of the development, or reduce the amount of land involved from the original application.
 - (2) The approval authority may not permit a greater amount of development, a more intense use, or a larger area of land than indicated in the original application.

Division 2. Subdivision Types

Sec. 107-037. Required To Plat

- (a) The platting process, as described in this Article, is required for the following situations:
 - (1) Two or more lots are being subdivided or combined, thus changing the configuration of the lot lines;
 - (2) Property that was previously platted is being re-subdivided;
 - (3) Development is planned on a parcel that has not previously been legally platted and recorded; or
 - (4) A plat that was previously approved and recorded needs to be amended.

Sec. 107-038. Exempt From Plat

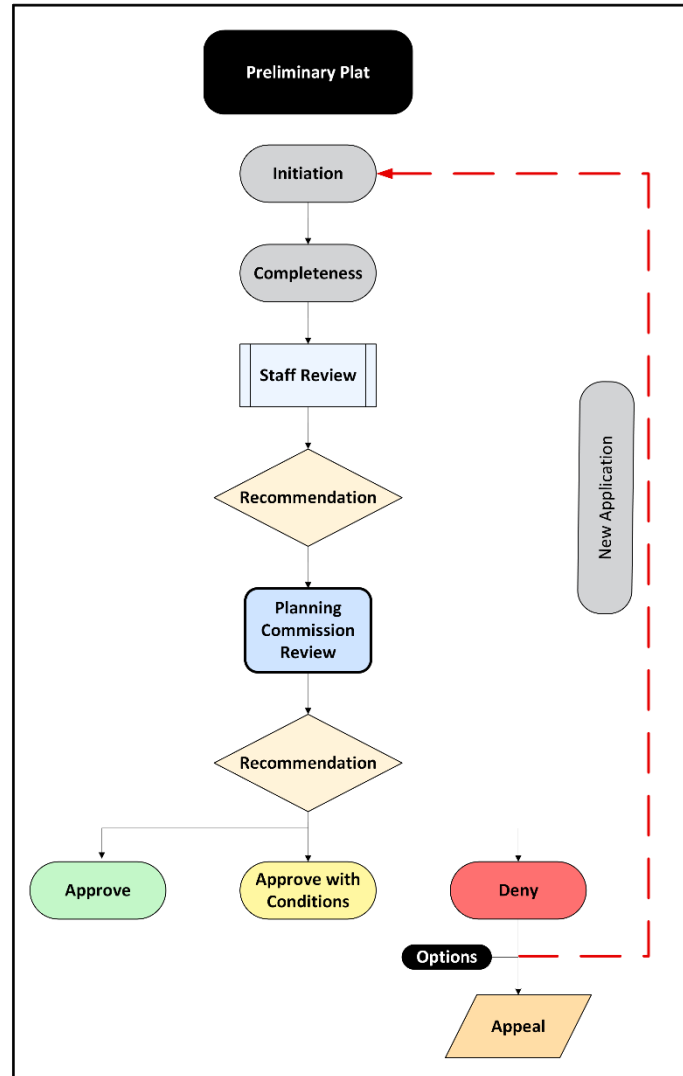
- (a) The platting is not required for the following situations:
 - (1) Division of property that results from a governmental entity's land acquisition for public infrastructure, such as street right-of-way or utility easements.
 - (2) Any lot or lots forming a part of a subdivision created and recorded before the date on which the City's subdivision regulations were passed and adopted.
 - (3) A division of land performed by a political subdivision of the state.

- (4) A division of land created by order of a court with competent jurisdiction.
- (5) Easements that do not involve the division of land.
- (6) The laying out of cemetery plots in a cemetery or addition to a cemetery if no public street is constructed or dedicated.

Sec. 107-039. Preliminary Plat

(a) *Purpose.* The preliminary plat is intended to provide an interim step in the subdivision process, in which the applicant presents a detailed plat and plans for review and approval by the Planning Commission. The preliminary plat and accompanying information shall show how the elements of the subdivision, including utilities, streets, and drainage, will be developed to verify conformance with the City's codes and standards.

(b) *Applicability.* This section applies to any application for approval of a preliminary plat of a subdivision. Any owner of land within the City limits seeking to subdivide property shall not proceed with any construction work on the proposed subdivision before obtaining preliminary plat approval, nor shall the owner attempt to record the plat of the subdivision or any part thereof, including conveyance of title to any lot, prior to obtaining final plat approval from the Planning Commission.



(c) *Initiation.* The applicant shall submit a complete application to the Director.

(d) *Completeness.* See Article IV. Division 1. Sec. 107-030, for the general subdivision application process and required content.

(e) Notice and Hearings. Not applicable.

(f) Decision

(1) Director Review and Recommendation

- a. The Director shall review the proposed preliminary plat for completeness and conformance with these regulations, send the application to other City departments and officials for their review (i.e., Engineering, Fire Department, Arkansas Department of Health), place the application on the next Planning Commission meeting, and provide a recommendation to the Planning Council

based on the approval criteria (Article IV. Division 2. Sec. 107-039(g))The recommendation may be to:

1. Approve the preliminary plat, or
2. Approve the preliminary plat with conditions, or
3. Disapprove the preliminary plat.

(2) Planning Commission Review and Decision

a. Generally

1. The Planning Commission shall conduct a review and consider each preliminary plat submitted pursuant to the Subdivision Regulations, and take one of the following actions within sixty (60) days from the date of determination of completeness (Article IV. Division 1. Sec. 107-030(d)):
 - a) If the preliminary plat complies with all provisions of these Subdivision Regulations, the Planning Commission shall approve the plat, or
 - b) If the preliminary plat fails to comply with all provisions of these Subdivision Regulations, the Planning Commission may approve the preliminary plat with conditions needed for compliance, or
 - c) If the preliminary plat fails to comply with all provisions of these Subdivision Regulations, the Planning Commission may disapprove the preliminary plat.

b. Approved with Conditions or Disapproved

1. If the preliminary plat is conditionally approved or disapproved, the reason(s) for that action shall be stated in writing and transmitted to the applicant.
2. Reasons for being approved conditionally or disapproved shall refer specifically to those parts of the Comprehensive Plan or specific regulations or design standards with which the plat does not conform.
3. On a conditional plat approval, the Planning Commission may require submission of a revised preliminary plat.

- c. *Authorization to Proceed.* If the preliminary plat conforms to all standards or the applicant and the Planning Commission agree upon the conditional revisions needed to address compliance, the preliminary plat, together with an approved of the engineering drawings and plans to construct the public infrastructure, structures, and facilities, shall constitute authorization to the developer to proceed with the installation of improvements and the staking out of lots and blocks. The developer, after conditional approval of the preliminary plat, shall complete all improvements required under the Subdivision Regulations prior to filing a final plat application.

(g) Approval Criteria

- (1) The Planning Commission shall approve a preliminary plat only if it conforms to:

- a. The Comprehensive Plan and its plans for current and future streets, alleys, parks, playgrounds, and public utility facilities;
 - b. The planned extension of major thoroughfares, streets, and public highways within Bella Vista, considering access to and extension of sewer and water mains and the instrumentalities of public utilities; and
 - c. The rules and regulations of Article II. of this Subdivision Code.
- (h) Subsequent Applications
 - (1) The Subsection applies if the Planning Commission disapproves the preliminary plat.
 - (2) The applicant shall not submit a new application for a preliminary plat on the same property for at least one (1) year. If the preliminary plat was disapproved by the Planning Commission, the new application must be substantially different and fully address the requirements that caused the original disapproval.
- (i) Scope of Approval
 - (1) The preliminary plat approval is valid for two (2) years from the original date of approval, and further development work will require approval of another preliminary plat.
 - (2) A preliminary plat, conditioned upon the applicant completing a list of deficiencies, shall also be considered null and void should the list of deficiencies in its entirety not be completed within the twelve (12) months from the date of preliminary plat approval.
 - (3) If a final plat is not submitted for approval within the validation period, the preliminary plat becomes void, unless an extension is approved by the Planning Commission, as described in Article IV. Division 2. Sec. 107-039(i)(4).
 - (4) If, before the end of the validation time approved in Article IV. Division 2. Sec. 107-039(i) for the preliminary plat, the developer submits a written request for extension; the Planning Commission may grant an extension of up to twelve (12) additional months, provided, in the opinion of the Planning Commission, sufficient work has been completed with respect to the required improvements on the property. No more than one extension shall be granted.
- (j) *Recordation*. The Director and the applicant shall maintain copies of the preliminary plat for purposes of inspection and final plat approval.

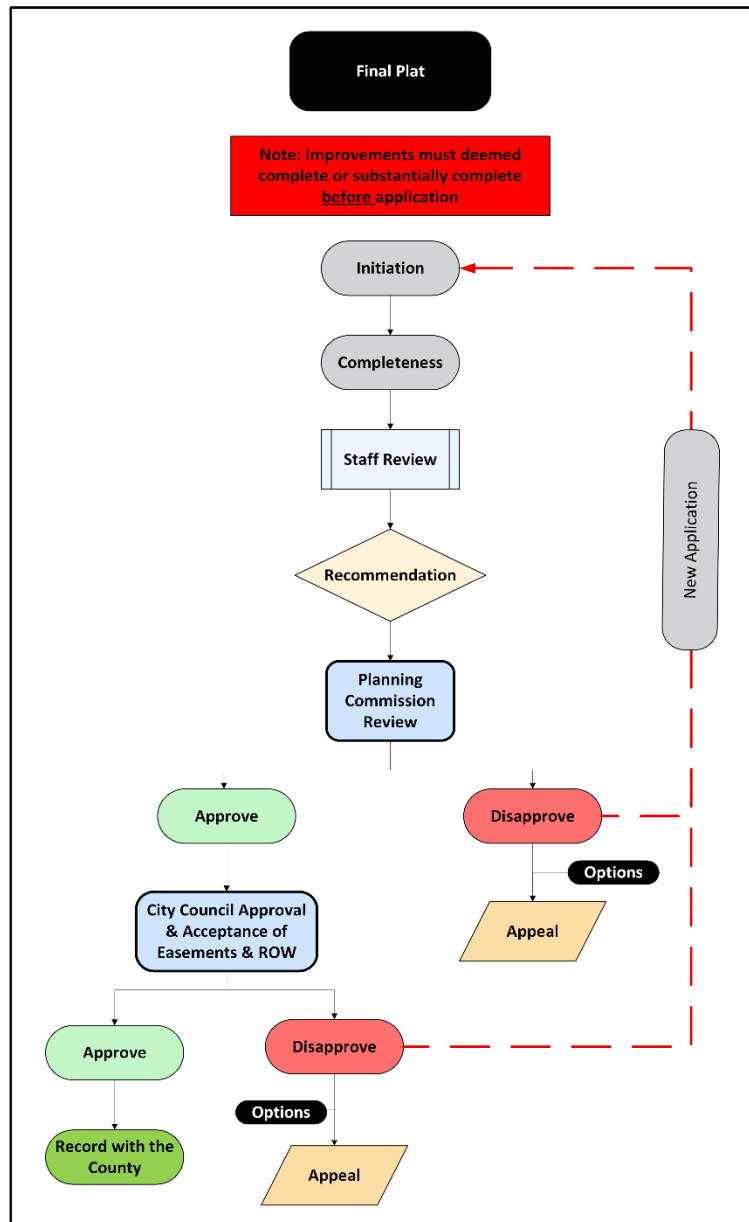
Sec. 107-040. Final Plat

(a) *Purpose.* The Final Plat is the last step in the subdivision process. The final plat is the legal document that delineates lot boundaries and describes public rights-of-way and easements. The Final Plat also completes the process for the construction, inspection, and acceptance of public infrastructure.

(b) *Applicability.* An application for final plat approval may be submitted for Planning Commission approval when one of the following requirements is met:

- (1) Improvements are Completed.

The final plat of the proposed subdivision or an approved phase may be submitted to the Planning Commission for final approval at the time of completion of improvements shown on the preliminary plat. The following must occur to consider the improvements are complete.



- a. *Certificate of Completion.* The owner/developer's engineer of record submits a statement certifying that all improvements and installations to the subdivision required for its approval under the terms of these regulations have been made, added, or installed in accordance with City specifications.

- b. *Final Inspection.* The Director conducts and certifies a final inspection.

- (2) Improvements Substantially Complete

When the subdivision is substantially complete, as provided for in Article IV. Division 2. Sec. 107-040(k), or the owner/developer guarantees completion of the remaining items, as provided for in Article IV. Division 2. Sec. 107-040(l), in accordance with Article III.

- Division 2. Sec. 107-021(a) Assurance of Performance, the final plat may be submitted for final approval.
- (c) *Initiation*. The applicant shall submit a complete application, including documentation regarding the completion or substantial completion of improvements, as well as the financial instruments for maintenance and guarantees, to the Director.
 - (d) *Completeness*. See Article IV. Division 1. Sec. 107-030 for the general subdivision application process and required content.
 - (e) Notice and Hearing. Not applicable.
 - (f) Decision
 - (1) Director Review and Recommendation
 - a. The Director shall review the proposed final plat for completeness and conformance with these regulations, send the application to other City departments and officials for their review (i.e., Engineering, Fire Department, Arkansas Department of Health), place the application on the next Planning Commission meeting, and provide a recommendation to the Planning Commission based on the approval criteria (Article IV. Division 2. Sec. 107-040(g)). The recommendation may be to:
 - 1. Approve the final plat, or
 - 2. Disapprove of the final plat.
 - b. Substantial Compliance Required
 - 1. A final plat shall be in substantial compliance with the approved preliminary plat to be considered by the Planning Commission and City Council. A revised preliminary plat will be required to be applied for if the Director determines that the changes to the final plat are substantial. Substantial changes may include:
 - a) Change in lot dimensions;
 - b) Increase in the number of lots;
 - c) Increased density;
 - d) Change in the circulation network; and
 - e) Change in drainage patterns.
 - (2) Planning Commission Recommendation
 - a. Generally
 - 1. The Planning Commission shall conduct a review and consider each final plat application submitted pursuant to the Subdivision Regulations, and take one of the following actions pursuant to the City's development calendar (Article IV. Division 1. Sec. 107-030(d)).

- a) If the final plat complies with all provisions of these Subdivision Regulations and the approved preliminary plat, the Planning Commission shall approve the final plat, or
 - b) If the final plat fails to comply with all provisions of these Subdivision Regulations or the approved preliminary plat, the Planning Commission shall disapprove the final plat .
- b. *Planning Commission's Approval.* The Planning Commission's approval of the final plat application shall not constitute the acceptance by the public of the dedication of any streets, other public ways, grounds or infrastructure.
- c. *Planning Commission's Disapproval*
 - 1. If the final plat is disapproved, the reason(s) for that action shall be stated in writing and transmitted to the applicant.
 - 2. Reasons for being disapproved shall refer specifically to those parts of the Comprehensive Plan or specific regulations or design standards with which the plat does not conform.

(3) City Council Decision

a. Generally

- 1. Following the decision of the Planning Commission, the City Council shall review the final plat application, pursuant to the Subdivision Regulations.
 - a) If the final plat complies with all provisions of these Subdivision Regulations and the approved preliminary plat, the City Council shall approve the final plat and provide for the acceptance of public rights-of-way and easement dedication, or
 - b) If the final plat fails to comply with these Subdivision Regulations or the approved preliminary plat, the City Council shall disapprove it and not accept the public rights-of-way and easements.
- 2. *Approval of the Final Plat.* Approval of the final plat shall provide for the acceptance of the public right-of-way and easement dedications.
- 3. *Disapproval of the Final Plat.*
 - a) If the final plat is disapproved and the rights-of-way and easements are not accepted, the reasons for the action shall be stated in writing and transmitted to the applicant.
 - b) Reasons for disapproval shall refer specifically to those parts of the Comprehensive Plan or specific standards and regulations with which the plat does not conform.

(g) Approval Criteria

(1) Final plats shall comply with the conditions of the approved preliminary plat, if any, and the following requirements.

a. No person shall subdivide any tract of land except in conformity with these Subdivision Regulations. The City Council shall approve a final plat only if it conforms to:

1. The preliminary plat approval substantially;
2. The Comprehensive Plan and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
3. The rules and regulations of the Subdivision Regulations.

(h) Subsequent Application. Not applicable.

(i) Scope of Approval

(1) Before recording the final plat, all rights-of-way, improvements, easements, and land dedication to public use must be accepted by the City.

(2) This approval of the plat shall be shown over the signature of the Mayor and attested by the City Clerk.

(3) The disapproval of any plat by the City Council shall be deemed a refusal of the proposed dedications shown on the plat.

(4) Inspections

a. *Inspections Required.* All projects shall be constructed according to the plans and specifications reviewed and approved by the City. Inspections shall be made periodically by the City in accordance with other applicable ordinances. The City, or its designated agents, may inspect those facilities, improvements, and installations for conformance with plans and specifications. Any improvements where post-installation inspection methods cannot ascertain whether proper methods or materials were employed may require resident on-site inspection during installation at the sole cost of the developer.

b. *Defects and Deficiencies.* If such inspection reveals that there are any defects or deficiencies in such improvements as installed or that improvements differ from the final engineering plans and specifications accepted by the City, the Director shall notify the owner/developer and their engineer of record in writing of such defects, deficiencies, and deviations. The owner/developer shall, at their own expense, correct such defects or deviations prior to final plat approval. When such deficiencies have been corrected, the engineer of record shall notify the Director in writing that improvements are again ready, and a final inspection shall be conducted.

(5) *Application for Building Permit.* No building permits may be issued until proof of the recording of the approved final plat has been presented to the appropriate City department.

(j) Recordation

- (1) Owner/Developer Responsibility. Upon approval of the final plat and acceptance of the public dedications by the City Council, the owner/developer shall record the final plat at the office of the County Circuit Clerk no later than ten days after the final plat approval.
- (2) Copies of the Plat to be Provided. After recording the plat, the owner/developer shall provide the required digital and hard copies of the plat to the Director for the files of the Planning Commission and the Planning and Development Department.

(k) Criteria for Substantial Completion (Non-Bondable Items)

The following items shall be completed prior to Planning Commission approval of the final plat:

(1) Streets

- a. All curb and gutter and street drainage slopes are completed and backfilled.
- b. The final layer of asphalt is in place.
- c. Street signs paid for and installed.
- d. Pedestrian accommodations have been constructed.
- e. Road right-of-way restoration is substantially complete.

(2) Sewer

- a. All sewer lines are constructed to grade.
- b. Mandrel and pressure tests of the sewer lines are complete.
- c. The installation of all manholes is complete to the required elevations and vacuum tested.
- d. Sewer services are appropriately marked.
- e. All lift station sites are functionally complete, with the exception of electricity.
- f. All tracer wires are installed on force mains and tested.
- g. All lift station alarms are installed and monitorable.
- h. Draft final record drawings are completed, submitted, and accepted.

(3) Water

- a. All water lines are in place, pressure tested, and bacterially tested safe.
- b. All hydrants and valves are in place, accessible, and operational (facing street).
- c. Meter tiles and setters are in place.
- d. All tracer wires are installed and tested.
- e. Draft final record drawings are completed, submitted, and accepted.

- f. All backflow prevention devices are installed properly and functional.
- g. Passing test results for all backflow devices are provided.

(4) Electrical conduit

- a. All electrical conduits are in place at the proper depth and clear of obstructions.
- b. Conduit termination points are in the proper location per design layout, marked and protected.
- c. Transformer and junction box locations at or near final grade.

(5) Drainage

- a. Drainage swales are in place, sodded, and concrete-lined, as applicable, with properly dedicated erosion control measures in place.
- b. Detention/retention facilities are built to grade and drain properly.
- c. Outlet structures, pilot channels, headwalls, flumes, and other appurtenances are in place and constructed to approved plans and specifications.
- d. Any needed off-site improvements or easements are in place.
- e. Sodding of detention/retention ponds are completed and established.
- f. Fencing of detention/retention ponds is in place.
- g. Aeration facilities for retention ponds are in place and operational.
- h. All drainage inlets, outlets, and conduits are in the proper location and constructed to approved plans and specifications.
- i. Final layer of drainage paving in place as required by approved plan, including parking lots.

(I) Criteria for Guarantees (Bondable Items)

The following items do not need to be completed prior to Planning Commission approval of the final plat, provided that the requirements of Article III. Division 2. Sec. 107-021(a) have been met.

(1) Streets

- a. Correction of the final layer of pavement to the required thickness and density.
- b. Correction of any low or ponding areas in the street.
- c. Correction of any unacceptable curb sections.
- d. Correction of any damaged pedestrian accommodation sections.
- e. Submittal and approval of the final record street drawings.

(2) Sewer

- a. Any cosmetic work.

- b. Submittal and approval of the final record drawings.

(3) Water

- a. Painting hydrants with proper coding for fire flow rates.
- b. Installation of hydrant markers.
- c. Adjusting meter tiles to grade.
- d. Adjusting meter setters.
- e. Adjusting valve stacks.
- f. Pouring concrete valve operator pads.
- g. Submittal and approval of the final record drawings.

(4) Drainage

- a. Cosmetic work (finish grout, clean out boxes, pipes, and other appurtenances).

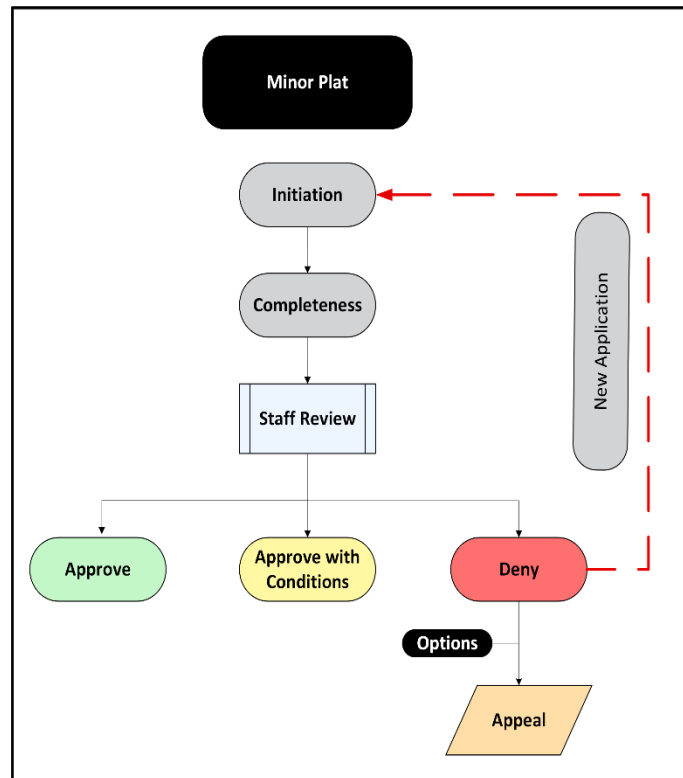
Sec. 107-041. Minor Plat

- (a) *Purpose.* The purpose of a minor plat is to allow for the subdivision of large, previously platted lots into five or fewer lots, with no changes to the dedicated rights-of-way or easements. The intent of the minor plat is to allow for an expedited review and approval of the subdivision through an administrative process.

(b) *Applicability*

- (1) An application for a minor plat may be proposed if:

- a. A lot is divided into five lots or fewer.
- b. Each new lot meets the minimum lot requirements of the zoning district in which it is located.



- c. No new dedications of easements or rights-of-way are required to serve these new lots in accordance with the subdivision regulations.
- d. No vacations, relocation of easements or rights-of-way, waivers, reservations of public lands, or changes in alignment of easements or rights-of-way are proposed to serve the new lots
- e. No extensions of public utilities mains are required to serve the new lots. New private service lines, laterals, etc., are allowed to be extended with a minor plat to serve the new lots.

- (c) *Initiation.* The applicant shall submit a complete application to the Director.

- (d) *Completeness.* See Article IV. Division 1. Sec. 107-030, for the general subdivision application process and required content.

- (e) Notice and Hearings. Not applicable.

(f) *Decision*

(1) *Generally*

- a. The Director shall review the proposed minor plat for completeness and conformance with these regulations, and send the application to other City departments and officials for their review (i.e., Engineering, Fire Department, Arkansas Department of Health). Following the review, the Director will:

1. Approve the minor plat, or
 2. Disapprove of the minor plat.
- b. *Requiring Additional Detailed Studies.* If the Director determines that the minor plat requires additional detailed study, such as for stormwater, traffic, or utility service, during their review, the Director shall defer the minor plat to the Planning Commission as a final plat application.
1. The Director shall inform the applicant of this decision in writing, detailing the reason for the needed study and coordinate with the applicant for the completion of the study and scheduling the item with the Planning Commission.
- c. Approved with Conditions or Disapproved
1. If the minor plat is conditionally approved or disapproved, the reason(s) for that action shall be stated in writing and transmitted to the applicant.
 2. Reasons for being approved conditionally or disapproved shall refer specifically to those parts of the Comprehensive Plan or specific regulations or design standards with which the plat does not conform.
 3. On a conditional plat approval, the Director may require submission of a revised minor plat.

(g) Approval Criteria

- (1) The Director shall approve the minor plat application if the following criteria are satisfied.
 - a. The proposed minor plat conforms to the requirements of these Subdivision Regulations, the applicable zoning district regulations and any other applicable provisions of the Code of Ordinances, subject only to acceptable rule exceptions.
 - b. The proposed development associated with the minor plat is consistent with the Engineering Design Standards, good traffic engineering design, and public safety considerations.
 - c. The proposed minor plat conforms to any existing, unexpired, and valid conditions of rezoning, special use permit, or site development plan approval.
 - d. All submission requirements are satisfied.

(h) Subsequent Application

- (1) When a minor plat application is denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
- (2) A new minor plat showing major modifications and/or revisions to the denied application may be submitted at any time.

(i) Scope of Approval

- (1) The acceptance of a subdivision for a minor plat shall not be construed as a waiver of the requirements of this code, nor the provisions of any other applicable ordinance or statute pertaining to the property.
- (2) Any tract of land shall not be resubdivided for a period of five (5) years from the approval date of the minor plat unless it follows the final plat process. Following the required time period, a subsequent subdivision of the tract shall follow the final plat process.
- (3) *Application for Building Permit.* No building permits may be issued until proof of the recording of the approved minor plat has been presented to the appropriate City department.

(j) Recordation

- (1) *Owner/Developer Responsibility.* Upon approval of the minor plat by the Director, the owner/developer shall record the final plat at the office of the County Circuit Clerk no later than ten days after the final plat approval.
- (2) *Copies of Minor Plat to be Provided.* After recording the plat, the owner/developer shall provide the required digital and hard copies of the plat to the Director for the files of the Planning Commission and the Planning and Development Department.

Sec. 107-042. Property Line Adjustment

(a) *Purpose.* A property line adjustment occurs when property lines are moved or relocated between lots, but no additional lots are created. A property line adjustment can also be used to combine multiple adjoining lots into one platted lot. The intent of the property line adjustment is to allow for an expedited review and approval of the subdivision through an administrative process.

(b) *Applicability*

(1) An application for a property line adjustment may be proposed if:

- a. No new lots will be created.
- b. Multiple adjoining lots, not separated by rights-of-way or other public lands, can be consolidated into one lot.
- c. Each lot meets the minimum lot requirements of the zoning district in which it is located after the property line adjustment is completed.
- d. No new dedications of easements or rights-of-way are required to serve the existing lots in accordance with the subdivision regulations.
- e. No vacations, relocation of easements or rights-of-way, waivers, reservations of public lands, or changes in alignment of easements or rights-of-way are proposed to serve the existing lots
- f. No extensions of public utilities mains are required to serve the existing lots. New private service lines, laterals, etc., are allowed to be extended with a property line adjustment plat to serve the lots.

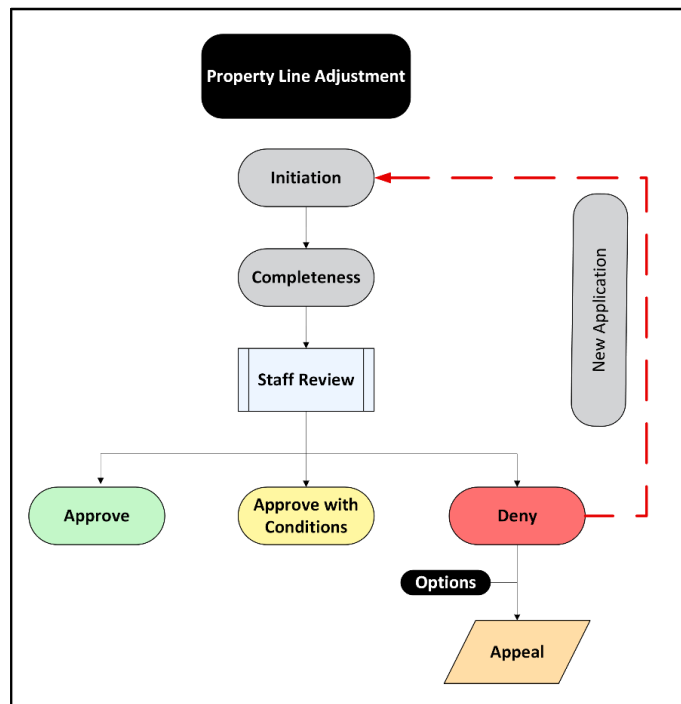
(c) *Initiation.* The applicant shall submit a complete application to the Director.

(d) *Completeness.* See Article IV. Division 1. Sec. 107-030, for the general subdivision application process and required content.

(e) *Notice and Hearings.* Not applicable.

(f) *Decision*

(1) *Generally*



- a. The Director shall review the proposed application for completeness and conformance with these regulations, and send the application to other City departments and officials for their review (i.e., Engineering, Fire Department, Arkansas Department of Health). Following the review, the Director will:
 1. Approve the property line adjustment application, or
 2. Disapprove of the property line adjustment application.
- b. *Requiring Additional Detailed Studies.* If the Director determines that the property line adjustment application requires additional detailed study, such as for stormwater, traffic, or utility service, during their review, the Director shall defer the property line adjustment to the Planning Commission as a final plat application.
 1. The Director shall inform the applicant of this decision in writing, detailing the reason for the needed study and coordinate with the applicant for the completion of the study and scheduling the item with the Planning Commission.
- c. Approved with Conditions or Disapproved
 1. If the property line adjustment is conditionally approved or disapproved, the reason(s) for that action shall be stated in writing and transmitted to the applicant.
 2. Reasons for being approved conditionally or disapproved shall refer specifically to those parts of the Comprehensive Plan or specific regulations or design standards with which the plat does not conform.
 3. On conditional approval, the Director may require submission of revised property line adjustment materials.

(g) Approval Criteria

- (1) The Director shall approve the property line adjustment application if the following criteria are satisfied.
 - a. The proposed property line adjustment conforms to the requirements of these Subdivision Regulations, the applicable zoning district regulations and any other applicable provisions of the Code of Ordinances, subject only to acceptable rule exceptions.
 - b. Any proposed development associated with the property line adjustment is consistent with the Engineering Design Standards, good traffic engineering design, and public safety considerations.
 - c. The proposed property line adjustment conforms to any existing, unexpired, and valid conditions of rezoning, special use permit or site development plan approval.
 - d. All submission requirements are satisfied.

(h) Subsequent Application

- (1) When a property line adjustment application is denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
 - (2) A new property line adjustment showing major modifications and/or revisions to the denied application may be submitted at any time.
 - (3) Any tract of land shall not be resubdivided for a period of five (5) years from the date of creation or approval of the property line adjustment unless it follows the final plat process. Following the required time period, a subsequent subdivision of the tract shall follow the final plat process.
- (i) Scope of Approval
- (1) The acceptance of a subdivision for a property line adjustment shall not be construed as a waiver of the requirements of this code, nor the provisions of any other applicable ordinance or statute pertaining to the property.
 - (2) *Application for Building Permit.* No building permits may be issued until proof of the recording of the approved property line adjustment has been presented to the appropriate City department.
- (j) Recordation.
- (1) *Owner/Developer Responsibility.* Upon approval of the property line adjustment instrument by the Director, the owner/developer shall record the instrument at the office of the County Circuit Clerk no later than ten days after the final plat approval.
 - (2) *Copies of Property Line Adjustment to be Provided.* After recording the property line adjustment instrument, the owner/developer shall provide the required digital and hard copies of the instrument to the Director for the files of the Planning Commission and the Planning and Development Department.

Sec. 107-043. Correction Plat

- (a) *Purpose.* When an error occurs in a previously approved and recorded final plat or minor plat, such as an incorrect legal description or scrivener's errors, a correction plat shall be submitted. The intent of the correction plat is to allow for an expedited review and approval of the application to address the error through an administrative process.

(b) *Applicability*

- (1) An application for a correction plat may be proposed if:

- a. The plan is to correct errors or omissions of the originally approved and filed subdivision.
- b. Each lot continues to meet the minimum lot requirements of the zoning district in which it is located.
- c. Dedications, changes in alignment, or relocation of easements or rights-of-way are required to serve these lots in accordance with the subdivision regulations, as discovered to be needed.
- d. No vacations, waivers, or reservations of public lands are proposed to serve the lots.

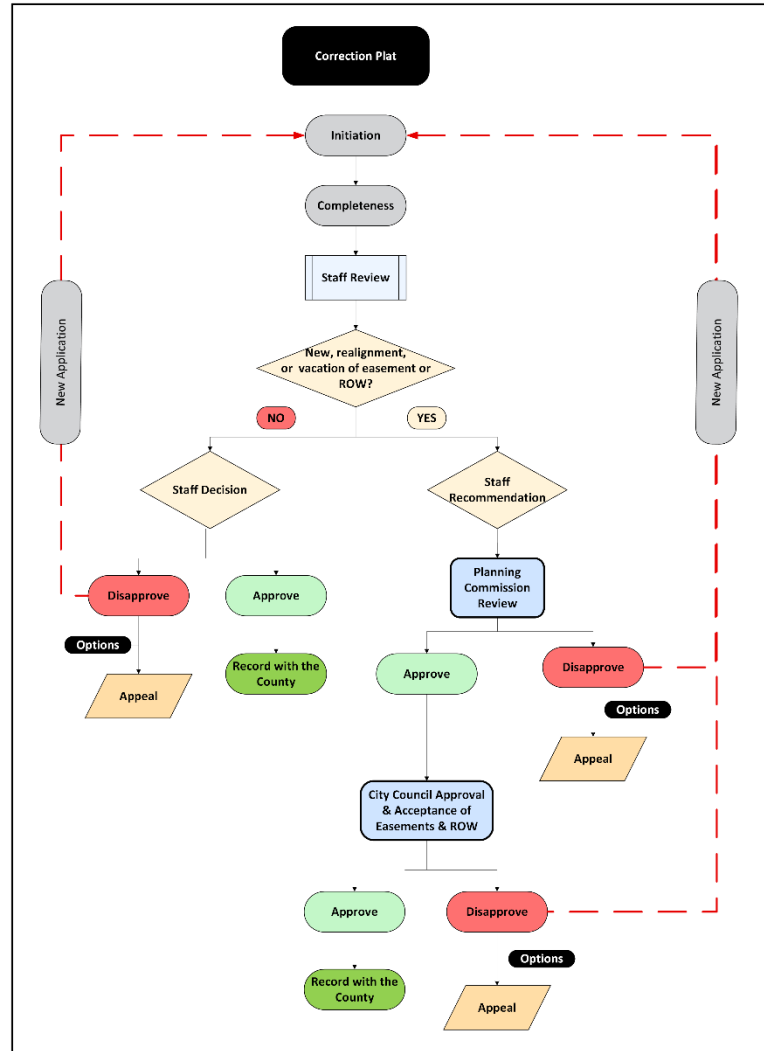
- (c) *Initiation.* The applicant shall submit a complete application to the Director.

- (d) *Completeness.* See Article IV. Division 1. Sec. 107-030, for the general subdivision application process and required content.

- (e) *Notice and Hearings.* Not applicable.

(f) *Decision*

- (1) Director's Review and Approval, or Recommendation



- a. The Director shall review the proposed correction plat for completeness and conformance with these regulations, and send the application to other City departments and officials for their review (i.e., Engineering, Fire Department, Arkansas Department of Health).
 - b. *Director Review and Approval.* If no new dedication, realignment, or vacation of easements or rights-of-way are proposed, the correction plat can be approved administratively by the Director.
 - c. Following the review of the correction plat with no new or changes to easements and rights-of-way, the Director will:
 1. Approve the correction plat,
 2. Disapprove of the correction plat.
 - d. *Planning Commission Review.* If the correction plat requires dedication or changes to existing easements or rights-of-way, the correction plat must be reviewed and approved by the Planning Commission and approved by the City Council to accept the dedication or changes to the easements or rights-of-way.
 - e. Following the Director's review of the correction plat that requires dedication of new easements or rights-of-way, or changes to existing easements or rights-of-way, they shall place the application on the next Planning Commission meeting and provide a recommendation to the Planning Commission based on the approval criteria (Article IV. Division 2. Sec. 107-039(g)). The recommendation may be:
 1. Approve the correction plat,
 2. Disapprove of the correction plat.
- (2) Planning Commission Recommendation
- a. Generally
 1. The Planning Commission shall conduct a review and consider each correction plat application submitted that requires dedication or new easements or rights-of-way, or changes to dedicated easements or rights-of-way, pursuant to the Subdivision Regulations, and take the following actions within sixty (60) days from the date of determination of completeness (Article IV. Division 1. Sec. 107-030(d)).
 - a) If the correction plat complies with all provisions of these Subdivision Regulations and the approved final plat, the Planning Commission shall recommend approval of the plat, or
 - b) If the correction plat fails to comply with the Subdivision Regulations or the approved and recorded final plat, the Planning Commission shall disapprove the correction plat.

- b. *Recommend to Approve*. The Planning Commission's recommendation to approve the correction plat application shall not constitute the acceptance by the public of the dedication of any streets, other public ways, grounds or infrastructure.
- c. Recommend to Disapprove
 - 1. If the correction plat is disapproved, the reason(s) for that action shall be stated in writing and transmitted to the applicant.
 - 2. Reasons for being disapproved shall refer specifically to those parts of the Comprehensive Plan or specific regulations or design standards with which the plat does not conform.

(3) City Council Decision

- a. Generally
 - 1. Following the recommendation of the Planning Commission, the City Council shall review the correction plat application, pursuant to the Subdivision Regulations.
 - a) If the correction plat complies with all provisions of this Subdivision Regulations and the approved final plat, the City Council shall approve the plat, or
 - b) Disapprove the correction plat if it fails to comply with the Subdivision Regulations and the approved final plat.
 - 2. *Approval of the Correction Plat*. Approval of the final plat shall provide for the acceptance of the public right-of-way and easement dedications needed to correct the subdivision.
 - 3. Disapproval of the Correction Plat.
 - a) If the correction plat is disapproved, the reasons for the action shall be stated in writing and transmitted to the applicant.
 - b) The reasons for disapproval shall refer specifically to those parts of the Comprehensive Plan or specific standards and regulations with which the plat does not conform.

(g) Approval Criteria

- (1) The Director shall approve the correction plat application if the following criteria are satisfied.
 - a. The proposed correction plat fully addresses the errors in the original, approved and recorded final plat.
 - b. The proposed correction plat conforms to the requirements of these Subdivision Regulations, the applicable zoning district regulations and any other applicable provisions of the Code of Ordinances, subject only to acceptable rule exceptions.

- c. The proposed correction plat represents an overall development pattern that is consistent with the Comprehensive Plan and other City-adopted studies and plans.
 - d. The proposed correction plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
 - e. All submission requirements are satisfied.
- (h) Subsequent Application. Not applicable.
- (i) Scope of Approval
 - (1) The acceptance of a subdivision for a corrective plat shall not be construed as a waiver of the requirements of this code, nor the provisions of any other applicable ordinance or statute pertaining to the property.
 - (2) *Application for Building Permit.* No building permits may be issued until proof of the recording of the approved corrective plat has been presented to the appropriate City department.
- (j) Recordation.
 - (1) *Owner/Developer Responsibility.* Upon approval of the corrective plat by the Director or the City Council, the owner/developer shall record the corrective plat at the office of the County Circuit Clerk no later than ten days after the final plat approval. The corrective plat shall supersede the original, approved and recorded final plat.
 - (2) *Copies of Corrective Plat to be Provided.* After recording the plat, the owner/developer shall provide the required digital and hard copies of the plat to the Director for the files of the Planning Commission and the Planning and Development Department.

Sec. 107-044. Vacation of Plats

(1) *Purpose.* When the property owner determines that an approved final plat is no longer needed or appropriate for the intended development, an application to vacate the final plats may be submitted. This process will revert the land to an unplatted parcel.

(2) *Applicability*

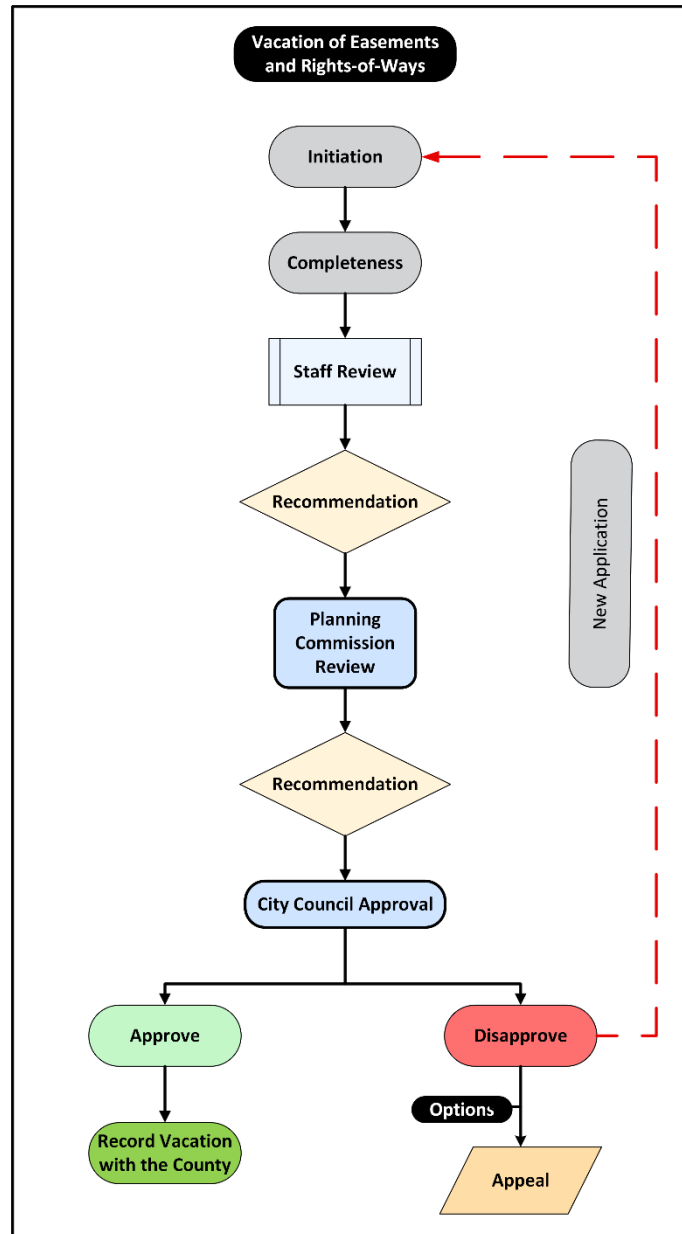
- a. The property owner of platted land may request to have a subdivision vacated in whole or in part, following these procedures.
- b. The ownership of the subdivision or part of the subdivision must be under one ownership.
- c. Any easements or rights-of-way previously dedicated and accepted by the City may be retained at the discretion of the City Council through this process.
- d. Vacation of both recorded and unrecorded plats shall follow the procedures described in this section.

(3) *Initiation*

a. *Unrecorded Plats*

1. The owner of any plat may apply to nullify or void an approved final plat at any point prior to recording the approved final plat, by providing a written statement detailing the reason for vacation to the Director. The submitted documentation will be attached to said final plat.

b. *Recorded Plats*



1. The owner of any final plat that has been approved and recorded with the County Circuit Clerk may request that the City Council vacate the subdivision, in whole or in part, nullifying or voiding the subdivision in accordance with State Statutes. The owner will provide a written statement detailing the reason for the Director's decision. The submitted documentation will be attached to the final plat.
- (b) *Completeness*. See Article IV. Division 1. Sec. 107-030, for the general subdivision application process and required content.
- (c) Notice and Hearings. Not applicable.
- (d) Decision
 - (1) Director Review and Recommendation
 - a. The Director shall review the plat vacation application, send the application to other departments and entities for review (i.e., Engineering, Fire, Health, etc.), place the application on the next Planning Commission agenda, and provide a recommendation to the Planning Commission to:
 1. Approve the plat vacation, or
 2. Deny the plat vacation.
 - (2) Planning Commission Review and Recommendation
 - a. The Planning Commission shall review the plat vacation and provide a recommendation to the City Council. The Planning Commission shall recommend to the City Council to:
 1. Approve the plat vacation, or
 2. Deny the plat vacation.
 - (3) City Council Review and Decision
 - a. The City Council shall consider the plat vacation after the recommendation provided by the Planning Commission. After the hearing is closed, the City Council, shall by ordinance:
 1. Approve the plat vacation, or
 2. Deny the plat vacation.
 3. At the discretion of the City Council, any public easements or rights-of-way originally dedicated and accepted can be retained if they serve a purpose to the surrounding area or community at-large.
- (e) Approval Criteria
 - (1) Unrecorded Plats
 - a. All originally proposed easements shall be reviewed by the Director to determine if it would be appropriate to be retained.

(2) Recorded Plats

a. The plat vacation must meet the following requirements:

1. None of the lots in the plat to be vacated have been sold or the title transferred.
2. All dedicated and accepted easements shall be reviewed to determine if it would be appropriate to be retained.
3. The request for vacation is in accordance with the State Statutes.

(f) Subsequent Applications. Not applicable.

(g) *Scope of Approval*. Not applicable.

(h) Recordkeeping

- (1) Upon being duly recorded or filed with the County Circuit Clerk, the approved ordinance shall operate to destroy the force and the effect of the approval of the plat so nullified, and to divest all public rights in the streets, alleys, and public grounds, and all dedications of easements laid out or described in instrument.

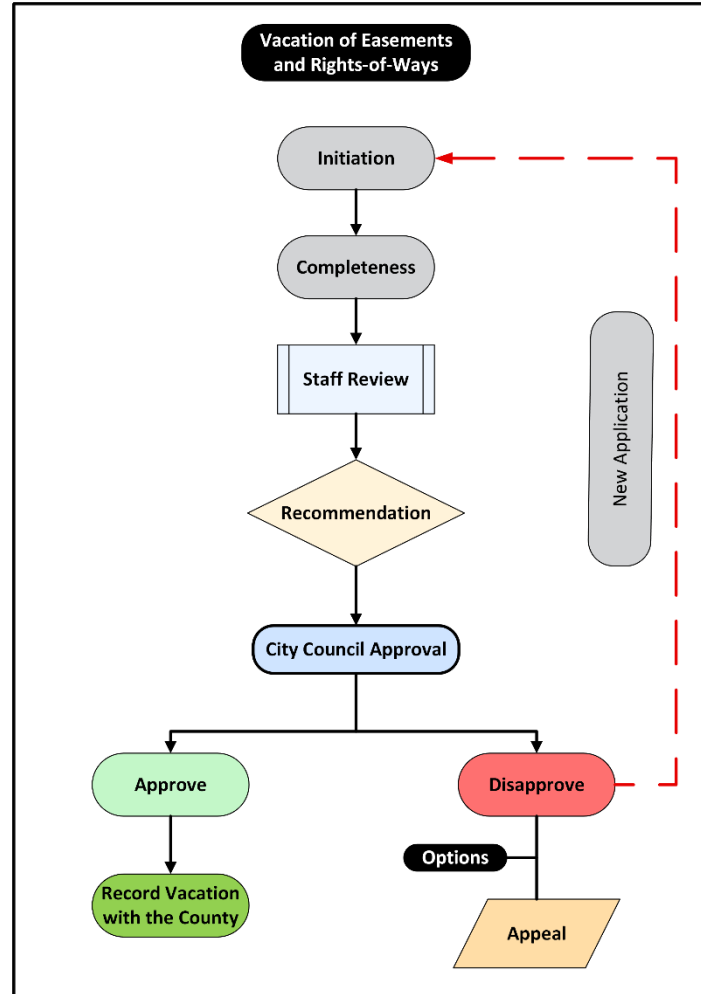
Sec. 107-045. Vacation of Street or Alley Rights-of-Way or Easements

(a) *Purpose.* If the property owner desires to vacate public rights-of-way for streets or alleys, or public easements on their property to make way for development, an application for vacation may be submitted a petition to vacate. The City shall also follow this process to vacate rights-of-way or easements as it deems necessary.

(b) *Applicability*

(1) If a property owner of any land desires to vacate public rights-of-way or easements, the property owner shall follow the prescribed procedures.

(2) The City will generally follow the same process to vacate public rights-of-way or easements, with the exception of the formal application and fee requirements.



(c) *Initiation.* The applicant shall submit a complete application to the Director.

(d) *Completeness.* See Article IV. Division 1. Sec. 107-030 for the general subdivision application process and required content.

(e) *Notice and Hearings.* Public notice for the vacation of street ROW or public easement shall be an advance notice in a local newspaper of general distribution has been published, in accordance with State Statute.

(f) *Decision*

(1) *Director Review and Recommendation*

a. The Director shall review the proposed vacation for completeness and conformance with these regulations, send the application to other City departments and officials for their review (i.e., Engineering, Fire Department, Arkansas Department of Health), place the application on the next City Council

meeting, and provide a recommendation to the City Council based on the approval criteria (Article IV. Division 2. Sec. 107-045(g)). The recommendation may be to:

1. Approve the vacation request, or
2. Approve the vacation request with conditions, or
3. Disapprove the vacation request.

(2) City Council Review and Decision

- a. The City Council shall hold a public hearing to consider the right-of-way or easement vacation after the recommendation provided by the Director. After the public hearing is closed, the City Council shall by ordinance:
 1. Approve the vacation, or
 2. Disapprove the vacation.
- b. At the discretion of the City Council, any public easements may be dedicated in all or part of an area corresponding with a right-of-way vacation to serve a purpose to the surrounding area or community at-large now or in the future.

(g) Approval Criteria

- (1) All property owners abutting the public right-of-way or easement consent to the proposed vacation.
- (2) All utility providers with the legal right to use the existing easement must consent to the vacation.
- (3) The easement vacation will not hinder the City or utility providers from adequately serving the site or adjacent sites in the future, even if development is not proposed at the time of the vacation application.

(h) Subsequent Applications. Not applicable.

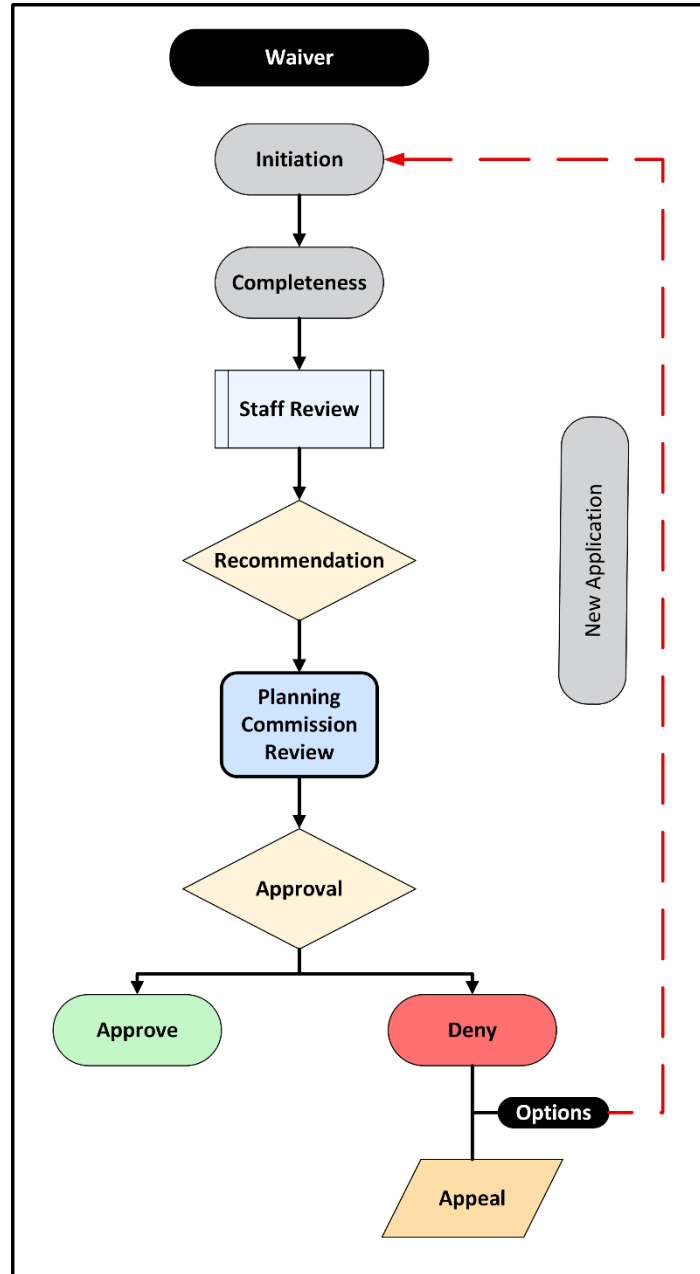
(i) Scope of Approval. Not applicable.

(j) Recordation

- (1) The approved ordinance, stating the legal description of the vacation and all pertinent easement information, will be duly recorded or filed with the County Circuit Clerk.

Sec. 107-046. Waivers

- (a) *Purpose.* The purpose of a waiver is to provide the developer potential relief from the subdivision design standards in Article II. due to unique conditions of the property that make the implementation of regulations, in whole or in part, impractical.
- (b) *Applicability.* The Planning Commission may authorize, in specific cases, a waiver from the subdivision regulations.
- (c) *Initiation.* A waiver shall be filed, in writing, with the Director detailing the specific regulations desired to be waived and a detailed justification as to why meeting the regulations can not be accomplished.
- (d) *Completeness.* See Article IV. Division 1. Sec. 107-030, for the general subdivision application process and required content.
- (e) *Notice and Hearings.* Not applicable
- (f) *Decision*
 - (1) Director Review and Recommendation
 - a. The Director shall review the proposed waiver request for completeness and send the request to other City departments and officials for their review (i.e., Engineering, Fire Department, Arkansas Department of Health), place the application on the next Planning Commission meeting, and provide a recommendation to the Planning Council based on the approval criteria (Article IV. Division 1. Sec. 107-030(d)). The recommendation may be to:
 - 1. Approve the waiver, or
 - 2. Deny the waiver.



(2) Planning Commission Review and Decision

- a. The Planning Commission shall review the waiver to the effect of the proposed waiver upon the character of the neighborhood, traffic congestion, public utilities, and other matters pertaining to the general health, safety, and welfare of the public. The Planning Commission shall, in whole or in part:
 - 1. Approve the waiver, or
 - 2. Deny the waiver.
- b. A concurring vote of seventy-five percent (75%) of the members of the Planning Commission is necessary to authorize a waiver.

(g) Approval Criteria

(1) Generally, the Planning Commission shall not approve a waiver unless it finds that:

- a. The waiver is not contrary to the public interest, and the purpose of these regulations may be served to a greater extent by the proposed alternative;
- b. The conditions upon which the request for waiver is based are unique to the property for which the waiver is sought and are not applicable generally to other property;
- c. Due to the unusual size, shape or character of a tract, a literal enforcement of the Subdivision Ordinance would result in unnecessary hardship or would deprive the applicant of the reasonable use of this land;
- d. That the granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of these regulations.
- e. The spirit of the waived provision is observed, and substantial justice is done;
- f. The granting of the waiver will not be detrimental to the public safety, health or welfare, or injurious to other property in the area where the waiver is located;
- g. That the waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- h. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result (as distinguished from a mere inconvenience), if the strict letter of these regulations is carried out; and
- i. The waiver will not in any manner conflict with or vary from, the provisions of Chapter 109 of this Code of Ordinances or the Comprehensive Plan.

(h) Subsequent Applications. Not applicable.

- (i) Scope of Approval. After a final decision on the waiver is rendered, the applicant and any party of interest may file any further permits or applications, undertake construction, or establish a use consistent with that decision.

- (j) *Recordkeeping*. The Director shall maintain a copy of any order of the Planning Commission pursuant to this Section.

Sec. 107-047. Appeals

- (a) *Applicability*. An applicant for a subdivision approval that was disapproved, as outlined in the processes above, may appeal that decision.
- (b) *Initiation*. An applicant shall submit an appeal request to the Director within fourteen (14) days of the decision of disapproval. The Director shall review the appeal request for completeness and schedule the request to be heard by the appropriate authority as reflected on the City's development calendar once a complete application has been received.
- (c) *Completeness*
 - (1) An appeal application shall include the following:
 - a. The complete disapproved application with all attached materials required for its original submittal by the Subdivision Regulations;
 - b. A letter requesting an appeal and describing the way(s) in which the proposed subdivision satisfies the requirements of these Subdivision Regulations, which were the grounds for disapproval; and
 - c. The agenda and minutes (if available) of the hearing at which the application was disapproved, if applicable.
- (d) *Notice and Hearing(s)*. Not applicable.
- (e) *Decision*
 - (1) Disapprovals made administratively by the Director or by the Planning Commission will be appealed to the City Council. The City Council's decision shall be final.
 - (2) *City Council Decision*
 - a. The City Council shall review the appeal request within thirty (30) days of receipt of the complete appeal request. The City Council shall decide to:
 - 1. Uphold the disapproval, or
 - 2. Reverse the disapproval and approve the subdivision application.

Sec. 107-048. Enforcement

- (a) *Generally*
 - (1) This Section establishes procedures the City uses to ensure compliance with the provisions of these Subdivision Regulations and obtain corrections for violations. It also institutes the remedies and penalties that apply to violations of the subdivision regulations.
 - (2) For any violation not encompassed by this Section, the City may issue a citation in Municipal Court stating the alleged violation, the date of the violation, and the section

of the Subdivision Regulations violated. Each day during which any violation of this code occurs or continues is a separate offense and, upon conviction, is punishable as provided.

(b) Violations

(1) Any of the following violates this code and is subject to the remedies and penalties provided for in this Article.

- a. *Developing or Subdividing Without Permit or Approval.* To engage in any subdividing, development, construction, site work, or other activity of any nature upon land that is subject to this code without all of the approvals required by this code.
 1. The Director shall not issue building permits for any structure on any lot in a subdivision for which the plat or plan has not been approved and recorded in the manner prescribed herein.
 2. No conveyance by metes and bounds of tracts or lots coming under the definition of subdivision of land without compliance with the applicable provisions of this regulation or amendments thereto shall be permitted
 3. No plat of any tract of land within the city limits shall be accepted by the county circuit clerk for filing of record unless the plat has been approved by the Planning Commission and bears the signature of the proper City official.
- b. *Developing or Subdividing Inconsistent with a Permit or Approval.* To engage in any development, use, construction, site work, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required to engage in those activities.
- c. *Developing or Subdividing Inconsistent with this Code.* To violate, by act or omission, any term, condition, or qualification placed by an approval authority upon any permit or other form of authorization.
- d. *Making Nonconforming Lots.* To reduce or diminish any lot area, width, or depth that causes a site to not meet all of the requirements included in this code.
- e. *Increasing Intensity or Density of Use.* To increase the intensity, density, or utility demand of any land or structure, except in accordance with the procedural requirements and substantive standards of this code.
- f. *Removing or Defacing Required Notice.* To remove, deface, obscure, or otherwise interfere with any notice required by this code.
- g. *Failure to Remove Obstructions or Violations.* To fail to remove any structure, obstruction or otherwise remedy any violation of this code required to be removed or remedied as a condition of subdivision approval.
- h. Any other action, or failure to act, that does not comply with a requirement of this code or a lawful condition of approval.

(c) Responsible Persons

(1) Any person who violates this code is subject to the remedies and penalties expressed in this Article.

(2) If a person causing a violation is a renter, lessor, or contractor, the Director may notify the owner and the renter, lessor, or contractor of the violation. The owner shall ensure that the renter, lessor, and/or contractor are aware of the violation and the owner is ultimately responsible to ensure that the violations are corrected.

(d) Enforcement Responsibility

(1) It shall be the duty of the City Engineer or Director to enforce these regulations and to bring to the attention of the City Prosecutor any violation or lack of compliance herewith.

(e) Enforcement Procedures

(1) Generally

a. When, in the opinion of the Director, a violation of this chapter exists, and a developer who has not complied with the requirements and procedures set forth herein attempts to proceed with construction work, or attempts to convey title to any lot or lots before obtaining final plat approval, or otherwise is in substantial violation of this chapter, the City Prosecutor may institute any appropriate action or proceedings:

1. To prevent any unlawful erection, maintenance, or use;
2. To restrain, correct, or abate the violation;
3. To prevent the occupancy of a building, structure, or land; or
4. To prevent any illegal act, conduct, business, or use in or about the premises.

b. Notice of Violation

1. When any subdivision or attendant improvements are erected, constructed, built, reconstructed, altered, or maintained in violation of this code, the property owner, other responsible party, property owner, lessee, management, or tenant shall be served with a written order that states the violation and requires compliance with this code no more than ten (10) days from service.
2. The notice may be served in person or by depositing the same as certified in the United States Postal Service addressed to the property owner at the owner's address (i.e., as shown on the most current tax roll of the City), or the tenant (i.e., as shown on the utility billing records of the City). If the City mails the notice to the property owner and the U.S. Postal Office returns it as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

(2) Withhold Permit

a. The City may deny or withhold all permits, certificates, or other forms of authorization on any land, structure, or improvements after determining there is an

uncorrected violation of a code provision or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question.

- b. The City may deny or withhold all permits, certificates, or other forms of authorization on any land, structure, or improvements owned or being developed by a person who owns, developed, or otherwise caused an uncorrected violation of a code provision or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City. This provision applies regardless of whether the property for which the permit or other approval is sought is the property in violation.
 1. Notwithstanding this provision, the City will issue building permits to property owners of separate lots within the subdivision that is not associated with the violation.
 2. No building permit shall be issued for any new structure or change, improvement or alteration of any existing structure on any tract of land in a subdivision filed of record after the effective date of these regulations, which does not comply with all the provisions of these regulations.
 3. If a subdivision plat is approved, the Director shall not issue a certificate of occupancy until all improvements are accepted by the City in writing and the approved plat is recorded.
- c. *Permits Approved with Conditions.* Instead of withholding or denying a permit, plat approval or other authorization, the City may grant authorization subject to a corrected violation condition.
- d. *Revoke Permits.* Any development permit, plat approval or other form of authorization required in this code may be revoked, including revocation of a certificate of occupancy.
- e. *Stop Work.* With or without revoking permits, the City may stop work on any building, structure or improvement on any land on which an uncorrected violation of a code provision or of a permit or other form of authorization exists in accordance with its power to stop work under its building codes.
- f. *Injunctive Relief.* The City may seek an injunction or other equitable relief in court to stop any violation of this code or of a permit, certificate, or other form of authorization granted.
- g. *Abatement.* The City may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding to abate or remove a violation or otherwise to restore the premises in question to the condition in which they existed prior to the violation.
- h. *Civil Action.* The City may enforce the provisions of this code through civil action.

- i. Withhold Public Services
 - 1. The City may withhold any public services until all rules, regulations, and requirements of this code have been met.
 - 2. Unless a plan, permit, plat, or replat is approved in the manner and by the authorities provided for in this code, it is unlawful within the area covered by the plan, permit, plat, or replat for any officials representing the City to serve or connect that land to any public utility owned, controlled, or distributed by the City for the use of the owners or purchasers of the plat or plan.
- j. *Other Remedies*. The City may have other remedies provided by law for subdivision or related code provision violations.
- k. *Other Powers*. In addition to the enforcement powers specified in this Section, the City may exercise any and all enforcement powers granted by law.
- l. *Continuation*. Nothing in this code prohibits the continuation of previous enforcement actions undertaken by the City by previous and valid ordinances and laws.

Sec. 107-049. Penalties

- (a) Any person, firm, or corporation that violates any provision of these regulations or amendments thereto shall be guilty of a misdemeanor and, on conviction, shall be fined not less than \$50.00 nor more than \$250.00 for each offense.
- (b) Each day that any violation of these rules and regulations is in effect shall constitute a separate offense and be subject to additional fines.
- (c) Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure, or premises, and these remedies shall be in addition to the monetary penalties described in Article IV. Division 2. Sec. 107-049(a).

ARTICLE V. ADMINISTRATION

Division 1. Introduction

Sec. 107-050. Generally

This Article introduces and establishes decision-making bodies (approval authorities), describes their composition, and summarizes their authority.

Division 2. Quasi-Legislative Bodies and Personnel

Sec. 107-051. City Council

The City Council serves as a decision-making body responsible to the Mayor and the City's residents. The City Council is established in [Chapter 2](#) of the City Code of Ordinances and shall follow those regulations, as applicable.

Sec. 107-052. Planning Commission

The Planning Commission serves as a recommendation and decision-making body responsible to the Mayor and the City's residents. The Planning Commission is established in [Sec. 101-3](#) of the City Code of Ordinances and shall follow those regulations, as applicable.

Division 3. Administrative Bodies and Personnel

Sec. 107-053. Planning and Development Department

The Planning and Development Department serves as an administrative and staff decision-making body responsible to the Mayor, City Council, Planning Commission, and Board of Zoning Adjustment. The Planning and Development Department and the Director have authority for processing proposals to change the text of this Subdivision Regulation and for processing plans, and subdivision applications.

Sec. 107-054. Director

(a) The Director has the following duties and responsibilities:

- (1) To advise the Mayor on any matter affecting the physical development of the City.
- (2) To formulate and recommend to the Mayor a comprehensive plan and modifications.
- (3) To review and make recommendations regarding proposed City Council action implementing the Comprehensive Plan.
- (4) To participate in capital improvement program preparations and revisions.
- (5) To advise the Planning Commission in the exercise of its responsibilities and to provide necessary staff assistance.
- (6) To keep the official zoning map current and the copies, by entering any changes that the City Council may order by amendments to the Zoning Ordinance and Map.
- (7) To serve as the chair of the Development Review Team.

- (8) To investigate complaints about violations of this Subdivision Regulation.
 - (9) To provide written notification to the person responsible for subdivision violation(s), ordering the necessary action to correct violations, and order:
 - a. Discontinuance of illegal uses of land, buildings, or structures.
 - b. Removal of illegal buildings or structures, or illegal additions or structural additions.
 - c. Discontinuance of any illegal work.
 - (10) To address any illegal subdivision of land.
 - (11) To provide any other action authorized by this Subdivision Regulation to ensure compliance with or to prevent violation(s).
- (b) These duties and responsibilities may be assigned to the Director's designee.

Sec. 107-055. City Engineer

The City Engineer is responsible for helping guide the City Council and City staff by serving as the technical expert and planner for the City's infrastructure. The City Engineer is responsible for reviewing civil plans for residential and commercial developments. These responsibilities may be assigned to the City Engineer's designee.

ARTICLE VI. DEFINITIONS

Division 1. Introduction

Sec. 107-056. General Interpretation Meanings

- (a) Words and terms defined in these Subdivision Regulations have the specific meanings assigned unless the context indicates another meaning.
- (b) The words “must,” “will,” “shall,” and “may not” are mandatory.
- (c) The word “may” is permissive, not mandatory or required.
- (d) When used with numbers, “up to x,” “not more than x” and “a maximum of x,” all include “x.”
- (e) The word "person" includes a firm, association, organization, partnership, limited liability company, corporation, as well as an individual.
- (f) The words “used” and “occupied” also include “intended use or arranged to be used or occupied.”
- (g) All references in these Subdivision Regulations are to be interpreted as referring to the most up-to-date version and citation for those regulations, unless otherwise expressly indicated.
- (h) When a provision appears requiring the head of a department or an employee of the City to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority. Delegation of authority is not allowed when the provisions of these Subdivision Regulations expressly disallow such delegation.

Sec. 107-057.

Words and terms not expressly defined in these regulations are to be construed according to the normally accepted meaning of those words or terms in the practice of planning and engineering, as defined by The American Planning Association Planner’s Dictionary. Where no definition appears in these regulations, nor in the Planner’s Dictionary, words and terms shall be construed according to their normally and customarily accepted meaning.

Division 2. Defined Terms

(a) Terms A-D

(1) 100-Year Flood

A flood with a one percent chance of occurring in any year. The term is misleading because of its statistical derivation. A “100-year flood” may occur many times in any given 100-year period, or it may not occur at all in 100 years.

(2) AASHTO

American Association of State Highway and Transportation Officials.

(3) Abutting

Having property or district lines in common. Since zoning district lines fall to the centerline of a street, alley, or waterway, lots that appear physically separated abut at said district line.

(4) Access

The way or means by which a piece of property is approached or entered.

(5) Access Drive

The way or means by which a piece of property is entered or exited by a vehicle from any right-of-way or paved surface of any street, road, or highway.

(6) Access Easement

An easement granted by an owner of land to provide access to a lot or parcel not fronting a street or roadway.

(7) ADA

The Americans with Disabilities Act.

(8) Agent (of City)

A person with delegated authority for a specific purpose.

(9) AHTD

The Arkansas State Highway and Transportation Department.

(10) Alley

A minor public right-of-way used for utility installations and vehicular access to the back or the side of properties abutting a street.

(11) Approval, Conditional,

Approval of a plan, plat, or activity by the Commission is subject to performance by the applicant of certain stipulated conditions.

(12) Bella Vista Development Calendar

The scheduling calendar maintained by the City Planning Office which contains dates of scheduled Planning Commission meetings and City Council meetings. The Bella Vista development calendar will be the official calendar for determining the timeliness of any applications or requests made pursuant to the ordinance from which this chapter is derived.

(13) Block

A parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks, drainage channels, or a combination thereof.

(14) BMP

An acronym meaning best management practice.

(15) Bond

Any form of security, including a cash deposit, surety bond, or instrument of credit, in an amount and form satisfactory to the City.

(16) Buffer

A strip of land established to protect one type of land use from another. A buffer strip is landscaped and kept in open space.

(17) Buffer, Perimeter Landscaping

A continuous area of land set aside along the perimeter of a lot in which landscaping is used to provide a transition between and reduce the environmental, aesthetic, and other impacts of one type of land use upon another.

(18) Building Code

Regulations established by local governments describing the minimum requirements for buildings; includes foundation, roofing, plumbing, electrical, and other specifications for safety and sanitation.

(19) Building Setbacks

See Setbacks.

(20) Certificate of Completion of Improvements

A statement by a developer's engineer-of-record certifying that all improvements and installations are complete and built in conformance with the City's specifications and this chapter.

(21) County Circuit Clerk

The Benton County circuit clerk.

(22) City

The City of Bella Vista, Arkansas.

(23) City Engineer

A licensed professional engineer, or firm of licensed professional consulting engineers, that has been specifically employed by the City to assist in engineering-related matters. This includes the City Engineer's designee.

(24) City Limits

The limits of the land area occupied by, and under jurisdiction of, the City.

(25) Collocation

The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

(26) Planning Commission

The Planning Commission of the City.

(27) Comprehensive Plan

- A composite of the mapped and written proposals, as adopted by the Bella Vista Planning Commission and City Council, whether in whole or in part, recommending the physical development of the community. Said plan includes, but is not limited to, the city limits map, land use plan, master street plan, and master street plan map for the city.
- (28) City Council
- The City Council.
- (29) County
- Benton County, Arkansas.
- (30) Covenant
- A provision in a deed limiting the use of the property and prohibiting certain uses.
- (31) Crosswalk
- (32) Any portion of a roadway at an intersection or elsewhere that is distinctly indicated as a pedestrian crossing by pavement marking lines on the surface, which might be supplemented by contrasting pavement texture, style, or color.
- (33) Cul-De-Sac
- A street with only one outlet and being permanently terminated within the plat by a vehicular turnaround.
- (34) Cut
- The process of excavating or cutting away the topsoil from a higher area during a construction project.
- (35) DBH
- Diameter at breast height.
- (36) Dead-End Street
- A street having one end open to traffic and being permanently terminated at the opposite end.
- (37) Dedication
- Land and improvements offered to the City and accepted by the City for public use, control, and maintenance; the dedication of any street or alley right-of-way, utility easement, drainage easement, or access easement through any tract of land, regardless of the area involved.
- (38) Deed
- A legal document conveying ownership of real property.
- (39) Design Professional
- A person, licensed and registered by the State of Arkansas, qualified by education and experience to prepare plans and specifications required under these regulations.

Generally, design professionals are registered architects, licensed landscape architects, or registered professional engineers.

(40) Design Speed

The maximum safe speed that can be maintained over a specified section of roadway when conditions are so favorable that the design features of the roadway govern.

(41) Developer

Any person, firm, agent, or corporation undertaking to divide or proposing to divide land so as to develop a subdivision, or any other type of land development as defined in this chapter.

(42) Development

Any manmade change in improved and unimproved real estate, including but not limited to, the construction of new buildings or other structures, the addition to or renovation of existing buildings, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

(43) Development Plan

A drawing showing all proposed improvements to a piece of property, including streets, parking lots, buildings, drives, signs, utilities, drainage, and grading by size and location.

(44) Director of Planning and Development

The City official designated to lead the Planning and Development Department, or their designee.

(45) Drainage Easement

An easement providing for the flow and removal of surface water across a property.

(b) Terms E-K

(1) Easement

A grant by a property owner for the use by the public, a corporation, or certain persons of a strip of land for specific purposes.

(2) Egress

A means of exit from a property to a public street.

(3) Engineer

A registered professional engineer in good standing and licensed to practice in the State of Arkansas.

(4) Federal Emergency Management Agency (FEMA)

The independent federal agency that, in addition to carrying out other activities, oversees the administration of the National Flood Insurance Program.

(5) Fill

- (6) Any material, such as soil, sand, gravel, rock, or other earthen substances, that is placed, deposited, or graded on land to raise the ground surface elevation, alter drainage patterns, or support proposed development. Fill may be used for purposes including, but not limited to, site preparation, grading, roadway construction, or lot elevation.
- (7) Fire Apparatus Road
A roadway provided for use by emergency and fire vehicles to access a subdivision from a main artery. Full specifications are provided in the Arkansas Fire Prevention Code.
- (8) Fire Chief
The appointed official of the City responsible for all functions of the fire department.
- (9) Fire Marshal
The fire chief or their designee is responsible for the enforcement of the Fire Prevention Codes of Arkansas.
- (10) Final Plat Approval
Approval of a plat that is in conformance with the preliminary plat, along with all required financial guarantees.
- (11) Finished Floor Elevation
- (12) The elevation or height of the lowest habitable floor of a building or structure. Areas solely for storage or parking are excluded. FIRM Flood insurance rate map.
- (13) Floodplain
A geographic area susceptible to periodic inundation from overflow of natural waterways and determined by the Federal Emergency Management Agency (FEMA).
- (14) Frontage Road
A street, parallel to and adjacent to a major highway or thoroughfare, which provides access to abutting properties.
- (15) Functional Classification System
The process by which streets and highways are grouped into classes, or systems, according to the character of service they are intended to provide.
- (16) Greenway
- (17) A linear park or alternative transportation route that provides passive recreational opportunities, pedestrian, and/or bicycle paths, and/or the conservation of open spaces or natural areas, as indicated in the adopted trail and master greenway plan.
- (18) Ground Floor
- (19) The floor level of a building that is closest to the surrounding ground level, often the first floor that is accessible from ground level. Ground Floor Area

- The total area of the first floor of a building, measured from the exterior walls at grade level. Ground floor area excludes areas that are not enclosed, such as porches, decks, and patios.
- (20) Health Department
- The county health department and/or the Arkansas State Health Department.
- (21) Highway Department, State
- The Arkansas State Highway and Transportation Department.
- (22) Horizontal Datum
- At its most basic level of definition, the horizontal datum is a collection of specific points on the Earth that have been identified according to their precise northerly or southerly location (latitude) and easterly or westerly location (longitude) (National Geodetic Survey, 1986).
- (23) Horizontal Property Regime
- Creation of a condominium project in which co-owners own free interests in units together with fractional interests in general common elements, which determines the use to be made of improved land, whether or not such improvement is composed of one or more separate buildings of one or more floors or stories.
- (24) Housing Code
- Part of the technical codes adopted by the City by ordinance.
- (25) Improvement
- Any betterment of existing conditions of land such as, but not limited to, streets, curbs, gutters, sidewalks, trails, pavement, pedestrian ways, water mains, storm sewers, signs, monuments, landscaping, streetlights, fire hydrants, or other actions resulting in permanent changes in the condition of the land.
- (26) Improvement Plans
- The engineering drawings showing types of materials and construction details for the physical structures and facilities, excluding dwelling units to be installed in conjunction with the development of the subdivision.
- (27) Incidental Subdivision
- The subdivision of land that does not require an applicant to go through the complete preliminary and final plat process. Incidental subdivisions include lot splits, informal plats, property line adjustments, and correction plats.
- (28) Ingress
- A means of entrance to a property from a City street.
- (29) International Fire Code
- Used synonymously with the Arkansas Fire Prevention Code.
- (30) Irrevocable Letter of Credit

A legal financial instrument in the form approved by the City. The instrument gives the right to a dollar amount to the City to guarantee the construction or maintenance of improvements in a subdivision.

(c) Terms L-O

(1) Land Surveyor

An individual licensed to practice land surveying in the State of Arkansas.

(2) Comprehensive Plan

A written plan with goals and objectives, along with a map depicting and describing present land uses and future land uses expected in the City. This plan is approved by the City Council.

(3) Lattice Tower

A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure that often tapers from the foundation to the top.

(4) Linear Park

(d) A designated area designed to accommodate various forms of recreational travel, including hiking, biking, and canoeing. Additionally, it serves as a connector between recreational facilities, schools, and residential neighborhoods

(1) Low-Impact Design (LID)

Low-impact drainage design, which is a method of designing drainage systems or facilities to allow runoff to penetrate the ground in place instead of concentrating runoff in structures or facilities.

(2) Lot

A parcel of land, legally defined in a recorded deed or a recorded plat, fronting on a public dedicated right-of-way or other approved private drive. The lot shall not be divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of use or structure. Said lot shall establish one building site and comply with all subdivision rules and regulations of the City.

(3) Lot, Double Frontage

A lot that runs through a block from street to street and having frontage on two non-intersecting streets.

(4) Lot, Reverse Frontage

A double frontage lot that is designed to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

(5) Lot, Split

A subdivision that involves the dividing or redesigning of an existing lot or lots within a block of a recorded subdivision and which does not involve the vacating, widening, narrowing, or change of alignment of any thoroughfare, street, alley, or easement, or involves improvements required by these regulations.

(6) Lumen

A unit of measure of the intensity of light produced by a lamp (bulb) as indicated by the manufacturer.

(7) Manufactured Home

A detached single-family dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. This code means the standard for construction, design, and performance of a manufactured home as set forth in the Code of Federal Regulations, Title 24, parts 3280, 3282, 3283, and 42 USC 5401 et seq., as mandated in the United States of America and as administered by the United States Department of Housing and Urban Development.

(8) Manufactured Home Park

A parcel of land which has been designed or improved or is intended to be utilized for occupancy by one or more manufactured homes and which conforms to the provisions of the ordinance from which this chapter is derived.

(9) Master Street Plan

The plan made and adopted by the Planning Commission and accepted by the City Council classifying certain streets within the city limits jurisdiction as arterial or collector streets.

(10) Mayor

The official elected to act as the head of the City of Bella Vista, or their designee.

(11) Monopole

A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

(12) NPDES

An acronym meaning National Pollution Discharge Elimination System.

(13) NOI

An acronym meaning notice of intent.

(14) NOT

An acronym meaning notice of termination.

(15) NWARPC

The Northwest Arkansas Regional Planning Commission.

(16) Open Space

Land devoted to conservation or recreational purposes and/or land designated by a municipality to remain undeveloped.

(17) Out Lots

Parcels or tracts of land proposed as part of a development for future use or development.

(18) Outdoor Light Fixtures (Outdoor Lighting)

An outdoor illuminating device, outdoor lighting or reflective surface, lamp or similar device, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include, but are not limited to lights used for: buildings and structures; recreational areas; parking lot lighting; landscape lighting; architectural lighting; product display area lighting; building overhangs; open canopies; and security lighting.

(e) Terms P-S

(1) Parcel

A division of land composed of one or more lots in contiguous ownership.

(2) Parking Facility

Any area subject to wheeled traffic, including access areas used for parking except for single-family or two-family developments. All open areas and open spaces on the land that are designated, used, required or intended to be used for parking, maintenance, service, repair, circulation, or operation of vehicles, including automobiles, buses, trailers, trucks, boats, and motorcycles. It includes areas used or intended to be used for driveways to such vehicular use areas, but does not include improvements to public roads, streets, highways, and alleys.

(3) Paved Width

The portion of a street available for vehicular traffic; where curbs are laid; the distance from back of curb to back of curb.

(4) Paving

A substance which is concrete, asphalt, asphaltic seal coat over rock base, or any other approved quality paving material.

(5) Pedestrian Accommodation

(6) Any designated public or private route, with a paved or hard surface intended for pedestrian circulation. Pedestrian accommodations include, but are not limited to, sidewalks, walkways, greenways, bike paths, pedestrian bridges, and other improvements that facilitate suitable pedestrian circulation.

(7) Performance Bond or Guarantee

Any security that may be accepted in lieu of a requirement that certain improvements be made before the Planning Commission approves a final plat, including performance

bonds by developers or improvement contractors, escrow agreements, letters of credit, and other similar collateral or surety agreements.

(8) City Limits , Map, or Boundary

The area within the City's territorial jurisdiction for which the Planning Commission has determined it will prepare plans and recommend ordinances and regulations; the same being the City Limits. The "city limits " shall be the area in which provisions of the City's subdivision regulations shall apply.

(9) Planning Commission

The Planning Commission of the City.

(10) Planning and Development Director

A person hired or appointed to supervise or oversee the City's Planning and Development Department, and to exercise the authority of the Director. This includes the Director's designee.

(11) Plat

A map or chart drawn to scale, showing the divisions of a piece of land or re-subdivision of land, intended to be filed for record.

(12) Plat Correction

A correction to an existing plat that is necessary due to an incorrect legal description or scriber errors.

(13) Plat, Final

A finished drawing showing completely and accurately all legal and engineering information and certifications necessary for recording, and includes the bill of assurance, if applicable.

(14) Plat, Preliminary

A drawing that shows the proposed layout of a subdivision in sufficient detail to indicate unquestionably its workability in all aspect, but is not in final form for recording and the details are not completely computed.

(15) Plat, Sketch

An informal plan of the proposed subdivision to be submitted by the developer during the preapplication process, the purpose being to acquaint the developer with plans and policies relevant to the proposed subdivision.

(16) Preapplication Conference

A meeting between planning officials and a developer to give the developer an opportunity to obtain advice concerning a proposed development of a plan or subdivision to avoid unnecessary costs or delays and to obtain informal guidance to prevent conflicts. This conference takes place before submission of the formal application for approval of a plan or a preliminary plat.

(17) Property Line Adjustment

- A transfer or adjustment of a property line that does not create a separate, new lot. A property line adjustment may or may not dedicate rights-of-way or utility easements.
- (18) Protective Covenants
- Property restrictions established by the developer.
- (19) Public Utility
- A public or private business organization, subject to governmental regulation, that provides an essential commodity or service, such as water, electricity, transportation, or communication, to the public.
- (20) Quorum Court
- The county quorum court made of the elected justices of peace serving thirteen (13) districts.
- (21) Recreational Vehicle
- A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. The basic entities are: travel trailers, truck campers, and motor homes that are not larger than ten feet by 50 feet, exclusive of tongue and extended areas such as slides or bump-outs. For purposes of this regulation, also included are other types of vehicles such as, but not limited to, trucks, vans and buses that have been converted to temporary dwellings for travel, recreation, and vacation use, regardless of size.
- (22) Recreational Vehicle Park
- A tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.
- (23) Recreational Vehicle Site
- A plot of ground (lot) within a recreational vehicle park intended for the accommodation of a recreational vehicle, including all required appurtenant structures and having provisions for available utility connections.
- (24) Recreational Vehicle Stand or Pad
- A concrete pad upon which the recreational vehicle is situated.
- (25) Replat
- The act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, or to increase or decrease the number of lots in the subdivision.
- (26) Resubdivision
- the changing of any existing lot or lots of any subdivision plat previously recorded with the county clerk. Resubdivision includes new townhouse or condominium projects, and townhouse or condominiums into private ownership of property previously occupied on

a rental basis. Resubdivision also includes lots, parcels, units and real property converted to time-share units or estates.

(27) Retaining Wall

A structure erected between lands or land and water of different elevations that resists the lateral displacement of soil or other materials resulting from a separation in grade. Retaining walls are typically constructed to protect structures or prevent erosion from the upper slope.

(28) Right-of-Way

The usage of the term "right-of-way" for land platting purposes that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency or utility company shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

(29) Setbacks, Building

Lines established by the zoning ordinance designating the area intended for future right-of-way as established by the master street plan and restricting the placement of buildings thereon.

(30) Sketch Plan

See Plat, Sketch.

(31) Staff

Employees of the City and designees of the Mayor of the City.

(32) Street

A general term denoting a public or private thoroughfare that affords the principal means of access to abutting property. The term includes all facilities that normally occur within the right-of-way; it shall also include such other designations as highway, thoroughfare, parkway, road, throughway, pike, avenue, boulevard, land, place, court, but shall not include an alley or a pedestrian way. For the purpose of this chapter, streets shall be classified as follows:

a. Arterial Streets

Those streets designated as arterial, major and minor, on the master street plan.

b. Collector Streets

Those streets designated as collector and sub-collector streets on the master street plan.

c. Residential Streets

Streets that are used primarily for access to abutting properties.

d. Loop Streets

Minor streets that begin from one minor street and curve to end on the same minor street.

e. Cul-De-Sac

Short local streets having one end open to traffic and being permanently terminated at the other end by a circular area that permits vehicles to turn around without having to stop and back up.

f. Dead-End Streets

Those streets that have terminated at one end where vehicles must stop and back up in order to turn around.

(33) Street, Existing

Any street which has a minimum width of 20 feet of hard surfaced material. Gravel roads or roads that are in extremely poor condition will not qualify as an existing street for purposes of this regulation.

(34) Street Width

The width of the street used for traffic or when curbs are used; the distance from back of curb to back of curb.

(35) Structure

Anything inanimate constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, including roof overhangs, carports, garages, porches, and other similar structures.

(36) Subdivision

subdivision is the division of any parcel of land into separate parcels, lots, units or building sites for the purpose (whether immediate or future) of sale or building development.

(37) Subdivision, Minor

A subdivision of land into five or less lots, parcels or other divisions.

(38) Surveyor

A licensed state land surveyor, or a registered public surveyor as authorized by the state statutes to practice the profession of surveying in the State of Arkansas.

(39) Swale, Drainage

A shallow trough-like depression that carries water mainly during rainstorms or snow melts.

(40) SWPPP

An acronym meaning stormwater pollution prevention plan.

(f) Terms T-Z

(1) Telecommunication

The technology that enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

(2) Throat Length

The distance between the paved edge of where the driveway meets the street and the first opportunity for a vehicle to turn left or right.

(3) Tract

A specified or limited area of land, normally measured by a metes & bounds description.

(4) Use

The purpose for which land, or a building is designed, arranged, or intended, or for which either is, or may be, occupied or maintained.

(5) USGS

The United States Geological Survey.

(6) Utility Easement

A grant by a property owner for the use by the public, a corporation, or certain persons of a strip of land by public or private utilities.

(7) Vacation

Legal abandonment of a platted street right-of-way or easement.

(8) Variance

An official dispensation to act contrary to a zoning or subdivision regulation.

(9) Vertical Datum

Used to measure heights given on maps. The starting point for measuring these heights are mean sea level points established at coastal places.

(10) Waiver

Permission from the Planning Commission to depart from the requirements of these regulations.

(11) Watercourse (Wet or Dry)

A running stream of water having a bed and banks; the easement one may have in the flowing of such a stream in its accustomed course. A watercourse may be sometimes dry.

(12) Zoning Ordinance

Government (usually municipal) laws that control the use of land within a jurisdiction.

(g) Steep Slope Terms

(1) Ravine Area

The ravine area shall include all property within or adjacent to a ravine beginning at the point of intersection of a line with the table land, said line extending from the toe of the slope upward at a vertical angle of twenty-two (22) degrees.

(2) Ravine Edge

That point on the ravine side of the table land where the slope of the land first exceeds (10) percent.

(3) Table Land

Land where the slope in any direction does not exceed ten (10) percent. It is generally flatter than its surrounding areas.

(4) Toe of Slope

The toe of the ravine or bluff slope is that point in the ravine or bluff where the slope is less than twenty-two (22) degrees or where the slope reverses directions. On compound slopes where there may be more than one possible toe location, the controlling point shall be whichever toe location provides the greater ravine or bluff area.

(5) Bluff Area

The bluff area shall include all property within or adjacent to a bluff beginning at the point of intersection of a line with the table land, said line extending from the toe of the slope upward at a vertical angle of twenty-two (22) degrees.

(6) Bluff Edge

That point on the bluff side of the table land where the slope of the land first exceeds ten (10) percent.

ARTICLE VII. EXTERNAL APPENDICES

Sec. 107-058. Submittals and Checklists

Items to be shown on plat or included in a plan.

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Minor Plat (Incidental)
General requirements				
(1) Show property lines of all property owners adjacent to the exterior boundaries of the project shall be located on the plat at the location of their property.	✓	✓	✓	✓
(2) Provide names, addresses, telephone number, and fax numbers, if available, of all parties involved in project. Include registration and license number of professionals.	✓	✓	✓	✓
(3) Show north arrow, scale, dates of preparation, zoning classification, and proposed use.	✓	✓	✓	✓
(4) Provide title block located in the lower right-hand corner indicating the name and type of project, scale, firm or individual preparing drawing, date, and revisions.	✓	✓	✓	
(5) Provide a complete and accurate legend.	✓	✓	✓	✓
(6) Note regarding wetlands, if applicable. Note if Army Corps of Engineers determination is in progress or completed.	✓	✓	✓	
(7) Show boundary survey of the property shown on the plat/plan or separate sheet. The surveyor shall seal, sign, and date the survey. The survey shall be tied to state plane coordinates on two controlling corners of the property.	✓		✓	✓
(8) Provide written legal descriptions including area in square feet or acres that read clockwise. (Note: If the project is contained in more than one tract, the legal description for each individual tract and a total tract description must be provided.)	✓	✓	✓	✓
(9) Show point-of-beginning from a permanent well-defined reference point and it must be clearly labeled on the drawing.	✓	✓	✓	
(10) Show curve data for any street, which forms a project boundary. Curve data shall include radius, and arc and chord distance.	✓		✓	✓

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Minor Plat (Incidental)
(11) Show street right-of-way lines clearly labeled. The drawing shall depict any future R.O.W. needs as determined by the AHTD and master street plan. Future R.O.W. as well as existing R.O.W. and centerlines should be shown and dimensioned. All future R.O.W. shall be dedicated on drawing.	✓	✓	✓	✓
(12) Show 100-yr. floodplain and/or floodway and base flood elevations. Reference the FEMA FIRM panel number and effective date.	✓	✓	✓	✓
(13) Provide a benchmark (within 0.5 mile) clearly defined with an accuracy of 0.01 foot. This benchmark must be tied to USGS datum.	✓	✓	✓	
(14) Indicate spot elevations at grade breaks along existing road centerlines, gutter lines and top of curbs or edge of pavement and ditch inverts and culverts.	✓		✓	
(15) Provide a general vicinity map of the project with a radius of one mile from the project.	✓	✓	✓	✓
(16) Show existing and proposed topographic information with source of the information noted. Show: (a) Two-foot contour interval for ground slope between level and ten percent. (b) Five-foot contour intervals for ground slope exceeding ten percent. (c) Contours of adjacent land within 100 feet of the project shall also be shown.	✓		✓	
(17) Show the location of all existing structures. On scale developments, show the location of proposed buildings and square feet. Dimension building and setbacks from the building side to property lines.	✓		✓	✓
(18) Provide sign-off block.		✓	✓	
(19) Provide revision block.		✓	✓	
Existing utilities				
(20) Show all known on-site and off-site existing utilities and easements (dimensioned) and provide the structures locations, types, and condition and note them as "existing" on the plat.	✓		✓	✓
(21) Show existing easements shall show the name of the easement holder and purpose of the easement and registry recording information. If an easement is blanket or	✓	✓	✓	✓

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Minor Plat (Incidental)
indeterminate in nature, a note to this effect shall be placed on the plat or plan.				
Proposed utilities				
(22) Regarding all proposed storm sewer structures and drainage structures: (a) Provide structure locations and types. (b) Provide pipe types and sizes.	✓		✓	
(23) Regarding all proposed sanitary sewer systems, applicant shall: (a) Provide letter of approval from system operator. (b) Provide pipe locations, sizes and types. (c) Show manhole locations of rim and invert elevations. (d) Provide profiles including slope in percentage and existing and proposed utilities when crossing or parallel in vicinity. (e) Provide plan and route for access to all manholes. (f) If lift-station is proposed, submit plans to the City Engineer for review before submission to the ADEQ. (g) Show off-site plans (if applicable) for gravity sewer and force mains serving the proposed development.	✓		✓	✓
(24) Indicate the occurrences of any previous overflow problems of sewer or septic systems on-site or in the proximity of the site.	✓		✓	✓
(25) If a septic system is proposed, indicate it on the plat or plan. Show proposed location of septic tank and lateral fields including detail of leachate pipes and drain fill material. Show primary and alternate lateral field areas.	✓		✓	
(26) Regarding all proposed water systems, on or near the site, provide information required in subsections (27) through (30) of this section.	✓		✓	
(27) Provide pipe locations, types and sizes.	✓		✓	
(28) Indicate the static pressure and flow of the nearest hydrant along with engineer calculations of flow rates.	✓		✓	
(29) Show location of proposed fire hydrants, meters, valves, backflow preventers and related appurtenances.	✓		✓	
(30) Show that the design of the water and sewer utilities will minimize conflict with other underground utilities, and provide clear copy.	✓		✓	

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Minor Plat (Incidental)
(31) Show locations of all related utility structures.	✓		✓	
(32) Show locations of all utility lines (note whether the line is below or above ground).	✓		✓	
(33) Indicate where streets will be constructed under the existing overhead facilities and the approximate change in grade for the proposed street.	✓		✓	
(34) Indicate the width, approximate locations, and purposes of all proposed easements or rights of way for utilities, drainage, water, sewers, flood control, ingress/egress or other public purposes within and adjacent to the project.	✓	✓	✓	✓
Proposed and existing streets, rights-of-way, and easements				
(35) Indicate the location, widths, grades, and names (avoid using first names of people for new streets) of all existing and proposed streets, alleys, paths, and other rights-of-way, whether public or private, within and adjacent to the project; private easements within and adjacent to the project; and the radius of each centerline curve. Curve/arc of streets should include radius and arc distance data on survey or plat. Private streets shall be clearly indicated and named. Street names must clearly be indicated. Names shall be final as approved on the preliminary plat. All items shall be dimensioned and labeled if previously dedicated per a separate document.	✓	✓	✓	
(36) Show layout of adjoining property with 500 feet in sufficient detail to show the effect of proposed and existing streets, adjoining lots, and off-site easements. This information can be obtained from the master street plan, aerial photos, and local surveyors.	✓		✓	
(37) Identify and dimension all access easements, including ingress and egress.	✓	✓	✓	✓
(38) A preliminary easement plat may be required by the Planning & Development Director depending on the number and location of easements. After construction of the approved scale development, a final easement plat must be submitted to the Planning & Development Director. Seven full size copies are required.			✓	
Subdivision of land				

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Minor Plat (Incidental)
(39) The lot layout, the dimensions of each lot, number of each lot, total area in square footage or acreage to the nearest 0.01 acre of each lot, and the approximate finish grade where pads are proposed for building sites. Lots shall be numbered consecutively for all phases. These numbers shall be associated with each phase of subdivision. The total number of lots shall be indicated on the plat. Subdivision names shall be shown and considered final as approved on the preliminary plat.	✓	✓	✓	✓
(40) Show the designation of all "out lots" and anticipated uses, if known.	✓	✓	✓	
(41) For phased development, a plat showing all phases is required.	✓		✓	✓
Site specific information				
(42) Provide a note of any known existing erosion problems on-site or within 250 feet downstream of the property. Provide locations and type of all silt control devices to maintain silt on-site.	✓		✓	✓
(43) Show the location of known existing or abandoned water wells, sumps, cesspools, springs, water impoundments, and underground structures within the project.	✓		✓	✓
(44) Show the locations of known existing or proposed ground leases or access agreements, if known (e.g., shared parking lots, drives, areas of land that will be leased). List any deeded mineral, gas and oil rights and registry recording information.	✓		✓	✓
(45) The location of all known potentially dangerous areas, including areas subject to flooding, slope stability, settlement, excessive noise, previously filled areas and the means of mitigating the hazards to, included but not limited to, abatement wall and signage.	✓		✓	✓
(46) Show the boundaries, acreage, and the use of existing and proposed public areas in and adjacent to the project. If land is to be offered for dedication for park and recreation purposes it shall be designated on documents submitted for approval.	✓	✓	✓	
(47) Indicate the use and list in a table the number of units and bedrooms in each building.			✓	
(48) For nonresidential use, indicate the gross floor area, and if for multiple uses, the floor area devoted to each type of use.			✓	

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Minor Plat (Incidental)
(49) Show the location and size of existing and proposed signs, if any.	✓		✓	
(50) Show location and width of curb cuts and driveways. Dimension all driveways and curb cuts from side property line and surrounding intersections.	✓		✓	
(51) Show location, size, surfacing, landscaping, and arrangement of parking and loading areas. Indicate pattern of traffic flow; include a table showing required, provided, and handicap accessible parking spaces.			✓	
(52) Show location of buffer strips, fences or screen walls, where required.	✓		✓	
(53) Indicate location of garbage service and screening requirements.			✓	
(54) Provide a description of commonly held areas, if applicable.	✓	✓	✓	
(55) Provide existing or draft of covenants, conditions, and restrictions.	✓	✓	✓	✓
(56) Provide a written description of requested waivers from any City requirement.	✓	✓	✓	
(57) Show required building setbacks for scale developments. Provide a note on the plat of the current setback requirements for the subdivision. A variance is necessary from the board of adjustment for proposed setbacks less than those set forth in the zoning district.	✓	✓	✓	
(58) Provide preliminary drainage plan as required by the City Engineer .	✓		✓	
(59) Show size, location, and type of all existing trees over six inches or more in DBH except in areas determined by the Planning & Development Director to be heavily wooded.	✓		✓	✓
(60) Provide landscape plan.			✓	
(61) Show location of proposed and existing area light fixtures.			✓	
(62) Show description of each illuminating device, fixture, lamp, support and shield. The description shall include, but is not limited to, manufacturer's catalog cuts, illustrations, wattage, and lumen outputs. If required, documentation of compliance with cutoff requirements shall be provided.			✓	

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Minor Plat (Incidental)
(63) Provide elevation drawings of front, rear and sides of the structure showing all entrances, windows, site objects and fixtures to include color and type of material.			✓	

- (b) A notice shall be placed on the preliminary plat stating, "Preliminary Plat for Inspection Purposes Only. Not for Record Purposes."

Plat Certificates

Below are certificates that must be included on preliminary, final, and minor plats

- (a) *Preliminary plats.* Each preliminary plat must be submitted in accordance with applicable state statutes and shall include the following certificates:

- (1) *Certificate of preliminary survey accuracy:*

I, _____, hereby certify that this plat correctly represents a boundary survey made by me and all monuments shown hereon actually exist and their location, size, type and material are correctly shown.

Date of Execution: _____

Registered Land Surveyor State of Arkansas	
---	--

- (2) *Certificate of preliminary engineering accuracy.* Each set of street and drainage plans must be submitted in accordance with applicable state statutes and any plans and specifications required:

I, _____, hereby certify that this plan correctly represents a plan prepared under my direction and engineering requirements of the Bella Vista Subdivision Regulations have been complied with.

Date of Execution: _____

Registered Engineer State of Arkansas	
--	--

- (3) *Certificate of preliminary plat approval:*

This plat has been given preliminary plat approval only and has not been approved for recording purposes as a public record. This certificate expires on _____ (date).

Date of Execution: _____

Chairman, City of Bella Vista Planning Commission	
--	--

- (b) *Final plats.* Each final plat must be submitted in accordance with applicable state statutes and shall include the following certificates:

(1) *Certificate of ownership:*

We the undersigned, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted, and subdivided and do hereby lay off, plat, subdivide said real estate in accordance with this plat and do hereby dedicate to the use of the public the streets, alleys, drives, and easements as shown on said plat.

Date of Execution: _____

Signed: _____

Name and Address: _____

Source of Title: D.R. _____

Page _____

(2) *Certificate of recording:*

This document filed for record this _____ day of _____, 2____, in Plat Book ____, Page ____.

Signed: _____

Benton County
Circuit Clerk

(3) *Certificate of surveying accuracy:*

I, _____, hereby certify that this plat correctly represents a boundary survey made by me and boundary markers and lot corners shown hereon actually exist and their location, type and material are correctly shown, and all minimum requirements of the Arkansas Minimum Standards for Land Surveyors have been met.

Date of Execution: _____

(4) *Certificate of approval:*

Pursuant to the City of Bella Vista Subdivision Regulations and all other conditions and approvals having been completed, this document is hereby accepted. This Certificate is hereby executed under the authority of the said rules and regulations.

Date of Execution: _____

- (c) *Minor plats.* Each minor plat must be submitted in accordance with applicable state statutes and shall include the following certificates:

(1) *Certificate of ownership:*

We the undersigned, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted, and subdivided and do hereby lay off, plat, subdivide said real estate in

accordance with this plat and do hereby dedicate to the use of the public the streets, alleys, drives, and easements as shown on said plat.

Date of Execution: _____

Signed: _____

Name and Address: _____

Source of Title: D.R. _____

Page _____

(2) *Certificate of recording:*

This document filed for record this _____ day of _____, 2____, in Plat Book ____, Page ____.

Signed: _____

Benton County
Circuit Clerk

(3) *Certificate of surveying accuracy:*

I, _____, hereby certify that this plat correctly represents a boundary survey made by me and boundary markers and lot corners shown hereon actually exist and their location, type and material are correctly shown, and all minimum requirements of the Arkansas Minimum Standards for Land Surveyors have been met.

Date of Execution: _____

(4) *Certificate of approval:*

Pursuant to the City of Bella Vista Subdivision Regulations and all other conditions and approvals having been completed, this document is hereby accepted. This Certificate is hereby executed under the authority of the said rules and regulations.

Date of Execution: _____

Grading plan specifications

(a) *Grading plan.* The applicant shall prepare a grading plan as follows:

- (1) *Site plan.* Site plan at a scale no smaller than one-inch equals 50 feet, with a preference of one-inch equals 20 feet, showing property lines; vicinity map; name of owner, developer and adjacent property owners.
- (2) *Existing and proposed grades.* Existing grades shall be shown with dashed line contours and proposed grades with solid line contours. Grading plans shall be required to show both the proposed grade and the undisturbed area. Contour intervals shall be a maximum of two feet and shall extend a minimum of 50 feet beyond the property line. Spot elevations shall be indicated.
- (3) *Designation of grade.* Areas with zero-to-ten percent, ten-to-15 percent, 15-to-20 percent and more than 20 percent grade shall each be identified in a distinguishing manner.
- (4) *Identify land to be disturbed and preserved.* Land areas to be disturbed and preserved shall be clearly identified.
- (5) *Design professional endorsement.* Seal and dated signature of a registered engineer, architect, or landscape architect certifying that the plan complies with this article. The design professional endorsement shall not be required for proposals as described in section 107-378(a)(3)a.

- (6) *Cuts and fills.* All cuts and fills, including height and slope, shall be clearly shown on the plan.
 - (7) *Streets and rights-of-way.* Location and names of all existing or platted streets or rights-of-way within or adjacent to the tract and the location of all utilities and easements within or adjacent to the property shall all be indicated.
 - (8) *Lot, building, etc., identification.* The proposed location of lots, buildings, streets, parking lots and parks, playgrounds or green space shall be indicated. Also to be indicated are any existing or proposed buildings within 50 feet of the site.
 - (9) *Soil type.* Soil types shall be identified according to the unified soil classification system.
 - (10) *Natural features.* Location of natural features such as drainageways, ponds, rock outcroppings, and tree cover.
 - (11) *Use of maps.* Appropriate and applicable information from the Federal Emergency Management Agency flood maps and federal and state protected wetland maps.
 - (12) *Streets and drainageways.* Profiles and cross sections for proposed streets and drainageways.
 - (13) *Acreage; zoning.* Total acreage and zoning classification.
 - (14) *Surface water.* Provisions for collecting and discharging surface water.
 - (15) *Underground utilities.* Profiles and cross sections of streets, drainage systems, and underground utilities, if they are necessary to clarify the grading plan in terms of potential erosion or runoff, or if the grading on site has the potential of disturbing the utility line.
 - (16) *Treatment of slopes and benches.* The method of treatment for all slopes and benches shall be indicated.
- (b) *Preliminary grading plan.* The preliminary grading plan shall include all the above items except subsections (a)(5), (7), (11), (13), and (14) of this section. In addition to the above items, the City may require a cross section through the property showing existing and proposed grades as part of the preliminary submission.
- (c) *Additional information.* The following additional required information may be required by the Planning and Development Department and be reported in text rather than shown on the grading plan:
- (1) *Time schedule.* A time schedule indicating the anticipated starting and completion dates of the development sequence and time of exposure of each area prior to stabilization measures.
 - (2) *Description of fill material; compaction.* Description of quantity (in cubic yards), source, and composition of imported fill material and compaction specifications. Also, note the quantity (in cubic yards) and destination of excavation materials to be removed from the site.
 - (3) *Dust.* Where excessive dust may become a problem, a plan for spraying water on heavily traveled dirt areas shall be addressed.
 - (4) *Soils engineering study.* The City Engineer may require a soils engineering study, or soil loss calculations if site conditions so warrant.